

BEFORE THE 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:	)	DSRFY2020-21
	)	
Design Review	)	FINDINGS OF FACT,
5219 W. Chinden Blvd.	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on July 20<sup>th</sup>, 2020 and was continued to a date certain of July 22<sup>nd</sup>, 2020. The Design Review Committee asked for revised submittals that which were reviewed on October 19<sup>th</sup>, 2020. 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 application is for a design review for new construction of a Drive Through Establishment, defined by Garden City Code 8-7A-1 as "Any use that permits service to take place directly with customers located in a motor vehicle. The term "drive-through establishment" shall include, but not be limited to, providing food or beverage service, bank service, prescription drugs, and/or film processing. The term "drive-up window service" shall not include fuel sales facility or vehicle washing facility as herein defined."
2. The applicant is Jeff Likes with ALC Architecture.
3. The property owner of record is Travis Stroud.
4. The location of the project is 5219 W. Chinden Blvd.; Ada County Assessor parcel number(s) R7334170125.
5. The property is a legal lot of record.
6. The application is for a design review for the use of Drive-Through Establishment. The scope of the design review is limited to the entire property.
7. The subject property is 2.410 acres.
8. The project is located in the C-2 General Commercial zoning district.

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9. The project is located in the Green Boulevard Corridor and the Light Industrial Bradley Technology district of the Garden City Comprehensive Plan Land Use Designation.
10. The project is not located in the SFHA according to the 2003 FIRM.
11. The project is not located in the SFHA according to the 2017 FIS.
12. The following standards apply to this proposal:
  - a. Garden City Code 8-1A-4 Applicability
  - b. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
  - c. Garden City Code 8-4A Design and Development Regulations- General Provisions
  - d. Garden City Code 8-4C Design Provisions for Nonresidential Structures
  - e. Garden City Code 8-4F Sign Provisions
  - f. Garden City Code 8-4I Landscaping and Tree Protection Provisions
13. The following plans and policies apply to this proposal:
  - a. Garden City Comprehensive Plan
  - b. Garden City Sidewalk Policy
  - c. Garden City Street Light Policy
  - d. Chinden ITD Access Management
14. The applicant provided the following application information:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>			
Provided			
Yes	No	Waived pursuant to GCC 8-6A-4	
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			Approved Address

15. Additional application materials submitted include:

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- a. Site Plan;
  - b. Floor Plans;
  - c. Materials Plan;
  - d. Grading Plan;
  - e. Landscape Plan;
  - f. 300' Neighborhood List;
  - g. Affidavit of Legal Interest;
  - h. Application;
  - i. Statement of Intent.
  - j. Revised materials
  - k. Revised materials narrative
16. Agency Comments were received from:
- i. Central District Health, July 6<sup>th</sup>, 2020
  - ii. North Ada County Fire and Rescue, July 8<sup>th</sup>, 2020.
17. There were no written public comments.
18. Affiliated Applications Include:
- a. CUPFY2020-14
19. The following noticing was completed in accordance with GCC 8-6A and GCC 8-6B-3:

Noticing Requirement	Required Date	Completion Date
Receipt of application <a href="#">here</a>	06/25/2020	07/02/2020 – uploaded to website
Letter of Acceptance (30 days after receipt of application)	07/20/2020	07/06/2020
Radius Notice (15 days prior to hearing)	07/05/2020	07/02/2020
Interested Parties	None	None
Legal Notice (19 days)	07/01/2020	07/07/2020 -due to holiday
Agency Notice (15 days)	07/05/2020	07/02/2020
Property Posting Sign (10 days)	07/10/2020	07/09/2020
Affidavit of Property Posting and Photos (7 days)	07/10/2020	07/13/2020 received, dated 07/09/2020 not notarized.

20. On July 20, 2020, a public hearing before the Design Review Committee was held and continued to a date certain of Wednesday, July 22, 2020.

21. On July 22, 2020, in accordance with GCC 8-6B-3, and per the applicant's request, a pre-application conference combined with the formal public hearing was held

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with the Design Committee. The Committee provided the following comments and requests:

- a. Rework patio to have entrance that appears and acts as an entry from Chinden.
- b. 53rd orientation.
- c. Internal movement and connections.
- d. Cross access and parking agreements needed.
- e. Address headlight nuisance onto property to the east

23. The record contains:

- l. Application Documents
- m. Noticing Documents
- n. Agency Comments: Central District Health, and North Ada County Fire and Rescue.
- o. Written Public Comments: none provided
- p. Staff report
- q. July 20, 2020 Design Review Committee Pre-application Minutes
- r. July 20, 2020 Design Review Committee Pre-application Audio
- s. July 22, 2020 Design Review Committee Hearing Minutes
- t. July 22, 2020 Design Review Committee Hearing Audio
- u. October 19, 2020 Design Review Committee Hearing Minutes
- v. October 19, 2020 Design Review Committee Hearing Audio
- w. Design Review Committee Signed Findings of Fact, Conclusions of Law and Decision

24. In order to approve a design review application, the Design Committee shall make the following findings:

<p><b>The draft findings are written both in approval and in denial. The Design Review committee will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided.</b></p>			
<p><b>GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			
Compliant	Not Applicable to this Application	Not Compliant	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></p>

