

BEFORE THE GARDEN CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

THIS DRAFT POTENTIAL DECISION DOCUMENT REFLECTS THE PLANNING AND  
ZONING COMMISSION'S RECOMMENDATION.

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE  
CONSIDERED. THE CITY COUNCIL'S REVIEW OF THIS APPLICATION MAY  
RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR  
CONDITIONS.

In the Matter of: ) SAPFY2023-0001  
                          )  
                          )  
                          )

Specific Area Plan:  
The Residences at River Club ) FINDINGS OF FACT  
6515 State Street           ) CONCLUSIONS OF LAW,  
Garden City, Ada County, Idaho ) AND DECISION  
                              )

THIS MATTER came before the Garden City City Council for consideration on 6/12/2023 and for a formal action on 6/12/2023. The Garden City City Council reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City City Council makes the following Findings of Fact, Conclusions of Law and Decision:

#### FINDINGS OF FACT

1. The application is for a Specific Area Plan.
2. The applicant is Trevor Nicoll with LPC West, Inc.
3. The subject property owner of record is LB River Club Owner LLC.
4. The applicant has provided *prima facie* evidence, through the Delegation of Authority and other documentation, of ownership and control of the property. The applicant has provided *prima facie* evidence that the property owner consents to the application.
5. The location of the project is for a portion of the property addressed as 6515 W. State Street, Garden City, Idaho 83714; Taxing Parcel Numbers: S0630223350 and S0630212910; The property is described by the Ada County Assessor's Office as Parcel S0630212910 @ NE4NW4 in TCA 06-15 Section 30 4N 2E; and Parcel S0630223350 of Sec 24-25 & 30 Lots 2-3 4N2E & Lots 2-3 Block 4 Plantation Subdivision #1 #222680C #244315C S0630212900C S0525110106C S0619336570C R7100400583C R7100400605C.

**Commented [JT1]:** New potential finding not found in the Planning and Zoning Commission recommendation. Updated to reflect the city attorney's wording.

6. The subject property includes roughly 22 acres of the 100.72-acre parcels.
7. The subject property is in the R-2 Low Density Residential Zoning District.
8. The subject property is in the Activity Node: Neighborhood Destination, Green Boulevard Corridor, Residential Low Density, Future Park/ Open Space designations of the Comprehensive Plan Future Land Use Map.
9. The following sections of the Garden City Development Code are added or amended by this proposal:
  - a. 8-2A-2 Official Zoning Map
  - b. 8-8 Specific Area Plans
  - c. 8-8A The Residences at River Club District
10. There has been no denial of any application in the same form for the same use on this property within one year.
11. The following sections of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-1A-4: General Regulations, Applicability
  - b. Garden City Code 8-2A-2: Official Zoning Map
  - c. Garden City Code 8-6A: Administration
  - d. Garden City Code 8-6B-6: Specific Area Plan
12. 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				Master Plan
		X		Site Plan
X				Topographic Survey
X				Natural Hazards and Resource Analysis
		X		Dedications and Easements
	X**			Verification that address is an Ada County Approved Address*

\*Items that are waived may be required for review at a later date.

\*\*Addresses for the subject property will need to be submitted once they are provided by Ada County.

13. The application includes additional documentation to that which is required by the Garden City Code. All submitted application documents are a part of the record.

**Commented [JT2]:** New potential finding not found in the Planning and Zoning Commission recommendation that is clerical in nature.

14. On December 30, 2022, the application was determined as complete and accepted.

15. The following noticing was completed in accordance with GCC 8-6A-7<sup>1</sup>:

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting	12/20/2022	10/25/2022
Radius Notice	2/28/2023	12/30/2022
Legal Notice	2/28/2023	1/3/2023
Agency Notice	2/28/2023	12/29/2022
On site	3/5/2023	3/2/2023

- a. Public notice was posted at Garden City Hall, the Garden City Police Department, and Garden City Fred Meyer on 12/30/2022.
- b. Interested parties have emailed notices and updates.

16. The agendas were posted in the Garden City lobby and on the Garden City website in accordance with Idaho Code 74-204.

17. Additional noticing was provided:

- a. On the Garden City Next Door site
- b. On the Garden City website

18. Agency Comments were received from:

- a. City Engineer 1/8/2023
- b. DEQ 1/5/2023
- c. VRT 2/13/2023
- d. Design Review Consultant Derek Hurd 2/24/2023, 03/10/2023, & 05/26/2023
- e. Design Review Consultant Bret Labrie 2/24/2023, 03/10/2023, & 05/26/2023
- f. Boise School District 03/10/2023 & 05/08/2023
- g. Ada County Highway District 04/17/2023 and 04/27/2023
- h. City of Boise 03/15/2023

19. Written Public Comments received on or before June 5, 2023, were received from:

<sup>1</sup> The noticing was conducted for all hearings and the dates correspond to the first hearing date.

