

BEFORE THE DESIGN COMMITTEE  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	DSRFY2019-4
	)	
Design Review	)	FINDINGS OF FACT,
208 E. 33 <sup>rd</sup> Street	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Design Committee for consideration on October 21, 2019. The Design Committee reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Design Committee makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The applicant is Derek Hurd of Gravitass Inc.
2. The property owner is Wee Boise, LLC.
3. The location of the project is 208 E. 33<sup>rd</sup> Street, Garden City, Id. Assigned Ada County Parcel No.: R2734541364.
4. The application is for new construction of multiple structures.
5. The project is located in the Garden City M Zoning District.
6. The project is not located in the floodplain according to the 2003 FIRM.
7. The project is not located in the floodplain according to the 2017 FIS.
8. The applicant met with the Design Review Committee on January 7, 2019 for a pre-application consultation.
9. The application was received September 13, 2019. The application was scheduled for a meeting on October 7, 2019.
10. The application was continued to a date certain of October 21, 2019 due to a lack of quorum for the item.
11. A copy of the application was transmitted to affected public agencies on September 17, 2019 and written comments were received from:
  - a. Garden City Engineer;
  - b. Republic Services
  - c. Ada County Highway District
12. The applicant provided verification that the property was posted on September 24, 2019, ten or more days prior to the meeting.
13. A legal notice was published in the Idaho Statesman on September 19, 2019.
14. The applicant met with the Design Review Committee on October 21, 2019.
  - a. Committee member Derek Hurd recused himself from this item after noting a conflict of interest due to being the applicant.
  - b. Applicant Derek Hurd and Kristin Jones were present to represent the request.
  - c. Public testimony was received from:

- i. Public testimony was received from:
  - 1. Meryl Lingard in opposition, noting:
    - a. Concerned the tower takes away privacy from other properties.
    - b. Existing parking not adequate for area.
    - c. ADA accessible parking on the street could be helpful.
    - d. Bars create noise and mitigation is necessary.
  - 2. Dave Brandt in opposition, noting:
    - a. Parking should be provided outside of public parking for the development.
    - b. Tower presents a privacy issue, as view goes into his property.
    - c. Metal containers amplify noise.
  - 3. Louis Landry in opposition, noting:
    - a. Noise is a concern. Existing noise from the 34<sup>th</sup> Street Market and the Sandbar impact the area. "Neighborhood Honkytonk".
    - b. Parking standard in code not correctly applied. Bicycles not realistic primary transportation option.
    - c. Does not meet intent of the Live Work Overlay
    - d. Metal not a problem, but this is not a nod to the neighborhood
    - e. Trask enclosure location may not be appropriate.
  - 4. Hannah Ball in support, noting:
    - a. SAP is active as of 10/22/2019
    - b. SAP not null and void.
    - c. Noise is to be expected in an area that already has live music.
    - d. Parking available. 34<sup>th</sup> Street Market parking study shows 350 spaces available in area.
- d. Public testimony was closed.
- e. Discussion:
  - i. Tower Element:
    - 1. Committee member Labrie: Towers questionable as element as it takes away from the front entrance. Pedestrian access in tower questionable. Towers should be lowered one story to protect views.
  - ii. Parking:
    - 1. Committee member Labrie: Parking does not appear adequate. Number of spaces do not appear to match up with potential uses. Would like to see parking at 1/1500 sq. ft. parking ratio.
    - 2. Chairperson Thornborrow: Relocation of bicycle parking could allow for an additional on-site vehicle parking space. While outside of options identified in code for the review of this project; in general, private parties can implement

methods to assist in reducing parking constraints such as providing for regulations in the CC &Rs related to parking or mandatory purchase of bus passes.

3. Committee member Gresham: Shared parking should be explored with other properties. Reconfiguration of development could result in 8 total spaces.
- iii. Railing:
  1. Committee member Labrie: More wood material should be used on railings and should be wrapped around sides of front units.
- iv. Noise:
  1. Chairperson Thornborrow: Proposed condition for noise amplification to be directed inward.
- v. Doors:
  1. Committee member Labrie: Container doors at front elevation should be removed to meet design requirements.
- f. Committee member Gresham moved to **APPROVE** with the following additional site specific conditions:
  - i. Remove shipping container doors at ground level from the façade. Wood treatment shall be wrapped around the sides of the front units.
  - ii. Approval is contingent upon demonstrating vehicle access to the development.
  - iii. Enhance façade with wood material or other nonmetal materials on railings to break up white color and provide cohesion and consistency.
  - iv. Pedestrian access within the view tower is limited to three stories. This can be achieved by lowering the view tower to three stories or limiting pedestrian access within the four-story tower to three stories.
  - v. Any amplification device utilized on site must be interior to the project and be directed to the rear (west).
  - vi. The bike parking identified to the rear of the building must be covered.
- g. Committee member Labrie seconded the motion.
- h. The motion carried unanimously.