			<p><b>In Approval:</b> The application meets this finding. The application located of Chinden Blvd. which will help serve the proposed Dutch Brothers drive-through. The proposed office building as well as the drive-through both fit into what the zoning district of C-2 requires.</p> <p><b>In Denial:</b> The application does not meet this finding in that the proposed drive-through and the proposed office space do not fit into what the C-2 zoning designation requires.</p>
X			<p>The proposed design adheres to standards for the protection of health, safety, and general welfare of the people.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application meets this finding. The application has proposed both attached and detached sidewalks along Chinden and 53<sup>rd</sup> Street. The application has also limited the site access to just two ingress/egress points while maintaining clear vision triangles as proposed in their landscape plans.</p> <p><b>In Denial:</b> The application does not meet this finding. The proposal of a drive-through is too close to the intersection of 53<sup>rd</sup> and Chinden, as well as not being code compliant, as it is too close to an existing drive-through establishment.</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:</b></p> <p><b>In Approval:</b> The application meets this finding. The application has proposed an outdoor plaza area for drive-through</p>

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			<p>customers and office employees to congregate and interact. The landscaping and design of the buildings help to enhance a sense of place to the streetscape and surrounding neighborhood. The proposed development will help contribute to the uniqueness of Garden City.</p> <p><b>In Denial:</b> The application does not meet this finding as the proposed development of the drive-through and large parking lot is car focused and lacks a unique architectural form. The way the office building is proposed does not focus on the corner nor does it help enhance the connection from the street to the proposed lot.</p>
X			<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application meets this finding. The application has proposed 4 bike racks, a pedestrian friendly plaza area, sidewalks, landscaping, and connectivity through the development. All proposed designs help to focus on non-motorized forms of transportation.</p> <p><b>In Denial:</b> The application does not meet this finding as the drive-through and large parking lot are purely focused on the auto centric transportation.</p>
X		X	<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application meets this finding. While the application appears to be focused on the connection with Chinden Blvd. it has proposed connection</p>

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			<p>to the adjacent parcels of land to help enhance the streetscape and avoid the strip commercial aspects.</p> <p><b>In Denial:</b> The application does not meet this finding as it has proposed development adjacent to Chinden Blvd. giving it the appearance of a strip commercial development.</p>
X			<p>The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application meets this finding. The application supports a compact development pattern by increasing the density of the current lots and promoting the further development of adjacent parcels.</p> <p><b>In Denial:</b> The application does not meet this finding as the application does not propose a building higher than two stories.</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:</b></p> <p><b>In Approval:</b> The application meets this finding. The application proposes landscaping compatible with Garden City Code as well as with the southwest Idaho Climatic conditions. The landscape plan also takes into consideration the pedestrian, as well as the automobile, by creating privacy screens and clear vision triangles to not only enhance the visual</p>

			<p>appeal but to help aid in the safety and privacy of the people using the site.</p> <p><b>In Denial:</b> The application does not meet this finding because it is unclear if the proposed landscaping is compatible with the southwest Idaho climatic conditions.</p>
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25. The record was reviewed by the Design Committee to render the decision.

**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/ does not meet** the standards of approval under **GCC 8-6B-3 Design Review Committee**.

**DECISION**

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

**POTENTIAL CONDITIONS FOR APPROVAL DECISION**

Site Specific Requirements for the Duration of the Use:

The site shall be designed such that:

- a) The speaker system is located so that the sound from a speaker system is directed away from a residence, residential zone, park, or school and not audible off the site; and
  - i) Stacking does not create an impact off site; and
  - ii) Vibration, noise, odors, etc., are not allowed off site; and
  - iii) The use does not otherwise create a negative impact to an existing or planned pedestrian corridor; and
  - iv) The use does not hinder the implementation of Garden City adopted plans or policies.
- b) A seating area either indoor or outdoor with temporary or permanent shelter, sufficient for a minimum of ten (10) people shall be provided.
- c) A minimum of one (1) outdoor trash receptacle shall be provided.
- d) A restroom shall be provided for patrons.
- e) Operational Standards: 1. To reduce vehicle emissions, signage shall be provided advising drivers to reduce vehicle idling.
- f) Employees shall collect on-site and off-site litter generated by customers at least once per business day.

- g) Service shall be provided to those who elect to walk or bike at all hours that the drive-through is in operation.

**Prior to Occupancy:**

1. Prior to a certificate of occupancy being granted, the applicants existing drive-through located a 5177 W. Chinden Boulevard shall be physically removed and a notarized and recorded document shall be provided to the City indicating that the use of a drive-through has been removed and all rights to the use have ceased.
2. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
3. A building permit shall be applied for and approved by Garden City Development Services Department.
4. The approval of the site-specific design of this application does not indicate approval of the use or use specific use limitations that will be addressed through the conditional use permit process.
5. A master sign program must be submitted for official Design Review prior to building occupancy.

**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 as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
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 or an exemption from Garden City Code 8-4G 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 provided that 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.

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25. There is a 15 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 15 days after the action of the decision.
26. 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. 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 ten (10) days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
4. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis 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.

This signature verifies that this decision document has been reviewed and approved

by the Design Review Committee Date

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