



EASEMENT

File Number: EASFY2025-0003
Date Received : 12/27/24 KC
FOR OFFICE USE ONLY
6015 Glenwood street • Garden City, ID 83714 • 208.472.2921(tel.)
• www.gardencityidaho.org • building@gardencityidaho.org

APPLICANT	PROPERTY OWNER
Name: <u>Hannah Ball</u>	Name: <u>Hannah Ball</u>
Company: <u>215 E 34th St</u>	Company: <u>Same</u>
Address: <u>215 E 34th St</u>	Address:
City: <u>Garden City</u>	City:
State: <u>ID</u> Zip: <u>83714</u>	State: Zip:
Tel.: <u>808-673-5815</u>	Tel.:
E-mail: <u>hannahballcan@gmail.com</u>	E-mail:
EASEMENT INFORMATION	
Any associated Garden City application file number: <u>DSRFY 2022-0017</u>	
Site Address: <u>382 E Palapa Ln</u> Garden City, Idaho 83714	
Subdivision Name: <u>Casino Beach</u>	
Affected Lot and Blocks	
Tax Parcel Number(s):	

APPLICATION INFORMATION REQUIRED

New Easement (Easements shown on a subdivision plat do not require this form):

***Please Provide:**

- Explanation of the request if there is no associated Garden City application where an easement has been specified as a condition of approval
- Draft Easement in .doc format
- Easement Exhibits:
 - Legal Description of the platted area or property to be included in the easement
 - Map thereof

Request to Vacate Easement

***Please Provide:**

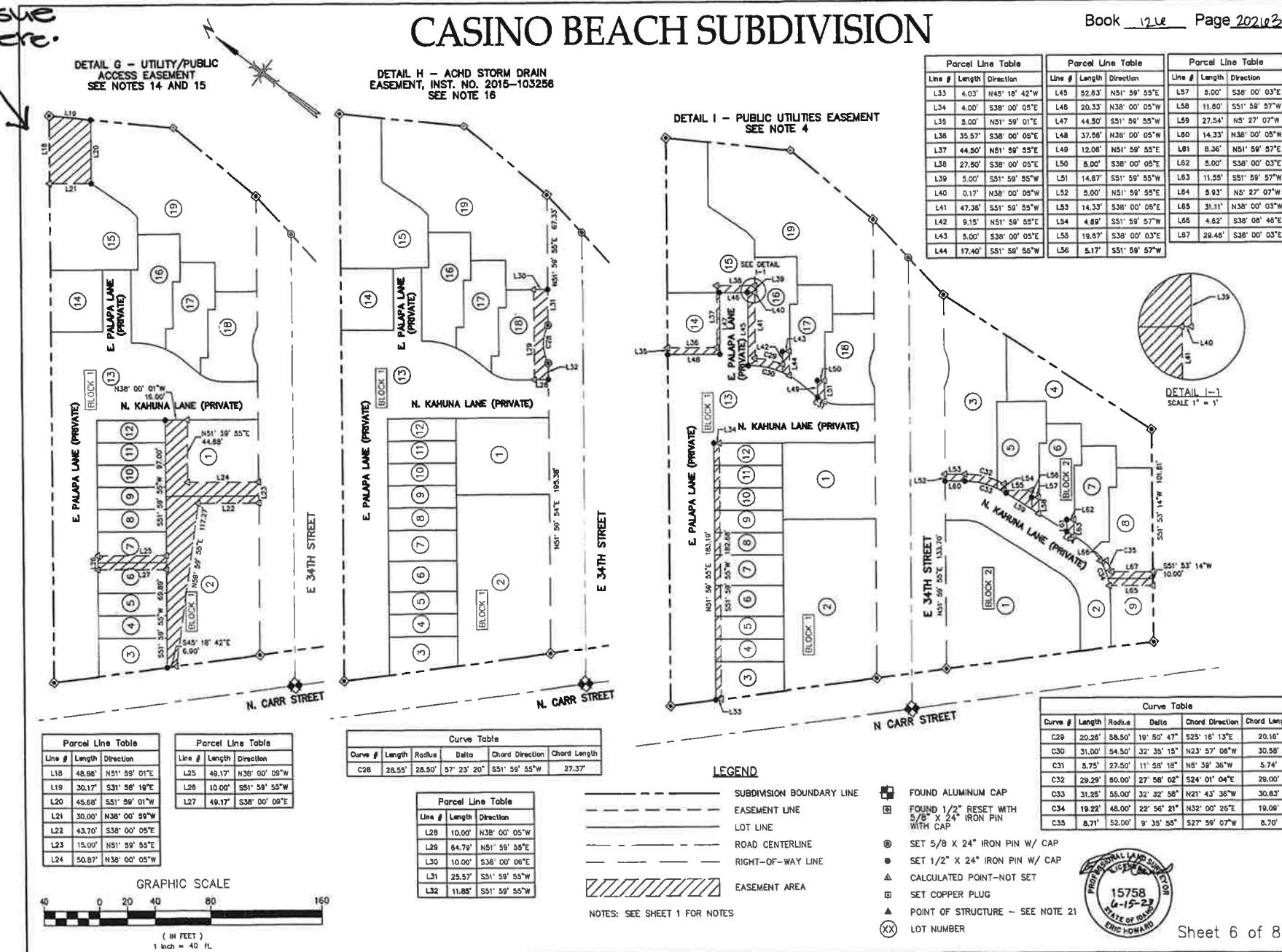
- Affidavit of Legal Interest
- Exhibit A: Legal Description of the platted area or property to be vacated and map thereof; See Casino Beach plot
- Exhibit B: Petition to vacate including:
 - Circumstances of the request to vacate
 - Legal Description of the platted area or property to be vacated and map thereof
 - The names of the persons affected by the vacation request
 - Notarized relinquishments from each potential grantee (e.g. a utility and drainage easement should include relinquishments from Century Link, Intermountain Gas, Idaho Power, Drainage District, and the Home Owners Association)

