

BEFORE THE PLANNING AND ZONING COMMISSION
GARDEN CITY, ADA COUNTY, IDAHO

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.

In the Matter of:)	SUBFY2020-01
)	
)	
Combined Preliminary & Final Plat Subdivision)	
AND Planned Unit Development)	FINDINGS OF FACT
At the terminus of W. 53 rd Street)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND RECOMMENDATION
_____)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on September 21, 2020 and was moved to a date certain of October 5, 2020. The Design Review Committee reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

FINDINGS OF FACT

1. The applicant is David Hale with Hale Development.
2. The property owner of record is CS2 LLC
3. The location of the project is Garden City, ID 83714. Assigned Ada County Parcel #: S0536141980.
4. The subject property is 7.216 acres.
5. The application is for a Combined Preliminary and Final Plat Subdivision with a Planned Unit Development Subdivision.
6. The project is located in the MU - Mixed Use Commercial and Transit Oriented Development designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the Mixed Use Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is not located in the floodplain according to the 2017 FIS.
10. The following section of the Garden City Development Code apply to this proposal:

- a. Garden City Code 8-5: Land Division Regulations
- b. Garden City Code 8-4A: Design and Development Regulations – General Provisions
- c. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
- d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- e. Garden City Code 8-4E: Transportation and Connectivity Provisions
- f. Garden City Code 8-4G: Sustainable Development Provisions
- g. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
- h. Garden City Code 8-4L: Open Space Provisions
- i. Garden City Code 8-6A: Administration – General Provisions
- j. Garden City Code 4-14: Storm Drainage and Erosion Control
- k. Garden City Code 8-6B: Planned Unit Development
- l. Garden City Code Title 6: Public Water and Sewer Systems

1. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan
X			Topographic Survey
X			Grading Plan
	X		Will Serve
		X	Verification that address is an Ada County Approved Address
		X	Other: Neighborhood meeting materials Fred Meyer access agreement Geotech Report

14. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	07/31/2020	10/22/2019
Receipt of Application	08/11/2020	08/20/2020
Letter of Acceptance	09/20/2020	09/04/2020
Radius Notice	09/01/2020	08/20/2020
Interested Parties	n/a	n/a
Legal Notice	08/28/2020	08/20/2020 Email

		08/24/2020 Published
Agency Notice	09/01/2020	08/20/2020
Property Posting Sign	09/06/2020	08/28/2020
Affidavit of Property Posting and Photos	09/09/2020	08/28/2020

1. On December 16, 2019, in accordance with GCC 8-6B-3, a pre-application conference was held with the Design Committee. The Committee provided the following comments and requests:
 - a. David Hale presented the pre-application materials.
 - b. The Committee made the following comments and suggestions:
 - i. Consider adding site building pop outs or another solution to add fenestration to the elevations on street/common driveway visible side facades.
 - ii. Consider adding a more plaza like design at terminus point. Consider addressing internal circulation and amenities, such as a potential dog park or community garden for access drive to be more plaza like.
 - iii. Consider looking at sidewalk that takes accesses into account to create more consistent sidewalk. Consider other treatment to define sidewalk and other solutions.
 - iv. Consider adding connectivity across long strip of parking on southwest end.
 - v. Consider connectivity to amenity area, such as addressing the fire lane as an amenity.

2. On January 6, 2020, a public hearing before the Design Review Committee was held and the application was continued at the request of the applicant to a date certain of 2/3/2020 to address engineering issues.

3. On September 21, 2020, a public hearing before the Design Review Committee was continued at the request of the applicant to a date certain of October 5, 2020.

4. On October 5, 2020 a public hearing before the Design Review Committee was held:
 - a. This section will be completed after the hearing.

