

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:)	DSRFY20201-0013
)	
Design Review)	FINDINGS OF FACT,
108 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 June 7, 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 Sam Clovis.
4. The property owner of record is CLO Vision Holdings LLC.
5. The location of the project is 108 E. 33rd Street; Ada County Assessor parcel number(s) R2734541150.
6. The property is a legal lot of record.
7. The application is for a design review for the use of a mixed-use commercial and multi-family residential development. The scope of the design review is limited to the entire property.
8. The subject property is 0.17 acres.
9. The project is located in the C-2 General Commercial zoning district.
10. The project is located in the Live-Work-Create designation of the Garden City Comprehensive Plan's Future Land Use Designation.
11. The project is in the not located in the SFHA according to the 2003 FIRM.

12. The project is in the AE flood hazard category according to the 2017 FIS.
13. The following standards apply to this proposal:
- a. Garden City Code 8-1A-4 Applicability
 - b. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - c. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
 - 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 8-4H Flood Hazard
 - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - i. Garden City Code 8-4L Open Space Provisions
 - j. Garden City Code 8-6A-3 General Application Process
 - k. Garden City Code 8-6A-4 Required Application Information
 - l. Garden City Code 8-6A-5 Administrative Process with Notice
14. The following plans and policies apply to this proposal:
- a. Garden City Comprehensive Plan
 - b. Garden City Sidewalk Policy
 - c. Garden City Street Light Policy
 - d. 34th Street Streetscape Plan
 - e. Transportation Needs List
15. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			
Provided			
Yes	No	Waived pursuant to GCC 8-6A-4	
X			Compliance Statement
X			Neighborhood Map
X			Site Plan
X			Landscape Plan
X			Schematic Drawings
X			Lighting Plan
X			Topographic Survey
X			Grading Plan
		X	Will Serve
		X	Approved Address

16. Additional application materials submitted include:

- a. Floor Plans;
- b. Sustainability Checklist;
- c. Materials Plan;
- d. Affidavit of Legal Interest;
- e. Application;
- f. Statement of Intent.

17. Agency Comments were received from:
 i. Garden City Engineer, Received May 28, 2021

18. No written public comments were received.

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	05/13/2021	04/22/2021
Letter of Acceptance (30 days after receipt of application)	05/22/2021	05/04/2021
Radius Notice (15 days prior to hearing)	05/23/2021	05/21/2021
Interested Parties		n/a
Legal Notice (19 days)	05/20/2021	05/20/2021
Agency Notice (15 days)	05/23/2021	05/20/2021
Property Posting Sign (10 days)	05/28/2021	05/28/2021
Affidavit of Property Posting and Photos (7 days)	05/31/2021	05/28/2021

20. 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. Sam Clovis and Georgina presented the application.
- b. Discussion included:
 - i. Fixed aluminum bench on streets cape supported by ACHD.
 - ii. Mesh is 55% transparent.
 - iii. Four to six bike parking spots provided.
 - iv. Concerns with how the mesh fortifies the façade and hides the actual architecture.
 - v. Creates a unique development in the neighborhood.
 - vi. Pedestrian walkway needs landscaping and lighting, other pedestrian elements.
 - vii. Dumpster terminus needs rearrangement or readdressed.
 - viii. Mechanical units need to be screened.
 - ix. 5' perimeter landscaping required.

- x. Overall support of the proposed development.

21. On June 7, 2021, a public hearing before the Design Review Committee was held:

g. This section will be completed after the hearing.

22. The record contains:

- h. Application Documents
- i. Noticing Documents
- j. Agency Comments
- k. Written Public Comments
- l. Staff report
- m. April 19, 2021 Design Review Committee Pre-application Minutes
- n. April 19, 2021 Design Review Committee Pre-application Audio
- o. June 7, 2021 Design Review Committee Hearing Minutes
- p. June 7, 2021 Design Review Committee Hearing Audio
- q. 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 application is in conformance with the C-2 General commercial zoning district as well as the Live-Work-Crete Future Land Use designation of the Comprehensive Plan.</p> <p>In Denial:</p>

			The application does not meet this finding in that it is not in conformance with the C-2 zoning district nor the Live-Work-Create Future Land Use Designation of the Comprehensive Plan.
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 33rd Street provides a better pedestrian connection than what currently exists. The enhanced connectivity between the existing adjacent businesses and the addition of a community garden area helps promote general welfare of the community and provides a safe path that which pedestrians can use. The application generates an area that will provide a sense of place and being for the neighborhood.</p> <p>In Denial: The application does not meet this finding in that it creates a safety concern for pedestrians due to the site not being adequately parked. The shared parking agreement will be with an adjacent property, however, the street is not built to safely connect pedestrians as 33rd Street does not have sidewalks.</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 meets this finding. The application is compatible with the surrounding neighborhood and the purpose of the Live-Work-Create designation in that it is a mixed-use development. The proposed commercial</p>

