

BEFORE THE GARDEN DESIGN REVIEW COMMITTEE  
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	)	ANDRECCOMENDATION
_____	)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on January 18, 2022 and February 7, 2022. The Garden City Design Review Committee reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Design Review Committee makes the following Findings of Fact, Conclusions of Law and Recommendation:

**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 Mixed-Use Residential designation 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:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>			
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*

\*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

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. 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 Committee Minutes and Hearing Audio: January 18, 2022
- f. Design Review Committee Minutes and Hearing Audio: February 7, 2022
- g. Design Review Committee Recommendation

18. In consideration of a combined preliminary and final plat subdivision the decision

maker shall make the following findings:

<p>The draft findings are written both in approval and in denial. The Design Review Committee may select the explanations that correspond to their conclusions or amend the explanations based on the record that they have reviewed. Potential explanations have been provided.</p>			
<p><b>GCC 8-5B-5: SUBDIVISION PROCESS: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			
<p>Compliant</p>	<p>Not Compliant</p>	<p>Not Applicable to this Application</p>	<p>Standard</p>
<p>X</p>	<p>X</p>		<p><b>Finding 1.</b> The subdivision is in conformance with the Comprehensive Plan;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application is cohesive with the Comprehensive Plan's Activity Node by proposing a high density, multi-story residential development. It is also cohesive with the Main Street Corridor by providing minimum front yard setbacks that which allows for pedestrian scale design.</p> <p>The Development is in conformance with the Comprehensive Plan's Goal 1 Nurture the City, Goal 2 Improve the City Image, Goal 4 Emphasize the "Garden" in Garden City, Goal 5 Focus on the River, and Goal 7 Connect the City and Goal 12 Evolve as a Destination.</p> <p><b>In Denial:</b> The application is not cohesive with the Comprehensive Plan's Neighborhood Destination Activity Node in that it does not achieve the necessary design standards to generate an enjoyable destination location. The design does not promote public use or spaces, it does not offer a compatible transition between the uses surrounding it such as Riverpointe Subdivision, and even further to Legacy Apartments and the Greenbelt. The development goes directly against the</p>

		<p>Comprehensive Plan's goal to prioritize non-motorized connections.</p> <p>The application is not in conformance with Garden City's Comprehensive Plan's Goal 5 Focus on the Rive and Goal 7 Connect the City.</p>
X	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> <p><b>In Denial:</b> The application is not in conformance with the applicable sections of Garden City Code as there was not enough information to review thoroughly. The application was found to not be in conformance with the applicable sections of Code 8-1B, 8-4B, 8-4D, 8-4I, 8-4L, and 8-5A.</p>
X	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> It has been conditioned to require that the ability to serve letter be submitted prior to construction plans being approved to confirm that there are public services available that can accommodate the proposed development.</p> <p><b>In Denial:</b> There is inadequate information provided to verify that public services can accommodate the proposal.</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</p>

			improvements or the City's capital improvement program.
X			<p><b>Finding 5.</b> There is public financial capability of supporting services for the proposed development</p> <p><b>Explanation:</b> The application has provided a waiver for the ability to serve letter and a condition of approval for the submittal of this letter has been made.</p>
X	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> The application proposes to maintain the existing attached sidewalk along n. Alworth Street while connecting it to the common drive isle so that pedestrians may navigate safely from the public sidewalk to the primary entrance of each dwelling unit.</p> <p><b>In Denial:</b> The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city. Additionally, the lack of cooperation the subdivision provides in continuing and finishing the identified pedestrian pathway along the western property boundary line significantly impacts the public's health, safety, and general welfare of the community, specifically pedestrians and bicyclists.</p>
X	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 residential area, and proposes to landscape the development site which improves its urban canopy to be more than what currently exists. The</p>

			<p>adjacent Thurman Mill irrigation canal is to remain open.</p> <p><b>In Denial:</b> The development does not adequately address the Greenbelt and connections to the Boise River, nor does it 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 divided off by a fence. Separating the natural feature from the rest of the subdivision.</p>
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19. In consideration of a planned unit development, the decision maker shall make the following findings:

