

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:)	DSRFY2021-0010
)	
Design Review)	FINDINGS OF FACT,
Address 202 E 34 th 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 May 17, 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 new construction of a structure.
2. There has been no denial of any Design Review application on this property within one year of this application.
3. The applicant is Evan Verduin and Drew Kleman with Trek Architecture.
4. The property owner of record is 34th Spokane LLC.
5. The location of the project is 202 E 34th St., Garden City ID 83714 Ada County Assessor parcel number R2734540701 described as LOTS 1 & 2 BLK 31 FAIRVIEW ACRES SUB NO 5.
6. It has not yet been determined if the property is a legal lot of record.
7. The application is for a design review for the use of a multi-family dwelling unit development with an eating establishment. The scope of the design review is limited to the entire property.
8. The subject property is 0.340 acres.
9. The project is located in the C-2 General Commercial zoning district.
10. The project is located in the Activity Node: Neighborhood Destination and the Live Work-Create of the Garden City Comprehensive Plan Land Use Designation.

11. The project is not located in the SFHA according to the 2003 FIRM.
12. The project is located in the SFHA 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 8-4B-4 Multi-family Residential Dwelling Units
 - e. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - f. Garden City Code 8-4D Parking and Off-Street Loading Provisions
 - g. Garden City Code 8-4E Transportation and Connectivity Provisions
 - h. Garden City Code 8-4H Flood Hazard
 - i. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - j. Garden City Code 8-4L Open Space 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
 - d. 34th Street Streetscape Plan; Resolution No. 1063-19
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
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16. Additional application materials submitted include:

- a. Site Plan;
- b. Floor Plans;
- c. Site Renderings;
- d. Materials Plan;
- e. Affidavit of Legal Interest;
- f. Application;
- g. Site Photos; and
- h. Statement of Intent.

17. Agency Comments were received from:

- i. Central District Health, May 4, 2021

18. Written public comments were received:

- a. Rich Boltizar; in opposition, May 10, 2021

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	04/22/2021	04/09/2021
Letter of Acceptance (30 days after receipt of application)	05/09/2021	04/09/2021
Radius Notice (15 days prior to hearing)	05/02/2021	04/27/2021
Interested Parties	n/a	n/a
Legal Notice (19 days)	04/28/2021	04/23/2021
Agency Notice (15 days)	05/02/2021	04/23/2021 04/26/2021 – Corrected
Property Posting Sign (10 days)	05/07/2021	05/07/2021
Affidavit of Property Posting and Photos (7 days)	05/10/2021	05/07/2021

20. On April 5, 2021, in accordance with GCC 8-6B-3, a pre-application conference was held with the Design Committee. The Committee moved the application to the date certain of April 19, 2021.

21. On April 19, 2021, 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. Evan Verduin and Drew Kleman presented the application.
- b. Discussion included:

- i. What constitutes a bedroom? CC&R's stating that those are one-bedroom units only. This cannot be deleted out of the CC&R's without approval of Garden City Council.
- ii. Linear roofline architectural features reads as contemporary form, meet the code's intent.
- iii. Live-work unit to have separate space for "work" area and a more prominent entrance.
- iv. Driveway presence appears wide, fix with landscaping and plaza like elements. Differing hardscape material.
- v. The trash enclosure is in the terminus and viewed directly from the street. Move or angle the dumpster so that it is not the focal point. Alternative materials.
- vi. Vacant space along Clay Street towards parking lot area.
- vii. Provide street trees to increase urban canopy.
- viii. Additional bike parking space required.
- ix. Need to provide for common open space for multi-family.
- x. Right side of building of south elevation does not provide pedestrian oriented elements, additional landscaping, smaller signs, more windows could enhance the façade.

22. On May 17, 2021, a public hearing before the Design Review Committee was held:

i. This section will be completed after the hearing.

23. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. April 5, 2021 Design Review Committee Pre-application Minutes and Audio
- g. April 19, 2021 Design Review Committee Pre-application Minutes and Audio
- h. May 17, 2021 Design Review Committee Hearing Minutes and Audio
- i. 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			Standard
Compliant	Not Applicable to this Application	Not Compliant	
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 is cohesive with the Comprehensive Plan's Live-Work-Create land use designation as it proposes a plaza containing artwork pieces decided by Surel's Place, and a residential development where others can live and work by providing designated office spaces within each unit. It is also cohesive with the Neighborhood Destination land use designation of the Comprehensive Plan by providing and contributing to a center for local and regional destinations that is mixed use in nature and walkable.</p> <p>In Denial: The application is not cohesive with the Comprehensive Plan's neighborhood feel of the Live-Work-Create district as the five units located on the second floor do not exemplify what a live-work unit should be.</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 installment of pedestrian sidewalks along N. Clay Street and 34th Street provide a better pedestrian connection than what currently exists. The enhanced connectivity between the Greenbelt and 34th Street help promote general welfare of the community and provides a safe path that which pedestrians can use. The</p>

