

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:	)	SUBFY2024-0005
	)	
	)	
Preliminary Plat Subdivision	)	
Planned Unit Development	)	FINDINGS OF FACT
313 E. 48 <sup>th</sup> Street	)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho	)	AND DECISION
	)	

THIS MATTER, came before the Garden City Council for consideration on October 14, 2024. 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. The application is for a Preliminary Plat processed as a Planned Unit Development subdivision.
2. The applicant is Stephen Pendl.
3. The property owner of record is ZYNH Family Trust.
4. The location of the project is 313 E. 48<sup>th</sup> Street;
  - a. Taxing Parcel Number: R2734523470; Property is described as: PAR #3470 SE'LY POR LOT 19 BLK 25 FAIRVIEW ACRES SUB NO 03 #3473-B
  - b. Taxing Parcel Number: R2734523465; Property is described as: PAR #3470 SE'LY POR LOT 19 BLK 25 FAIRVIEW ACRES SUB NO 03.
5. The subject property is 0.688 acres.
6. The project is located in the Mixed Use Commercial designation of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Zoning District.
8. The project is in the 500 Year of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study).

9. The project is partially in 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.

10. The following section of the Garden City Development Code apply to this proposal:

- a. Garden City Code 8-1: General Regulations
- b. Garden City Code 8-5: Land Division Regulations
- c. Garden City Code 8-2B: Base Zoning District Regulations
- d. Garden City Code 8-4A: Design and Development Regulations – General Provisions
- e. Garden City Code 8-4B: Design and Development Regulations – Design Provisions for Residential Structures
- f. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- g. Garden City Code 8-4E: Transportation and Connectivity Provisions
- h. Garden City Code 8-4H: Flood Hazard
- i. Garden City Code 8-4G: Sustainable Development Provisions
- j. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
- k. Garden City Code 8-4L: Open Space Provisions
- l. Garden City Code 8-6A: Administration – General Provisions
- m. Garden City Code 8-6B-7 Planned Unit Development
- n. Garden City Code 4-14: Storm Drainage and Erosion Control
- o. Garden City Code Title 6: Public Water and Sewer Systems

11. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2			Required Application Information
Provided			
Yes	No	Waived	
X			Compliance Statement
X			Preliminary Title Report
X			Neighborhood Map
X			Subdivision Map
	X		Master Plan
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
	X		Lighting Plan
X			Topographic Survey PUD too
X			Grading Plan PUD too
X			Hydrology PUD too
X			Natural Hazards and Resource Analysis
X			Dedications and Easements PUD too
X			Covenants and Deed Restrictions PUD too
X			Will Serve

X		Subdivision Name Reservation
	X	Verification that address is an Ada County Approved Address*

\*Items that may be required for reviews later.

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

Noticing Requirement	Required Date <sup>1</sup>	Completion Date
Receipt of application		07/11/2024
Letter of Acceptance		08/19/2024
Radius Notice	09/03/2024	08/08/2024
Interested Parties	n/a	n/a
Legal Notice	08/30/2024	08/07/2024
Agency Notice	09/03/2024	08/13/2024, and 08/20/2024
Property Posting Sign	09/08/2024	09/06/2024
Affidavit of Property Posting and Photos	09/11/2024	09/06/2024

13. Agency Comments were received from:

- a. City Engineer;
- b. Ada County Highway District;
- c. Department of Environmental Quality;
- d. North Ada County Fire and Rescue;
- e. Republic Services;
- f. The Independent School District.

14. Written Public Comments were received from:

- a. No public comments were received.

15. On September 18, 2024, the Garden City Planning and Zoning Commission recommended Approval of the application. A summary of the hearing is as follows:

- a. At the beginning of the meeting the Chairman asked if the applicant was in attendance and if they agreed with the draft findings of fact conclusion of law and recommended decision in the affirmative, if there was any member of the public who wished to testify in opposition to the application, or if the staff or any member of the Commission have any reason that the application should be heard.
- b. The applicant, Ben Simple, noted that he was in attendance and that he agreed with the decision and conditions as drafted in the affirmative.
- c. There was no one from the public who wished to testify.
- d. The staff nor any member of the Commission noted a reason why this item needed to be heard.
- e. The application was moved to the consent agenda and approved.

<sup>1</sup> This date is based on the date of the first of any public hearing scheduled.

16. On October 14, 2024, a public hearing before the Garden City Council was held:  
a. This section will be completed after the hearing.

17. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Design Review Consultation Audio: September 16, 2024
- f. Planning and Zoning Minutes and Hearing Audio: September 18, 2024
- g. Planning and Zoning Commission Recommendation
- h. City Council Minutes and Hearing Audio: October 14, 2024
- i. City Council Decision

18. In consideration of a preliminary plat subdivision the decision maker shall make the following findings:

**The draft findings are written based on the recommendation from the Planning and Zoning Commission. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.**

<b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b> <b>In Approval:</b> The application is cohesive with the Comprehensive Plan's Mix Use Commercial land use designation as it proposes as it proposes a residential neighborhood that is more urban in character consisting of multi-story townhomes at a density of 16 dwelling units per acre.</p> <p>The application is in conformance with the Comprehensive Plan's Goals: <b>Goal 1. Nurture the City</b></p>

			<ul style="list-style-type: none"> <li>• 1.4 Objective: Create a premier destination place to live, work, and recreate.</li> </ul> <p><b>Goal 2. Improve the City Image</b></p> <ul style="list-style-type: none"> <li>• 2.1 Objective: Encourage new and distinctive neighborhoods.</li> <li>• 2.3 Objective: Promote quality design and architecturally interesting buildings.</li> </ul> <p><b>Goal 4. Emphasize the “Garden” in Garden City</b></p> <ul style="list-style-type: none"> <li>• 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</li> </ul> <p><b>Goal 6. Diversity in Housing</b></p> <ul style="list-style-type: none"> <li>• 6.1 Objective: Eliminate and upgrade substandard housing.</li> <li>• 6.2 Objective: Continue to be a leader and set an example for the region in creating a diversity of housing.</li> <li>• 6.3 Objective: Maintain the diversity of housing.</li> </ul> <p><b>Goal 7. Connect the City</b></p> <ul style="list-style-type: none"> <li>• 7.4 Objective: Maintain and improve standards for sidewalks, curbs, and gutters.</li> </ul>
X			<p><b>Finding 2.</b> The subdivision is in conformance with all applicable provisions of this title;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  As conditioned, the application is in conformance with the applicable sections of Garden City Code.</p>
X			<p><b>Finding 3.</b> Public services are available or can be made available; and are adequate to accommodate the proposed development;</p>

			<p><b>Explanation:</b>  <b>In Approval:</b>  A condition has been drafted to ensure that the Ability to Serve is provided.</p>
X			<p><b>Finding 4.</b> The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  The subdivision does not undermine scheduled public improvements or the City's capital improvement program.</p>
X			<p><b>Finding 5.</b> There is public financial capability of supporting services for the proposed development</p> <p><b>Explanation:</b>  <b>In Approval:</b>  A condition of approval for the submittal of the ability to serve letter has been made.</p>
X			<p><b>Finding 6.</b> The development will not be detrimental to the public health, safety, or general welfare;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  This proposal will not unreasonably diminish the health, safety, or welfare of the community. The installation of pedestrian sidewalks along E. 48<sup>th</sup> Street, and the beautification of the streetscape with street trees will not only increase the safety of bicyclists and pedestrians but also improve the health and general welfare of the neighborhood.</p> <p>Residents will be capable of traversing the development via the system of separated walkways to limit the potential pedestrian and vehicular conflict.</p>
X			<p><b>Finding 7.</b> The development preserves significant natural, scenic, or historic resources.</p>

			<p><b>Explanation:</b>  <b>In Approval:</b>  The application integrates with the surrounding urban area, the Greenbelt, and proposes to landscape the development site.</p>
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19. In consideration of a planned unit development, the decision maker shall make the following findings:

<p><b>The draft findings are written based on the recommendation from the Planning and Zoning Commission. The City Council will review all evidence, and the draft findings may be updated based on their review and consideration.</b></p>			
<p><b>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b></p>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p><b>Finding 1.</b> The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  Approval of this application is conditioned that the development shall be initiated within two years of the date of approval.</p>
X			<p><b>Finding 2.</b> Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;</p> <p><b>Explanation:</b>  <b>In Approval:</b></p>

			The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the surrounding neighborhood.
X			<p><b>Finding 3.</b> The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  The proposed development has a private common drive that is capable of handling anticipated traffic which will provide ingress/egress onto 38th Street. The PUD is not large enough to trigger a traffic impact analysis.</p>
	X		<p><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p> <p><b>Explanation:</b>  Not Applicable: The Development does not propose any commercial aspects.</p>
X			<p><b>Finding 5.</b> Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council</p> <p><b>Explanation:</b>  <b>In Approval:</b>  This application meets the provisions identified by the planned unit development process. The requested waivers provide for a more useful pattern of open space and recreation areas.</p> <p>The application provides a choice of living environments through providing a variety of two-and-three-bedroom units as well as</p>

