



CITY OF GARDEN CITY

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File Number: CUPFY2021 - 0007

Requested Use: Farmers Market/ Seasonal Outdoor Market

Use as Defined by GCC Title 8: Not Applicable

Location: 303, 215 E. 34th St. and 3342 N. Carr St.

Applicant: Jorre Delgado with JBI Elemental LLC

Planning and Zoning Commission Hearing Date: April 21, 2021, 6:30 p.m.

Garden City Hall, 6015 Glenwood, Garden City, Idaho



STAFF REPORT

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A. Project Information

Proposed Scope of Work:

Request	Review Process	Public Hearing
Conditional Use Permit	GCC 8-6B-2	Planning and Zoning hearing is scheduled for: April 21, 2021
Associated Design Review		This application is in conjunction with subdivision SUBFY2021-0005 processed as a Planned Unit Development

A conditional use may be found to be appropriate or inappropriate at a given property. In some situations, conditions of approval may be required to assist the proposed use in being appropriate to a location and in conformance with code. In other situations where the use cannot be conditioned to be appropriate to the location or code, it should not be permitted.

Project Details:

- 1) Applicant: Jorre Delgado with JBI Elemental LLC
- 1) Owner: Property ownership in Ada County Assessor's shows as Urban Willow LLC; Application shows as JBI Elemental LLC
- 2) Request: Farmer's Market and Community Gathering Destination
- 3) Use: Event Center might be more applicable term. Farmers Market nor Event Center are uses that are identified in Garden City Code.
- 4) No improvements are proposed with this application.

Site Conditions:

- 2) Existing Use: Vacant
- 3) Street Addresses, Parcel Numbers, and Property Descriptions:
 - a) 303 E. 34th Street; Ada County Parcel Number R2734541500; Described as LOTS 31/32 BLK 35 FAIRVIEW ACRES SUB NO 5;
 - b) 215 E. 34th Street; Ada County Parcel Number R2734541395; Described as LOT 27 BLK 34 FAIRVIEW ACRES SUB #5
 - c) 3342 N. Carr Street; Ada County Parcel Number R2734541520; Described as LOTS 33/34 BLK 35 FAIRVIEW ACRES SUB NO 5
- 4) Legal Lot of Record: Yes
- 5) Property Size: 0.85 acres
- 6) Zoning District: C-2
- 7) Zoning Overlay(s): None
- 8) Comprehensive Plan Land Use Map Designation:
 - a) Live-Work-Create
 - b) Activity Node: Neighborhood Destination
- 9) Floodplain Designation:
 - a) 2003 FIRM: Outside of the Special Flood Hazard Area

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- b) 2017 Draft FIRM: 100 Year
- 10) Adjacent Uses:**
- a) Eating Establishment; limited services
 - b) Residential dwelling unit; single family
 - c) Vehicle Services
 - d) Public Use
 - e) Drinking Establishment; Limited Services
- 11) Existing Use: 34th Street Market.**
- 12) Easements on site:**
- a) Fairview Acres Sub 05 Plat: Utility, Drainage, Irrigation Easement
 - b) Fairview Acres 05 Acceptance of Responsibility; Acceptance of Liability
 - c) FA03 GREENBELT EASEMENT PACKET
 - d) FA05 B35 L3 JOHNSON, MILLER GREENBELT
 - e) FA05 B35 L2 KLETT- NETTEN GREENBELT
- 13) Site Access: 34th Street and Carr Street**
- 14) Sidewalks: No existing sidewalk**
- 15) Wetlands on site: None identified**

C. Discussion

There are a couple other applications that are associated with this Conditional Use Permit.

1. [CUPFY2019-4](#): A previous CUP that which is similar in nature located at the same property. The application for the seasonal outdoor farmer's market was approved with conditions. [The staff report](#) associated with CUPFY2019-4 would prove as a helpful source for more information of the current CUPFY2021-0007 application.
2. [SUBFY2021-0005 Casino Beach](#): There is a subdivision application at the same addresses along 34th Street. The common areas of the subdivision, if approved, and once completed, will be will presumably be the location of the farmer's market and community gatherings. As a note, SUBFY2021-0005 is still in the process of receiving its entitlements. There is no assurance that the subdivision will be approved, and the conditional use permit application should be considered independently.

