

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:)	SUBFY2021-0010
)	
)	
Combined Preliminary and Final Plat Subdivision		
Planned Unit Development)	FINDINGS OF FACT
4900 N. Alworth)	CONCLUSIONS OF LAW,
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER came before the Garden City Council for consideration on June 27, 2022. 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 Combined Preliminary and Final Plat processed as a Planned Unit Development subdivision.
2. The applicant is Craig Kulchuk.
3. The property owner of record is Frank D. Page.
4. The location of the project is 4900 N Alworth St., Parcel R7334160451, LOT 11 BLK 03 EXC R/W RANDALL ACRES SUB NO 05 #0400-B.
5. The subject property is 0.671 acres.
6. The project is located in the Main Street Corridor, Mixed-Use Residential and Neighborhood Destination Activity Node designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is located in the floodplain according to FEMA's most recent modeling of the Lower Boise River.

10. The following section of the Garden City Development Code apply to this proposal:
- a. Garden City Code 8-5: Land Division Regulations
 - b. Garden City Code 8-1B-2 Nonconforming Structures
 - 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
X			Grading Plan
X			Soils Report
X			Hydrology
X			Engineering drawing and Specifications
X			Natural Hazards and Resource Analysis
	X		Dedications and Easements
X			Covenants and Deed Restrictions
	X		Will Serve
X			Subdivision Name Reservation

	X		Verification that address is an Ada County Approved Address*
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*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	Completion Date
Receipt of application	12/9/2021	11/12/2021
Letter of Acceptance	12/12/2021	11/23/2021
Radius Notice	01/03/2022	12/13/2021
Interested Parties	n/a	n/a
Legal Notice	12/30/2021	12/10/2021
Agency Notice	01/03/2022	12/03/2021
Property Posting Sign	01/28/2022	01/28/2022
Affidavit of Property Posting and Photos	01/31/2022	01/31/2022

13. Agency Comments were received from:

- a. City Engineer; December 29, 2021
- b. Ada County Fire and Rescue; December 22, 2021
- c. DEQ; December 10, 2021
- d. Independent School District; December 21, 2021
- e. Republic Services; December 3, 2021, and January 5, 2022
- f. ACHD; January 14, 2022

14. Written Public Comments were received from:

- a. No public comments were received.

15. On January 18, 2022, the Garden City Design Review Committee continued the application to a date certain of February 7, 2022, due to a property posting error.

16. On February 7, 2022, a public hearing before the Design Review Committee was held:

- a. Craig Kulchak presented the application.
- b. Staff Hanna Veal presented the staff report.
- c. Public testimony was heard from:
 - i. Don May in favor; in support of the application, supporting the waiver regarding parking reductions.
- d. Craig Kulchak provided a rebuttal:
 - i. The pedestrian pathway on adjacent properties curve.
 - ii. Greenbelt access already exists.
 - iii. Fencing along the Northern property boundary line does not need to be there. If there is fencing, it should be an open vision fence.
 - iv. The irrigation ditch could be a liability issue.
 - v. Parking is within single-car garages. Guest parking could be on the common drive.

- e. Public testimony was closed.
 - f. Discussion included:
 - i. Republic services will either need to back out onto the street, which they won't do, or the trash carts will need to be placed on Alworth Street for service.
 - 1. Cart service along Alworth is not a preferred pick-up location. The nature of the vehicular traffic could conflict with the service trucks.
 - ii. Bicycle and pedestrian access are crucial in the application given the requested waivers to reduce parking.
 - iii. The application needs to submit new material that addresses the staff's comments in the staff report, and the discussions during the public hearing. The resubmittal shall address:
 - 1. Common open space minimum requirements;
 - 2. Street trees and landscaping;
 - 3. Fencing;
 - 4. Trash services;
 - 5. Elevations need to show units addressing Alworth St.
 - iv. 49th Street does not need to be addressed as there is an existing home structure.
 - v. 12-foot-wide public access easement and 10-foot-wide paved public pathway are required.
 - vi. The new site plans shall match the new landscape plans. There shall be no conflicting information in the packet. The site and landscape plans submitted shall show more detail.
 - 1. The new plans shall show how the site and proposed structures address Alworth Street.
 - vii. Parking needs to be addressed. Cannot approve the requested waiver.
 - g. Committee Member Gresham moved to continue to a date certain of March 7, 2022.
 - h. Committee Member Hurd seconded the motion.
 - i. The motion carried unanimously.
17. On March 7, 2022, a public hearing before the Design Review Committee was held and continued to the date certain of April 4, 2022, per the applicant's request.
18. On April 4, 2022, a public hearing before the Design Review Committee was held and continued to the date certain of April 18, 2022, per the applicant's request.
19. On April 18, 2022, a public hearing before the Design Review Committee was held and the application was continued to the date certain of May 2, 2022.
20. On May 2, 2022, a public hearing before the Design Review Committee was held and the application was continued to the date certain of May 16, 2022, per the applicant's request.