15. The Notice of Intent to Approve or Deny was sent to all property owners within 300' and interested parties on October 28, 2019.
16. On November 8, 2019, the City received written opposition which triggered a public hearing in accordance with Garden City Code 8-6A-6 Administrative Process with Notice. A City Council hearing is scheduled on the matter for November 25, 2019.
17. The record contains:
  - a. Application Materials including all revisions.
  - b. Staff Reports;
  - c. Design Review Findings of Fact, Conclusions of Law and Decision;
  - d. Design Review Committee Minutes;
  - e. Public Comment;
  - f. Agency Reviews;

g. Objection.

18. The following standards apply to this proposal:
- a. Title 8-Chapter 3, Article C Surel Mitchell Work-Live-Create Overlay District
  - b. Title 8-Chapter 4, Article A: "General Provisions;"
  - c. Title 8-Chapter 4, Article C: "Design Provisions for Nonresidential Structures;"
  - d. Title 8-Chapter 4, Article D: "Parking and Off Street Loading Provisions;"
  - e. Title 8-Chapter 4 Article E: "Transportation and Connectivity Provisions;"
  - f. Title 8-Chapter 4, Article I: "Landscaping and Tree Protection Provisions."

19. The applicant provided the following application information:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan
	X		Topographic Survey
	X		Grading Plan
X			Will Serve
X			Verification that address is an Ada County Approved Address

20. In order to approve a design review application and based on the standards set forth in chapter 4, article C of this title, the Design Committee shall make the following findings:

<b>GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Compliant	Not Applicable to this Application	Standard
X			<p><b>Standard:</b> The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.</p> <p><b>Explanation:</b> The proposed design is in conformance with the purpose of the Surel Mitchell Work-Live-Create Overlay</p>

			<b>District and the dimensional regulations of the overlay district as noted in 8-3C.</b>
X			<p>The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p><b>Explanation: The proposed design, as conditioned, adheres to applicable standards for the protection of health, safety, and general welfare.</b></p>
X			<p>The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city.</p> <p><b>Explanation: The proposed design, as conditioned, creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods in the City. The industrial type design of the proposal is unique, but creates a sense of place in the neighborhood.</b></p>
X			<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p><b>Explanation: The proposed design improvise non-motorized accessibility by providing extensive bicycle parking and pedestrian pathways.</b></p>
X			<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p><b>Explanation: Not applicable. The property is not located along an arterial corridor.</b></p>
X			<p>The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p><b>Explanation: The proposed design supports a compact development pattern by having intense development in a small footprint. The development could be intensified vertically or within the pedestrian plaza area.</b></p>

X			<p>The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity.</p> <p><b>Explanation: The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. The landscape plans meet the requirements of 8-3C and 8-4I and pedestrian connectivity meets the requirements of 8-3C and 8-4E.</b></p>
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### CONCLUSIONS OF LAW

The Design Committee reviewed the application with regard to Garden City Code, Title 8, Chapter 4, and based on the conditions required herein, concludes the application meets the standards of approval under GCC 8-4C and the required findings under 8-6B-3D.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Committee hereby **APPROVES** the application, subject to the following conditions:

#### **Site Specific Requirements:**

1. Remove shipping container doors at ground level from the façade. Wood treatment shall be wrapped around the sides of the front units.
2. Approval is contingent upon demonstrating vehicle access to the development.
3. Enhance façade with wood material or other nonmetal materials on railings to break up white color and provide cohesion and consistency.
4. Pedestrian access within the view tower is limited to three stories. This can be achieved by lowering the view tower to three stories or limiting pedestrian access within the four-story tower to three stories.
5. Any amplification device utilized on site must be interior to the project and be directed to the rear (west).
6. The bike parking identified to the rear of the building must be covered.

#### **General Requirements:**

1. This review and approval is specific to the design of the project. Final approval is subject to the approval of other reviewing agencies. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail. This approval shall not annul any portion of Garden City Code or other applicable regulation unless specifically noted.

2. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
3. 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.
4. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
5. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
6. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
7. 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.
8. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
9. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
10. 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.
11. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
12. 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.
13. 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.
14. All other 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.
15. The landscape installation shall stabilize all soil and slopes.
16. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
17. Demonstrate compliance with 8-4G-1 prior to certificate of occupancies.
18. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained prior to a Certificate of Occupancy.

19. Property Maintenance Standards shall be maintained as required by Garden City Code.
20. The property owner is responsible for the maintenance of all landscaping and screening devices required.
21. System Installation Required: 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.
22. 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.
23. 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 substantial conformance with the City's action. Any modification to approved plans shall require submittal and approval of these modifications prior to construction. Final approval is based on substantial conformance with the plans reviewed and approved.
24. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
25. Occupying the site prior to Certificate of Occupancy is a criminal offense.
26. There is a 10 day right to appeal to City Council. The applicant or any interested parties may appeal the decision or a part of the decision. An appeal shall be made on the form provided by the City and filed with the City Clerk within ten (10) days after the action of the decision.
27. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
28. 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.
29. A takings analysis pursuant to Idaho Code may be requested on final decisions.
30. 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

11/19/2019  
Date