



		X	<p>Finding: The subject property is deprived, by provision of this title, of rights and privileges enjoyed legally by other properties in the vicinity and under the applicable zoning district because of the unique size, shape, topography or location of the subject property (a finding of undue hardship)</p> <p>Conclusion:</p> <p>The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.</p>
		X	<p>Finding: The need for the variance is not the result of the actions of the applicant or property owner;</p> <p>Conclusion:</p> <p>The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.</p>
		X	<p>Finding: The variance will not unreasonably diminish either the health, safety or welfare of the community neighborhood;</p> <p>Conclusion:</p> <p>The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.</p>
		X	<p>Finding: The variance is the only reasonable alternative to overcome the undue hardship;</p> <p>Conclusion:</p> <p>The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.</p>
		X	<p>Finding: The variance is the minimum relief necessary to allow reasonable use of the subject property;</p> <p>Conclusion:</p> <p>The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.</p>

12. Other studies, plans or approvals reviewed include:

Comments from Other Departments and Agencies	Noted	This part of the decision does not apply. The Commission was unable to make a determination of the finding. Separate motions to approve and to deny the application failed.
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13. A copy of the application and plans was transmitted to interested and affected public agencies and no written comments were received.

14. The record contains:

- a. Application Materials
- b. Letter of Application Acceptance
- c. Agency Review Transmittal
- d. Radius Notice
- e. Legal Advertisement in Idaho Statesman
- f. Affidavit of property posting
- g. Staff report, and referenced materials
- h. City Council Hearing Minutes dated November 12, 1986
- i. Letter from Robert Under, Garden City Public Works Director, dated November 14, 1986
- j. Letter from property owner in response to November 14, 1986 letter, undated
- k. Letter of intent for Zoning Permit 95-08-10 dated August 18, 1995.
- l. Garden City Code 8-7-5 in effect on November 14, 1986 (Ordinance 443)
- m. Garden City Code 8-7-5 in effect on August 18, 1995 (1988 Code)
- n. Planning and Zoning Commission Hearing Sign Up Sheets
  - i. Jason Jones
  - ii. Traci Bradshaw
- o. Signed Findings of Fact, Conclusions of Law, and Decision

15. The application was received June 3, 2019. Notification of application acceptance and completion was sent to the applicant within 30 days of receipt of the application. The Commission Public Hearing was held within sixty (60) days of receipt of an application certified as complete.

16. On June 28, 2019 a letter of acceptance with hearing date was sent to the applicant.

17. A transmittal to other agencies including notice, application and other documents was sent on July 16, 2019 more than fifteen days prior to the public hearing.

18. A legal public hearing notice for the proposed variance application was published on July 19, 2019, and on July 16, 2019, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of Section 8-6A-7 of the Garden City Municipal Code.

19. A sign was posted on or before August 11, 2019 in accordance with Garden City Code for the public hearing of August 21, 2019.

20. On August 21, 2019, at the Planning and Zoning Commission public hearing:

- a. Mark Butler presented the application.
- b. Staff Chris Samples presented the staff report.
- c. Public testimony was heard from Jason Jones in support of the application and Traci Bradshaw in opposition to the application
- d. Public testimony was closed.

- e. Commissioner Brown moved to approve the application in accordance with the draft findings of fact, conclusions of law, and decision.
- f. A second on the motion was not received. The motion died for a lack of a second.
- g. Commissioner Rasmussen moved to deny the application based on the application not meeting the required findings, specifically noting a lack of undue hardship (finding 1) and noting finding 4.
- h. A second on the motion was not received. The motion died for a lack of a second.
- i. The application was denied due to a lack of a motion.

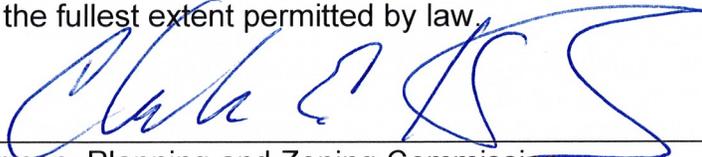
**CONCLUSIONS OF LAW**

The Planning and Zoning Commission reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, was unable to conclude whether the application met the standards of approval under **GCC 8-6B-9 Variance** due to a lack of a motion to make a decision.

**DECISION**

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **DENIES** of the application subject to the following conditions:

1. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
3. 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.
4. A takings analysis pursuant to Idaho Code 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.


*26 Aug 2019*

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Chairman, Planning and Zoning Commission Date