

BEFORE THE GARDEN CITY COUNCIL  
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:	)	SUBFY2017-04
	)	
	)	
Final Plat Subdivision	)	FINDINGS OF FACT
N. Adams Street between 43 <sup>rd</sup> and 44 <sup>th</sup> Streets	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Council for consideration on September 28, 2020. The Garden City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Council makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. This application is for a final plat for Garden Phoenix a residential subdivision encompassing 9 lots – 8/ designated for residential use, and 1 common lot.
2. The preliminary plat was approved by City Council on September 11, 2017.
3. The approvals were extended to September 16, 2020.
4. The applicant submitted for final plat on August 3, 2020.
5. The application is located at N. Adams St., Garden City, ID 83714. Assigned Ada County Parcel #: R2734500898; Par #08 CTR portion of lots 18-19 block 3 Fairview Acres No 1.
6. The subject property is .667 acres.
7. The applicant is Briant Burke with Garden Phoenix, LLC.
8. The property owner of record is Garden Phoenix LLC.
9. The project is in the R-3 Medium Density Residential Zoning District.
10. The project is located in the Activity Node: Neighborhood/ Destination and Mixed Use Commercial designations of the Comprehensive Plan Future Land Use Map.

11. The project is not located in the floodplain according to the 2003 FIRM.
12. The project is located in the floodplain according to the 2017 FIS.
13. The following section of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-5B-3: Final Subdivision Process Land Division Regulations
  - b. Garden City Code 8-6A Administration
14. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information		
Provided		
Yes	No	NA
X		
X		
X		
X		
X		
X		
X		
X		
X		
	X	

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

Noticing Requirement	Required Date	Completion Date
Letter of Acceptance	September 3, 2020	August 28, 2020
Radius Notice	September 13, 2020	September 2, 2020
Agency Notice	September 13, 2020	September 3, 2020
Property Posting Sign	September 18, 2020	September 18, 2020
Affidavit of Property Posting and Photos	September 20, 2020	September 19, 2020

16. Agency comments were received from:
  - a. Garden City Engineer
  - b. Department of Environmental Quality
  - c. North Ada County Fire and Rescue District
  - d. Central District Health.
17. Public comments were received from: No one.

18. On September 28, 2020, a public hearing before the Garden City Council was held:  
 a. This section will be completed after the hearing.

19. The record contains:
- b. Application
  - c. Agency Comments:
  - d. Public Comments:
  - e. Noticing Documents
  - f. Staff Report:
  - g. Hearing Minutes
  - h. Hearing Audio
  - i. Signed Findings of Fact, Conclusions of Law and Decision

20. In consideration of a final subdivision the planning official or designee has found the final subdivision in substantial compliance with the preliminary subdivision approval:

<b>GCC 8-5B-3: FINAL SUBDIVISION PROCESS</b>			
Conclusion			Standard
Compliant	Not Compliant	Not Applicable to this Application	
X			<p><b>Finding:</b> The number of buildable lots is the same or fewer</p> <p><b>Explanation:</b>  <b>The number of buildable lots is the same as the approved preliminary plat.</b></p>
X			<p><b>Finding:</b> The amount of common open space is increased</p> <p><b>Explanation:</b>  <b>There has been no change to the amount of common space.</b></p>
X			<p><b>Finding:</b> The amount of open space is relocated with no reduction in the total amount</p> <p><b>Explanation:</b>  <b>There has been no change to the open space.</b></p>

X			<b>Finding:</b> The number of open space lots has been increased
			<b>Explanation:</b>  <b>The number of lots are consistent.</b>
X			<b>Finding:</b> The transportation authority has required minor changes
			<b>Explanation:</b>  <b>The transportation has not required any changes that warrant a re-review of the application.</b>
X			<b>Finding:</b> The general configuration has changed by less than ten percent (10%)
			<b>Explanation:</b> <b>The configuration has not changed.</b>
X			<b>Finding:</b> The planning official or designee has determined there is a substantial difference in the final subdivision than that which was approved as a preliminary subdivision or that the conditions have not been met.
			<b>Explanation:</b>  <b>The final subdivision proposal is consistent with the preliminary plat approval, the preliminary subdivision conditions of approval are still required of the application.</b>

21. The record was reviewed by the City Council to render the decision.

### CONCLUSIONS OF LAW

The Garden City Council reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application **satisfies/does not satisfy** the required findings under GCC 8-5B-3.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Council hereby **APPROVES/DENIES** application SUBFY2017-04 for a Final Plat Subdivision subject to the following conditions:

### POTENTIAL CONDITIONS FOR APPROVAL DECISION

#### Requirements:

1. There are no changes to the subdivision requirements as approved by City Council on September 11, 2017. All requirements identified in the preliminary plat application prevail.

#### General Requirements:

1. The approved addresses shall be submitted upon the recordation of the final plat.
2. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
3. The Covenants and Deeds and Restriction Document shall be reviewed by the City Engineer.
4. Upon approval or approval with conditions by the council and signature of the city engineer, the applicant may submit the final subdivision to the Ada County recorder for recording. The final subdivision shall contain the certifications required under Idaho Code section [50-1301](#) et seq., as well as those required by the city.
5. A digital copy of the recorded plat must be submitted to the City.
6. Once the construction of the subdivision is complete and in accordance with approvals and the subdivision has been recorded with Ada County the subdivision will be considered complete. The subdivision approval will indicate the acceptance of the infrastructure, and completion for all improvements and any required amenities associated with the subdivision.
7. The approval is specific to the application provided and reviewed.
8. The applicant shall comply with all requirements of the reviewing entities.
9. 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.
10. 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.
11. Required easements must either be on the plat or provided in a recordable document that includes a legal description and illustration.
12. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
13. The property owner is responsible for the maintenance of all landscaping and screening devices required.

14. 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.
15. 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.
16. 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.
17. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
18. 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.
19. 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.
20. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
21. 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.
22. 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.
23. 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.
24. The landscape installation shall stabilize all soil and slopes.
25. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
26. 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.
27. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to final plat signature.
28. The property owner is responsible for the maintenance of all landscaping and screening devices required.
29. 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.
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. 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.
  34. 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.
  35. Approval shall become null and void if the applicant fails to record the plat 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.
  36. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
  37. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
  38. 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.
  39. A takings analysis pursuant to Idaho Code may be requested on final decisions.
  40. 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.

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Mayor, John G. Evans

Date \_\_\_\_\_

## STANDARD CONDITIONS FOR DENIAL DECISION

1. A new preliminary plat shall be submitted to the city.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
4. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
5. 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.

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Mayor, John G. Evans

Date