

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:)	DSRFY2020-28
)	
Design Review)	FINDINGS OF FACT,
202 E. 42 nd Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
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THIS MATTER, came before the Garden City Design Review Committee for consideration on February 1, 2021. 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 a structural addition of more than 25% to an existing school.
2. The applicant is Katrina Kulm.
3. The property owner of record is Heather Dennis.
4. The location of the project is 202 E. 42nd Street; Ada County Assessor parcel number(s) R2734501132.
5. The property is a legal lot of record.
6. The application is for a design review for the use of a School. The scope of the design review is limited to the entire property.
7. The subject property is 3.52 acres.
8. The project is located in the C-2 General Commercial zoning district.
9. The project is located in the Neighborhood Commercial Node zoning overlay.
10. The project is located in the Activity Node: Neighborhood Destination; Activity Node: Transit Oriented Development; and Mixed Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
11. The project is in the not located in the SFHA according to the 2003 FIRM.

DESIGN REVIEW DECISION - 1

DSRFY2020-28; Anser Charter School; 202 E. 42nd Street

- 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 8-4A Design and Development Regulations- General Provisions
 - d. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - e. Garden City Code 8-4D Parking and Off-Street Loading Provisions
 - f. Garden City Code 8-4E Transportation and Connectivity Provisions
 - g. Garden City Code 8-4F Sign Provisions
 - h. Garden City Code 8-4H Flood Hazard- add after June 19
 - i. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - j. Garden City Code 8-6A-3 General Application Process
 - k. Garden City Code 8-6A-4 Required Application Information
 - l. 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			
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. Floor Plans;

- b. Materials Plan;
- c. Landscape Plan;
- d. Affidavit of Legal Interest;
- e. Application;
- f. Site Photos;
- g. Statement of Intent;
- h. Photometric Plan; and
- i. Sustainability Checklist.

17. Agency Comments were received from:

- i. North Ada County Fire and Rescue, Dated January 13, 2021;
- ii. Garden City Engineer, dated January 15, 2021.

18. There were no written public comments.

19. There has been no denial of any application substantially similar to this application on this property within one year of this date.

20. 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	01/07/2021	12/23/2020
Letter of Acceptance (30 days after receipt of application)	01/23/2021	01/06/2021
Radius Notice (15 days prior to hearing)	01/17/2021	01/12/2021
Interested Parties	n/a	n/a
Legal Notice (19 days)	01/06/2021	01/12/2021
Agency Notice (15 days)	01/17/2021	01/12/2021
Property Posting Sign (10 days)	01/22/2021	01/22/2021
Affidavit of Property Posting and Photos (7 days)	01/25/2021	01/22/2021

21. On October 5, 2020, in accordance with GCC 8-6B-3, a pre-application conference was held with the Design Committee. The Committee provided the following comments and requests:

- a. Katrina Kulm, Michelle Dunstan, and Heather Dennis presented the application.
- b. There was no staff report.
- c. The Committee made the following comments and suggestions:
 - i. There are no proposed windows along 42nd St. if there are to be proposed windows, they will be higher on the wall to promote classroom privacy.

- ii. Provide connectivity to 42nd street from the plaza.
- iii. Massing of the new proposed building is permissible, as well as the relationship to the street.
- iv. Although the building does not meet the street frontage requirements, the plaza and the proposal of enhancing the relationship to the street is meeting the intent of code.
- v. The parking and playground flex space is to primarily be used for play space except for on certain days when special events occur.
- vi. Create and architecturally appealing entranceway on the new building.

22. On February 1, 2021, a public hearing before the Design Review Committee was held:

j. This section will be completed after the hearing.

23. The record contains:

- k. Application Documents
- l. Noticing Documents
- m. Agency Comments: Ada County Fire and Rescue, Garden City Engineer
- n. Written Public Comments: none provided
- o. Staff report
- p. October 5, 2020 Design Review Committee Pre-application Minutes
- q. October 5, 2020 Design Review Committee Pre-application Audio
- r. February 1, 2021 Design Review Committee Hearing Minutes
- s. February 1, 2021 Design Review Committee Hearing Audio
- t. 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:

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.			
GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	Standard: The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.

			<p>Explanation:</p> <p>In Approval: The use of a school is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p> <p>In Denial: The use of a school is not appropriate to the location, lot, and neighborhood in that it does not optimize development on a corner lot, and is adjacent to a residential zoning district.</p>
X		X	<p>The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p>Explanation:</p> <p>In approval: The application meets this finding. The application adheres to the protection of the health, safety, and general welfare of the community by having a landscape plan that which establishes an more dense urban canopy on a lot that which does not currently have much vegetation. It also proposes a pedestrian plaza and pedestrian sidewalks to promote safety of school children and their parents.</p> <p>In Denial: The application does not meet this finding in that there is no clear pedestrian pathway from E. 43rd Street to the primary entrance of the building.</p>
X		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>In Approval: The development meets this finding. The application proposes an expansion and remodel that which will</p>