Exhibit "A"

Issue
Here.

CASINO BEACH SUBDIVISION

Book 1246 Page 202463



CASINO BEACH SUBDIVISION

Book 120 Page 20244

CERTIFICATE OF OWNERS

KNOW ALL INDIVIDUALS BY THESE PRESENTS: THAT HANNAH BALL AND CASINO BEACH LLC, AN IDAHO LIMITED LIABILITY COMPANY ARE THE OWNERS OF THE PROPERTY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND BEING LOTS 1-7 BLOCK 30 AND LOTS 31-34 BLOCK 35 OF FAIRVIEW ACRES SUBDIVISION NO. 5 AS FILED IN BOOK 11 OF PLATS AT PAGE 619, RECORDS OF ADA COUNTY, IDAHO AND LOCATED IN THE SOUTHEAST 1/4 OF SECTION 5, TOWNSHIP 3 NORTH, RANGE 2 EAST, BOISE MERIDIAN, GARDEN CITY, ADA COUNTY, IDAHO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN ALUMINUM CAP MARKING THE EAST 1/4 CORNER OF SAID SECTION 5, FROM WHICH A BRASS CAP MONUMENT MARKING THE SOUTHEAST CORNER OF SAID SECTION 5 BEARS S.00°0'30"E 2672.23 FEET; THENCE S.00°0'30"E, ALONG THE EAST LINE OF SAID SECTION 5, 864.98 FEET TO A POINT; THENCE S.89°56'54"W, 474.05 FEET TO A 1/2 INCH IRON PIN AT THE INTERSECTION OF E 33RD STREET AND NORTH CARR STREET; THENCE N.45°19'24"W, ALONG THE CENTERLINE OF SAID NORTH CARR STREET 350.13 FEET TO AN ALUMINUM CAP AT THE INTERSECTION OF SAID NORTH CARR STREET AND EAST 34TH STREET; THENCE N.51°59'55"E, ALONG THE CENTERLINE OF SAID EAST 34TH STREET, 25.21 FEET TO A 5/8 INCH IRON PIN, SAID IRON PIN BEING THE POINT OF BEGINNING;