In Favor

a. Jerry Ochofield  
b. Patricia Perkins  
c. Mike Nero  
d. Janice & Bob Wilcox  
e. Tom Donahoe  
f. Tyler McReynolds  
g. Scott White  
h. Joyce and John Raudabaugh  
i. Lou and Gerre Pagano  
j. Nancy Cenell  
k. Save Plantation Coalition  
l. Craig Fenwick  
m. Joe and Audrey Leaf  
n. Steve and Cathleen Aikman  
o. Glenn and Viktoria Elam  
p. Dick and Janelle Curtis  
q. Steve and Terry Selekoft  
r. Adam and Andrea Krueger  
s. Mark and Christina Johnson  
t. Sheryl Scott  
u. Brian Marsh  
v. Rick York  
w. Naney Marsh  
x. Robert DeBolt  
y. Jeff Cliff  
z. Vicki Malloy  
aa. Terri Nero  
bb. Bruce & Jean Christensen  
cc. Andrew Johnson  
dd. Kristen Colter  
ee. Anne & Bill Connors  
ff. Deanna Turner  
gg. Brent Pipal  
hh. Jason Dobis  
ii. Joyce & John Raudabaugh  
jj. Will Gustafson  
kk. Dennis Huston  
ll. Karen Buich  
mm. Marty Pieroni  
nn. Kristina Lawcynell  
oo. Nathan Lawcynell  
pp. Leslie Sand  
qq. Robert and Janet Bennett  
rr. Marcia Bleymaier  
ss. Garden City Visitors Bureau

tt. Briana and Doug Werner  
uu. Travis Young  
vv. Bob Running  
ww. Mark Johnson  
xx. Dick Curtis  
yy. Kevin Helmick  
zz. Tom Donahoe  
aaa. Riely Hickox- Retracted

Neutral or Unknown

a. Curt and Linda Blake

Opposed

a. Pat Pettiette  
b. Kathleen Ross  
c. Mark & Alana Annese  
d. Marilyn & Louis Stoddard  
e. Kelly Holzscheiter & Brently Bird  
f. Dr. Michael & Marty Downey  
g. Claudia & Jim Foltz  
h. Nick & Alicia Sullivan  
i. Dr. Ron & Carol Reagan  
j. Carmen & Larry Westberg  
k. David Patterson  
l. Dan & Betty Hollar  
m. Bob Schmellick  
n. Janelle Curtis  
o. Lynn Livingston  
p. Art & Cynthia Peavey  
q. Anthony Cardoni  
r. Gail & Ted Neil  
s. Riley Hickox  
t. Lou & Gerre Pagano  
(retracted)  
u. Kathy Clancy  
v. Colleen Lambertz & Mary Jo Nybald  
w. Mary & Rod Berkshire  
x. David Leroy  
y. Robert Bennett  
z. Debra Riedel  
aa. Jon Bolt  
bb. Ron Wilper  
cc. Rita & Bob Franklin  
dd. Jim Classen