The concerning impacts related to this use are the pedestrian safety and connectivity due to the lack of sidewalks, adequate lighting, the potential noise pollution created from late night or early morning events, the vehicular, bicycle, and pedestrian congestion created during hours of operation, parking, the sale and consumption of alcohol, and the public's access to adequate restroom and hand washing facilities.

The Casino Beach Subdivision site plan was submitted as this application's site plan. It is staff's understanding that this application intends to start in the current location that which the 34th Street Market has taken place, as is, and without any improvements.

Should both the conditional use permit and the subdivision be approved, as the subdivision begins to develop, the conditional use permit may still remain valid, however, it would be nullified on the lot as building permits are applied for on those lots. In other words, as soon as the subdivision building permit is applied for on the lot that which the market currently resides, that lot is to be considered the new use (presumably residential, lodging, or other commercial uses). Throughout the duration of the use, the market may be located on common lots within the subdivision.

Should this request be approved, the approval does not extend to 34th Street, as it is a public-right-of-way, and not controlled by the applicant. This does not prohibit use of 34th Street at times, provided the proper mechanisms of temporary closures are permitted through ACHD and the Garden City Police Department and Clerk's Office. However, it is suggested that any temporary closure of 34th Street shall only be closed to all vehicular traffic to avoid safety conflicts with pedestrians; all other pedestrian and bicyclist traffic shall be permitted to access through the street during these times. It is further noted that an appropriate condition of approval the **IF** vacation of 34th Street is to occur, it must be approved by the Garden City Council.

GCC 8-7A Definitions of Uses

The use "Farmer's Market" and "Event Center" are not defined terms in Garden City Code. Pursuant to Garden City Code 8-1A-5 (Interpretation), when a term is not defined in Garden City Code, the latest edition of the Merriam-Webster's Unabridged Dictionary of the English Language is required to be used.

- Farmers Market: *A market at which local farmers sell their agricultural products directly to consumers.*
- Event: *A social occasion or activity.*
- Center: *A facility providing a place for a particular activity or service.*

When a use is not listed in Garden City Code, a determination of whether the use is equivalent to a permitted or conditional use is required.

Garden City Code 8-2B Base Zoning District Provisions - Farmer's Market and Event Center Analysis:

Due to the influx of people and the potential disruptions to the neighborhood stemming from noise, parking, policing, restrooms etc., it was determined that a conditional use permit should be required. As there are similarities of other uses that are conditional or permitted in nature it was not determined that the use should be equivalent to a prohibited use.

While not outdoor uses, the proposed uses may have similar types of activity with the following uses:

- Club (Conditional Use): The use of a site owned or operated by an organized association of persons for a social, literary, political, educational or recreational purpose primarily for the exclusive use of members and their guests; and not primarily operated for profit or to render a service customarily carried on as a business.
- Food Store (Permitted): The use of a site for the sale of fresh, partially or fully prepared food for consumption at a different location in conjunction with a full line of consumable goods, toiletries, cleaning supplies, and household supplies. The term "food store" includes grocery store, delicatessens, bakery and convenience stores.
- Retail Store (Permitted): The use of a site that offers merchandise or services to the public for monetary compensation. The term "retail store" includes, but is not limited to hobby, office supplies, stationery and gift stores; specialty stores; apparel and accessories stores; pharmacy and drug; used merchandise stores; book, computer, and music stores; electronics and appliances; florists; furniture and home furnishings; general merchandise stores; health and personal care stores; and sporting goods stores.

The following use is noted for the purposes of this review due to the live music component and volume of people at a certain time:

- Commercial Entertainment Facility (Conditional Use): The use of a site for any profit-making activity which is generally related to the entertainment field. The term "commercial entertainment facility" includes motion picture theaters, carnivals, nightclubs, and dance halls.