THENCE N45°19'08"W, ALONG THE NORTHEASTERLY RIGHT OF WAY OF SAID NORTH CARR STREET, 25.21 FEET TO A 5/8 INCH IRON PIN;

THENCE N45°18'42"W, ALONG THE NORTHEASTERLY RIGHT OF WAY OF SAID NORTH CARR STREET, 149.71 FEET TO A 5/8 INCH IRON PIN;

THENCE N.51°59'01"E, ALONG THE NORTHWESTERLY LINE OF LOTS 1-7 BLOCK 30 OF SAID FAIRVIEW ACRES SUBDIVISION NO. 5, 405.56 FEET TO A 5/8 INCH IRON PIN;

THENCE S.31°58'19"E, A DISTANCE OF 90.04 FEET TO A COPPER PLUG; .

THENCE S.02°00'07"W, A DISTANCE OF 77.10 FEET TO A 5/8 INCH IRON PIN;

THENCE S.09°14'28"W, A DISTANCE OF 73.64 FEET TO A 5/8 INCH IRON PIN;

THENCE S.04°56'03"E, ALONG THE NORTHEASTERLY LINE OF SAID BLOCK 35 OF SAID FAIRVIEW ACRES SUBDIVISION NO. 5, 177.18 FEET TO A 5/8 INCH IRON PIN;

THENCE S.51°53'14"W, ALONG THE EASTERN LINE OF SAID LOTS 31-34 OF BLOCK 5 OF SAID FAIRVIEW ACRES SUBDIVISION NO. 5, 151.20 FEET TO A 5/8 INCH IRON PIN;

THENCE N.45°19'24"W, ALONG THE NORTH EASTERLY RIGHT OF WAY OF SAID NORTH CARR STREET, 150.00 FEET TO A 5/8" IRON PIN;

THENCE N45°19'08"W, ALONG THE NORTHEASTERLY RIGHT OF WAY OF SAID NORTH CARR STREET, 25.21 FEET TO A 5/8 INCH IRON PIN ALSO BEING THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 2.35 ACRES, MORE OR LESS, INCLUDING 0.34 ACRES OF EXISTING PUBLIC RIGHT-OF-WAY.

IT IS THE INTENTION OF THE UNDERSIGNED TO HEREBY INCLUDE THE ABOVE DESCRIBED PROPERTY IN THIS PLAT. THE PUBLIC STREET RIGHT OF WAY IS HEREBY DEDICATED TO THE PUBLIC. THE EASEMENTS AND PRIVATE ROADS INDICATED ON THIS PLAT ARE NOT DEDICATED TO THE PUBLIC, BUT THE RIGHT TO USE SAID EASEMENTS ARE HEREBY RESERVED FOR PUBLIC UTILITIES AND FOR ANY OTHER USES AS DESIGNATED HEREON, AND NO PERMANENT STRUCTURES ARE TO BE WITHIN THE LINES OF SAID EASEMENTS. ALL OF THE LOTS WITHIN THIS PLAT WILL BE ELIGIBLE TO RECEIVE WATER SERVICE FROM GARDEN CITY AND GARDEN CITY HAS AGREED IN WRITING TO SERVE ALL OF THE LOTS IN THIS SUBDIVISION.

IRRIGATION WATER HAS BEEN PROVIDED FROM FAIRVIEW ACRES LATERAL WATER USERS ASSOCIATION, IN COMPLIANCE WITH IDAHO CODE 31-3805(1)(b). LOTS WITHIN THE SUBDIVISION WILL BE ENTITLED TO IRRIGATION WATER RIGHTS AND WILL BE OBLIGATED FOR ASSESSMENTS FROM FAIRVIEW ACRES LATERAL WATER USERS ASSOCIATION.

HANNAH BALL, BY CASINO BEACH, LLC POWER OF ATTORNEY WILL BE DEEDED LOT 15 BLOCK 1 AFTER SAID PLAT IS RECORDED. CASINO BEACH, LLC WILL RETAIN ALL OTHER LOTS.