			<p>space is small, to which only small, residentially compatible uses will be permitted.</p> <p>In Denial: The application does not meet this finding in that it does not match the surrounding neighborhood's architectural design.</p>
X			<p>The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p>Explanation:</p> <p>In Approval: The application meets this finding. The application proposes bicycle parking spots adjacent to the street in addition to providing a code compliant sidewalk and street tree.</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 application meets this finding. The application proposes only one commercial space that which is in located in the frontage of the property.</p> <p>In Denial: The application is not in conform with this section of code because the frontage of the property is completely occupied by the commercial space.</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. The application is a mixed-use building that provides medium density housing and a single commercial space that can help meet the demands of</p>

			housing the area is experiencing. In Denial: The application does not meet this finding in that the proposal of three apartment units and a commercial space occupy a vast portion of the property which will make it difficult for any adjacent property to connect with other than through the streetscape sidewalk.
X			The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. Explanation: In Approval: The landscaping of the project is conceived as an extension of the natural vegetation along the greenbelt. As such, the proposed landscaping is compatible with the southwest Idaho climatic conditions.

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

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.
2. The proposed perimeter landscaping has been determined to meet the intent of Perimeter Landscaping Garden City Code 8-41-5. All perimeter landscaping shall be constructed as approved on the submitted landscape plans.
3. A shared parking agreement with any adjacent properties within ¼ of a mile 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.
4. The shared parking agreement shall help mitigate for the one required guest parking spot in addition to the commercial tenant required parking spots.
5. 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.

Commented [HV1]: Perimeter Landscaping condition if the variance to code is approved by the Committee.

Prior to Construction:

1. The application shall be approved by Ada County Fire and Rescue.
2. Approval from the Garden City Public Works Department shall be required prior to the issuance of a building permit.
 - a. The developments drainage plan shall be addressed in relation to the lack of curb along the internal drive isle.

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. There will be a minimum of 9 vehicular parking spaces provided; with 8 to be enclosed.
5. There will be a minimum of 4 bicycle parking spaces provided.
6. Public art shall be installed at the frontage of development as proposed. The art shall be impactful and to scale of the development. Surel's place is permitted to determine the art.
7. All residential units shall have a direct and permanent pathway that connects to the public sidewalk.
8. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings along E. 33rd Street.
9. If the site is determined to be deficient in parking, approval of the deficiency shall be deferred to City Council.
10. All private pedestrian pathways throughout the development shall be at least 4' in width, and compliant with GCC 8-4E-7 standards.
11. The trash enclosure located at the rear of the property shall have architectural treatment installed on it to assist in the enhancement of the terminus view from E. 33rd Street.
12. Any existing vegetation that is to be removed shall first be evaluated by a certified arborist. A certified arborist letter to the city, claiming that proper mitigation of healthy trees shall be required prior to issuance of a building permit.
13. Pressurized irrigation shall be provided in conformance with Garden City Code 8-5A-5H.

Commented [HV2]: Parking Condition.
Shared Parking agreement needed unless applicant wishes to go to City Council.

Commented [HV3]: Pedestrian Pathway Condition.
Could conflict with perimeter landscaping condition.

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:
 - a. Quality of Life Amenity: Public art
 - b. Open Space Amenity: Community Garden & Plaza
2. 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.
3. If there is a request to change any of the previously approved art, new art piece schematics shall go to Surel's Place for approval.
 - a. The approved art shall go to City Council for final approval.
4. 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.
5. All streets and driveways shall adhere to the standards of a clear vision triangle.
6. All common open space shall be the responsibility of the owner or an owners' association for the purpose of maintaining the common area and improvements.
7. The shared parking agreement with any adjacent property within ¼ mile of the development shall satisfy the guest parking requirements as well as the commercial parking requirements.
8. Any permitted use within the C-2 zoning district shall obtain a Certificate of Occupancy prior to occupying the commercial space.
 - a. If the use is a condition use within the C-2 zoning district, approval of a conditional use permit from Planning and Zoning shall also be required prior to the certificate of occupancy being issued.
9. Should the commercial tenant occupancy change, the shared parking agreement shall be updated to meet the minimum parking space amount associated with the use prior to the certificate of occupancy being issued.

Commented [HV4]: Shared Parking Agreement

Commented [HV5]: Shared Parking Agreement.

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; 8-41-3 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 by the Design Review Committee Date document has been reviewed and approved