

**BEFORE THE NAMPA CITY COUNCIL**  
**CITY OF NAMPA, CANYON COUNTY, IDAHO**

In the matter of approval of an appeal of the )  
Nampa Planning & Zoning Commission's )  
Decision to approve the Subdivision )  
Preliminary Plat for Falcon TownHomes )  
Subdivision in a RD (Two-Family )  
Residential) zoning district, 0 Lake Lowell )  
Ave, Parcel #s R3204500000, R3204501200,) )  
And R3204501300, for: )

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND DECISION**

Case No. SPP-00146-2024

**Appellant: Zebediah Hanes** )  
**Original Applicant: Delta LLC** )

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This matter came before the Nampa City Council ("Council") for hearing and consideration on the 7<sup>th</sup> day of October, 2024, upon an appeal filed by appellant Zebediah Hanes, following a Nampa Planning & Zoning Commission approval of approval for Delta LLC, representing Ataul Karim ("Owner"), pursuant to Nampa City Code Title 10 Chapter 2(5), Nampa City Code Title 10, Chapter 2(5.B), Nampa City Code Title 10, Chapter 2(5.D), Nampa City Code Title 10, Chapter 2(8.C.2.b), Nampa City Code Title 10, Chapter 2(1.A), Nampa City Code Title 10, Chapter 27(2) and Nampa City Code Title 10, Chapter 27(5). Council hereby makes the following findings, conclusions of law and decision on this matter. The proposed development of the subject property must also comply with the existing development agreement pertaining to the subject property.

**I.**

**RECORD**

Council's decision is made from evidence and testimony presented at the hearing on Monday, October 7, 2024.

**II.**

**FINDINGS OF FACT, CONCLUSIONS OF LAW**

Regarding the request for the **Appeal of Planning & Zoning Commission approval of Subdivision Preliminary Plat for Falcon TownHomes Subdivision** in a RD (Two-Family

Residential) zoning district, Parcel #s R3204500000, R3204501200, and R3204501300 totaling 7.77 acres at 0 Lake Lowell Ave (located in SE 1/4 of Section 30 T3N, R2W, BM) the Nampa City Council approves the appeal and denies the Preliminary Plat.

In denying the **preliminary plat**, the council finds the following:

**A. NCC 10-27-2.G Plats shall be eligible for approval if all requisite/needed application/ submittal materials have been received by the City, the proposed plat design complies with relevant zoning and subdivision standards, and Engineering attests that provision of services to the future development is available.**

- The applicant, provided all materials requested and submitted the checklist and signed application.
- The property is zoned RD (Two Family Residential)
- Nampa City Code Title 10, Chapter 10 outlines the standards for compliance in the RD zoning district.
- Bulk standards in Nampa City Code Title 10, Chapter 10 (RD zoning district) includes the following:
  - Required front setbacks = 20 feet to garage wall; 15 feet to living area
  - Required setback abutting public right of way (Street Side) = 10 feet
  - Required side setbacks = 5 feet (or 0 feet for internal townhouse lots)
  - Required setback abutting public right of way (Alley Side) = 15' from centerline
  - Required rear setbacks for standard buildable lot = 15 feet
  - Minimum property width not applicable for townhouses
  - Required landscape buffer on local, collector & arterials roads = 25 feet

The preliminary plat meets, or will be required to meet at the time of construction, the setback and parcel size requirements as noted on the preliminary plat.

- 10-10-5.D: Developments created via Preliminary/Final Plat shall meet the Comprehensive Plan gross density requirements of 2.51 – 8 dwelling units per acre in the Medium Density Residential designated areas and 8+ dwelling units per acre in the High Density Residential designated areas.
  - Base lot: The cumulative area of the parcel(s) where the multi-unit structure resides. When developing townhouses the base lot shall be a lot size within the

minimum and maximum range on the chart. From this proposed base lot the townhouse units can be subdivided according to the product type to provide single-family housing units.

<b>FLUM DESIGNATION</b>	<b>ZONE/TYPE</b>	<b>MINIMUM BASE LOT SIZE</b>	<b>MAXIMUM BASE LOT SIZE</b>
MDR	RD Two-Family (Duplex)	6,000 s.f.	12,000 s.f.
MDR	RD Three-Unit Townhouse	9,000 s.f.	15,000 s.f.