1. The scope, scale, and location of the live music component has not been provided. There is a potential condition of approval stating that events that generate noise shall not occur between the hours of 9:00 pm and 8:00 am.

The proposed event center shares several characteristics with club and special event, such as operated for a recreational purpose primarily for the exclusive use of guests (club) and being open to the public on a temporary basis for less than three days (special event). The proposed use, without a live music component, does not appear to be at the scope and scale of a motion picture theater, carnival, night club or a dance hall or does it appear to be intended for purely entertainment purposes.

The proposed farmer's market shares several characteristics with these uses, such as operated for a recreational purpose (club), sales of fresh, partially or fully prepared food for consumption (food store), and sales of merchandise or services to the public for monetary compensation (retail store).

Title 8 Chapter 4.

8-4E-6 (Sidewalk Standards)

Pedestrian infrastructure may be inadequate for the proposed use. The Greenbelt, while busy at this location, appears to provide safe and comfortable bicycle and pedestrian infrastructure. However, the lack of contiguous sidewalks available from the parking areas to the proposed use may present a significant pedestrian hazard. The application does not contain documentation concerning how pedestrian safety will be mitigated in this context.

This subsection requires sidewalks for new and more intense use of property. This subsection and the ***Garden City Sidewalk Policy*** notes that a sidewalk and landscaping buffer is required for new and more intense use of property. The installation of a detached sidewalk with landscape buffer was a condition of approval in the previous Conditional Use Permit (CUP), CUPFY2019-4. The previous CUP, however, failed to install the required sidewalk and landscaping, so the site remains without.

[The Garden City 34th Streetscape Resolution](#) requires that attached sidewalks with landscaped bulb-outs are to be installed along 34th Street and Carr Street. The associated subdivision application SUBFY2021-0005 for Casino Beach currently proposes attached sidewalks with minimal landscape bulb-outs. These bulb-outs are proposed at the intersection of 34th Street and Carr. However, the remainder of 34th street contains an 11-foot-wide sidewalk area consisting of:

- A 1-foot-wide landscape planter area;
- A 5-foot-wide sidewalk;
- A 4-foot-wide landscaped tree planter area;
- A 1-foot-wide buffer zone/curb area;
- [See Figure 1](#)

As the market, in this form, is temporary in nature, there has been a potential condition of approval made to not require the sidewalk immediately. However, the City approved sidewalk and street trees shall be provided by December 31, 2021. Failure to complete these improvements by this date will result in an automatic revocation of the approval. This condition

has been put in place to allow for the market to operate while the Casino Beach subdivision continues through the entitlement phase, and so that the sidewalk and landscaping approved with the subdivision can be put in place within the year.

Required Parking Analysis

Staff has noted concerns related to the ability to adequately park the proposed uses. History has shown that the previous market associated with CUPFY2019-4 was successful to the point of creating hazardous conditions along the streets that which serviced it. Pursuant to 8-4D-5B (Required Number of Off-Street Parking Spaces – Nonresidential Uses), parking for nonresidential uses is determined based on the following criteria:

1. The specific use(s) proposed and/or on the property;
2. Uses in the vicinity of the property;
3. A traffic study, if prepared, forecasting the expected traffic and parking needs expected from the use(s);
4. The availability of on street, shared, and/or public parking within the vicinity of the use; and
5. The availability of public transit, vanpooling or other alternative transportation to serve the use.

Pursuant to 8-4D-6 (Standards for Alternatives to On Site Parking), conditions favorable to providing alternatives to onsite parking are:

1. Shared use:
 - a. There are convenient pedestrian connections between separate properties;
 - b. The properties and/or uses are within one-fourth (1/4) mile of each other;
 - c. The principal operating hours of the uses are not in substantial conflict with one another; and
 - d. Directional signs provide notice of the availability of parking.
2. Alternative transportation:
 - a. There is a transit stop within one-fourth (1/4) mile of the use; or
 - b. There is an incentive program for carpooling, vanpooling, or transit supported by the employer.
 - c. There are shower facilities and lockers to support and encourage the use of nonmotorized transportation by employees.

