

August 13, 2020

TO: Garden City Design Review Committee, Planning and Zoning Commission and Mayor and City Council

RE: CPAFY2020-0005 SAP BASE ZONE

FROM: Andrea and Eric Fogleman, 6420 Plantation Lane, Garden City, ID. 83703

As a general comment I am concerned that this proposal is prepared and presented by a developer for which his personal property will be affected and that by utilizing the proposed changes to code it will change the regulations under which the property was purchased in a way that is different or as the proposal states "unique" from anything that's been done before. It appears to establish "qualified immunity", a free pass to develop properties with little to no regard or respect for other property owners; it eliminates any assurance that existing neighbors thought they had about the neighborhood when they purchased their own property; it makes accountability almost impossible.

Nevertheless, please consider the following comments with regard to the proposed code:

- **Page 2 under 8-2B-1 Purpose, Section E:** What is the definition of "unique" and in whose opinion will it be applied? Where it states "...may not achieve desired results", the term "desired results" should be defined to describe whose desired results; is it the developer's desired results or the public's desired results?
- **Pages 3 & 4; Table 8-6A-2:** The applicant indicates that the Required Application Information for an SAP is the same as for a Zoning Map Amendment. An SAP and Master Plan is SO MUCH MORE than a Zoning Map Amendment. Please consider that an SAP is more closely aligned with a PUD and the same requirements including a Landscape Plan, Engineering Drawings and Specifications, Covenants and Deed Restrictions, Lighting Plan and Schematic Drawings should be included.
- **Pages 5 & 6, Table 8-6A-3, Public Notice Requirements:** On page 6 where Specific Area Plan is listed in the table Interested Parties should also receive a notice. The Neighborhood meeting is important but not necessarily effective. At the most recent neighborhood meeting out of the full population of Garden City, there were only approximately 25 participants. Citizens did not receive or see notices; my husband and I delivered notices door to door in my neighborhood only to have both the date and the meeting number change after the notices were delivered so many people could not find the virtual meeting, nor know how to join, and three public notices (2 in the same building) is not effective, especially when not many people are frequenting City Hall during a pandemic (that should **not** be considered a conspicuous location). There should be large signage posted in the neighborhoods as is done with proposed subdivisions and this code should specify that requirement. Also, the table does not specify who is required to prepare and place the public notices, is it the City and/or the applicant?
- **Page 6, 8-6B-6, Specific Area Plan, Purpose, second paragraph and second sentence:** The word "may" as in "the regulations **may** include..." should be changed to "the regulations **require** the inclusion of design standards, site plan...etc."
- **Page 7, B, Applicability:** This section states that an SAP is encouraged for use in TOD Activity Nodes or as Neighborhood Destination Activity Nodes or as Future Planning Areas. However, Activity Nodes are not clearly or specifically defined. There should be some reference as to how they are determined and designated on the Zoning Map including their size, center point and

boundaries. Neighborhood Destination Activity Nodes are mentioned in Resolution 1061-19 on page 33 and there is reference that “common characteristics include a mix of uses, public spaces, compatible transition to the uses surrounding the nodes and non-motorized connections to within a quarter mile walk-able area of the node center”. This definition needs much clarification so it is clear as to exactly what areas an SAP might apply.

- **Page 7, C, General Provisions:** The current code language in #1 was removed and it stated “The City may require that properties, whether continuous or not, be processed under a single comprehensive SAP application”. Please reinstate this language; any Master Plan should be processed under one SAP application so that a piece of property is not piece-milled together; A Master Plan should be full and complete and processed under ONE SAP as applied to the property as a Whole and it should be included in the code regulations.
- **Page 8, General Provisions, #3:** In this section it states “All development within an SAP site shall be regulated by applicable provisions of this title and other code provisions in effect at the time the SAP application is submitted and certified as complete by the city **except as modified by the adopted SAPO.**” What does “except as modified by the adopted SAPO” mean? If the SAP was certified as “complete by the city” why and how would it be modified. Then, please refer to the same section under 4, f: “If there is a conflict between the Development Code of Garden City and the SAP regulations, the SAP regulations shall govern”. Again, it’s unclear why there would be a conflict if the SAP has already been certified complete per #3.
- **Page 8, #4, Components, items a and c:** Please consider changing the wording in items a and c from “The SAP should” to the SAP “will” or “shall” as stated in item b.
- **Page 10, Section E, Required Findings:** In lay language, this section basically provides a list of 5 requirements an SAP must comply with in order to receive approval. If the deciding body wants to deny the application they must state their findings as to why such application does not comply with the 5 requirements. Number 4 requirement states “The SAP has been noticed and public hearing held in accordance with this code”. There is no reference to any consideration of the feedback the deciding body has heard from the public. There should be a provision for the deciding body to consider public comments in order to approve or deny the application. According to this section as written, as long as the public has **been noticed** and a **public hearing has been held**, the applicant can check the box. BUT if it is determined, as an example, that the impact on an adjacent neighborhood is detrimental, the deciding body could not deny the application. Here is “Qualified Immunity”.

Thank you for your time and consideration.