21. On May 16, 2022, a public hearing before the Design Review Committee was held and continued to the date certain of June 6, 2022, due to a lack of Committee quorum.
22. On June 6, 2022, a public hearing before the Design Review Committee was held:
 - a. This Craig Kulchak presented the application.
 - b. Staff, Hanna Veal, presented the staff report.
 - i. 49th Street on-street parking does not count towards guest parking minimums.
 - c. No public testimony was heard.
 - d. Craig Kulchak provided a rebuttal:
 - i. Lot 5 and 12 have common open space and landscaping. 3,600sqft of common space is above the 10% requirement.
 - e. Public testimony was closed.
 - f. Discussion included:
 - i. On-site parking is lacking, and the waivers to parking standards are not justified.
 1. If the units were parked per code standards, the guest parking waiver could be justified.
 - ii. Previous committee discussion comments and concerns have not been addressed.
 - iii. The development will create an unsafe environment between vehicles, pedestrians, and bicyclists.
 - iv. Proposed trash pick-up plan is detrimental to safety.
 1. Letter from Republic Services saying that they can service trash from Alworth does not mean that it is the best option.
 - v. Alworth "front" elevation meets what the Committee requested.
 - g. Committee Member Labrie moved to recommend approval of the application as drafted in the draft decision in the affirmative with draft conditions of approval and the following modifications to the conditions of approval:
 - i. The application must meet code's requirements for guest parking.
 - h. Motion dies for lack of a second.
 - i. Committee Member Hurd moved to recommend approval of the application as drafted in the draft decision in the affirmative with draft conditions of approval and the following modifications to the conditions of approval:
 - i. The application must meet code's requirements for guest parking.
 - ii. Refuse service must be on site.
 - j. Motion dies for lack of a second.
 - k. Motion discussion included:
 - i. Application provides three bicycle parking spaces.
 - ii. Additional conditions could include providing more bicycle parking and direct access from the development to the required public pedestrian Greenbelt access pathway.
 - l. Committee Member Gresham moved to recommend denial of the application as drafted in the draft decision in the denial.

- m. Committee Member Hurd seconded the motion.
 - n. Discussion of the motion included:
 - i. The application does not adequately address parking, creating a hazardous condition for bikes and pedestrians.
 - ii. Even though trash services can be accommodated along Alworth does not mean it is safe. The hazard is still there.
 - o. The motion passed unanimously.
23. On January 19, 2022, the Garden City Planning and Zoning Commission continued the application to a date certain of February 16, 2022, due to lack of resubmittals.
24. On February 16, 2022, the Garden City Planning and Zoning Commission continued the application to a date certain of March 16, 2022, per the applicant's request.
25. On March 16, 2022, a public hearing before the Planning and Zoning Commission was held and continued to the date certain of April 20, 2022, per the applicant's request.
26. On April 20, 2022, a public hearing before the Planning and Zoning Commission was held and continued to the date certain of May 18, 2022, per the applicant's request.
27. On May 18, 2022, a public hearing before the Planning and Zoning Commission was held:
- a. Staff, Hanna Veal, presented the staff report.
 - b. Craig Kulchak presented the application.
 - c. There was no public testimony.
 - d. Craig Kulchak provided rebuttal:
 - i. Trash turn around would eliminate multiple units and common open space.
 - e. Public testimony was closed.
 - f. Discussion included:
 - i. Guest parking on 49th Street is permitted.
 - ii. Having trash carts on Alworth Street is concerning when it comes to between users on trash day.
 - iii. Requiring on-site garbage pickup would eliminate parking, and common open space.
 - g. The public hearing was closed.
 - h. Commissioner Wilde moved to recommend approval as drafted in the draft decision with draft conditions in the affirmative, with the following modifications to the conditions of approval:
 - i. Condition item #2e under General Conditions in the drafted decision document related to the guest parking waiver shall be removed.
 - i. Chairman Montoya seconded the motion.
 - j. The motion carried unanimously.
28. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Design Review Committee Minutes and Hearing Audio: January 18, 2022
- f. Design Review Committee Minutes and Hearing Audio: February 7, 2022
- g. Design Review Committee Minutes and Hearing Audio: March 7, 2022
- h. Design Review Committee Minutes and Hearing Audio: April 4, 2022
- i. Design Review Committee Minutes and Hearing Audio: April 18, 2022
- j. Design Review Committee Minutes and Hearing Audio: May 2, 2022
- k. Design Review Committee Minutes and Hearing Audio: May 16, 2022
- l. Design Review Committee Minutes and Hearing Audio: June 6, 2022
- m. Design Review Committee Recommendation
- n. Planning and Zoning Minutes and Hearing Audio: January 19, 2022
- o. Planning and Zoning Minutes and Hearing Audio: February 16, 2022
- p. Planning and Zoning Minutes and Hearing Audio: March 16, 2022
- q. Planning and Zoning Minutes and Hearing Audio: April 20, 2022
- r. Planning and Zoning Minutes and Hearing Audio: May 18, 2022
- s. Planning and Zoning Commission Recommendation
- t. City Council Minutes and Hearing Audio: June 27, 2022
- u. City Council Decision