- The proposed **Two-unit Townhouse Bldg. Lot Size-**
  - Smallest = 16,816 s.f. (total for 2 units)
  - Largest = 21,184 s.f. (total for 2 units)
- The proposed **Three-unit Townhouse Bldg. Lot Size-**
  - Smallest = 12,864 s.f. (total for 3 units)
  - Largest = 24,088 s.f. (total for 3 units)

Conclusion: the proposed lot sizes do not fall within the permitted range in the RD zoning district.
- A landscape plan was submitted, and revisions have been requested as part of a future final plat submittal.
- The plat proposes one common lot which would contain a 10' to 12' pathway so it meets the requirements of the Nampa Bicycle & Pedestrian Plan component of the Comprehensive Plan on the South side of the canal.
- The common lot on the plat is 1.61 acres.
- Nampa Engineering found that with adherence to proposed conditions recorded in the staff report and project file, in a memo dated June 27, 2024 from Daniel Badger, P.E. – City Engineer, the plat complied with all Engineering standards.
- The City maintains the following utilities in the vicinity of the project:
  - 8" gravity sewer main in W Tualatin River Street (+/-9' deep);
  - 8" water main in S Sabine River Street;
  - 12" water main on north side of Lake Lowell Ave;
  - 6" pressure irrigation main in S Sabine River Street; and,
  - 12" pressure irrigation main on south side of Lake Lowell Ave.

- Adequate infrastructure exists in the area and the City's sewer, water, and pressure irrigation systems have adequate capacity to serve this property according to the Engineering Department's analysis.

Conclusion: As indicated in the above stated facts and findings, all requisite/needed application/ submittal materials have been received by the City, Engineering has found that services are able to be provided to the proposed project, and the proposed plat and the design complies with relevant zoning and subdivision standards except for the minimum and maximum lot sizes for the RD zoning district. Therefore, this criteria is not met.

**B. NCC 10-2-5.D: Modification of and to an executed agreement shall be required by the Planning Director or his/her designee under the following circumstances:**

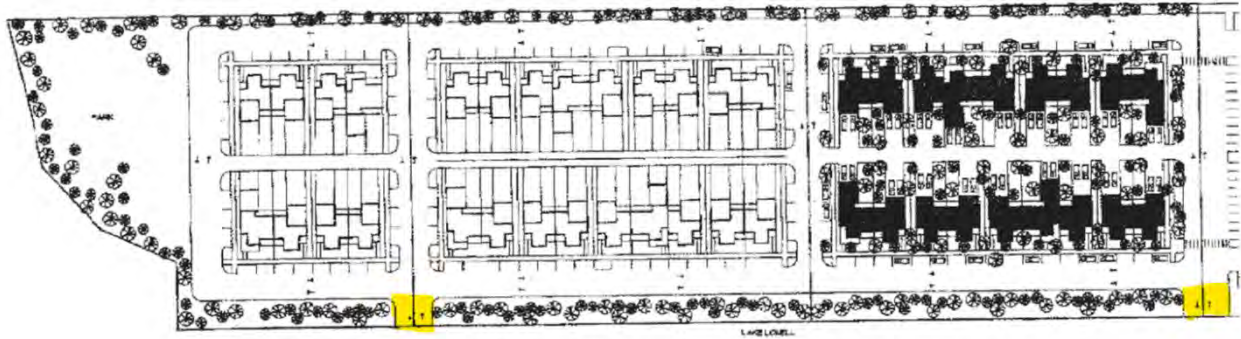
**10-2-5.D.1: A change to any of the terms or conditions of the original development agreement is proposed;**

**10-2-5.D.2: A substantial change to any established positioning of any structure over two hundred (200) square feet in area is proposed;**

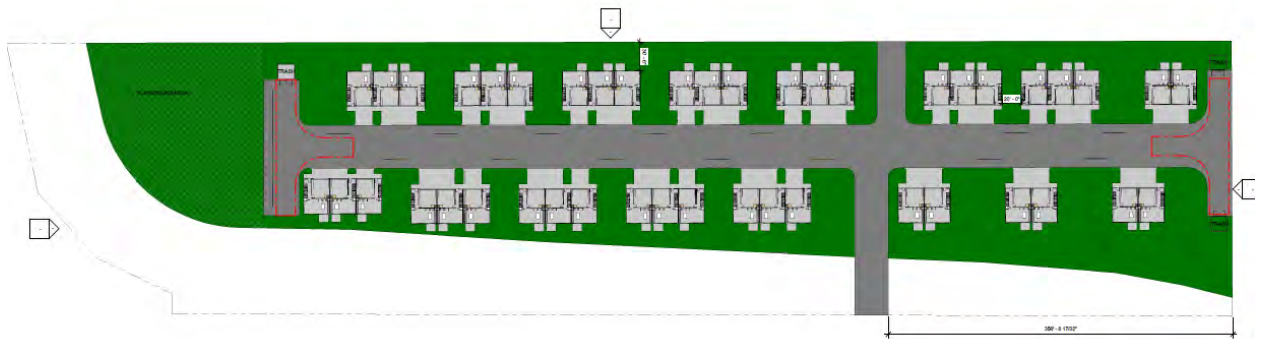
**10-2-5.D.3: A substantial change to any approved parking or landscaping area layout or arrangement is proposed;**

