

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:)	DSRFY2020-0008
)	
Design Review)	FINDINGS OF FACT,
108 W. 33 rd St.)	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 March 15, 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 storefront renovation the façade and parking lot alteration.
2. There has been no denial of any Design Review application on this property within one year of this application.
3. The applicant is Michael Leo.
4. The property owner of record is Dan Donegan with Sunrise Asset Management, LLC.
5. The location of the project is 108 W. 33rd, Suite 106.; Ada County Assessor parcel number(s) R2734530320. Described as LOTS 4 TO 7 INC LOTS 28/29 BLK N FAIRVIEW ACRES SUB 4.
6. The property is a legal lot of record.
7. The application is for a design review for the use of Food Products Small Scale Processing. The scope of the design review is limited to Suite Number 106.
8. The application is associated with a conditional use permit, CUPFY2021-0004, for the use of Food Products Small Scale Processing. The scope of the conditional use permit is limited to Suite Number 106.
9. The subject property is 1.03 acres.

10. The project is located in the C-2 General Commercial zoning district.
11. The project is located in the Activity Node: Transit Oriented Development and the Live-Work-Create future land use designations of the Garden City Comprehensive Plan.
12. The project is not located in the SFHA according to the 2003 FIRM.
13. The project is located in the AE flood hazard category according to the 2017 FIS.
14. 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
15. 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. Garden City Transportation Needs List
16. 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		X	Landscape Plan
X			Schematic Drawings

X			Lighting Plan
		X	Topographic Survey
		X	Grading Plan
X			Will Serve
X			Approved Address

17. Additional application materials submitted include:

- a. Floor Plans;
- b. Ability to Provide Fire Flows;
- c. Affidavit of Legal Interest;
- d. Application;
- e. Waiver Requests;
- f. Statement of Intent.

18. Agency Comments were received from:

- i. Ada County Highway District, dated February 26, 2021
- ii. Garden City Engineer, dated February 28, 2021
- iii. Ada County Fire and Rescue, dated February 26, 2021

19. There were no written public comments received.

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	02/18/2021	02/09/2021
Letter of Acceptance (30 days after receipt of application)	03/09/2021	02/16/2021
Radius Notice (15 days prior to hearing)	03/01/2021	02/24/2021
Interested Parties		n/a
Legal Notice (19 days)	02/26/2021	02/24/2021
Agency Notice (15 days)	03/01/2021	02/24/2021
Property Posting Sign (10 days)	03/05/2021	03/04/2021
Affidavit of Property Posting and Photos (7 days)	03/08/2021	03/03/2021

21. On March 15, 2021, in accordance with GCC 8-6B-3, a pre-application conference was held with the Design Committee in conjunction with the Formal Hearing. The Committee provided the following comments and requests:

- a. This section will be completed after the hearing.

22. The record contains:

- g. Application Documents

- h. Noticing Documents
- i. Agency Comments: Garden City Engineer, Ada County Highway District, Ada County Fire and Rescue
- j. Written Public Comments: none provided
- k. Staff report
- l. March 15, 2021 Design Review Committee Pre-application Minutes
- m. March 15, 2021 Design Review Committee Pre-application Audio
- n. March 15, 2021 Design Review Committee Hearing Minutes
- o. March 15, 2021 Design Review Committee Hearing Audio
- p. Design Review Committee Signed Findings of Fact, Conclusions of Law and Decision

23. 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	<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>In Approval: The application meets this finding. The use of Food Products, Small Scale Processing with an Accessory Use of a Coffee Roaster I appropriate to the location, lot, and the neighborhood and is compatible with the uses found in the C-2 General Commercial Zoning District.</p> <p>In Denial: The application does not meet this finding in that Food Product Small Scale Processing with the accessory use of a coffee roaster does not conform to the uses found in the area nor in the C-2 General Commercial 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 by providing a painted pedestrian pathway along 33rd Street and a crosswalk through Stockton Street. The application promotes the protection of health, safety, and general welfare of the citizens by providing additional landscaping to a site that previously had none.</p> <p>In Denial: The application does not meet this finding in that the parking is located at a different site that which forces pedestrians to cross Stockton to reach the business.</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 application proposes a design that which helps enhance the uniqueness of the neighborhood by painting the exterior and providing a mural along Stockton. The patio helps bring the business activity to the street, while keeping patrons safe behind potted plants. The potted landscaping breaks up the surface lot appearance that which exists at the site currently.</p> <p>In Denial: The application does not propose a design that creates a sense of place nor does it contribute to the uniqueness of the neighborhood.</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 improves the accessibility of the development to non-motorized transportation by providing a bike rack and a painted pedestrian pathway. The shared parking agreement also encourages less vehicular parking and limits it to a shared, common area.</p> <p>In Denial: The application does not improve the accessibility to non-motorized vehicles due to the lack of proposed connection to adjacent businesses, lack of Class II or III street trees, and the proposed placement of the bike rack being adjacent to Stockton.</p>
X			<p>The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p>Explanation:</p> <p>Not applicable: The application meets this finding in that the building is a pre-existing building and the application is only a proposal for an interior TI and exterior façade change with patio addition.</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 painted pathway encourages future connection along 33rd street while the shared parking agreement encourages less surface lots. The use of a Coffee shop promotes intensification of</p>