ee.	David Rae	ttt.	Wilfred Lemon
ff.	Marilee Pospahala	uuu.	Winnie Morton
gg.	Parker & Gretchen Massman	vvv.	Gretchen Massman
hh.	Mary Ann Cook	www.	Parker Massman
ii.	'Save Plantation Coalition'	xxx.	Kathleen Grover
jj.	Bruce Moore	yyy.	Tina Ellis
kk.	Andrea Fogelman	zzz.	Richard English
ll.	Eric Fogelman	aaaa.	Sharon Grisham
mm.	Pete Edmunds	bbbb.	Paul Westberg Dorothy
nn.	Vickie Northop		Raney
oo.	Jerry Sly	cccc.	Karen Schneider
pp.	Irene Latta	dddd.	Norbert Dekerchov
qq.	Kathleen Klokke	eeee.	Thyne Murdoch
rr.	Patricia Hendrick	ffff.	Bob Punbeck
ss.	Rhea Hirsch	gggg.	David Patterson
tt.	Susan Troyer	hhhh.	Edward Altian
uu.	Chris Niebrand	iiii.	Heidi Pearson
vv.	Margaret Henbest	jjjj.	Louis Stallman
ww.	Virginia Morris	kkkk.	Alexander Robinson
xx.	Hildegarde Ayer	llll.	Michael Thiry
yy.	Susan Halen	mmmm.	Art Peavy
zz.	Liz Lanvin	nnnn.	Margaret Henbest
aaa.	Sue Evancho	oooo.	M.J. Byrne
bbb.	Lu Northrup	pppp.	Jeanne Patterson
ccc.	Gary Crupper	qqqq.	Pierce Roan
ddd.	Joan Lang	rrrr.	Donna Schlagel
eee.	Diane Dann	ssss.	Edwina Lysinger
fff.	Joy Kemper	tttt.	Josephine Santillanes
ggg.	June Knowlton	uuuu.	Jeraldine Cunningham
hhh.	LaVerne Thatcher	vvvv.	Robyn Zimmerman
iii.	Carol Crupper	wwww.	Carol Bower
jjj.	Pete Edmonds	xxxx.	Barbara Keubs
kkk.	Robert Jue	yyyy.	Marilyn Farneman
lll.	Roger Ivie	zzzz.	Mary Ann Murdoch
mmm.	Jerry & Gerrie Sly	aaaaa.	Barbara Emery
nnn.	Kathleen Klokke	bbbb.	Carolyn Gill
ooo.	Lawrence Campbell	cccc.	Neva Pastlethwait
ppp.	Susan Troyer	ddddd.	Rebecca Wald
qqq.	John Atwater	eeee.	Patricia Warner
rrr.	LouAnn McKay		
sss.	Peter Snowden		

20. On March 15, 2023, a public hearing before the Garden City Planning and Zoning Commission was scheduled:

a. The hearing was continued to a date certain of April 27, 2023.

21. On March 27, 2023, a public hearing before the City Council was scheduled:  
a. The hearing was continued to a date certain of May 22, 2023.

22. On April 27, 2023, a public hearing before the Garden City Planning and Zoning Commission was held:

- a. Chairman Rasmussen introduced the application.
  - i. It was noted that the application is quasi-judicial.
  - ii. Commissioner Brown provided disclosures and noted that he lives in the neighborhood and sits on the Plantation Master Association. He indicated that he had been careful not to discuss this matter. He has recused himself and was not present when the item was discussed with the Plantation Master Association. He has answered some procedural questions. He stated that he does not have a conflict of interest.
  - iii. It was noted for the record that Commissioner Wilde had recused himself and was not present.
  - iv. Commissioners Montoya, Shepard, and Rassmussen all noted that they had not had any ex parte communication and that they do not have conflict.
  - v. The order of hearing was noted.
  - vi. The time limitation exceptions were noted for the record.
  - vii. The rules of conduct were reviewed.
- b. The applicant presented the application. The applicant team included:
  - i. Will Gustafson
  - ii. Jenny Pham
  - iii. JoAnn Butler
  - iv. Bob Taunton
  - v. Brian Perkins
  - vi. John Ringard
- c. Jenah Thornborrow provided a staff report.
- d. Public testimony was received from:

In Favor

- i. Tom Donahoe as a spokesperson for:
  - a. Rachel Bikerton
- ii. Dick Curtis
- iii. Patricia (Patty) Perkins
- iv. Mark Johnson

Opposed

- i. David Leroy as a spokesperson for:
  - a. Russell Ford
  - b. Colleen Lambert
  - c. Jeanne Patterson
  - d. Pierce Roan
- ii. Ron Bush as a spokesperson for:
  - a. Mary Jo Nybald

- b. Sandra Ford
- c. Ben Doty
- d. Eric Fogleman

- iii. Pat Pettiette
  - a. M.J. Byrne
- iv. John Livingston as a spokesperson for
  - a. Lynn Livingston
- v. Barry Klezmer as a spokesperson for:
  - a. Steven Sterns
  - b. Andre Diaz
- vi. Paul Schmellick as a spokesperson for:
  - a. David Patterson
  - b. Edward Altaan

- vii. Pete Edmonds
- viii. Dan Hollar
- ix. Karen Houser
- x. Kelly Hollshetter
- xi. Alexander Robinsen
- xii. Margaret Henbest
- xiii. Andrea Fogelman

- c. There were no additional members of the public present at the hearing that requested to provide public testimony.
- d. Commissioner Brown noted that he will not be present during the next regularly scheduled Planning and Zoning Commission meeting scheduled for May 17, 2023.
- e. Commissioner Brown moved to continue the public hearing until a date certain of May 24, 2023, at 5:30pm.
- f. Commissioner Montoya seconded the motion.
- g. The motion passed on a 4/0 vote.

23. On May 22, 2023, a public hearing before the City Council was scheduled:

- a. The hearing was continued to a date certain of June 12, 2023.

