

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:)	DSRFY2020-17
)	
Design Review)	FINDINGS OF FACT,
411 E. 43 rd 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 July 6, 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 multi-family dwelling.
2. The applicant is Chad Weltzin with Erstad Architects.
3. The property owner is Chop it Up Investments LLC.
4. The Manager of Chop it Up Investments LLC per the State of Idaho, Secretary of State is Michael Talbott.
5. The location of the project is 411 E. 43rd Street; Southwesterly 2 of lot 29 south westerly 150' of lot 30, Lots 31-32 Block 17 Fairview Acres Subdivision No. 3; Ada County Tax Parcel R2734521516.
6. Documentation has not been provided to verify that the property is a legal lot of record.
7. The location is 2.04 Acres.
8. The project is located in the R-3 Medium Density Zoning District.
9. The project is located in an Activity Node: Neighborhood Destination; within the Mixed Use Residential area designations of the Garden City Comprehensive Plan Future Land Use Designation.

10. The project is in the not located in the SFHA according to the 2003 FIRM.
11. The project is in the AE flood hazard category 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 8-2C-15 Dwelling Unit, Multi-Family
 - c. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - d. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
 - 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 8-4I Landscaping and Tree Protection Provisions
 - h. Garden City Code 8-4L Open Space Provisions
 - i. Garden City Code 8-6A-3 General Application Process
 - j. Garden City Code 8-6A-4 Required Application Information
 - k. Garden City Code 8-6A-5 Administrative Process with Notice
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
14. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			Application
Provided			
Yes	No	Waiver requested pursuant to GCC 8-6A-4	
X			Compliance Statement
X			Neighborhood Map
X			Site Plan
X			Landscape Plan & tree inventory & mitigation
		X	Schematic Drawings
X			Lighting Plan
		X	Topographic Survey
X			Grading Plan (included in landscaping sheets)
X			Will Serve
X			Approved Address

15. Additional application materials submitted include:

- a. Application ;
- b. Affidavit of Legal Interest;
- c. Statement of Intent;
- d. Sustainability Checklist;
- e. Waiver Request;
- f. Site Survey;
- g. Site Plan;
- h. Elevations;
- i. Perspectives;
- j. Roof Plan;
- k. Fire Access Plan ;and
- l. Floor Plans.

16. Agency Comments were received from:

- i. Boise School District, dated June 12, 2020
- ii. Garden City Engineer, dated June 13, 2020
- iii. Central District Health, dated June 17, 2020
- iv. Idaho Department of Transportation, dated June 22, 2020

17. Written public comments were not received.

18. 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	NA	May 20, 2020
Letter of Acceptance	June 20, 2020	May 27, 2020
Notice of Intent to Approve or to Deny	June 21, 2020	June 5, 2020
Interested Parties	NA	N/A
Legal Notice	June 21, 2020	June 11, 2020
Agency Notice	June 21, 2020	June 9, 2020
Property Posting Sign	June 21, 2020	June 26, 2020
Property Posting	June 26, 2020	June 26, 2020
Affidavit of Property Posting and Photos	June 29, 2020	June 26, 2020

19. May 18, 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. There is flexibility in the dimensioning of guest parking spaces. Residential spaces must be dimensioned per Garden City Code 8-4D and be located in a garage when required.

- b. Provide a revised elevation of the E. 43rd St. demonstrating the relationship of the building to the street and the pedestrian.
- c. Provide additional garage screening to screen parking from adjacent residences. This includes addressing height, materials, and screening vehicle headlights from glare onto adjacent properties.
- d. Address the parapets and modulation of the building. Where the white and blue panel elements that are recessed in, those heights can be varied for roofline modulation.
- e. Improve pedestrian connectivity through paving material changes and striping. Pedestrian connectivity should connect building residents to the street.

20. On July 6, 2020, a public hearing before the Design Review Committee was held:
 a. This section will be completed after the hearing.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments: none provided
- e. Staff report
- f. May 18, 2020 Design Review Committee Pre-application Minutes
- g. May 18, 2020 Design Review Committee Pre-application Audio
- h. July 7, 2020 Design Review Committee Hearing Minutes
- i. July 7, 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:

The draft findings are written both in approval and in denial. The Planning and Zoning Commission 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 Compliant	Not Applicable to this Application	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: 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> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</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: No significant adverse effects to the health, safety, and general welfare were identified.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</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 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.</p> <p>In Denial:</p>

			LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.
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 provides bicycle and pedestrian connections through the application.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p>Explanation:</p> <p>In Approval: The proposed design is compatible with the node that it is within.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</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: This application is a compact development.</p> <p>In Denial:</p>

			LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.
X		X	<p>The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity.</p> <p>Explanation:</p> <p>In Approval: This application meets the finding in that the landscaping is compatible with southwest Idaho climatic conditions, and there are adequate pedestrian connections.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>

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 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:

Prior to Occupancy:

1. Provide documentation to the City that the lot is a legal lot of record, or otherwise make the lot a legal lot.
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. A traffic study as requested by Idaho Transportation Department (ITD) must be completed. Any improvements required by ITD as a result of the study shall be installed, or the application shall be revisited by the Design Review Committee
5. As tree mitigation required for onsite removal of trees that will not be replaced on-site, 30 calipers of trees (or as amended based on arborist certification), of a class II or III tree at a 2" caliper shall be planted elsewhere in Garden City limits. The City can accept payment the equivalent thereof and the funds will be utilized for the planting of trees on municipal properties, within or adjacent to rights-of-way, or otherwise in Garden City Limits.
6. The structures shall be built to the FIS base flood elevations as adopted by Resolution 1083-20 or a floodplain acknowledgment shall be recorded.
7. Pole lights shall be no higher than 9'
8. The streetlighting fixture adjacent to 43rd street shall be consistent with that which is adopted by the City, and approved by the Public Works Department prior to installation.
9. Legally binding documents that state the maintenance and ownership responsibilities for the management of the development, including, but not limited to, structures, parking, common areas, and other development features shall be provided to the City.
10. The fence adjacent to the existing single family residents must be 6' in height and opaque, or the landscaping must meet the criteria as required in GCC 8-4I-5.
11. A cross access easement shall be provided for bicycle, pedestrian, and fire access to Freeride Lane.

Site Specific Requirements for the Duration of the Use:

1. The surface parking is allowed to be compact, but the required residential spaces must meet the code requirements of 10'X20'.
2. ADA compliant parking must be provided in accordance with the ADA and building code.
3. For the duration of the use there shall be the following:
 - a. Property management office;
 - b. Directory map at the entrance or convenient location for those entering the development;
 - c. Central mailboxes; and
 - d. Maintenance storage area.
4. For the duration of the use there shall be the following, or other qualified amenity:
 - a. Pool;
 - b. Fitness center;
 - c. Enclosed bike storage provided; and
 - d. Community garden.

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

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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. Outdoor service and equipment areas must be concealed from view in accordance with GCC8-4A-5.
6. Stormwater systems must be compliant with GCC 8-4A-7.
7. 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.
8. It should be noted that the City's records may not contain all irrigation facilities, it is the applicant's responsibility to confirm the location of irrigation facilities that may be contained on the property.
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.

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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. 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.
29. 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

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