			<p>maintaining the existing single family detached dwelling unit.</p> <p>The application will provide a variety of housing thus meeting the diverse needs of various individuals and families. The buildings provide architectural variation.</p>
X			<p><b>Finding 6.</b> The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  The proposal is compatible with the surrounding uses and the neighborhood vision.</p> <p>The proposal is a component of the overall neighborhood. The types of housing will provide for more comprehensive variety of residential options in the neighborhood.</p>
X			<p><b>Finding 7.</b> The PUD is in general conformance with the comprehensive plan;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  With the unique design of the dwellings and increase in density, this development may be considered compatible with the existing residential uses in the neighborhood.</p>
X			<p><b>Finding 8.</b> The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  Approval of this application is conditioned in that the ability to serve shall be provided prior to signature of the plat or approval of construction plans.</p>

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p><b>Finding 1.</b> The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  The development is compatible with the surrounding uses and is permitted within the R-3 zoning district. The application meets the setback standards set forth in Garden City Code, with the exception of one waiver request to decrease the rear setback, and any other deviations to code standards have been conditioned for compliant or waived as part of the Planned Unit Development.</p>
X			<p><b>Finding 2.</b> The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p> <p><b>Explanation:</b>  <b>In Approval:</b>  Approval of this application is conditioned in that the ability to serve shall be provided prior to signature of the plat or approval of construction plans. Conditions have been made to ensure code compliance is met regarding utilities, stormwater facilities, and irrigation.</p>
X			<p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community;</p> <p><b>Explanation:</b>  <b>In Approval:</b></p>

			This proposal will not unreasonably diminish the health, safety, or welfare of the community.
X			<p><b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p><b>Explanation:</b>  <b>In Approval:</b>  The reviewed sections are in conformance with this finding. The comprehensive plan objectives reviewed, and land use designation support this application.</p>

20. The record was reviewed in its entirety 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-5, 8-6B-2, and 8-6B-7.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Garden City Council hereby does **SUSTAIN/ REJECT/ REMAND** the Planning and Zoning Commission recommendations as modified and does **APPROVE/ DENY** Zhanna Place Townhomes, application SUBFY2024-0005 for a Preliminary Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

### Prior to City Signature on Plat:

1. The final plat shall be in conformance with this approval as reviewed and approved or otherwise conditioned through this approval.
2. Common driveways, open space, and other common areas shall be included in an easement or on a common lot noted as unbuildable.
3. Easements:
  - a. As required by the City Engineer or this decision easements shall be provided.

- b. All easements must be noted on the plat either directly or by instrument number (generally preferred method) or otherwise recorded.
  - c. Easements shall define the grantee and adequate information to depict the location of the easement such as a legal description and illustration.
  - d. Easements shall be unobstructed unless otherwise specified.
  - e. At a minimum, the following easements shall be provided:
    - i. Public utility
    - ii. Water and sewer
      - 1. If not otherwise designated by the City Engineer the 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.
    - iii. Drainage
    - iv. Cross-access easement along the common drive and pedestrian pathways.
- 4. Provide a note on the final plat to read, "Building setback lines shall be in accordance with the approved planned unit development application, Garden City file number SUBFY2025-0005".
  - a. The approved reductions from code required setback are:
    - i. Lots 3-8
      - 1. Rear Setback: 5'
- 5. Common Lots:
  - a. All common open spaces shall be located on common lots and noted as unbuildable on the plat.
  - b. Lot 1 shall be considered a common lot.
  - c. The common lot is permitted to reduce in size or be eliminated provided that an easement is granted for the common open space. The easement shall be dedicated to the subdivision's HOA for maintenance of all common open space.
- 6. For clarification, let it be known that:
  - a. Lot 2:
    - i. Front setback shall be considered the area between the public right-of-way and E. 48<sup>th</sup> Street.
    - ii. Rear setback shall be considered the area between the structure and eastern property boundary line.
  - b. Lot 3-8, and 9-11:
    - i. Front setbacks shall be considered the area between the residential lots and area dedicated to the common drive.
- 7. A building envelope within which future building footprints will be located shall be shown on the lots.