24. On May 24, 2023, a public hearing before the Garden City Planning and Zoning Commission was held:

- a. Chairman Rasmussen introduced the application.
  - i. The chairman noted that public testimony is to be limited to only the new matter of the applicant's proposal to add a condition of approval to amend the East Sub-district to remove 7 townhomes and increase the setbacks.
- b. The applicant JoAnn Butler presented the proposed condition of approval to amend the Master Plan to the application.
- c. Public testimony was received from:

In Favor

- i. Mark Johnson

Opposed

- i. John Livingston as a spokesperson for:
  - a. Debra Riedel
  - b. Eric Fogelman
  - c. Andrea Fogelman
- ii. Tina Ellis as a spokesperson for:
  - a. Barry Klezmer
- iii. Ron Bush as a spokesperson for:
  - a. Edward Altaan
  - b. Pat Pettiette
  - c. Dorie Pettiette

Ron Bush indicated that he wished that the inability to discuss property ownership is a violation of his due process.

This was formally noted by city attorney, Charles Wadams, that this is noted in the record.

- iv. David Leroy as a spokesperson for:
  - a. Gretchen Massman
  - b. Parker Massman
  - c. Bob Schmellick
  - d. M.J. Byrne
  - e. Clarice Schmellick
  - f. David Patterson
- xiv. Dan Hollar

- a. There were no additional members of the public present at the hearing who requested to provide public testimony.
- b. The applicant, JoAnn Butler and Bob Taunton provided a rebuttal.
- c. The Commission called upon staff, Jenah Thornborrow, for questioning.
- d. The public testimony was closed.
- e. The Commission deliberated.
- f. All members of the Commission found that the revised documentation was not a substantial change to the application.
- g. Vice Chair Brown moved to recommend approval and adopt the draft findings of fact, conclusions of law in the affirmative, and conditions of approval including the applicant's requested revisions except for deletion of conditions of conditions 3, 4, 5, and 11 a.
- h. Commissioner Shepard seconded the motion.
- i. The motion passed on a 4/0 vote.

25. On June 12, 2023, a public hearing before the Garden City Council was held:

a. [REDACTED]

**Commented [JT4]:** This section will be completed to reflect the proceedings.

26. The record contains:

- a. Application and application materials
- b. Noticing Documents
- c. Agency Comments
- d. Design Review Consultant Recommendations
- e. Public Comments
- f. Staff Report
- g. Planning and Zoning Commission Recommendation
- h. Planning and Zoning Commission Minutes and audio: February 15, 2023; March 15, 2023; April 27, 2023; May 24, 2023
- i. City Council Decision
- j. City Council Minutes and audio: June 12, 2023

**Commented [JT5]:** This will be updated to reflect any future proceedings.

27. In consideration of a Specific Area Plan the decision maker shall make the following findings:

THE DRAFT FINDINGS ARE WRITTEN BASED ON THE RECOMMENDATIONS 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.

**GCC 8-5B-6: SPECIFIC AREA PLAN: REQUIRED FINDINGS**

Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
X			<p><b>Finding 1.</b> The SAP application, as conditioned, is consistent with the city comprehensive plan, as amended, including the future land use map and the land use planning area guidelines and land use designations, if applicable.</p> <p><b>Explanation:</b> The application is cohesive with the city comprehensive plan including the future land use map and the land use planning area guidelines and land use designations.</p> <p><b>Goals</b></p> <ul style="list-style-type: none"><li>• 1 Nurture the City</li><li>• 2 Improve the City Image</li><li>• 6 Diversity in Housing</li><li>• 10 Plan for the Future</li><li>• 11 Serve the City</li></ul>