IN WITNESS WHEREOF, WE HAVE HEREUNTO SET OUR HANDS THE 15th DAY OF June, 2023

CASINO BEACH, LLC


MICHAEL SLAVIN, MEMBER, CASINO BEACH, LLC

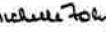
HANNAH BALL
BY: CASINO BEACH, LLC, POWER OF ATTORNEY

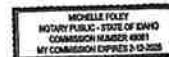

MICHAEL SLAVIN, MEMBER, CASINO BEACH, LLC

ACKNOWLEDGMENT BY LIMITED LIABILITY COMPANY

STATE OF IDAHO)
COUNTY OF ADA) SS

ON THIS 15th DAY OF June, 2023, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED, MICHAEL SLAVIN, KNOWN OR IDENTIFIED TO ME TO BE A MEMBER OF THE LIMITED LIABILITY COMPANY THAT EXECUTED THE INSTRUMENT OR THE PERSON WHO EXECUTED THE INSTRUMENT ON BEHALF OF SAID LIMITED LIABILITY COMPANY AND ACKNOWLEDGED TO ME THAT SUCH LIMITED LIABILITY COMPANY EXECUTED THE SAME.

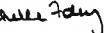
NOTARY PUBLIC FOR IDAHO 
RESIDING AT Boise, ID
MY COMMISSION EXPIRES: 2-12-2025



ACKNOWLEDGMENT BY ATTORNEY IN FACT

STATE OF IDAHO)
COUNTY OF ADA) SS

ON THIS 15th DAY OF June, 2023, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED, MICHAEL SLAVIN, KNOWN OR PRESENTED TO ME TO BE A MEMBER OF CASINO BEACH, LLC, AND THE ATTORNEY IN FACT OF HANNAH BALL, THE PERSON WHO EXECUTED THE FOREGOING "CERTIFICATE OF OWNERS" AND ACKNOWLEDGED TO ME THAT SAID LIMITED LIABILITY COMPANY EXECUTED THE SAME.

NOTARY PUBLIC FOR IDAHO 
RESIDING AT Boise, ID
MY COMMISSION EXPIRES: 2-12-2025



CERTIFICATE OF SURVEYOR

I, ERIC J HOWARD, DO HEREBY CERTIFY THAT I AM A REGISTERED LAND SURVEYOR LICENSED BY THE STATE OF IDAHO, AND THAT THIS PLAT, AS DESCRIBED IN THE "CERTIFICATE OF OWNERS" WAS DRAWN FROM AN ACTUAL SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION AND ACCURATELY REPRESENTS THE POINTS PLATTED THEREON; AND IS IN CONFORMITY WITH THE STATE OF IDAHO CODE RELATING TO PLATS, SURVEYS AND THE CORNER PERPETUATION AND FILING ACT.



CASINO BEACH SUBDIVISION

Book 120 Page 202105

APPROVAL OF CITY ENGINEER

I, THE UNDERSIGNED, CITY ENGINEER IN AND FOR THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO, HEREBY STATE THAT THE RECOMMENDED CONDITIONS OF GARDEN CITY HAVE BEEN SATISFIED.

Joseph D. Cannon PE#116
CITY ENGINEER, GARDEN CITY, IDAHO 6-5-23

HEALTH CERTIFICATE

SANITARY RESTRICTIONS AS REQUIRED BY IDAHO CODE, TITLE 50, CHAPTER 13, HAVE BEEN SATISFIED ACCORDING TO THE LETTER TO BE READ ON FILE WITH THE COUNTY RECORDER OR HIS AGENT LISTING THE CONDITIONS OF APPROVAL. SANITARY RESTRICTIONS MAY BE RE-IMPOSED, IN ACCORDANCE WITH SECTION 50-1306, IDAHO CODE, BY THE ISSUANCE OF A CERTIFICATE OF DISAPPROVAL.