			<p>development along 33rd street while promoting change over time.</p> <p>In Denial: The application does not promote compact development patters that encourages change over time in that the application is only for a façade change and patio extension.</p>
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: The application proposes landscaping to a site that did not previously have any landscaping. The proposed landscaping encourages pedestrian activity.</p> <p>In Denial: The application proposes landscaping to a sate that did not previously have landscaping. The proposed landscaping is not compatible with the southwest Idaho climatic conditions.</p>

24. 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

Scope of the Permit:

1. The scope of the permit is to allow for the use of Food Products, Small Scale Processing with the Accessory use of a Coffee Roaster.
2. A waiver to GCC 8-4E Transportation and Connectivity Provisions standards has been granted waiving the requirement of a 5' wide detached sidewalk with a landscaping buffer.
3. A waiver to GCC 8-2B-3 Form Standards has been granted as the building is currently a legal nonconforming structure.
4. A waiver to GCC 8-4I Landscaping and Tree Protection Provisions has been granted with the decision that potable plants may satisfy such requirements.
 - a. The required street trees along W. 33rd Street shall be placed between the street and the painted pathway so as to create a landscape buffer.
5. The building permits must be in conformance with the approved plans. Staff may approve minor changes to the approvals so if they are compliant with Garden City Code including:
 - a. Substitutions of plant species, if there is no reduction in landscaping and the species are comparable in height and width. Substitutions of trees must be of the same or larger tree classification and be comparable or larger in tree canopy and height.
 - b. Less than 5% of rearrangement of elevations or building façade materials if there is no reduction in building modulation, fenestration, or glazing.
 - c. Less than 5% of rearrangement of site.

Prior to Occupancy:

1. A building permit shall be applied for and approved by Garden City Development Services Department.
2. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
3. The application shall be compliant with Idaho Department of Environmental Quality requirements regarding emissions.
4. A 5' wide painted pathway with potable landscaping improvements shall be installed along W. 33rd Street.
5. A shared parking agreement with any adjacent properties along W. 33rd Street shall be obtained and agreed upon.

- a. All parties involved with a joint use parking area shall submit a written agreement to the planning official, signed by the applicable parties involved. The agreement shall specify the following:
 - i. Party or parties responsible for construction; and
 - ii. Party or parties responsible for maintenance.
 - b. The applicant or owner shall record such agreement with the Ada County recorder prior to issuance of any permits.
 - c. The shared use parking agreement may be terminated by the parties only if off street parking is provided in conformance with this article and approved by the planning official prior to the termination.
6. If a shared parking agreement is not achieved, the applicant shall return to Garden City Development Services staff to find an alternative, code compliant solution to parking.
 7. The proposed trash and recycling container shall be moved outside of any required setback and be properly screened from any public street in accordance with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
 8. All outdoor lighting shall be compliant with Garden City Code 8-4A-4 Outdoor Lighting.

Site Specific Requirements for the Duration of the Use:

1. Outdoor coffee roasting shall be prohibited.
2. Coffee roasting shall have no discernible odor or emission detectable from outside of the property.
3. Coffee roasting equipment shall use emission control equipment to eliminate odors and emission.
4. The shared parking agreement with any adjacent property along W. 33rd Street shall satisfy all parking requirements.
5. Maintenance of the painted pathway shall commence at such a frequency that the pathway does not appear faded or worn.
6. Maintenance of the clear vision triangle shall be adhered to for the duration of the use and in compliance with Garden City Code 8-4E-7 Public Street connections.

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.

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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 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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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