		<ul style="list-style-type: none"> <li>• 12 Evolve as a Destination</li> </ul> <p><b>Objectives and Action Steps</b></p> <ul style="list-style-type: none"> <li>• Amend the Land Use Code to improve the quality of development design through new land-use districts; zoning standards; and design regulations and review process.</li> <li>• Create a premier destination place to live, work, and recreate.</li> <li>• Encourage new and distinctive neighborhoods.</li> <li>• Encourage high quality design and landscaping, including the use of water features, in new development.</li> <li>• Explore the opportunities to create distinctive neighborhoods through defining the unique attributes of the individual neighborhood, the incentives needed to encourage those characteristics, and the design, architecture, and development standards to guide future development.</li> <li>• Create a vision for the design of all streets and highways consistent with the city's urban setting.</li> <li>• Include the pedestrian zone in the highway right-of-way to satisfy the City's Development Code requirements for open space.</li> <li>• Create public gathering places at multiple locations throughout the city.</li> <li>• Beautify and landscape.</li> <li>• Encourage the use of non-potable water sources that are available to new development, including the installation of pressurized irrigation systems where appropriate.</li> <li>• Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</li> <li>• Continue to require sidewalks and landscaping in all new development,</li> </ul>
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			<p>and in major alterations and re-use of existing commercial sites.</p> <ul style="list-style-type: none"> <li>Allow relocation of canals and drains where appropriate. Require mitigation of the impacts that closing water systems have on the ground water and habitat.</li> <li>Create pedestrian and bicycle friendly connections.</li> <li>Promote public transportation along State, Chinden, Glenwood and Adams with stops in neighborhoods and with pedestrian and bicycle connections to major city destinations including schools.</li> <li>Support efforts of Valley Regional Transit for fixed transit stops, bus turnouts, and more frequent service as financially feasible.</li> <li>Evaluate the increasingly important destination Garden City is becoming within the region and the changing demand that places on public transportation.</li> <li>Designate locations in proximity to existing and future transit stops throughout the city that serve as activity centers.</li> <li>Participate in regional planning.</li> <li>Amend the Development code to facilitate transit-oriented development nodes along the arterial roadways as designated on the Land Use Map and described in the Land Use Designation and follow the State Street Corridor Study recommendations.</li> <li>Amend the Development Code to facilitate destination and neighborhood centers that draw people to the location and are supported by transit as designated on the Land Use Map and described in the Land Use Designation for activity nodes.</li> </ul>
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			<ul style="list-style-type: none"> <li>• Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods.</li> <li>• Limit the location of the new neighborhood commercial districts to areas that are a maximum of two blocks in length or appropriate in size to the location, and that can provide transition and buffering to any adjoining residential land uses.</li> <li>• Support a positive business environment.</li> <li>• Create a premier destination for work, recreation, entertainment, culture, and commerce.</li> <li>• Market the city to smaller businesses and support a positive environment for entrepreneurial businesses.</li> </ul>
X			<p><b>Finding 2.</b> The SAP application, as conditioned, meets the minimum requirements of chapter 6 of the Garden City Development Code.</p> <p><b>Explanation:</b> The application, as conditioned, meets the minimum requirements of chapter 6 of the Garden City Development Code.</p>
X			<p><b>Finding 3.</b> The SAP application promotes the orderly planning and development of land, as set forth in the purpose for this process.</p> <p><b>Explanation:</b> The SAP application promotes the orderly planning and development of land, as set forth in the purpose for this process.</p>
X			<p><b>Finding 4.</b> The SAP application will create a district that is identifiable as a distinct area of the city with a distinguishing character.</p> <p><b>Explanation:</b></p>

			This application will create a district that is identifiable as a distinct area of the city with a distinguishing character.
X			<p><b>Finding 5.</b> The SAP application has been noticed and public hearing held in accordance with Title 8 of Garden City Code.</p> <p><b>Explanation:</b></p> <p>This application has been noticed and public hearings were held in accordance with Title 8 of the Garden City Code.</p>
X			<p><b>Finding 6.</b> The SAP application complies with all city zoning regulations and codes in effect at the time of the SAP application.</p> <p><b>In Approval:</b></p> <p>This application complies with all city zoning regulations and codes in effect at the time of the application.</p>

THE DRAFT FINDINGS ARE WRITTEN BASED ON THE RECOMMENDATIONS 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.

**GCC 8-6B-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS**

Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p><b>Finding 1:</b> The zoning map amendment complies with the applicable provisions of the comprehensive plan;</p> <p><b>Explanation:</b> See finding #1 in required findings for 8-5B-6</p>
	X		<p><b>Finding 2:</b> The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</p>

			<p><b>Explanation:</b></p> <p>This application proposes a new zoning district.</p>
X			<p><b>Finding 3:</b> The zoning map amendment shall not be materially detrimental to, or impacts can be mitigated that affect, the public health, safety, and welfare or impacts;</p> <p><b>Explanation:</b></p> <p>This proposal will not unreasonably diminish the health, safety, or welfare of the community as defined in the purpose of the Local Land Use Planning Act, Idaho Code 67-6502.</p>
X			<p><b>Finding 4:</b> The zoning map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts;</p> <p><b>Explanation:</b></p> <p>A conditional ability to serve has been submitted by the applicant. No agency has noted concerns regarding ability to serve this application.</p>
	X		<p><b>Finding 5:</b> The annexation of land, if proposed, is in the best of interest of the city and complies with the procedures as set forth in Idaho Code section <a href="#">50-222</a> .</p> <p><b>Explanation:</b></p> <p>This application is not proposing annexation into Garden City.</p>

THE DRAFT FINDINGS ARE WRITTEN BASED ON THE RECOMMENDATIONS 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.