8. A binding contract that establishes the party or parties responsible for the repair and maintenance of the common lots including regulations for the funding shall be recorded with a final plat. No building permit shall be issued until the contract has been recorded.
9. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho."
10. The common drive shall extend to the edge of the Zhanna Place Townhomes by the subdivision. A future connection shall be specified in the CC&Rs so that the future property owners and Homeowners Association know of this condition.
11. If a fence is to be installed along the southern property boundary line, signage indicating a future connection shall be placed on the fence.
12. If a fence is to be installed along the southern property boundary line, it shall be removed when the adjacent parcel is developed to allow for vehicular connection along the connecting common drives, as well as for a shared common open space and amenity area. This shall be noted in the CC&Rs so that future homeowners and the future HOA knows of this condition.
13. A cross-access easement shall be provided along the common drive of the subdivision.

**Prior to approval of construction plans:**

1. The site plan and subsequent construction shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
2. A Floodplain development permit is required.
3. Submit a sustainability checklist that demonstrates compliance with or an exemption from Garden City Code 8-4G for each anticipated lot and or structure prior to final plat signature.
4. Landscaping:
  - a. The landscaping shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
  - b. A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional Class II or III tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
    - i. The frontage of E. 48<sup>th</sup> Street shall have a total of 3 class II or III trees with high and wide branching canopies.
  - c. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.

- d. A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.
  - i. At least 60 trees and 400 shrubs shall be provided on-site.
- e. 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.
- f. 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.
- g. 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.
- h. All 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.
- i. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
- j. The landscaping plan may be amended, and reviewed at a staff level, to ensure compliance with Garden City Code 8-4I Landscaping and Tree Protection Provisions, and 8-4L-4 Common Open Space provided that there is equal or greater landscaping provided and no reduction in tree canopy. All other changes to landscaping must be approved by the Design Review Committee or decision maker.

5. The common drive shall extend to the southern property boundary line to allow for future vehicular connections with the adjacent property to the south.

6. Pressurized irrigation shall be provided in conformance with Garden City Code 8-5A-5H. 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.

7. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.

8. All utilities on the site and in the right-of-way adjacent to the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.

9. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along 38<sup>th</sup> Street.

- a. Pedestrian crossings internal to the development shall be raised with a rolled curb so as to decrease the speed of vehicular traffic along the common drive and to identify the crossing.

10. Lot 2 Garage and Carport:

- a. A garage and carport shall be deemphasized when viewed from the public street demonstrated by one (1) of the following:
  - i. The garage or carport shall not occupy more than fifty percent (50%) of the building line adjacent to any public street unless the garage has one (1) of the following: windows in or above the garage doors; and dormers, raised or recessed trim on the garage doors; or garage doors sized for a single automobile; and contains texture, color, and materials that match the residential structure; and
  - ii. The garage or carport is recessed at least six feet (6') behind the front building line of the residential structure; or
  - iii. The garage or carport is located with a side entrance;
  - iv. A temporary carport shall only be located behind the house and not visible from a public right-of-way, and shall not be allowed on a corner lot.

11. Vehicular parking:

- a. Lot 2 shall have vehicular parking spaces provided in accordance with the requirements of GCC 8-4B and 8-4D.
- b. Parking spaces shall meet the minimum dimensional standards set forth in GCC 8-4D.
- c. The guest parking shall be in conformance with this approval as reviewed and approved or otherwise conditioned.

12. The ability to serve shall be provided.

13. All stormwater systems must comply with Garden City Code 8-4A-7 and other stormwater ordinances and policies. Drainage must be retained on site.

- a. If stormwater swales are required by ACHD along the 48<sup>th</sup> Street frontage, the swales shall be designed in such a way to allow for the required street trees.

14. 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.

15. Fences:

- a. All new fences shall be required to be in conformance with Garden City Code 8-4A.

- b. The existing fences shall be removed from the site. If the fence does not belong to the property owner, then a notarized affidavit of non-ownership shall be provided to the city.
- c. If a fence is to be installed along the southern property boundary line, then it shall be removed when the adjacent parcel is developed to allow for vehicular connection along the connecting common drives, as well as for a shared common open space and amenity area. This shall be noted in the CC&Rs so that future homeowners and the future HOA knows of this condition.
  - i. A sign shall be installed along the fence line with a notice stating "Future Road Extension."

16. The subdivision shall provide vehicular and pedestrian access to the adjacent property located at 311 E. 48<sup>th</sup> Street, Parcel R2734523476.

