

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

In the Matter of:)	DSRFY2020-25
)	
Design Review)	FINDINGS OF FACT,
208 E. 33 rd St.)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER came before the Garden City Design Review Committee for consideration on September 21, 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 Work-Live-Create development. Work-Live-Create is defined by Garden City Code 8-7A-2 as "The use of a structure and/or site that combines a commercial or manufacturing activity allowed in the overlay district with a residential living space. The spaces may be combined within one (1) space, attached to one another, or separated but located on the same property."
2. The applicant is Jason Jones.
3. The property owner of record is Wee Boise INC.
4. The location of the project is 208 E. 33rd Street; Ada County Assessor parcel number(s) R2734541364.
5. The property is a legal lot of record.
6. The application is for a design review for the use of Work-Live-Create development. The scope of the design review is for the entire property.
7. The subject property is 0.344 acres.
8. The project is located in the M Mixed Use zoning district.
9. The project is located in the Surel Mitchel Live-Work-Create zoning overlay. The provisions of the overlay were utilized in the review of this proposal.
10. The project is located in the Surel Mitchel Live-Work-Create designation of the Garden City Comprehensive Plan Land Use Designation.

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11. The project is not in the AE flood hazard category/floodway according to the 2003 FIRM.
12. The project is in the AE flood hazard category according to the 2017 FIS.
13. 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 8-3C Suren Mitchell Live-Work-Create
 - d. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - e. Garden City Code 8-4B-3 Single Family and Two-Family Attached and Detached Dwelling
 - f. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - g. Garden City Code 8-4E Transportation and Connectivity Provisions
 - h. Garden City Code 8-4F Sign Provisions
 - i. Garden City Code 8-4H Flood Hazard
 - j. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - k. Garden City Code 8-6A-3 General Application Process
 - l. Garden City Code 8-6A-4 Required Application Information
 - m. Garden City Code 8-6A-5 Administrative Process with Notice
14. 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
15. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			Application Information
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

16. Additional application materials submitted include:

- a. Site Plan;
- b. Floor Plans;
- c. Materials Plan;
- d. Landscape Plan;
- e. 300' Neighborhood List;
- f. Affidavit of Legal Interest;
- g. Application;
- h. Statement of Intent;
- i. Waiver Letter.

17. Agency Comments were received from:

- i. Garden City Engineer, dated September 10, 2020

18. No written public comments were received.

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 here	08/27/2020	08/27/2020
Letter of Acceptance (30 days after receipt of application)	09/27/2020	09/04/2020
Radius Notice (15 days prior to hearing)	09/06/2020	08/27/2020
Interested Parties	n/a	n/a
Legal Notice (19 days)	09/02/2020	09/02/2020 published
Agency Notice (15 days)	09/06/2020	08/31/2020
Property Posting Sign (10 days)	09/11/2020	09/10/2020
Affidavit of Property Posting and Photos (7 days)	09/14/2020	09/10/2020

20. On September 21, 2020, in accordance with GCC 8-6B-3, a pre-application conference was held in conjunction with a public hearing with the Design Committee. The Committee provided the following comments and requests:

- i. Derek Hurd recused himself
- ii. Derek Hurd and Jason Jones presented the application.
- iii. Staff, Hanna Veal, presented the staff report.
- iv. Public testimony was heard from:

1. Louis Landry, as a neighbor in opposition, testifying concerning:
 - a. the setbacks of the stair tower;
 - b. that there are open code compliance concerns noted in the staff report;
 - c. concern with the live and work units being detached and questioning how the link between live and work units will be maintained so that the application will not turn into a 'mixed-use' development; and
 - d. The application should be required to have a floor plan.
 2. Louis Landry, as President of Fairview Acres Lateral Water Users Association, neutral, testifying concerning the proposed site's eligibility to take water for irrigation though there is not delivery line available. Fairview acres has water available but are unable to deliver it without the applicant creating the delivery line.
- v. Derek Hurd provided a rebuttal testimony.
1. The applicant has expressed their willingness to connect to Fairview Acres water.
 2. Site coverage is at 30%, which is less dense than allowed by the Surel Mitchell live work create district.
 3. Legal lot of record is addressed at 208 E. 33rd St.
 4. Requested that the access agreement for back alleyway be obtained prior to issuance of a building permit, but that the alley can be constructed in conjunction with the building permits.
 5. The design review process after a decision is based on appeal provisions versus objection.
 6. The applicant wants to conform to GCC 8-3C setbacks for the Surel Mitchell overlay district.
 7. Applicant believes that by meeting the Surel Mitchell live work create district code requirements, the GCC 8-4C requirements are not needed.
 8. The applicant is willing to meet the 10' setback for the view tower.
- vi. Public Testimony was closed.
- vii. Discussion included:
1. The shipping container doors are elements that still appear to be that of a shipping container.
 2. It was suggested that linking the living space to the work space through a legal agreement is not dissimilar to legal agreements that will link certain parking spaces to certain tenants.
 3. In addition to the proposed draft condition of approval that legally links the live and work units to a common tenant,

there was concern noted with units with a common wall not being controlled by a single tenant.

