

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:)	DSRFY2021-0011
)	
Design Review)	FINDINGS OF FACT,
208 E. 33 rd Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on April 5, 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 Work-Live-Create development. Work-Live-Create is defined by Garden City Code 8-7A-2 as "The use of a structure and/or site that combines a commercial or manufacturing activity allowed in the overlay district with a residential living space. The spaces may be combined within one (1) space, attached to one another, or separated but located on the same property."
2. The application is for a design review for new construction of a structure.
3. On November 25, 2021, the City Council denied application DSRFY2019-4 which was for a project at 208 East 33rd Street. The written denial was dated December 10, 2019.
4. On August 20, 2020, a second application for the same address was submitted, it was filed as DSRFY2020-25.
5. On September 21, 2020, the Design Review Committee approved DSRFY2020-25.
6. On October 5, 2020 there was an appeal to vacate the approval of the Design Review Committee.
7. At the November 9, 2020 Council Meeting, the City Council found that the application was premature and not ripe for review. The Appeal Opinion is dated November 23, 2020. On December 7, 2020, the applicant, Jason Jones, submitted, in part, a Request for Reconsideration with the City.

8. On March 11, 2021, a third application for the same address was submitted, it has been filed as DSRFY2021-0011.
9. The applicant is Jason Jones.
10. The property owner of record is Wee Boise INC.
11. The location of the project is 208 E. 33rd Street; Ada County Assessor parcel number(s) R2734541364.
12. The properties are legal lots of record.
13. The application is for a design review for the use of Work-Live-Create development. The scope of the design review is for the entire property.
14. The subject property is 0.344 acres.
15. The project is located in the M Mixed Use zoning district.
16. The project is located in the Surel Mitchel Live-Work-Create zoning overlay. The provisions of the overlay were utilized in the review of this proposal.
17. The project is located in the Surel Mitchel Live-Work-Create designation of the Garden City Comprehensive Plan Land Use Designation.
18. The project is not located in the SFHA according to the 2003 FIRM.
19. The project is in the AE flood hazard category according to the 2017 FIS.
20. The site plan supersedes the landscape plan where there is conflict.
21. The Design Review Committee **does not find/finds** that the multiple on-street parallel parking spaces are equivalent to the code allowance for angled on-street parking.
22. The following standards apply to this proposal:
 - a. Garden City Code 8-1A-4 Applicability
 - b. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
 - c. Garden City Code 8-3C Surel Mitchell Live-Work-Create
 - d. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - e. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
 - f. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - g. Garden City Code 8-4D Parking and Off-Street Loading Provisions

- h. Garden City Code 8-4E Transportation and Connectivity Provisions
- i. Garden City Code 8-4F Sign Provisions
- j. Garden City Code 8-4H Flood Hazard
- k. Garden City Code 8-4L Open Space Provisions
- l. Garden City Code 8-6A-3 General Application Process
- m. Garden City Code 8-6A-4 Required Application Information
- n. Garden City Code 8-6A-5 Administrative Process with Notice

23. 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

24. 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

25. Additional application materials submitted include:

- a. Affidavit of Legal Interest;
- b. Application;
- c. Sustainability Checklist;
- d. Statement of Intent.

26. Agency comments were received from:

- i. Fairview Acres, dated March 25, 2021
- ii. North Ada Fire and Rescue, dated March 26, 2021
- iii. City Engineer, dated March 27, 2021

27. No written public comments were received.

28. 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	03/11/2021	03/11/2021
Letter of Acceptance (30 days after receipt of application)	04/11/2021	03/15/2021
Radius Notice (15 days prior to hearing)	03/21/2021	03/18/2021
Legal Notice (19 days)	03/17/2021	03/17/2021
Agency Notice (15 days)	03/21/2021	03/17/2021
Property Posting Sign (10 days)	03/26/2021	03/24/2021
Affidavit of Property Posting and Photos (7 days)	03/29/2021	03/24/2021

29. On April 5, 2021, in accordance with GCC 8-6B-3, a pre-application conference was held in conjunction with the public hearing before the Design Committee. The Committee provided the following comments and requests:

a. This section will be completed after the hearing

30. The record contains:

- e. Application Documents
- f. Noticing Documents
- g. Agency Comments
- h. Written Public Comments
- i. Staff report
- j. April 5, 2021 Design Review Committee Pre-application Minutes
- k. April 5, 2021 Design Review Committee Pre-application Audio
- l. April 5, 2021 Design Review Committee Hearing Minutes
- m. April 5, 2021 Design Review Committee Hearing Audio
- n. Design Review Committee Signed Findings of Fact, Conclusions of Law and Decision

31. 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 may select the corresponding conclusions and explanations during their decision. The Design Review Committee may come to conclusions different than the potential conclusions proposed.			
GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable	Not	Standard

	to this Application	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 Affirmative: The proposed design is in conformance with the purpose and regulations of Garden City Code 8-3C Surel Mitchell Work-Live-Create Overlay District.</p> <p>Non-Affirming: Not all Garden City Title 8 requirements have been met. The provisions that have not been met include: 8-1B-1; 8-3C-3 A; 8-3C-3G; 8-4C-4; 8-4D-3</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 Affirmative: The proposed design of detached sidewalks, interior courtyards, pollinator gardens, patios, and bicycle racks all adhere to applicable standards for the protection of health, safety, and general welfare.</p> <p>Non-Affirming: This application fails to comply with all applicable sections of code including: 8-1B-1; 8-3C-3 A; 8-3C-3G; 8-4C-4; 8-4D-3</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 Affirmative: The proposed design as conditioned, creates a sense of place and contributes to the uniqueness of the</p>