**Prior to approval of building permits for structures:**

- 1. The structural elevations shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
- 2. The floorplans shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
- 3. All structures shall adhere to the requirements of GCC 8-4H Flood Hazard should the FEMA flood insurance maps be updated prior to building permit submittal.
- 4. All structures that are not in the regulatory floodplain, but are anticipated to be in the floodplain per the FEMA Flood Insurance Study of 2020, except for those dedicated solely to storage, access, or parking, and utilities thereof, shall be built with the lowest floor at or above the anticipated base flood elevation, refer to Garden City resolution 1083-20.
  - a. An elevation certificate shall be submitted to the City verifying compliance with this condition.
- 5. The subdivision must obtain Ada County Approved addresses for all new lots.
- 6. All HVAC systems and outdoor service and equipment areas shall be identified in building plans for permit review and screened to be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
- 7. Setbacks for all lots shall be from the property lines.

**For the Duration of the Use:**

- 1. All streets and driveways shall adhere to the standards of a clear vision triangle.
- 2. Landscaping:

- a. The property owner is responsible for the maintenance of all landscaping and screening devices required.
- b. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem.
- c. Dead plant materials shall be replaced equal or larger species.
- d. 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.
- e. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
- f. 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.
- g. The landscape installation shall stabilize all soil and slopes.

3. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
4. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
5. If a fence is to be installed along the southern property boundary line, signage indicating a future connection shall be placed on the fence.
6. If a fence is to be installed along the southern property boundary line, it shall be removed when the adjacent parcel is developed to allow for vehicular connection along the connecting common drives, as well as for a shared common open space and amenity area. This shall be noted in the CC&Rs so that future homeowners and the future HOA knows of this condition.
7. All common open spaces shall be located on an open space easement with the grantee being Zhanna Subdivision or be located within a common lot.
  - a. The common open spaces shall not be altered or eliminated by individual property owners.
  - b. The subdivision shall maintain all open spaces in accordance with Garden City Code 8-1C Property Maintenance Provisions as well as Garden City Code 8-4L Open Space Provisions.

**General:**

1. This approval is for a preliminary plat for a residential subdivision encompassing 11 lots – 10 lots are to be designated for residential use, and 1 lot is to be designated as a common lot.
2. This approval is based on the following plans:

- a. Landscape Plan Submitted on September 18, 2024, dated September 18, 2024;
- b. Architectural Elevation Plans and Renderings submitted on September 18, 2024, dated September 2, 2024;
- c. Architectural Floorplans Submitted September 18, dated September 2, 2024;
- d. Site Plan Submitted September 2, 2024, dated September 2, 2024;
- e. Common Open Space Exhibit dated September 18, 2024. Dated September 18, 2024;
- f. Preliminary Plat Submitted September 18, 2024, dated September 18, 2024.

3. Approved waivers to Garden City Code, Title 8 regulations include:

- a. Setbacks, allowing for interior of the development rear setback of 5'; and
- b. More than 4 dwelling units being served through a common drive, allowing for 9 units to be served on a common drive;
- c. The rear yard of Lot 2 may be adjacent to the front yard of Lot 3.

4. RECOMMENDATION: As of the date of this writing, the Federal Emergency Management Agency has issued Digital Federal Insurance Rate Maps (DFIRM) which identifies Garden City in seclusion. The most current flood mapping model proposes to delineate the subject properties to be within the 100-year Floodplain once the seclusion is lifted. The applicant should consider that any new structures must have the top of the lowest floor 2' above BFE (as defined by adopted FIRM) pursuant to current Garden City Code. This approval is conditioned that structures at least to at or above the anticipated BFE. Stricter standards may be required in the future for building permit approvals if the floodplain is updated.

5. There is no guarantee that public parking will remain public.

6. The development shall be initiated within two (2) years of the date of approval.

7. The applicant shall comply with all requirements of the reviewing entities.

8. 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.

9. Approval of the subdivision does not constitute as the approval for any uses.

10. The approved addresses and a copy of the recorded plat must be provided to the city prior to the city considering the subdivision complete.

11. The approval is specific to the application provided and reviewed.
12. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
13. 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.
14. 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 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 conformance with the plans reviewed and approved.
15. Any changes to the design of this project shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Other changes that are not in conformance with the approval shall be remanded to the decision-making body.
16. 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.
17. 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.
18. 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 have 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.

19. The Development Services Director may enter into a restricted build agreement on the City's behalf, provided the agreement is compliant with the approved restricted build agreement policies.
20. This approval shall expire two (2) years from its approval, unless otherwise extended as allowed by Garden City Code.
21. Approval shall become null and void if the applicant fails to record a final subdivision within two (2) years 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.
22. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
23. Action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
24. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
25. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the action and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
26. A takings analysis pursuant to Idaho Code may be requested on final decisions.
27. 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

October 14, 2024

Date