15. The record contains:
 - a. Application
 - b. Compliance Statement
 - c. Letter of Intent
 - d. Plan Sheets
 - e. Will Serve Letter
 - f. Noticing Documents:
 - i. Neighborhood Meeting Verification
 - ii. Letter of Acceptance

- iii. Radius Notice
- iv. Interested Parties Notice
- v. Legal Notice
- vi. Agency Notice
- vii. Affidavit of Property Posting and Photos
- viii. Agenda Posting
- ix. Website Posting
- x. Decision Notification
- xi. Geotech Report
- g. Agency Comments
- h. Public Comments
- i. Correspondence
- j. December 16, 2019 Design Review Committee Pre-application Minutes
- k. December 16, 2019 Design Review Committee Pre-application Audio
- l. January 6, 2020 Design Review Committee Minutes
- m. January 6, 2020 Design Review Committee Audio
- n. September 21, 2020 Design Review Committee Minutes
- o. September 21, 2020 Design Review Committee Audio
- p. October 5, 2020 Design Review Committee Hearing Minutes
- q. October 5, 2020 Design Review Committee Hearing Audio
- r. Signed Findings of Fact, Conclusions of Law and Recommendation

11. In consideration of a combined preliminary and final plat subdivision with a planned unit development the Planning and Zoning Commission shall make the following findings:

The draft findings are written both in approval and in denial. The Design Review Committee will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided.			
GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	<p>Standard: The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.</p> <p>Explanation:</p> <p>In Approval: The application is in conformance with the Planned Unit Development sections of code and all dimensional regulations of the Mixed Use zoning district.</p>

			<p>In Denial: The application is not in conformance with the Planned Unit Development overlays nor in conformance with the Mixed Use zoning district.</p>
X		X	<p>The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p>Explanation:</p> <p>In Approval: The application is in conformance with this finding by proposing multiple safety features such as fire hydrants and emergency vehicle access as well as providing a safe route for pedestrians and vehicles within the subdivision.</p> <p>In Denial: The application is not in conformance with this finding by proposing development next to Settler's Canal, thus putting the residents of the proposed subdivision in harms way of future canal issues.</p>
X		X	<p>The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city.</p> <p>Explanation:</p> <p>In Approval: The application is proposing a new subdivision development that contributes to the residential neighborhoods that which surround it while also creating its own unique neighborhood.</p> <p>In Denial: The application does not contribute to the uniqueness of the neighborhood in</p>

			that it is different than the surrounding neighborhoods design and layouts.
X		X	<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p>Explanation:</p> <p>In Approval: The application proposes pedestrian pathways throughout the site and promotes a cross access pathway to the adjacent Fred Myers.</p> <p>In Denial: The application does not propose a pathway to Glenwood and by proposing fencing along the property boundaries, it effectively diminishes the pedestrian's ability to access Fred Meyer. As a result, vehicular transportation is required.</p>
	X		<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p>Explanation:</p> <p>Not Applicable: This is an application for a residential subdivision and has not commercial aspects proposed.</p>
X		X	<p>The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p>Explanation:</p> <p>In Approval: The application proposes a compact development by providing 68 single family attached dwelling units.</p>

			In Denial: The development does not enable intensification of development and changes over time.
X		X	The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. Explanation: In Approval: The application proposes outdoor common space with landscaping for residence to take advantage of. In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.

12. The record was reviewed by the Planning and Zoning Commission to render the decision.

CONCLUSIONS OF LAW

The Design Review Committee reviewed the application with regard to Garden City Code, Title 8, Chapter 4, and based on the conditions required herein, concludes the application **meets/ does not meet** the standards of approval under **GCC 8-6B-3 Design Review Committee.**

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Review Committee hereby **APPROVES/DENIES** the application, subject to the following conditions:

POTENTIAL CONDITIONS FOR APPROVAL DECISION

Site Specific Requirements:

1. This approval is for a combined preliminary and final plat with a Planned Unit Development for a residential subdivision encompassing 68 lots – 61 designated for residential use, and 7 common lots. This approval does not preclude other uses as allowed by Garden City Code.
2. The approval of this Planned Unit Development allows for setbacks as proposed by this application and more than four units to take access from a common drive. Recordation of the plat shall be considered completion of the planned unit development.
3. The waivers requested and approved through the planned unit development process include:
 - a. A density of 7.4 units per acre.
 - b. Setbacks as proposed by this application
 - c. More than four units to take access from a common drive.
4. Recordation of the plat shall be considered completion of the planned unit development.
5. Lots 2, 7, 34, 55 and 68 are common lots, Lot 3 is a common drive lot, all common drives and common lots shall be owned and maintained by the Mountain View Townhomes Property Owner's Association.
6. The applicant shall mitigate for removed trees or shall provide a certified arborist's certification demonstrating the trees removed were dead, dying or a hazard in accordance with GCC 8-4I-7 (Tree Preservation Provisions).
7. A permanent 10' utility easement designated on along all lot lines common to a public or private right-of-way.
8. All side yard lot lines have a 5' property drainage and irrigation easement.
9. All driveways have a 20' parking easement.
10. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho.
11. All construction must meet zoning standards at the time of development.
12. All pressure irrigation systems must meet requirements and obtain city engineer approval prior to construction.
13. All development shall be required to provide for sustainable development practices based on a point system.
14. All stormwater systems shall be built in compliance with 8-4A-7 of Garden City Code.
15. All private street names shall obtain approval from the Ada County street name committee.
16. Condition of approval contingent on the proposed cross access agreement between the proposed subdivision and Fred Meyer.
17. Provide a note on the final plat to read, "Minimum building setback lines shall be in accordance with the following":
 - a. Front Setback: 20'
 - b. Rear Setback: 15' min
 - c. Side Setback: 5' and 0' common lot line
 - d. Street Side Setback: 15'
18. All internal sidewalks, common driveways with curbing, hardscaping, and stormwater facilities shall be constructed in substantial compliance with the plans to be approved by the Design Review Committee.

19. The applicant shall comply with all requirements of the City Engineer.
20. The applicant shall comply with all requirements of the Design Review Committee.
21. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.

General Requirements:

1. This review and approval is specific to the design of the project. Final approval is subject to the approval of other reviewing agencies. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail. This approval shall not annul any portion of Garden City Code or other applicable regulation unless specifically noted.
2. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
3. The applicant shall comply with all requirements of the reviewing entities.
4. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations; 8-4I-3 and Landscape maintenance provisions 8-4I-9; and standards for transportation and connectivity provisions identified in 8-4E.
5. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
6. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
7. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
8. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
9. The property owner is responsible for the maintenance of all landscaping and screening devices required.
10. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
11. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
12. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
13. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.

14. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
15. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock as the only ground cover in required planting areas is prohibited.
16. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
17. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
18. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species.
19. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
20. The landscape installation shall stabilize all soil and slopes.
21. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
22. System Installation Required: Each and every lot within the subdivision shall have underground pressurized irrigation water. The pressurized irrigation system shall be constructed and installed at the same time as the domestic water lines, but shall not necessarily be in the same trenches.
23. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
24. The approval is specific to the application provided and reviewed.
25. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
26. The property owner is responsible for the maintenance of all landscaping and screening devices required.
27. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
28. Utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. Total easement width shall not be less than ten feet (10'), with twelve feet (12') recommended, front and rear, with at least twenty feet (20') required for water and sewer easements for main lines.
29. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City.
30. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.

31. Any changes in the design, construction, operation or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction and recordation of the final plat. Any changes to the plans and specifications upon which this approval is based, other than those required by the conditions noted in this decision, will require submittal of an application for modification and approval of that application prior to commencing any change. Final approval is based on substantial conformance with the plans reviewed and approved.
32. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
33. No subdivision plat required shall be recorded by the Ada County Recorder until such subdivision plat has received final approval by the Council. No public board, agency, Commission, official or other authority shall proceed with the construction of or authorize the construction of any of the public improvements required by this Title until final plat has received the approval by the Council.
34. The applicant shall submit payment to the City for all outstanding fees incurred by the City in obtaining a review of this project prior to the City issuing any permits or signing the final plat.
35. In the event that an applicant and/or owner cannot complete the non-life, safety and health improvements, within the time specified in the final subdivision approval or prior to occupancy, the City may require a surety agreement in accordance Garden City Code. Unless financial guarantees of improvement completion has been accomplished, no approval of the final subdivision or recording thereof shall be permitted unless the applicant provides satisfactory proof that all required public improvements and facilities have been fully and satisfactorily constructed and installed.
36. Approval shall become null and void if the applicant fails to record a final subdivision within one (1) year of the approval. If the timetable is not met and the applicant does not receive a time extension, the application will expire and become null and void.
37. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
38. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
39. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
40. A takings analysis pursuant to Idaho Code may be requested on final decisions.
41. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

This Signature affirms the decision has been reviewed by the Design Committee

Date

STANDARD CONDITIONS RELATED TO DENIAL

1. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
2. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
3. A takings analysis pursuant to Idaho Code may be requested on final decisions.
4. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

This Signature affirms the decision has been reviewed by the Design Committee