- viii. Committee Member Labrie moved to approve the application as conditioned in the draft decision with the request to add:
 - 1. The construction of the alleyway may occur in conjunction with the construction of the structures, provided that it is not necessary for fire protection.
 - 2. Stair tower to be set back 10' and prohibit pedestrian access above 3 stories.
 - 3. The fence shall be of approved material.
 - 4. The outdoor mechanical equipment must be screened.
 - 5. Remove the shipping container doors on the street side or make the doors an architectural feature that do not appear to be shipping container doors.
 - 6. Floor plans compliant with 8-3C-3C shall be reviewed and approved by staff prior to issuance of a building permit.
 - 7. If at all possible, the live and work spaces what which are connected by a common wall to a live space should share a common tenant.
- ix. Committee Member Gresham seconded the motion.
- x. The motion passed unanimously.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments: none provided
- e. Staff report
- f. September 21, 2020 Design Review Committee Pre-Application Minutes
- g. September 21, 2020 Design Review Committee Pre-Application Audio
- h. September 21, 2020 Design Review Committee Hearing Minutes
- i. September 21, 2020 Design Review Committee Hearing Audio
- j. Design Review Committee Signed Findings of Fact, Conclusions of Law and Decision

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

GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard

X			<p>Standard: The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.</p>
			<p>Explanation:</p> <p>The proposed design is in conformance with the purpose of the Surel Mitchell Work-Live-Create Overlay District and the dimensional regulations of the overlay district as noted in 8-3C.</p>
X			<p>The proposed design adheres to standards for the protection of health, safety, and general welfare.</p>
			<p>Explanation:</p> <p>The proposed design of detached sidewalks, interior courtyards, pollinator gardens, patios, and bicycle racks all adhere to applicable standards for the protection of health, safety, and general welfare.</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>Explanation:</p> <p>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.</p>
X			<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p>
			<p>Explanation:</p>

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			The proposed design improves non-motorized accessibility by providing extensive bicycle parking and pedestrian pathways through and around the site.
	X		The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors. Explanation: Not applicable. The property is not located along an arterial corridor.
X			The proposed design supports a compact development pattern that enables intensification of development and changes over time. 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.
X			The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. 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.

23. 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

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application **meets** 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** the application, subject to the following conditions:

CONDITIONS FOR APPROVAL DECISION

Prior to issuance of a Building Permit:

1. Building permits shall be applied for and approved by Garden City Development Services Department.
2. In conjunction with the submittal for building permits, approved Ada County Addresses must be submitted.
3. A lot line adjustment, density reduction must be achieved prior to the approval of a building permit.
4. Construction and perpetual access easements for the alley to the rear of the property must be obtained from the affected properties, recorded, and submitted to the City.
5. The structures shall be built at or above the anticipated base flood elevations per the most current flood insurance study of the Lower Boise Watershed or a flood risk acknowledgement shall be recorded on the property.
6. Parking shall meet ADA requirements.
7. Any off-street loading must be compliant with Garden City Code 8-4D-7.
8. Compliance with fire department for access requirements is required.
9. The stair tower shall be set back a minimum of ten feet.
10. Floorplans shall be submitted showing compliance with Garden City Code 8-3-C-3C.
11. The plans shall show that the shipping container doors on the street side are removed or replaced with an architectural feature that is not suggestive of a shipping container.
12. The plans shall show that outdoor mechanical equipment is screened behind the privacy fence, or otherwise screened from view.

Prior to Occupancy:

1. A Master Sign Program approval is required.
2. Occupancy of the site shall not commence until after Certificate of Occupancies have been obtained from Garden City Development Services Department.
3. A legal mechanism shall be produced, to be reviewed administratively, that links the use of the live units to its intended workspace.
4. The alley may be constructed in conjunction with the construction of the structures, provided that the fire reviewer determines that it is not necessary for fire protection during construction of the structures. If the fire reviewer determines that it is necessary for protection during construction of the structures, the alley shall be built prior to issuance of building permits.

Site Specific Requirements for the Duration of the Use:

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1. The work units must be utilized by tenants of their associated live units.
2. Pedestrian access above three stories shall be prohibited in the stair tower.
- 3.
4. The privacy fence shall be of approved materials.
5. Where possible the live and work spaces that are connected by a common wall should share a common tenant.

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. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions-Living Space Requirements.
6. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
7. All stormwater systems must comply with Garden City Code 8-4A-7.
8. Pressurized irrigation shall be provided in conformance with subsection 8-5A-5H of Garden City Code. 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.
9. 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.
10. 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.
11. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. 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.

13. 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.
14. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
15. 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.
16. 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.
17. 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.
18. The landscape installation shall stabilize all soil and slopes.
19. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
20. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
21. 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.
22. Property Maintenance Standards shall be maintained as required by Garden City Code.
23. The property owner is responsible for the maintenance of all landscaping and screening devices required.
24. 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.
25. 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.
26. 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.
27. Occupying the site prior to Certificate of Occupancy is a criminal offense.
28. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.
29. 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.

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.



09/23/2020

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

Date