<p>The draft findings are written both in approval and in denial. The Design Review Committee select the explanations that correspond to their conclusions or amend the explanations based on the record that they have reviewed. Potential explanations have been provided.</p>			
<p><b>GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			
Compliant	Not Compliant	Not Applicable to this Application	Standard
X	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.   <b>In Denial:</b>  The application has not provided documentation that the development will be initiated within two years of the date of approval.</p>
X	X		<p><b>Finding 2.</b> Each individual unit of the development, as well as the total</p>

		<p>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> The proposed development and each structure can successfully exist independently of the surrounding area and will not be detrimental to the surrounding neighborhood.</p> <p><b>In Denial:</b>  If the entire project fails to be completed the components of the development cannot sustainably continue.</p>
X	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 common drive that is capable of handling anticipated traffic which will provide ingress/egress onto Alworth Street. The subdivision is not large enough to trigger a traffic impact analysis.</p> <p><b>In Denial:</b>  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><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p> <p><b>Explanation:</b> <b>Not Applicable:</b> The development does not propose any commercial aspects.</p>
X	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 development space that which allows for a higher density to match the vision of the Comprehensive Plan's Neighborhood Destination Activity Node. The layout of the project preserves existing mature trees.</p> <p><b>In Denial:</b> The exception from standard district requirements is not warranted as they result in a proposal that is over taxing of the location and detracts from the required open spaces of the development, the required recreational areas and pathways extending from the greenbelt that already exists and prohibit a large urban street tree canopy along Alworth Street.</p>
X	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 Mixed-Use Residential neighborhood vision.</p>

		<p>The proposal is a component of the overall neighborhood. The types of housing and uses will provide for more comprehensive variety of residential options in the neighborhood.</p> <p><b>In Denial:</b> The proposed development is not compatible with the surrounding uses, the surrounding subdivisions, nor the neighborhood vision.</p>
X	X	<p><b>Finding 7.</b> The Planned Unit Development is in general conformance with the comprehensive plan;</p> <p><b>Explanation:</b> <b>In Approval:</b> The application is cohesive with the Comprehensive Plan's Activity Node Neighborhood Destination and Mixed-Use Residential land use designations as it proposes a higher density of residential dwelling units that are urban in character.</p> <p><b>In Denial:</b> The application cannot be found in conformance with the comprehensive plan as it does not adequately provide connectivity, diminishes connectivity to and from the greenbelt rather than amplifying it.</p>
X	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> <p><b>In Denial:</b> Without ability to serve information the application does not meet this finding.</p>
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>		
Conclusion		

Compliant	Not Applicable to this Application	Not Compliant	Standard
X		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 residential development is compatible with the surrounding uses and is permitted within use within the C-2 zoning district. It meets most zoning setback and density requirements.</p> <p><b>In Denial:</b>  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 its special pedestrian connection that terminates at the Boise River Greenbelt. Furthermore, the application requires more parking to not overrun the neighborhood.</p>
X		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.</p> <p><b>In Denial:</b>  The subdivision does not meet this finding as the Ability to Serve Letter was never submitted reviewed. Furthermore, the proposal is under parked.</p>

X		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> There is no evidence that the proposal is detrimental to the public health, safety, or general welfare of the community. The continued maintenance of the attached sidewalk along Alworth will continue to provide a safe pedestrian travel way.</p> <p><b>In Denial:</b> The lack of adherence to City Codes, specifically that of 8-4D, 8-4I, 8-4L, and 8-5A-6 and the City's Comprehensive Plan is detrimental to the welfare of the city.</p>
X		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> As conditioned and with the waivers granted, the application is in conformance with Garden City code regulations. The application is cohesive with the Comprehensive Plan's Mixed-Use Residential and the Neighborhood Destination Activity Node land use designation as it proposes a higher density of dwelling units that are urban in in character.</p> <p><b>In Denial:</b>  The project is not complaint with Garden City Code 8-1B-2; 8-4B; 8-4D; 8-4I; 8-4L. The project is not complaint with the definition of Activity Node Neighborhood Destination; Goal 5, Objective 5.5 and 5.5.2; and Goal 7, Objective 7.1 and 7.3.1.</p>