Steve Bailey RENS 5-17-23
CENTRAL DISTRICT HEALTH, RE-5 DATE



ACCEPTANCE OF ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS

THE FOREGOING PLAT WAS ACCEPTED AND APPROVED BY THE BOARD OF ADA COUNTY HIGHWAY DISTRICT COMMISSIONERS ON THE 24th DAY OF May, 2023.

Eric Rubin
PRESIDENT ADA
TRUSTEE OF EXISTING PUBLIC RIGHT-OF-WAY



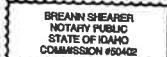
ACKNOWLEDGMENT

STATE OF IDAHO

COUNTY OF ADA

ON THIS 24th DAY OF May, IN THE YEAR OF 2023, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, PERSONALLY APPEARED *Adrea Fettering*, KNOWN OR CERTIFIED TO ME TO BE THE PRESIDENT OF THE ADA COUNTY HIGHWAY DISTRICT, THE PERSON WHO EXECUTED THIS INSTRUMENT ON BEHALF OF SAID DISTRICT, AND ADOWNLEDGED TO ME THAT THE ADA COUNTY HIGHWAY DISTRICT EXECUTED THE SAME.

Breann Shearer
NOTARY PUBLIC FOR IDAHO
PENDING AT Boise, ID
BY COMMISSION EXPIRES: July 19, 2025



APPROVAL OF CITY COUNCIL

I, THE UNDERSIGNED, CITY CLERK IN AND FOR THE CITY OF GARDEN CITY, ADA COUNTY, IDAHO, HEREBY CERTIFY THAT AT A REGULAR MEETING OF THE CITY COUNCIL HELD ON THE 24th DAY OF July, 2023, THIS PLAT WAS DULY ACCEPTED AND APPROVED.

Cherie Bailey
CITY CLERK, GARDEN CITY, IDAHO



CERTIFICATE OF COUNTY SURVEYOR

I, THE UNDERSIGNED, PROFESSIONAL LAND SURVEYOR IN AND FOR ADA COUNTY, IDAHO, DO HEREBY CERTIFY THAT I HAVE CHECKED THIS PLAT AND FIND THAT IT COMPLIES WITH THE STATE OF IDAHO CODE RELATING TO PLATS AND SURVEYS.

Del P. May
COUNTY SURVEYOR, PLS #
PLS # 13553



20 June 2023
DATE

CERTIFICATE OF COUNTY TREASURER

I, THE UNDERSIGNED, COUNTY TREASURER IN AND FOR THE COUNTY OF ADA, STATE OF IDAHO, PER THE REQUIREMENTS OF I.C. 50-1308, DO HEREBY CERTIFY THAT ANY AND ALL CURRENT AND/OR DELINQUENT COUNTY PROPERTY TAXES FOR THE PROPERTY INCLUDED IN THIS PROPOSED SUBDIVISION HAVE BEEN PAID IN FULL. THIS CERTIFICATION IS VALID FOR THE NEXT THIRTY (30) DAYS ONLY.

Elizabeth Mohn June 23rd, 2023
COUNTY TREASURER
Signed by *Deputy Julie Rasing*



CERTIFICATE OF COUNTY RECORDER

INSTRUMENT NO. 2023-0316160

STATE OF IDAHO

COUNTY OF ADA

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED AT THE REQUEST OF *J.T. Howard LLC*

AT 28 MINUTES PAST 1 O'CLOCK P.M., THIS 23rd DAY OF June, 2023, IN MY OFFICE AND WAS DULY RECORDED IN BOOK 1210 OF PLATS AT PAGES 20258 THROUGH 20265.

Adrea Fettering
DEPUTY
FEE: \$41

Trent Triplett
EX-OFFICE RECORDER



Dear Garden City Staff and Elected Officials,

I am writing to formally request the vacation of the 12-foot pathway easement required as a condition of approval for Application DSRFY 2022-0017. When this application was submitted, it was always our intent to develop a mixed-use property that fully embraces the zoning designations and uses of the land. However, several concerns related to the easement language and conditions have arisen, prompting this request.

