

BEFORE THE DESIGN REVIEW COMMITTEE  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	DSRFY2019-23
	)	
Design Review	)	FINDINGS OF FACT,
6265 N. Strawberry Glenn Road	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
<hr/>		

THIS MATTER, came before the Garden City Design Review Committee for consideration on November 18, 2019. The Design Review Committee reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Design Review Committee makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The applicant is Dave Eadie.
2. The property owner is Kennedy Wilson.
3. The location of the project is 6265 N. Strawberry Glenn Road., Garden City, ID 83714. Assigned Ada County Parcel No.: S0524449295.
4. The application is for new construction of or multiple structures.
5. The project is in the Garden City R-3 Zoning District.
6. The project is in the floodplain according to the 2003 FIRM.
7. The project is in the floodplain according to the 2017 FIS.
8. The applicant met with the Design Review Committee on July 3<sup>rd</sup>, 2017 for a pre-application consultation.
9. The application was received October 28, 2019. The application was scheduled for a meeting on November 18, 2019.
10. A notice of intent to approve or deny the application was sent to property owners within 300' of the subject property on October 28, 2019.
11. An interested party notice was sent to interested parties on October 28, 2019.
12. A legal notice was published in the Idaho Statesman on November 2, 2019.
13. A copy of the application was transmitted to affected public agencies on October 29, 2019 and written comments were received from:
  - a. Garden City Engineer;
  - b. Ada County Highway District;
  - c. Department of Health and Welfare.
14. The applicant provided verification that the property was posted on November 8, 2019, ten or more days prior to the meeting.
15. A public hearing was held on November 18, 2019.
  - i. Prior to commencing any public hearing, Chairperson Thornborrow identified hearing and testimony procedures for the public. She noted that any decision rendered would have the decision

documents brought back before the Design Review Committee on December 9, 2019 for their review and approval of the decision document. She noted that the decision would be final within 10 days unless there is written objection submitted to the City stating code that has been misinterpreted or misapplied.

- I. Thornborrow noted that the notice of hearing indicated 'intent to approve' and it should have said 'intent to approve or deny'. She clarified that the application is not a predetermined matter and the committee will consider all evidence and applicable codes prior to rendering its decision.
- II. Thornborrow noted that written testimony provided questioned whether the City's code is valid. She clarified that the committee is tasked with reviewing the application with regards to the current adopted code. The matter of the Code's validity would be a matter that would need to be adjudicated and is outside of the parameters of the Design Review Committee's authority.
- III. Dave Eadie and Keith Heron presented the application. Their presentation centered on:
  - a. Noting that there had been changes made since a previous application to accommodate concerns of the neighborhood.
  - b. A review of the project as submitted.
  - c. Clarification that the colors are not final and might be slightly amended.
  - d. Clarified that there will not be a fence adjacent to Strawberry Glenn.
- IV. Staff Chris Samples presented the staff report.
  - a. Samples identified late exhibits.
  - b. GCC 8-2C-15: Code is silent on whether shared amenities between two jointly owned, but separate multi-family developments are allowed.
- V. Written comment was received during the hearing was read into the record. Written testimony was received from:
  - a. In support:
    - a. Hannah Ball
  - b. In neutral:
    - a. Ester O'Lessy
    - b. W. M. Howell
  - c. In opposition:
    - a. Rex Beaumont
    - b. Darcy Beaumont
- VI. Oral testimony was received from Wendy Carver-Herbert in opposition:
  - a. Carver-Herbert requested to be a spokesperson.
  - b. The Committee approved 15 minutes for Mrs. Carver-Herbert to speak as a spokesperson
  - c. Martha Howell, Susan Mahoney, and Charles Colon deferred their comments to Wendy Carver-Herbert as their spokesperson.
  - d. Her testimony generally:
    - i. Disputed the zoning ordinance validity;
    - ii. Noted concerns with neighborhood compatibility;
    - iii. Requested amendments to heights and parking;