29. In consideration of a combined preliminary and final plat subdivision the decision-maker shall make the following findings:

GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
	X		<p>Finding 1. The subdivision is in conformance with the Comprehensive Plan;</p> <p>The application is not cohesive with the Comprehensive Plan’s Neighborhood Destination Activity Node in that it does not achieve the necessary density of 14-20 units per acre to generate a transit-focused destination. The designs are two-story rather than three-story as noted as desirable within the designation.</p> <p>The application is not consistent with the Comprehensive Land Use designation of</p>

		<p>the Main Street Corridor. The Main Street Corridor notes Adams/Alworth as a principal street for Garden City. This application dilutes the street as a principal street by proposing that all refuse be carted to the street which would result in a visual discord and potential conflict for either vehicles or pedestrians. The dwelling units that face Alworth Street do not adequately address the street, thus hindering the dynamic relationship the property is required to have with the public realm.</p> <p>There is a conflict with the Goals:</p> <p>2 Improve the City Image. Having an increase of trash receptacles for 8 units adds an estimate of 16-24 trash carts (one trash, one recycling, and one compost; however, Garden City does allow for an additional five carts for residential services) on roughly 180' of the city's main street does not improve the city's image.</p> <p>8 Maintain a Safe City: conflicts with vehicles and pedestrians could create unsafe conditions.</p> <p>12 Evolve as a Destination: The lack of parking and refuse on the street detracts from supporting an environment that will evolve as a place that is a destination.</p> <p>For the reasons noted above, there is a conflict with the objectives:</p> <p>10.4 Designate locations in proximity to existing and future transit stops throughout the city that serve as activity centers.</p> <p>10.5 Create a "Main Street" corridor with commercial nodes as designated on the Land Use Map and described in the Land Use Designation.</p>
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	X		<p>Finding 2. The subdivision is in conformance with all applicable provisions of this title;</p> <p>The application is not in conformance with the applicable sections of the Garden City Code 8-4L as there was not enough information to review thoroughly. The application was found to not be in conformance with the applicable section of Code 8-4D and 8-6B-7(A)(5).</p>
	X		<p>Finding 3. Public services are available or can be made available; and are adequate to accommodate the proposed development;</p> <p>There is inadequate information provided to verify that public services can accommodate the proposal.</p> <p>Moreover, the proposal for all trash receptacles to be picked up along N. Alworth is not adequate to accommodate the proposed development. Not only will it create visual discord, but it is detrimental to the safety of those utilizing the roadway for travel. The nature of the vehicular, bicycle and pedestrian traffic will conflict with the service trucks along Alworth during pick-up time as there will be an anticipated 16-24 trash carts (one trash, one recycling, and one compost; however, Garden City does allow for an additional five carts for residential services) to be picked up. As the city becomes denser and as Alworth continues to see more traffic, new developments cannot default to on-street cart services for their refuse.</p>
X			<p>Finding 4. The subdivision is in conformance with scheduled public improvements in accord with the city's capital improvement program;</p>

			The subdivision does not undermine scheduled public improvements or the City's capital improvement program.
X			Finding 5. There is public financial capability of supporting services for the proposed development The application has provided a waiver for the ability to serve the letter and a condition of approval for the submittal of this letter has been made.
	X		Finding 6. The development will not be detrimental to the public health, safety, or general welfare; The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city.
	X		Finding 7. The development preserves significant natural, scenic, or historic resources. The development does not provide complementary trees and vegetation for its location adjacent to Alworth Street as the Main Street Corridor. Additionally, the adjacent Thurman Mill irrigation canal, while remaining open, is not being utilized as an amenity, but is rather being hidden by a fence. Separating the natural feature from the rest of the subdivision.