**10-2-5.D.4: A substantial change to any approved set of building elevations or exterior appearance or design is proposed;**

- The Development Agreement states under the heading "Agreement," #2 "The Project shall be developed in general conformance with the conceptual plan attached hereto as Exhibit "B" and made a part hereof (the "Conceptual Plan"); provided, however, that Owner/Developer shall have limited flexibility to develop the Property to meet market conditions, and the only specific commitments concerning development of the Project which Owner/Developer is making are set forth herein.
- The following Concept Plan was included in the 2006 Development Agreement:



- The following Site Plan was included in the 2024 application for a preliminary plat:



- The proposed 2024 site plan for the preliminary plat is not in general conformance with the Conceptual Plan approved and contained in the development agreement. The proposed site plan significantly differs from the 2006 Concept Plan in the following ways:
  - Primary vehicular travel lanes and parking no longer surround the buildings on the edges of the development, but instead are provided along one primary access drive that runs east and west between buildings. The drive lanes in the approved Conceptual Plan in the Development Agreement provide a significant buffer and separation from the adjacent uses including the less dense residential uses to the North.
  - No alley is provided for rear loading access to garages and driveways. Alley loading helps disperse the internal traffic some of which will be buffered and screened by the structures in the development.
  - The garages and driveways for each unit face the main drive aisle, instead of the living area facing the main drive aisles and the neighboring existing residential subdivisions. Having the living area facing the adjacent residential uses in

accordance with the 2006 Concept Plan promotes compatibility with the adjacent residential uses as the amount of traffic from this higher density use will be screened by the structures and be less impactful to the adjacent uses..

- The 2024 site plan shows the buildings closer to the northern boundary than the 2006 concept plan shows. This puts the higher density residential uses in closer proximity to the less dense residential uses to the north and lessens the buffer and separation intended and approved in the Concept Plan.
  - A southern portion of the buildable/developable area shown on the 2006 Concept Plan is no longer being included as buildable on the 2024 plan due to cost of piping the waterway to enable the project to be developed in accordance with the Concept Plan. Locating the structures further to the south helps provide the buffer from the less dense residential uses to the North.
  - The Site Plan proposes a single access instead of the two access points. Two access points further distributes traffic within the project and onto the public roadway and provides an additional access for emergency vehicles onto the main adjacent roadway.
- The development agreement, under title “Agreement” #14, states, “In the event Owner/Developer, its successors, assigns or subsequent owners of the Property or any other person acquiring an interest in the Property, or in the event City, fail to faithfully and materially comply with all of the terms and conditions included in this Agreement, enforcement of this Agreement may be sought by either City or Owner/Developer or by any successor or successors in title or interest or by the assigns of the parties hereto, in an action at law or in equity in any court of competent jurisdiction.

Conclusion: The proposed project does not substantially conform with the concept plan shown in the 2006 Development Agreement because of substantial changes to road placement, building placement on the lot, removal of parking, placement of parking on edges of development, proximity of buildings placed closer to homes to the north, orientation of garages and driveways facing the main private drives through the project, lack of alleyway for access, and changes to the number of accesses to the property.

### **III.**

### **DECISION**

The Council, based upon the testimony and evidence in record in this matter and upon findings of fact and conclusions of law set forth herein DOES HEREBY DETERMINE AND DECIDE AS FOLLOWS: the requested Appeal of Planning & Zoning Commission approval of Subdivision Preliminary Plat for Falcon TownHomes Subdivision in a RD (Two-Family Residential) zoning district, Parcel#s R3204500000, R3204501200, and R3204501300 totaling 7.77 acres at 0 Lake Lowell Ave (located in SE 1/4 of Section 30 T3N, R2W, BM) for Delta LLC representing Ataul Karim, appealed by Zebediah Hanes (APL-00024-2024), is APPROVED and the original Preliminary Plat (SPP-00146-2024) submitted by Falcon Townhomes is DENIED because it does not sufficiently conform to the development agreement applicable to the subject property..

These Findings of Fact, Conclusions of Law and Decision are approved and adopted by the Nampa City Council on this 4<sup>th</sup> day of November, 2024.

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Deborah Kling, Mayor

Attest:

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City Clerk

### **NOTICE TO THE APPLICANT**

You are hereby notified of the following:

Pursuant to Idaho Code §67-6519(4) you are entitled to request that the City of Nampa conduct a regulatory takings analysis pursuant to the Idaho Regulatory Takings Act (Idaho Code §67-8001 et seq.)

Pursuant to Idaho Code §67-6535, your annexation and zoning request was evaluated under, Nampa City Code Title 10 Chapter 3, Nampa City Code Title 10 Chapter 1, Nampa City Code Title 10 Chapter 12, the City of Nampa 2040 Comprehensive Plan, the Local Land Use Planning Act (Idaho Code §67-6501 et seq.) and other applicable law.