Prime Real Estate and Vagueness of Easement Terms

The property includes prime Greenbelt and riverfront real estate, and the language of the easement lacks clarity regarding its use and limitations. Specifically, the following questions remain unanswered:

1. Exclusivity of Public Use:
 - Does the easement permit only pedestrian use, or does the landowner retain rights to determine the type of public access?
2. Personal and Commercial Use Conflicts:
 - Can property owners use the easement space for personal enjoyment, such as having alcohol on their property?
 - Can commercial uses, such as outdoor seating or alcohol service, be established on this prime real estate without violating the easement terms?
3. Zoning Incompatibility:
 - The easement language appears to exclude the property from being used for purposes consistent with its zoning, undermining its potential value.

Potential for Conflict and Unclear Responsibilities

The vague terms of this easement mirror language found in other disputed easements that have led to significant conflict and controversy. This ambiguity raises several concerns:

4. City's Position on Conflict Mitigation:
 - If disputes arise due to the vagueness of the easement, will the city assist with mitigation efforts, or will the burden fall entirely on the HOA or property owner?
5. Enforcement of Restrictions:
 - Will the property owner be allowed to install measures like fences or gates to restrict unwanted behaviors, as permitted in other similar easements, or will the city assume responsibility for enforcing anti-loitering and other public ordinances?
6. Public Behavior on the Easement:
 - Does this easement merely allow public access through the property, or does it grant the public broader rights, such as protesting or other activities typically allowed in public spaces?
 - What rights does the property owner have to address situations like unauthorized camping or tents being erected on this portion of their property?

Loss of Use and Value Concerns

The more this easement seems to limit the use of this prime real estate, the more it resembles a government "taking." The pathway does not appear necessary due to the property's development but rather aligns with a pre-existing city plan. While such a connection could potentially enhance property value, the complete loss of use for zoning-approved purposes undermines the value proposition and feasibility for the property owner.

Additional Issues with the Condition of Approval

Condition #14 of the approval decision requires the applicant to create a connection to 35th Street. This condition introduces significant challenges:

- The condition includes vague language requiring collaboration with Thurman Mill and adjacent owners. The applicant has no control over third-party cooperation or the feasibility of obtaining the required easements, making the condition unreasonable.
- The condition creates an open-ended obligation for the applicant without a clear or achievable path forward.

Furthermore, the decision document fails to specify:

- Whether the property owner retains any rights to regulate or restrict activities on the easement.
- Whether the pathway is considered public or private property and how that distinction affects its use.
- Whether the easement can be closed or restricted during certain hours.

Request

For these reasons, I respectfully request the following:

1. That the 12-foot pathway easement be vacated.
2. That Condition #14 on page 10 of the approval document be stricken due to its vagueness and impracticality.

I appreciate your time and consideration of this request. I look forward to working collaboratively to ensure the development aligns with its mixed-use zoning while maintaining reasonable and fair use of private property.

Sincerely,

Hannah Ball





6015 Glenwood Street • Garden City, Idaho 83714
Phone 208 - 472-2921 • Fax 208 - 472-2926 •
www.gardencityidaho.org

Affidavit of Legal Interest

State of Idaho)
)SS

County of Ada)

I, Hannah Ball
Name

215 E. 34th St

Garden City

ID 83714

Being first duly sworn upon oath, depose and say:

1. That I am the record owner of the property described on the attached, and I grant my permission

to Hannah Ball

215 E. 34th St

to Name

Address

to submit the accompanying application pertaining to that property.

2. I agree to indemnify, defend and hold the City of Garden City and its employees harmless from any claim or liability resulting from any dispute as to the statements contained herein or as to the ownership of the property which is the subject of the application.
3. I hereby grant permission to City of Garden City staff to enter the subject property for the purpose of site inspections related to processing said applications.

Dated this 27th day of December, 2024.

Mark Ball
Signature

Signature

Subscribed and sworn to before me the day and year first above written



Notary Public for Idaho

Residing at:

M. S. ANDREW

Kuna, ID

1836