**GCC 8-6B-5 DEVELOPMENT CODE AMENDMENT: REQUIRED FINDINGS**

Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
X			<p><b>Finding 1: The text amendment complies with the applicable provisions of the comprehensive plan.</b></p> <p><b>Explanation:</b> See finding #1 in required findings for 8-5B-6.</p>
X			<p><b>Finding 2: The text amendment shall not be materially detrimental to the public health, safety, and welfare;</b></p> <p>See finding #3 in required findings for 8-6B-10.</p>
X			<p><b>Finding 3: The text amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city;</b></p> <p><b>Explanation:</b></p> <p>See finding #4 in required findings for 8-6B-10.</p>

28. 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** the required findings under GCC 8-5B-6.

#### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the City Council hereby does **APPROVE/DENY** the application, subject to the following conditions:

**THE CONDITIONS BELOW ARE AS RECOMMENDED BY THE PLANNING AND ZONING COMMISSION FOR APPROVAL, THE CONDITIONS OF APPROVAL MAY**

BE AMMENDED. IF THE APPLICATION IS DENIED THE CONDITIONS FOR DENIAL WILL NEED TO BE DRAFTED AND MUST EXPRESS STANDARDS THAT MUST BE MET IN ORDER TO OBTAIN APPROVAL AS REQUIRED BY IDAHO CODE 65-6735

1. Approval of this application is for:
  - a. Approval of the Zoning Code Amendment.
  - b. Approval of rezoning the subject property from R-2 Low Density Residential to The Residences at River Club District/ DA
  - c. The approval of the conceptual Master Plan as conditioned
2. Future applications within the area designated by this Specific Area Plan application shall be in conformance with the Residences at River Club District, Development Agreement and in substantial conformance with the conceptual master plan.
3. ~~Any If there is ever any determination by the Garden City legal department or a judicial determination that the subject property's legal owner of record has not consented to this application the approval of this application shall be nullified and reversed~~  
~~the approval of this application~~
4. The lot must be verified by the city as a legal lot of record or made into a legal lot of record.
5. A subdivision or Minor Land Division must be completed to separate the subject property area from the current parcel.
6. A development agreement shall be approved prior to the third reading and adoption of the rezone ordinance. The purpose of the development agreement will be to adopt the conceptual Master Plan.
7. Each structure required by code and each sub-area must obtain a design review approval prior to construction.
8. Connection to the city of Boise's sanitary sewer collection system must be coordinated with the city of Boise.
9. Required revisions to the Conceptual Master Plan include:
  - a. Extend the publicly accessible bicycle and pedestrian pathway that runs adjacent to the golf course to connect the West Sub-district and the Pierce Park and State Street intersection. ~~The pathway shall also be designed provide to the subject property's boundaries to allow for a potential future connection to the adjacent property to the golf course club house and at the westerly boundary of the pathway and~~ to the southeast project perimeter for a potential connection to N. Fair Oaks Place. OR The pathway shall ~~also be designed to the subject property's boundaries to allow provide~~ for a potential future connection ~~at the westerly boundary of the pathway and the golf course club house~~ and shall extend to N. Fair Oaks Place.

**Commented [JT6]:** The Planning and Zoning Commission Recommendation included an additional recommendation that documentation that confirms that the property owner of record has consented to this application shall be approved by the Garden City Legal Department prior to the rezoning of the property. The legal department has provided comment that the applicant has provided *prima facie* evidence, through the Delegation of Authority and other documentation, of ownership and control of the property. Subsequently this condition has been removed.

Staff has suggested, and drafted rewording of a secondary condition included in the Planning and Zoning Commission Recommendation, drafted in this document as condition #3 to be reworded as drafted for clarity purposes.

**Commented [JT7]:** There was a condition of approval in the Planning and Zoning Commission recommendation which required that the Design Review Consultants provide comment on the revised master plan prior to City Council so that the comments could be incorporated into the City Council record documents. This has occurred, and the comments are a part of the record. Subsequently, the recommendation condition #3 has been deleted.

The first sentence reflects the Planning and Zoning Commission recommendation. The second sentence is an alternative condition that reflects the most recent Design Review Consultant comment that was conducted as a result of the deleted condition #3.

Should the City Council agree with either condition, one or the other condition should be chosen to avoid conflicting conditions.