- iv. Stated concerns related to school district overflow and reduced property values.
  - VII. Applicant Dave Eadie presented rebuttal testimony:
    - a. Relied on governing statutes of city to guide project
    - b. Capacity exists for school and infrastructure. City capacity exists and are not pushing envelope
    - c. Is not amenable to changes proposed in Mrs. Carver-Herbert's letter due to construction costs vs. cost recovery concerns
  - VIII. Public testimony was closed.
  - IX. Discussion:
    - a. The angle, landscaping, and distance to adjacent home were discussed in relation to building 1.
    - b. It was clarified that the roof condenser units are recessed.
    - c. Committee members Hurd and Gresham noted appreciation for the design, applicant's efforts, and public comments.
    - d. Committee member Gresham iterated that land use is outside the Committee's purview.
    - e. It was noted that a shared amenity agreement is needed as well as a streetlight if required by policy.
  - X. Motion:
    - a. Committee member Gresham moved to approve with the following additional site-specific conditions:
      - a. Install a streetlight, if necessary, in accordance with the Garden City Streetlight Policy.
      - b. A shared agreement allowing shared use of proposed and existing amenities by residents of the development and by residents at the existing River Pointe Apartments must be submitted for administrative review prior to the issuance of a building permit.
    - b. Committee member Hurd seconded the motion.
    - c. The motion carried 2/0 vote.
- 16. The record contains:
  - a. Application Materials including all revisions.
  - b. Staff Report;
  - c. Design Review Findings of Fact, Conclusions of Law and Decision;
  - d. Design Review Committee Minutes.
  - e. Public Comments
  - f. Public Hearing Sign In Sheets for the November 18, 2019 hearing
  - g. Power Point Presentation – Wendy Carver-Herbert
  - h. Agency Comments
  - i. Noticing Documents
- 17. The following standards apply to this proposal:
  - a. Title 8-Chapter 4, Article A: "General Provisions;"
  - b. Title 8-Chapter 4, Article B: "Design Provisions for Residential Structures"
  - 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."
- g. Title 8-Chapter 4, Article L: "Open Space Provisions"
- h. The Garden City Streetlight Policy
- i. The Garden City Sidewalk Policy

18. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information		
Provided		
Yes	No	NA
X		
X		
X		
X		
X		
X		
X		
X		
X		
X		
X		

19. 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 review committee shall make the following findings:

GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Compliant	Not Applicable to this Application	
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> Multi-family is a permitted use within the R-3 Medium Density Zoning district. The proposed design, as conditioned, is in conformance with all dimensional regulations of the R-3 Medium Density Zoning District.</p>

X			The proposed design adheres to standards for the protection of health, safety, and general welfare.
			<b>Explanation:</b> No significant adverse effects to the health, safety, and general welfare were identified.
X			The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city.
			<b>Explanation:</b> The proposed design is compatible to the neighborhood and contributes to the sense of place and the uniqueness of the neighborhood through compatible architectural design, respectful site layout and landscaping. All applicable Garden City Code pertaining to the design has been met.
X			The proposed design improves the accessibility of development to non-motorized and public modes of transportation.
			<b>Explanation:</b> The proposed design, as conditioned, improves the accessibility of development to non-motorized and public modes of transportation. This is accomplished by meeting, as conditioned, the applicable requirements of Garden City Code 8-2C-15, Garden City Code 8-4B, Garden City Code 8-4C, Garden City Code 8-4E, Garden City Code 8-4I, and the Garden City Sidewalk Policy.
		X	The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.
			<b>Explanation:</b> N. Strawberry Glenn Road is not an arterial corridor as identified by the Ada County Highway District.
X			The proposed design supports a compact development pattern that enables intensification of development and changes over time.
			<b>Explanation:</b> The proposed design, as conditioned, supports a compact development pattern that enables intensification of development and

DESIGN REVIEW DECISION - 5

			changes over time. The proposed design, as conditioned, is at 17.9 units per acre and below the maximum density of 35 units per acre allowed in the R-3 Medium Density Zoning District. Entitlements requesting additional density to this maximum allowed density in this zone.
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:</b> The proposed design, as conditioned, provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. This is accomplished by meeting, as conditioned, the applicable requirements of Garden City Code 8-2C-15, Garden City Code 8-4B, Garden City Code 8-4C, Garden City Code 8-4E, Garden City Code 8-4I, and the Garden City Sidewalk Policy.</p>

### CONCLUSIONS OF LAW

The Design Review 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 Review Committee hereby **APPROVES** the application, subject to the following conditions:

#### Site Specific Requirements:

1. Materials submitted shall comply with those that were approved. The approved documents include:
  - a. Compliance Statement, Site Plan, Landscape Plan, Schematic Drawings (Building Elevations), Civil Plans, Renderings, View Shed Drawings as reviewed and approved at the November 18, 2019 hearing.
2. A streetlight, if necessary, shall be installed along N. Strawberry Glenn Road in accordance with the Garden City Streetlight Policy.
3. A shared agreement for use of amenities between River Point Phase One and this proposal shall be recorded allowing cross access between the properties and mutual use of the amenities.

### **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. 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 if there is no immediate threat to life or safety.
22. 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.
23. 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.
24. Occupying the site prior to Certificate of Occupancy is a criminal offense.
25. There is a 10-day ability to object to the decision. If written objection is received within 10 days, the application will be reviewed by the City Council.
26. The applicant or any interested parties may appeal the decision or a part of the decision within 14 days of 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 within fourteen (14) 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.

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

Date

DRAFT