20. The record was reviewed in its entirety by the Design Review Committee to render the decision.

## CONCLUSIONS OF LAW

The Garden City Design Review Committee 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/RECOMMENDATION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Design Review Committee hereby **APPROVES/DENIES** application SUBFY2021-0010 for a Combined Preliminary and Final Plat Subdivision processed as a Planned Unit Development and subject to the following conditions:

### Prior to City Signature on Plat:

1. Common Lot
  - a. Lot 5 shall be considered a common lot.
  - b. Common driveways, open space, and other common areas shall be included in an easement or on a common lot.
  - c. All common lots shall be noted as common and unbuildable on the plat.
2. 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 SUBFY2021-0010 or Garden City Base Zoning District Standards".
  - a. The approved reductions from code required setbacks are:
    - i. Lot 1 & 6
      1. Front Setback: 0'
    - ii. Lots 4 & 9
      1. Side Yard Setbacks: 0'
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. Perpetual public utility easement
    - 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. A minimum 12-foot-wide perpetual public pedestrian and bicycle pathway connection connecting N. Alworth Street to the pedestrian pathway located to the north adjacent property of River Pointe Subdivision.
  1. An additional pedestrian easement may be required of Thurman Mill Ditch if the Thurman Mill Ditch has an exclusive easement.
4. Documentation shall show the subdivision name River Rock Townhomes where currently showing Petra Point Townhomes Subdivision.
5. The CC&Rs must state: "The Association shall not be dissolved without the prior written approval of the City of Garden City, Idaho".
6. 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.
7. Submit a sustainability checklist that demonstrate compliance with or an exemption from Garden City Code 8-4G for each anticipated lot and or structure prior to final plat signature.

**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. The ability to serve shall be provided.
3. Install a 10-foot-wide concrete pedestrian pathway from N. Alworth Street through the westerly portion of the project connecting to the adjacent northern pathway in River Pointe Subdivision.
4. A building envelope within which future building footprints will be located shall be shown on the lots.
5. Landscaping
  - a. The landscaping shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
  - b. If any trees are to be removed from the site, a tree mitigation plan must be submitted and in compliance with GCC 8-4I-7 Tree preservation provisions.

- i. Any trees removed prior to the certified arborist's report being submitted will be considered to have been healthy, and thus, mitigation will be required.
  - c. A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
    - i. N. Alworth shall have a total of at least 7 trees along the frontage property line.
    - ii. E. 49<sup>th</sup> Street shall have a total of at least 2 trees along the frontage property line.
  - d. 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.
  - 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.
- 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. The application shall be compliant with Garden City Code 8-4L Open Space Provisions.
  - a. At least 10% of the site is required to be designated common open space.
  - b. Common open space shall provide connectivity with other open areas, public spaces, trails, or water features within and off the site.

Commented [HV1]: Waiver requested

- c. The landscaping located within individual unit's backyards shall not count towards the common open space minimum requirements.
  - d. The common drive shall not count towards common open space requirements unless specifically designed to act as a plaza area as defined by Garden City Code 8-4C.
8. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along N. Alworth Street.
9. At least one bicycle parking space shall be provided on site in accordance with Garden City Code 8-4D.
  - a. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area, the E. 49th Street, nor N. Alworth.
  - b. All bicycle parking shall be located so as to not prevent the sidewalk, pedestrian pathway traffic from maintaining a continuous momentum.
10. Vehicular parking
  - a. Parking spaces shall be a minimum of 10'X20'
  - b. The guest parking shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
11. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.
12. All outdoor service and equipment areas shall be screened and comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
13. 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.
14. Driveway openings in curbs shall comply with the requirements of the Transportation Authority.
15. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
16. All stormwater systems must comply with Garden City Code 8-4A-7.
17. 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.

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



1. The subdivision must obtain Ada County Approved addresses for all new lots prior to the submittal for building permits.
2. 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.
3. All structures 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.
4. Setbacks for all lots shall be from the property lines.
5. For the purposes of setback measurements:
  - a. On lots 2-5 & 7-9 The front setback shall be considered the portion of the property that which the front entry door faces;
  - b. The rear setback shall be considered the portion of the property that which the back yards are.
  - c. On lots 1 & 6, the front setback shall be considered the southernmost property boundary line facing N. Alworth. And; the side yard setback shall be considered the portion of the property that which the garage faces.
6. The front entry of a residential structure shall be clearly defined and identifiable as demonstrated by the following:
  - a. All units adjacent to streets shall have a primary entrance on the street.
  - b. All dwelling units shall have a direct and permanent pathway that connects to the public sidewalk.
7. The existing shed on Lot 10 shall be moved to meet R-2 Base Zoning District setback standards.
8. All HVAC systems shall be screened to be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
9. All light fixtures must be compliant with Garden City Code 8-4A-4 Outdoor Lighting.