Staff assumes that the use will continue to utilize all available on-street parking on 32 – 35th, Clay and Carr Streets. While the uses may have varying patron levels due to a variety of circumstances such as weather or the type of event being conducted, there is a reasonable expectation that adjacent and surrounding properties would also have need for on-street parking during the time frames that which the events occur.

Public transportation does not appear to adequately service the use. The frequency and dates of bus service are limited to weekdays and have limited bus runs. Additionally, the Valley Regional Transit Route 11 that which services this area is to be discontinued in September.

Rideshare services such as Uber and Lyft could reduce the need for parking. However, the application does not appear to contain a loading area for these services. Such services would

either be dependent on parking on-street or have to stop in the middle of traffic to pick up and drop off, which could violate state and local traffic laws. Due to these issues, rideshare services cannot be considered a viable alternative transportation method and is not considered a parking alternative.

The Garden City Parking Lot at 36th Street is a public parking lot that prohibits overnight parking. While overnight parking is not expressly defined in this Title, the limitation could conflict with the potential evening hours. Although a public parking lot, the applicant is required to get permission from the City and enter into a shared parking agreement to limit parking at this location to the proposed uses. There is no record of formal permission being granted or a shared parking agreement being entered into with the City.

D. Decision

The Planning and Zoning Commission has been provided a draft document that includes findings of fact, conclusions of law, and a decision in the affirmative and in denial. This is done to provide potential options based on the staff's review of the project. This is not intended to be a predetermined decision. All evidence will be considered, and the document may be updated based on the Planning and Zoning Commission's review of the application.

Required Decisions:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is the final decision maker for a Conditional Use Permit. There is no recommending authority to the Planning and Zoning Commission. Pursuant to [GCC 8-6A-2A](#), The City Council shall have the authority to review any action taken by the Planning and Zoning Commission regarding Conditional Use Permits, which would be final unless appealed.

Required Findings:

To approve a conditional use permit, the Planning and Zoning Commission must find the application meets the following findings found in [GCC 8-6B-2](#):

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;
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;
3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.
5. There has been no denial of any application on this property within one year.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is:

- 3. Granted,
- 4. Granted with conditions, or
- 5. Denied.

The decision maker may find that there is inadequate information to render a decision and may also continue the hearing for additional materials to be supplied. It is recommended that they continue the hearing to a date certain for noticing purposes.

The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

Appeal of Decision:

Pursuant to [8-6A-9 Appeals](#), there is a 15-day appeal period to appeal the decision to the City Council. This period starts from the signed decision date and runs concurrently with the 15-day objection period noted above. An appeal is \$210 and must be filed on the appeal application form provided by the City. Appeals received after the 15-day appeal period will not be accepted.

E. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
Irrigation: Fairview Acres Full Review	03/25/2021	FALWUA open ditches are in this area. We don't anticipate that the farmer's market will have any effect on ditch operations however, there is an open ditch in the area and the applicant is advised to provide due caution and keep the ditch free of debris.

F. Public Comment

The following public comments were provided:

Commenter	Comment Date	Summary
Belinda Isley – Full Comment	03/21/2021	In Support – The Farmers Market has become a beloved neighborhood event & I would love to see it continued!

G. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections

Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 7 Building Regulations			
7-2-1 Building Code	N/A	No compliance issues as conditioned.	The applicant is proposing to occupy an existing area of land without alteration. A certificate of compliance will be required prior to the occupancy of the site.
Title 8, Chapter 1: General Regulations			
8-1A-4 Applicability			The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
8-1B-1 Nonconforming Properties		No compliance issues noted	
8-1B-2 Nonconforming Structures		No compliance issues noted	
8-1B-3 Nonconforming Uses		Compliant upon approval	Contains Conditional Use Permit
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose		No compliance issues noted	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.
8-2B-2 Allowed Uses	PZ		<p>The use "Farmer's Market" and "Event Center" are not defined terms in Garden City Code. Pursuant to Garden City Code 8-1A-5 (Interpretation), when a term is not defined in Garden City Code, the latest edition of the Merriam-Webster's Unabridged Dictionary of the English Language is required to be used.</p> <p>When a use is not listed in Garden City Code, a determination of whether the use is equivalent to a permitted or conditional use is required. A Commercial Entertainment Facility, which includes movie theaters and dance halls, is a use that identified in Garden City Code that may have similar effects on a neighborhood including an influx of people, parking need, noise, etc. As a Commercial Entertainment Facility requires a conditional use permit in the same zoning district it was determined that this use too should require a conditional use permit prior to approval.</p>
8-2B-3 Form Standards		No compliance issues noted	The structures and site do not appear /appear to be complaint with form standards.
8-2C			8-2C-10 COMMERCIAL ENTERTAINMENT FACILITIES:

			<p>A. Setbacks: If the use involves the sale of alcoholic beverages, the use shall not be located within three hundred feet (300') of a property used for a church or school.</p> <p>B. Limitations: No outside activity or event shall be allowed in the parking area, except as allowed through a special event permit that takes into account the public health and welfare, the interests of adjoining property owners, noise, traffic and vehicular and pedestrian safety.</p> <p>C. Other Regulations Apply:</p> <ol style="list-style-type: none"> 1. The use shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages. 2. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code. 3. Security shall be provided for the entire premises including inside the building and any parking lot or outside usable space. Security shall be provided in the prescribed manner: <ol style="list-style-type: none"> a. Security personnel are required and shall wear identical attire clearly identifiable with the word "Security" on the backside of shirts; and b. Security staff shall have some means of two-way communication; and c. Video surveillance is required; and d. Parking areas shall be lighted; and e. No loitering outside of the establishment shall be permitted.
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Title 8, Chapter 4: Design and Development Regulations

Title 8 Chapter 4 Design and Development Regulations		Not be complaint	<p>There are no improvements proposed with this application.</p> <p>As a Conditional Use Permit, this application triggers sidewalk and landscaping standards.</p> <p>It is unclear if the application plans on maintaining the existing, unofficial parallel parking.</p> <p>Staff suggests that the Fire Department should review the site layout plan of each event. Additionally, each temporary structure is required to obtain a building permit prior to occupancy.</p> <p>It is further suggested that restrooms, hand washing facilities, and garbage receptacles are necessary.</p> <p>It should also be mentioned that while the site is compliant with streetlights, Garden City Code and the streetlight policy do not necessarily contemplate lighting for a hub of activity.</p> <p>Potential conditions related to improvements have been suggested in the draft conditions of approval.</p>
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Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process		No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information			No application waivers were requested pursuant to 8-6A-4A.
8-6A-7 Public Hearing Process		No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided a radius notice, notifications to agencies with jurisdiction, and ran a legal notice in the Idaho Statesman, at least 15 days prior to the first hearing. The applicant provided an affidavit of property posting more than 7 days in advance of the hearing validating that the property was posted more than 10 days prior to the hearing.

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
Idaho Code 67-6512 Local Land Use Planning Special Use Permits, Conditions, and Procedures	<p>Garden City Code noticing requirements are compliant with this Statute.</p> <p>The statute notes that upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:</p> <ol style="list-style-type: none"> (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. <p>Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.</p>
Previous entitlement that might affect this project	CUPFY2019-4 and SUBFY2021-0005