- b. The private road through the Central and East sub-districts shall be reviewed at the design review of the sub-districts to ensure that it adequately addresses the Garden City design consultant's recommendation to increase intuitive function of the traffic flow through the sub-districts to the State Street/Pierce Park intersection.
- c. Design for adequate stacking for left turn movements onto State Street as requested by ACHD.
- d. ~~Vacate the existing right-of-way for Plantation Drive, and remove associated access onto State Street, as required by ACHD.~~
- e. There shall be no unsignalized left turns into or out of the project from State Street, unless determined by Garden City and ACHD at a future date as safe and appropriate.

**Commented [JT8]:** Reworked to better reflect ACHD's comments that the access be removed.

10. A Development Agreement shall be entered into that adopts the Master Plan with the following conditions:

- a. The master plan is conceptual.
- b. The phasing of the development will occur as identified in the master plan.
- c. The pathways shall be consistent or greater in width and landscaping buffering as depicted in the master plan.
- d. The irrigation drain may be piped in sections but shall be daylighted and utilized as an amenity as shown in the conceptual Master Plan. If the waterway amenity is precluded by the drainage district or property owner, an amenity that equally enhances the linear park shall be provided. Any revisions to the proposed amenity shall be reviewed with the future review of the West sub-district. If the waterway amenity is constructed, permission from the off-site property owner allowing for the construction of the off-site improvement shall be provided.
- e. No vehicular access shall be allowed onto a public right-of-way unless approved and according to the Ada County Highway District standards.
- f. The setbacks for any type of encroachments including but not limited to walls, bushes, artwork, etc. must be at least 18" from any sidewalk or multi-use path to not create shy space into the usable area of the sidewalk/path.
- g. Easements required to enact the Master Plan:
  - i. Shall be provided as required by the City Engineer, Development Services Staff, or this decision.
  - ii. Shall be recorded with Ada County Land Records.
  - iii. Shall be provided to Garden City once recorded.
  - iv. Shall define the grantee and adequate information to depict the location of the easement such as a legal description and illustration.
  - v. Shall be unobstructed unless otherwise specified.
  - vi. At a minimum, include easements for the following:
    - 1. Public utilities
    - 2. Water and sewer
      - a. 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.

3. Drainage
4. Public connections to and from the public rights-of-way and pathways, including but not limited to users of Plantation Drive connecting to State Street.
5. Public 12-foot, for a minimally 10-foot -wide concrete multi-use (bicycle and pedestrian) pathway along State Street.
6. Publicly accessible 12-foot easement, for a minimally 10-foot -wide multi-use (bicycle and pedestrian) pathway that runs along the southern boundary of the subject property.
  - a. The term publicly accessible shall be defined to mean that the easement shall be perpetual and allow for public access with minor identified exceptions such as closures after customary travel hours.
- h. New water and sewer services, and site grading and drainage must be provided for review and approval by the Garden City Public Works Department.
- i. Should any connections be made to the Boise City sanitary sewer collection system, review and approval by Boise City Public Works must be provided.
- j. The alignment of N. Pierce Park Lane shall reflect ACHD's 99% design plans for the intersection at State Street.
- k. The bus stop amenities as outlined in the conceptual master plan are a requirement of the infrastructure to be installed as part of the master plan.
- l. The design and location of the proposed bus stop must be approved by Valley Regional Transit prior to construction.
- m. The phasing for the removal of the current bus stop and the installation of the proposed bus stop shall be coordinated with VRT and included in the phasing plan.
- n. Private roads shall provide street names and stop sign signage.
- o. The construction of roadway projects shall be coordinated with Ada County Highway District.
- p. All sidewalks and public pathways shall be designed and constructed to the project boundaries so that they facilitate future connections.
- q. The Master Plan is an approved plan that is not subject to the one-year expiration identified in GCC 8-6A-8.

11. Prior to the adoption of The Residences at River Club District SAP Ordinance, revisions to proposed code shall be made to:

- a. Provide any clarifying or clerical language that does not change the intent of the approved provisions.
- b. Make clear the following concepts are incorporated:
  - i. Add a new chapter to Garden City Code 8-8 Specific Area Plan Ordinances.

**Commented [JT9]:** Suggested condition of approval not contemplated in the Planning and Zoning Commission Recommendation. This will avoid a conflict in the proposed code (the applicant has proposed adopting GCC 8-6A by reference) and the application as requested.