			<p>different districts and neighborhoods in the City. The design of the proposal is unique and creates a sense of place in the neighborhood.</p> <p>Non-Affirming: The prefabricated material is a prohibited material. The architectural features are not adequate to lose the appearance of being a prefabricated material. This detracts from the neighborhood and its sense of place.</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 Affirmative: The proposed design improves non-motorized accessibility by providing extensive bicycle parking and pedestrian pathways through and around the site. By providing ample bicycle parking and little vehicular parking, the proposal encourages users to utilize the nearby greenbelt and public transportation (bus stop).</p> <p>Non-Affirming : The proposal does not include any augmentation to accessibility to public modes of transportation.</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 property is not located along an arterial corridor.</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 Affirmative: The proposed design supports a compact development pattern by having a mixed-use development in a small footprint. This footprint could be expanded vertically over time.</p> <p>Non-Affirming: The development is limited in its ability to attract a number of different users due to the lack of parking to adequately address a range of commercial users or families with more than one vehicle.</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 Affirmative: as conditioned, the proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. The landscape plans meet the requirements of 8-3C and 8-4I and pedestrian connectivity meets the requirements of 8-3C and 8-4E.</p> <p>Non-Affirming: The proposed landscaping contains invasive species, and is inadequate to promote pedestrian activity.</p>

32. 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

The Scope of this permit:

1. This application is for a 7 unit live-work development.
2. 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 issuance of a Building Permit:

1. Building permits shall be applied for and approved by Garden City Development Services Department.
2. In conjunction with the submittal for building permits, approved Ada County Addresses must be submitted.
3. A lot line adjustment, density reduction, to consolidate the parcels must be achieved prior to the approval of a building permit.
4. Perpetual access easements for the alley to the rear of the property must be obtained from the affected properties, recorded, and submitted to the City.
5. The alley may be constructed in conjunction with the construction of the structures, provided that the fire reviewer determines that it is not necessary for fire protection during construction of the structures. If the fire reviewer determines that it is necessary for protection during construction of the structures, the alley shall be built prior to issuance of building permits.
6. The structures shall be built at or above the anticipated base flood elevations per the most current flood insurance study of the Lower Boise Watershed or a flood risk acknowledgement shall be recorded on the property.

7. Parking shall meet ADA requirements.
8. The dumpster shall be set back at least five feet from the adjacent property lines.
9. The parking lot area shall be set back 4 feet from the alleyway per Garden City Code 8-4D-3 Parking Design and Improvement Standards.
10. All doorways shall be recessed at least 3 feet from the sidewalk per Garden City Code 8-4C-4 Special Provisions for Specific Nonresidential Development
11. There shall be seven on-site parking spaces provided per Garden City Code 8-3C-3G General Provisions – Parking.
12. Any off-street loading must be compliant with Garden City Code 8-4D-7.
13. The application shall be compliant with the fire department access requirements.
14. The stair tower shall be set back a minimum of ten feet.
15. Floorplans shall be submitted showing compliance with Garden City Code 8-3-C-3C.
16. The plans shall show that the shipping container doors on the street side are removed or replaced with an architectural feature that is not suggestive of a shipping container.
17. The plans shall show that outdoor mechanical equipment is screened behind the privacy fence, or otherwise screened from view per Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
18. The trash enclosure shall be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
19. All outdoor lighting shall be in compliance with GCC 8-4A-4 Outdoor Lighting. This can be reviewed by staff for compliance.
20. A tree mitigation plan shall be submitted to the City and approved in accordance with Garden City Code 8-4I-7 Tree Preservation Provisions.
21. The project shall be compliant with the requirements identified in the agency comments received.

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.

Commented [HV1]: The doors have been replaced with wood doors. This condition is what was required of DSRFY2020-25.

2. A building permit shall be applied for and approved by Garden City Development Services Department.
3. The construction of the alley shall be complete.
4. The alley shall be constructed in such a way that vehicles do not have to back out onto the public right-of-way, and so that vehicles loading from the street do not protrude into the right-of-way.
5. A legal mechanism shall be produced, to be reviewed administratively, that links the use of the live units to its intended workspace.
6. 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.
7. The Norway Maple will be replaced with another tree that is similar or greater in height and canopy coverage, or documentation has been provided by a landscape expert that adequate measures have been taken to reduce invasive spreading of the tree.
8. A Master Sign Program approval is required.
9. Pedestrian access above three stories shall be prohibited in the stair tower.
10. The privacy fence shall be of approved materials per Garden City code 8-4A-3 Fences and Walls.
11. 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.
12. There will be a minimum of 7 vehicular parking spaces provided;

Site Specific Requirements for the Duration of the Use:

1. All live spaces must have an associated indoor workspace of at least 250 square feet on site.
2. All workspaces must have an associated live space on site with a bedroom, closet, bathroom, and kitchen, and that has been reviewed and approved through the building permit process as a dwelling.
3. There shall not be more than 2,700 square feet of cumulative work space on site.

4. The average size of all living space on site shall not exceed 1,000 square feet.
5. All non-residential structures and portions thereof must obtain a new certificate of occupancy for any change in building occupancy, prior to occupancy of the structure or portion thereof.
6. All non-residential uses on site must obtain appropriate permits and be compliant with Garden City Code and use standards prior to occupancy.
7. Where possible, the live and workspaces that are connected by a common wall should share a common tenant.
8. The workspaces that are open to the public shall be designed to have an obvious entrance and address identification.
9. The following amenities shall be provided or replaced with an amenity from the same category of amenity as identified in Garden City Code:
 - a. Quality of Life Amenities: Enclosed Bike Storage
 - b. Open Space: 4,800 square feet of Plaza

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