Garden City Comprehensive Plan	<p>This application is in future land use designations of the Comprehensive Plan:</p> <ul style="list-style-type: none"> a) Activity Node: Neighborhood Destination b) Live-Work-Create <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> a.) 1.1 Objective: Promote city events, seasonal holidays and celebrations. b.) 1.4 Objective: Create a premier destination place to live, work, and recreate. <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.1 Objective: Encourage new and distinctive neighborhoods. <p>Goal 3. Create a Heart for the City</p> <ul style="list-style-type: none"> a.) 3.2 Objective: Create public gathering places at multiple locations throughout the City. <p>Goal 11. Serve the City</p> <ul style="list-style-type: none"> b.) Continue to maintain existing public facilities and support social services. Develop more civic uses sought by the community. <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment b.) 12.2 Objective: Continue to support commercial and industrial land uses. c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce. <p>The application may not be supported by:</p> <p>Goal 4. Beautify and Landscape</p> <ul style="list-style-type: none"> a.) 4.13 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art. b.) 4.3.1: Continue to require sidewalks and landscaping in all new development, and in major alterations and re-use of existing commercial sites. <p>Goal 5. Focus on the River</p> <ul style="list-style-type: none"> a.) 5.2 Objective: Landscape along the river. b.) 5.8.1: Acknowledge the increasing attraction of the Greenbelt and potential conflicts for all types of users: river-related activities, maintenance, recreation bicyclists and walkers, other wheeled device users, and commuters. Plan for the future to maintain compatibility among users through signage, shielded lighting, wider greenbelt sections at congestion points, delineation lines, and enforcement, including off-hour use. <p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> a.) 7.1 Objective: Create pedestrian and bicycle friendly connections.
Garden City Sidewalk Policy	<p>No waivers submitted</p>
Garden City Street Light Policy	<p>A streetlight is installed along E. 34th Street in accordance with the policy.</p>
Old Town Circulation Network Plan	<p>This plan identifies Thurman Mill as a multi-use trail connecting to the Greenbelt.</p>

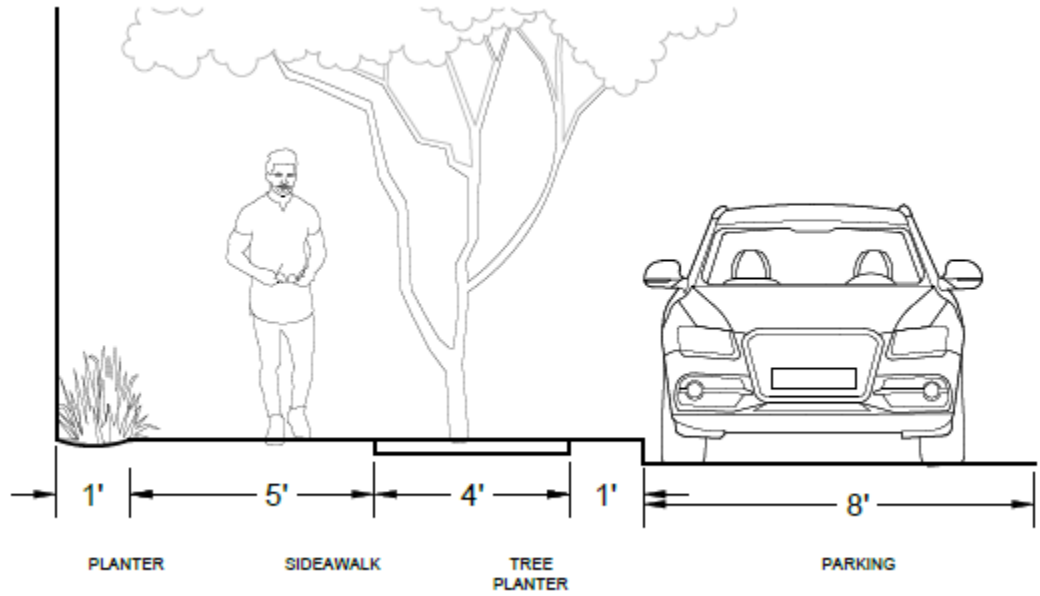


Figure 1: Pedestrian sidewalk area along 34th Street taken from SUBFY2021-0005 Casino Beach Landscape Plan submitted April 7, 2021.