			<p>create a better presence in the neighborhood to an existing school. The proposed plaza area and the mural facing E. 42nd Street will help to establish a creative and interactive streetface that demonstrates compliance with this finding.</p> <p>In Denial: The application does not meet this finding in that the proposed color scheme and bus drop off area does not contribute to the overall character of the surrounding neighborhood.</p> <p>The application does not meet code standards, nor are there appropriate conditions of approval available to mitigate the deficiencies with code compliance.</p>
X		X	<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p>Explanation:</p> <p>In Approval: The application meets this finding. The application proposes a plaza space that which connects from the existing sidewalk along 42nd Street to the main entrance of the school. The application also proposes a surplus of bicycle parking racks that exceed what is required by code.</p> <p>In Denial: The application does not meet this finding as the proposed plans focus on the vehicular use and the proposed parking lot takes up a large portion of the proposed site. The application lacks a pedestrian connection from 43rd Street.</p>
X		X	<p>The proposed design supports a development pattern in nodes rather than</p>

DESIGN REVIEW DECISION - 6

			<p>strip commercial along arterial corridors.</p> <p>Explanation:</p> <p>In Approval: The application meets this finding. The application proposes an expansion to an existing school which contributes to a larger density.</p> <p>In Denial: The application does not meet this finding in that the lot proposes a large surface parking lot area which was previously residential. This parking lot spans from E 43rd St. to E 42nd Street only to service the school.</p>
X		X	<p>The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p>Explanation:</p> <p>In Approval: The application meets this finding in that the school has been open and is redeveloping to meet the current demands of the community. The expansion of the school will be capable of handling the changes of demand in schooling over time.</p> <p>In Denial: The application does not meet this finding in that the school does not propose a connection to the surrounding residential neighborhoods nor 43rd street. Connection to these areas would prove more beneficial as the community continues to develop at a higher density and pedestrian connectivity becomes more of a priority.</p>
X		X	<p>The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity.</p>

DESIGN REVIEW DECISION - 7

DSRFY2020-28; Anser Charter School; 202 E. 42nd Street

			<p>Explanation:</p> <p>In Approval: The application meets this finding. The application proposes trees and shrubs that which are all compatible with the southwest Idaho climactic conditions and encourage pedestrian activity.</p> <p>In Denial: The application does not meet this finding in that that the proposed landscaping does not meet the Idaho climatic conditions nor does it promote pedestrian activity.</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:

Scope of the Permit:

1. The scope of this permit is to allow for the structural expansion and parking lot addition to Anser Charter School.
2. The proposed 3,537 square foot plaza along 42nd Street shall fulfill all GCC 8-2B Form Standards street frontage requirements as it is meeting the intent of code.

Prior to Occupancy:

1. Any existing chain-link fence, chain-link with slats fence, barbed wire fence, or any other prohibited fencing materials according to GCC 8-4A-3 shall be removed and replaced with code compliant materials.

2. There shall be at least 10' of screening perimeter landscaping between the parking lot spots and 43rd Street.
3. The applicant shall mitigate for removed trees or they shall provide a certified arborist's certification demonstrating the trees removed were dead, dying or a hazard in accordance with GCC 8-4I-7 Tree Preservation Provisions.
4. The required street frontage landscaping shall be located within 5 -15' of the property boundary facing 42nd street. The street frontage along 42nd Street shall consist of 9 trees.
5. The required street frontage landscaping shall be located within 5 -15' of the property boundary facing 43rd street. The street frontage along 43rd Street shall consist of 3 trees.
6. A pathways system from the sidewalk along 43rd Street, through the parking lot, and to the main entrance shall be constructed in accordance with GCC 8-4E-7.
7. All proposed fencing shall be compliant with GCC 8-4A-3 Fences and Walls.
8. All lighting shall be compliant with GCC 8-4A-4 Outdoor Lighting.
9. All proposed trash enclosures shall be enclosed and built-in compliance with GCC 8-4A-5 Outdoor Service and Equipment Areas.
10. All HVAC systems and mechanical units shall be built compliant with GCC 8-4A-5 Outdoor and Service Equipment Areas.
11. All stormwater systems shall be built in compliance with GCC 8-4A-7 Stormwater Systems.
12. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
13. A building permit shall be applied for and approved by Garden City Development Services Department.
14. All Utilities shall be compliant with GCC 8-4A-8 Utilities.

Site Specific Requirements for the Duration of the Use:

1. All outdoor play areas shall be in conformance with GCC 8-2C-34 SCHOOL.
2. All streets and driveways shall adhere to the standards of a clear vision triangle.
3. All driveways shall maintain the width of at least 20' per GCC 8-4E-4 Internal Circulation Standards.

DESIGN REVIEW DECISION - 9

DSRFY2020-28; Anser Charter School; 202 E. 42nd Street

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. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
22. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
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

DESIGN REVIEW DECISION - 11

DSRFY2020-28; Anser Charter School; 202 E. 42nd Street

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

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