- ii. Amend proposed code to be consistent with a new article of Garden City Code 8-8 Specific Area Plan Ordinances rather than the current proposal of including the proposed SAP in a new title 11.
- iii. Add Garden City Code Sustainability and Nonconforming regulations by reference.
- iv. Add Language: Accesses onto public roads shall comply with the requirements of the Transportation Authority.
- v. Add Language: Specific Area Plan: The Residences at River Club District Ordinance shall supersede if in conflict with The Residences at River Club District Master Plan.
- vi. Add Language: A variety of housing for the project shall be provided at a rate of at least 5% from each of two or more of the categories of universal design, studio, or one-bedroom units.
- vii. Pressurized Irrigation: utilize term "shall" rather than "may;" delete word "proposed."
- viii. Amend Language: Remove word "potentially" and define "active adult" or change term to multi-family in regulations in the district's language.
- ix. Add Language: Design must meet "design character" as identified in the adopted master plan.
- x. Office: language to require centrally and unique is needed.
- xi. Single family attached: Connection to sidewalk rather than drive-aisle needs clarified.
- xii. Add language: Detached sidewalks are required to allow for landscaping and street tree buffers. Detailed criteria can be added to identify when a different solution is appropriate.
- xiii. Amend language: Add criteria for roof signs or maintain as prohibited.
- xiv. Amend language: Maintain Electronic Message Boards as prohibited or with a master sign plan approval.
- xv. Add language to require the integration of signage with the architecture.
- xvi. Amend language for perimeter screening: remove the allowance for vinyl fencing and add wrought iron as an alternative.
- xvii. Amend language in tree mitigation to require mitigation for trees equal to or less than 4" in diameter.
- xviii. Amend language that will allow for private open space to provide for an aggregate of private open space within the project.
- xix. Amend language for open space to state that common open space areas shall not be adjacent to a collector or arterial street unless separated from the street by a constructed barrier of at least two feet (2') in height and an additional landscape buffer that incorporates shrubs and trees.
- xx. Amend language for open space to remove the word "interior."
- xxi. Amend language for pedestrian walkways to clarify when it is appropriate for pedestrian pathway (concrete or paved) to be considered open space, while precluding sidewalks from the open space calculations that are adjacent to public streets or primary private streets.

- xxii. Amend language for parking to provide a definition for active adult if it will be utilized as standard.
- xxiii. Adopt parking by reference, or incorporate the city's adopted parking, except for the proposed residential and bicycle parking standards:

Use	Total Required Vehicle Parking Spaces Per Dwelling Unit	Required Covered Vehicle Parking Spaces Per Dwelling Unit	Required Covered Bicycle Spaces Per Dwelling Unit
Dwelling, multi-family:			
Up to 1 bedroom	1	.5	.5
2+ bedrooms	2	.5	.5
Age Restricted	1	.5	.5
Dwelling, single-family detached	2	2	n/a
Dwelling, townhouse:			
Guest Parking For developments with more than 2 dwelling units there shall be 0.5 additional vehicle parking spaces/unit provided for guest parking for the first 10 dwelling units. There shall be 0.1 parking spaces/unit provided for guest parking for every unit after the first 10 units.			

- xxiv. Amend language for bicycle connectivity standards to require connectivity to the boundary of public right-of-way.
- xxv. Amend language setback language to clarify that the setbacks are reduced from parking areas only.
- xxvi. Add language that the setbacks for any type of encroachments including but not limited to walls, bushes, artwork, etc. must be at least 18" from any sidewalk or multi-use path to not create shy space into the usable area of the sidewalk/path.
- xxvii. Amend language to identify that the multi-use path on State Street shall be 10' in width.
- xxviii. Amend language within code that refers to bicycle routes and lanes to be consistent with the Institute for Traffic Engineers (ITE) definitions.
- xxix. Provide a clearer Image of the conceptual Master Plan area for codification.
- xxx. Add Language: The design of structures and amenities must be compatible with "Design Objectives" and "Design Character" as identified in the master plan.

xxxi. Adjust the requirement that parking cannot be within 40' of a corner to be state that parking cannot be within 25' from where two travel ways adjoin.

**General Conditions:**

1. This approval is for a Specific Area Plan.
2. The approval is specific to the application provided and reviewed.
3. This rezone decision document does not grant the approval of any specific use.
4. If this rezone is a result of a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.
5. The applicant shall comply with all requirements of the reviewing entities.
6. 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.
7. This approval is for this application only, and does not permit land work, vegetation removal, construction of any structure or infrastructure, or allow for any use. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained prior to any work or commencement of any use.
8. 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 additional permits.
9. The date of decision and action is the date that the decision maker makes the oral decision.
10. Materials submitted after the decision shall not be considered part of the record for this decision.
11. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
12. 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. 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 timeframe 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.

13. A takings analysis pursuant to Idaho Code may be requested on final decisions.
14. 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.

June 12, 2023

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Mayor, John G. Evans

Date