30. In consideration of a planned unit development application, the decision-maker shall make the following findings:

GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Compliant	Not Applicable to this Application	

	X		<p>Finding 1. The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;</p> <p>The application has not provided documentation that the development will be initiated within two years of the date of approval. This could be a condition of approval to make this finding complaint.</p>
	X		<p>Finding 2. 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>If the entire project fails to be completed the components of the development cannot sustainably continue. The proposal contains elements that will be detrimental to the present and potential surrounding uses. The subdivision development does not propose adequate parking and thus will cause congestion on the street. The functionality of the common drive, without a turn-around area, will cause trash cart congestion on Alworth Street, and potential vehicular conflicts between those entering or leaving the subdivision with those that are traveling on Alworth.</p>
	X		<p>Finding 3. 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>While the proposal will not create traffic that will overload the street the design is not suitable as it may impede the street. The subdivision development does not propose adequate parking and thus will cause congestion on the street. The functionality of the common drive, without a turn-around area, will cause trash cart congestion on Alworth Street, and potential vehicular conflicts between those entering or leaving the subdivision with those that are traveling on Alworth.</p>
		X	<p>Finding 4. Any proposed commercial development can be justified at the locations proposed.</p> <p>The development does not propose any commercial aspects.</p>
	X		<p>Finding 5. 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>The exception from standard district requirements is not warranted as they result in a proposal that is over-taxing the location.</p> <p>The purpose of the waivers as granted through the planned unit development is to provide for well-planned development while deviating in certain respects from the zoning map and district regulations. The waivers that have been requested, in conjunction with the proposed site plans submitted, do not support the purpose statement and intentions of the planned unit development.</p>

	X		<p>Finding 6. The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p>The proposed development is not compatible with the surrounding uses, the surrounding subdivisions, or the neighborhood vision.</p>
	X		<p>Finding 7. The Planned Unit Development is in general conformance with the comprehensive plan;</p> <p>The proposed development is not compatible with the surrounding uses, the surrounding subdivisions, or the neighborhood vision.</p> <p>The project is not compliant with the definition of Activity Node Neighborhood Destination as it does not create a destination for the community. Additionally, it is in conflict with the Comprehensive Plans Goals of Goal 2, Objective 2.4, and Goal 7, Objective 7.3.1.</p>
	X		<p>Finding 8. The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p>Without the ability to serve information the application may not meet this finding. Moreover, the proposed design related to refuse collection is not adequate for the increased densities and it will detriment the neighborhood.</p>
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable	Not Compliant	Standard

	to this Application		
		X	<p>Finding 1. 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>The application is not appropriate to the location or the neighborhood as the proposal does not adequately address Alworth Street like what is envisioned in the Comprehensive Plan's Main Street Corridor. Furthermore, the application cuts adjacent properties off and ignores their uses, and creates a strain on the neighborhood in the form of inadequate parking and a poorly designed refuse system.</p>
X			<p>Finding 2. 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>The subdivision does not meet this finding as to the Ability to Serve Letter was never submitted and reviewed. Furthermore, the proposed plans do not allow for on-site waste management thus compelling that the waste bin pick-up is on N. Alworth. The stopping of the trucks, and the location of the bins, create conflict points for vehicles, bicyclists, and pedestrians that may be detrimental to the safety of those using Alworth for transportation.</p>
		X	<p>Finding 3. The use will not unreasonably diminish either the health, safety, or welfare of the community;</p> <p>The lack of adherence to City Codes, specifically that of 8-4D, 8-6B-7(A)(5) and the City's Comprehensive Plan is detrimental to the welfare of the city. The proposed development is in conflict with</p>

			the previous investments along Alworth Street, as it is anticipated to be more constrained and the development will be contributing to future user conflicts.
		X	<p>Finding 4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p>The proposed development is not compatible with the surrounding uses, the surrounding subdivisions, or the neighborhood vision. The project is not compliant with the definition of Activity Node Neighborhood Destination.</p> <p>The project is not compliant with Garden City Code 8-4D and 8-6B-7(A)(5). The project is not compliant with the definition of Activity Node Neighborhood Destination; Goal 2, Objective 2.4, and Goal 7, Objective 7.3.1.</p>

31. The record was reviewed in its entirety by the Garden 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 **does not satisfy** the required findings under GCC 8-5B-5, 8-6B-2, and 8-6B-7.

STANDARD CONDITIONS FOR DENIAL DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Garden City Council hereby does **SUSTAIN/ REJECT/ REMAND** the Design Review Committee and Planning and Zoning Commission recommendations as modified and does **DENY** Petra Point, application SUBFY2021-0010 for a Combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-5B-5, 8-6B-2, and 8-6B-7. This project is not in compliance with 8-5B-5, 8-6B-2, and 8-6B-7 standards. **It is not in compliance with the Garden City Comprehensive Plan Future Land Use Designation of Neighborhood Activity Node**

or Goals 2 and 7 of the Comprehensive Plan. Additionally, the proposal is specifically not in conformance with Garden City Code sections 8-6B-7(A)(5), and 8-4D. Compliance can be met by providing the code required number of guest parking on-site and providing on-site waste management and vehicular turnaround.

2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. 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.
4. A takings analysis pursuant to Idaho Code may be requested on final decisions.
5. 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.

Mayor, John G. Evans

Date