

BEFORE THE DESIGN COMMITTEE
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)) Design Review – Fence Material) 520 E. 47 th Street) Garden City, Ada County, Idaho) _____)	DSRFY2019 - 16 FINDINGS OF FACT, CONCLUSIONS OF LAW; AND DECISION
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THIS MATTER came before the Garden City Design Committee for consideration on August 19, 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 the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The applicant is Mark Butler, Land Consultants, Inc.
2. The property owner of record is Dillon Boise, LLC
3. The application is for the approval of sheet metal as a fence material.
4. The subject properties are 2.26 acres in total size.
5. The project is located in the Garden City C-2 General Commercial Zoning District.
6. The project is located in the Transit Oriented Development Node Buffer of the 2006 Garden City Comprehensive Plan Land Use Designation.
7. The existing use on the site is: Wrecking Yard.
8. Current access to the site is from E. 48th Street.
9. The following sections of the Garden City Municipal Code apply to this proposal:

GCC 8-4A-3E REQUIRED FINDINGS			
Compliant			City Standards and Conclusion
Yes	No	N/A	
		X	Finding: Implement the vision as set forth in the Comprehensive Plan. Conclusion: The application was submitted prior to the July 22, 2019 adoption of the Comprehensive Plan Update and has vested rights to the previous Comprehensive Plan. The proposed material conflicts with the following provisions of the Comprehensive Plan: <i>a. Objective 1.4: Create a premier destination place to live, work and recreate.</i> The proposed material depicted in the applicant’s materials

			<p>does not support this objective. The proposed sheet metal does not differ from than any other commonly available sheet metal material, which in turn detracts from this objective and does not implement the vision of the Comprehensive Plan.</p> <p><i>b. Objective 2.4: Improve the appearance of street corridors</i></p> <p>The intent of including sheet metal as a prohibited material without Design Committee approval was to improve the appearance of properties and especially along street corridors. The proposed material is not unique in comparison with other common sheet metal materials and detracts from this objective.</p>
		X	<p>Finding: Demonstrate that the fence provides significant creativity and uniqueness, and the intent is not to merely evade the provisions set forth in this section, or can demonstrate that the fence is an established icon that enhances the community's assets more than a fence complying with the requirements set forth in this section.</p> <hr/> <p>Conclusion:</p> <p>The proposed sheet metal material does not comply with either provision of this finding.</p> <p>The proposed material does not provide significant creativity and uniqueness and the intent is to merely evade the provisions set forth in this section. The proposed material does not demonstrate the fence is an established icon that enhances the community's assets as noted in the finding. Garden City Code does not define the terms "creativity", "uniqueness" and "icon". Pursuant to GCC 8-1A-5 (Interpretation), the Merriam Webster Dictionary definitions shall be utilized.</p> <p><i>a. Creativity: the quality of being creative</i></p> <p><i>b. Creative: having the quality of something created rather than imitated</i></p> <p><i>c. Icon: Emblem, symbol</i></p> <p>The term "uniqueness" does not have a definition in the Merriam Webster dictionary. The closest term is "unique"</p>

			<p><i>d. Unique: being without a like or equal, distinctively characteristic</i></p> <p>The proposed material does not have the quality of something created but is instead a common sheet metal. The proposed material is not unique among sheet metal materials. Absent creativity and uniqueness, the proposal is intended to evade the provisions of this section. The proposed material is not an established icon that enhances the community's assets more than a complying fence material.</p>
X			<p>Finding: Demonstrate that is constructed of professional and durable materials and are not intended to be of temporary nature.</p> <hr/> <p>Conclusion:</p> <p>The proposed material is a professional and durable material and is not intended to be temporary in nature.</p>

13. A copy of the application and plans was transmitted to interested and affected public agencies and no written comments were received.
14. The record contains:
 - a. Application Materials
 - b. Letter of Application Acceptance
 - c. Noticing Documents
 - d. Staff report, and referenced materials
 - e. City Council Hearing Minutes dated November 12, 1986
 - f. Letter from Robert Unger, Garden City Public Works Director, dated November 14, 1986
 - g. Letter from property owner in response to November 14, 1986 letter, undated
 - h. Letter of intent for Zoning Permit 95-08-10 dated August 18, 1995.
 - i. Garden City Code 8-7-5 in effect on November 14, 1986 (Ordinance 443)
 - j. Garden City Code 8-7-5 in effect on August 18, 1995 (1988 Code)
 - k. Design Committee Hearing Sign Up Sheets
 - l. Signed Findings of Fact, Conclusions of Law, and Decision
15. The application was received June 3, 2019. Notification of application acceptance and completion was sent to the applicant within 30 days of receipt of the application. The Design Committee Public Hearing was held within sixty (60) days of receipt of an application certified as complete.
16. On June 28, 2019 a letter of acceptance with hearing date was sent to the applicant.
17. A transmittal to other agencies including notice, application and other documents was sent on July 16, 2019 more than fifteen days prior to the public hearing.
18. A legal public hearing notice for the proposed variance application was published on July 19, 2019, and on July 16, 2019, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of Section 8-

- 6A-7 of the Garden City Municipal Code.
19. A sign was posted on or before August 9, 2019 in accordance with Garden City Code for the public hearing of August 19, 2019.
 20. On August 19, 2019 at the Design Committee public hearing:
 - a. Mark Butler presented the application.
 - b. Staff Chris Samples presented the staff report.
 - c. Public testimony was heard from Jason Jones in support of the application and Debbie Jo Pelton and Laurie Allison in opposition to the application.
 - d. Mark Butler provided rebuttal testimony.
 - e. Public testimony was closed.
 - f. Committee member Gresham moved to deny the application.
 - g. Committee member Hurd seconded the motion.
 - h. The motion carried unanimously.

CONCLUSIONS OF LAW

The Design Committee reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, concludes the application does not meet the standards of approval under **GCC 8-A-3E Fences and Walls**.

DECISION

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

1. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures 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.

Decision Reviewed by the Design Committee

Date