			<p>application generates an area that will provide a sense of place and being for the neighborhood.</p> <p>In Denial: The lack of adherence to City Codes and the City’s Comprehensive Plan is detrimental to the welfare of the City. Without the project providing adequate infrastructure to support itself it becomes a burden to the public and the neighborhood.</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 contributes to the evolving neighborhood in that it is developing a currently vacant site. The sidewalk and street improvements are matching that of the specific area’s 34th Street streetscape plan that helps contribute to the pedestrian’s overall sense of being in the area.</p> <p>In Denial: The proposed design does not identify with that of the surrounding uses or their architectural styles. The proposal does not participate in the Live-Work-Create designation of the area as there is no unit proposed to be of this nature.</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 by providing an excess of 22 bicycle parking spaces and constructing a sidewalk along both N. Clay Street and 34th Street that which is in compliance with the 34th Street streetscape plan.</p>

			<p>In Denial: The application does not meet this finding in that the site does not provide the width of the proposed sidewalks along 36th street. And thus appears to be deficient of the minimum 7' sidewalk width required per the 34th Streetscape plan.</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 use is compatible with the mixed-uses and residential uses of the neighborhood. As the surrounding neighborhood of 34th Street continues to develop, the use and structure will continue to be a viable location that provides a unique development node.</p> <p>In Denial: The proposed use is not compatible with the surrounding Live-Work-Crete district by not providing live-work units with the specific overlay. As the live-work-create district continues to grow, the design of the structure might not blend well with the surrounding uses.</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 design supports compact development patterns of mixed-uses that enables intensification and changes over time.</p> <p>In Denial: The application does not meet this finding</p>

			in that the design does not support compact development patterns of mixed-uses that enables intensification of development and changes over time.
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 provides outdoor public spaces that encourage pedestrian connectivity through and around the site. The site proposes landscaping compatible with that of the southwest Idaho climatic conditions.</p> <p>In Denial: The site does not provide adequate public outdoor spaces with landscaping compatible with the southwest Idaho climatic conditions. The pedestrian connectivity through and around the site are not adequate to the site or the surrounding neighborhood.</p>

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:

1. 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 Construction:

1. Proof of legal lots of record shall be submitted to the Planning Department.
2. Unless the lots are determined legal, a Lot Line Consolidation shall be approved by the City Development Services to combine the two lots within the parcel.
3. All sidewalks along 34th Street shall be at minimum 7 feet wide to allow street furnishings, public art, and custom bike racks.
 - a. The sidewalk is permitted to be attached.
 - b. The sidewalk streetscape shall be in conformance with Resolution No. 1063-19.
4. All sidewalks along Clay Street shall be at minimum 5 feet wide, with at least a 6-foot landscape buffer and root barrier installed.
 - a. The landscape buffer shall consist of trees and drought tolerant low shrubs.
 - b. Trees will be within root barrier.
 - c. Artistic furnishings and bicycle parking shall be provided above the standard code minimums.
 - d. The sidewalk streetscape shall be in conformance with Resolution No. 1063-19.
5. All bicycle parking shall be located so as to not prevent the Greenbelt or sidewalk traffic from maintaining a continuous momentum.
6. Public art shall be installed in the plaza and patio area. The art shall be impactful and to scale of the development. Surel's Place is permitted to determine the art that which is to be installed, with City Council being the final decision maker.
7. All Spring Snow White Flowering Crabapple trees shall replace originally proposed Jack Pear trees.
 - a. The tree substitution shall be reflected in the updated landscape plans at the time the building permit application is submitted.

8. If the Class II trees along Clay Street conflict with the overhead utilities, there may be a substitution for Class I trees. Class II or class III trees shall be substituted at the rate of two (2) class I trees for every one class II or class III trees
9. The CC&R's shall state that all units are to be advertised as one-bedroom units with an office space.
 - a. The second room shall not be used as a second bedroom.
 - b. The live-work unit shall be considered a one-bedroom dwelling unit.
10. The governing body shall not delete the verbiage that which limits the bedrooms advertised without the approval from Garden City Council.
11. If the site is determined to be deficient in parking, approval of the deficiency shall be deferred to City Council.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. A building permit shall be applied for and approved by Garden City Development Services Department.
3. A copy of recorded 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.
4. A funding mechanism shall be identified so that the public art and sculptures shall be maintained in their original state from the date of approval.
 - a. If vandalism is to occur, restoration shall commence immediately to return the art to its original state.
5. There will be a minimum of 12 vehicular parking spaces provided; with 5 to be enclosed.
6. There will be a minimum of 9 bicycle parking spaces provided.
7. HVAC equipment, trash dumpsters, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

Site Specific Requirements for the Duration of the Use:

1. The following amenities shall be provided or replaced with an amenity from the same category of amenity as identified in Garden City Code: Quality of Life

Amenities: Public Art, and Open Space Amenities: Community Plaza.

2. All roof and wall mounted mechanical, electrical, communications, and service equipment should be screened from public view from the adjacent public streets and properties by the use of parapets, walls, fences, enclosures, or by other suitable means.
3. The plaza and patio areas shall count towards the street frontage minimums so long as all pedestrian oriented features and elements remain focused on the people using them.
4. If there is a request to change any of the previously approved art, new art piece schematics shall go to Sures Place for approval.
 - a. The approved art shall go to City Council for final approval.
5. Republic Services is responsible for the maintenance of all trash receptacles on-site, including the streetscape.

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 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

DRAFT