**For the Duration of the Use:**

1. All streets and driveways shall adhere to the standards of a clear vision triangle.
2. All common open spaces shall be located on an open space easement with the grantee being Petra Point 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.
- 3. The fencing adjacent to the Thurman Mill irrigation ditch, if provided, shall be made of open-vision material, cannot exceed six-feet in height, and shall not block pedestrian and bicycle access where the pathway connects to the adjacent property of the Riverpoint Subdivision.
- 4. 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.
- 5. Property maintenance standards shall be maintained in perpetuity as required by Garden City Code.
- 6. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.

**General:**

- 1. This approval is for a combined preliminary and final plat for a residential subdivision encompassing 10 lots – 9 lots are to be designated for residential use, and 1 lot is to be designated as a common lot.
- 2. Approved waivers to Garden City Code, Title 8 regulations include:
  - a. Waiver to Garden City 8-5A-5 Design Standards for pressurized irrigation system instalment.
  - b. More than 4 dwelling units being served through a common drive, allowing for 8 units to be served on a common drive;
  - c. Waiver to Garden City 8-4D-5 Required Number of Off-Street Parking Spaces; allowing for only one enclosed vehicular parking spot per dwelling unit versus the required two.

- d. Waiver to Garden City 8-4E-3 Clear Vision Triangle standards; allowing for Class II trees columnar in nature to be within the clear vision triangle, and maintained to an 8' canopy.
- e. Setbacks, allowing for custom setbacks within the development;
- f. 0.5 guest parking spots for every dwelling unit, allowing for zero guest parking spaces.

Commented [HV2]: Not formally requested in initial submittal. Staff recommended based off code non-compliance.

3. This approval is based on the following plans:
  - a. Landscape Plan Submitted on January 5, 2022, dated January 4, 2022;
  - b. Architectural Elevation Plans submitted on November 1, 2021, dated August 10, 2021;
  - c. Site Plan Submitted November 1, 2021, dated August 10, 2021.
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. We request that you build at least to at or above the anticipated BFE for future insurance rates. Stricter standards may be required in the future for building permit approval.
5. The development shall be initiated within two (2) years of the date of approval.
6. The applicant shall comply with all requirements of the reviewing entities.
7. 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.
8. Approval of the subdivision does not constitute as the approval for any uses.
9. The approved addresses and a copy of the recorded plat must be provided to the city prior to the city considering the subdivision complete.
10. The approval is specific to the application provided and reviewed.
11. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained.
12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.
20. Approval shall become null and void if the applicant fails to record a final subdivision within one (1) year 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.

21. This application shall be considered intent to vacate any previous use on site; all previous uses at this location shall be considered abandoned.
22. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
23. 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.
24. A takings analysis pursuant to Idaho Code may be requested on final decisions.
25. 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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This signature verifies that this decision document has been reviewed and approved by the Design Review Committee

Date

#### STANDARD CONDITIONS FOR DENIAL DECISION

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 standard(s) because it does not establish a development pattern which preserves and utilizes the natural topography, drainage, or vegetation of the existing site, nor does it create a more useful pattern of open space and recreation area. It is not in compliance with the Garden City Comprehensive Plan Future Land Use Designation of Neighborhood Activity Node or Goals 5 and 7 of the Comprehensive Plan. Additionally, the proposal is not in conformance with Garden City Code sections 8-5A, 8-4L, 8-4I, 8-4D and 8-4E. Compliance can be met by providing additional parking; adhering to setbacks; providing a public pedestrian pathway and including the existing site details for Lot 10.
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.

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This signature verifies that this decision \_\_\_\_\_ Date \_\_\_\_\_  
document has been reviewed and approved \_\_\_\_\_  
by the Design Review Committee \_\_\_\_\_