

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:)	DSRFY2021-0017
)	
Design Review)	FINDINGS OF FACT,
105 W 43 rd Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
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THIS MATTER, came before the Garden City Design Review Committee for consideration on November 1, 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 Greg Toolson.
4. The property owner of record is Todd Sawyer.
5. The location of the project is 105 W 43rd St; Ada County Assessor parcel number(s) R2734510454; Described as PAR #0454 OF LOT 31 BLK D FAIRVIEW ACRES SUB NO 2 #0450-S.
6. The lot is a legal lot of record.
7. The tax parcels do not appear to be of legal record.
8. The application is for a design review for the use of a service provider. The scope of the design review is limited to the entire property.
9. The subject property is 0.470 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 Mixed-Use Commercial designations of the Garden City Comprehensive Plan

Land Use Designation Map.

12. The project is not located in the SFHA according to the 2003 FIRM.
13. The project is 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
 - 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
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			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. Materials Plan;
- c. Sustainability Checklist;
- d. Affidavit of Legal Interest;
- e. Application;
- f. Statement of Intent.

18. Agency Comments were received from:

- i. Ada County Highway District, dated October 20, 2021
- ii. Garden City Engineer, dated October 19, 2021
- iii. Ada County Fire and Rescue, dated October 19, 2021

19. No public comments were 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	10/07/2021	10/07/2021
Letter of Acceptance (30 days after receipt of application)	11/07/2021	10/08/2021
Radius Notice (15 days prior to hearing)	10/17/2021	10/15/2021
Interested Parties	n/a	n/a
Legal Notice (19 days)	10/13/2021	10/13/2021
Agency Notice (15 days)	10/17/2021	10/13/2021
Property Posting Sign (10 days)	10/22/2021	10/21/2021
Affidavit of Property Posting and Photos (7 days)	10/25/2021	10/21/2021

21. On August 16, 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. A summary of the discussion with the Committee included:
 - i. Applicant stated that removal of chain-link fencing with vinyl slats would not be beneficial.
 - 1. The Committee requested that the chain link fencing be removed.
 - ii. Landscaping area should not be so full of vegetation that the pedestrian cannot exit the vehicular travel way of Stockton if need be.
 - iii. Plaza needs to be extended or enhanced to meet the street frontage 60% code requirement.

- iv. Address the connection between the two parcels. Engage the front lot. Bring front lot into compliance.
- v. South elevation facade – cannot be blank wall.
- vi. Xeriscape not allowed permitted as landscape buffer.
- vii. Utilities are required to be underground per code.
- viii. Can accommodate pedestrian access along Stockton versus 43rd.
- ix. Entrance onto Stockton versus internal a possibility.

22. On November 1, 2021, a public hearing before the Design Review Committee was held:

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

23. The record contains:

- h. Application Documents
- i. Noticing Documents
- j. Agency Comments
- k. Written Public Comments
- l. Staff report
- m. August 16, 2021 Design Review Committee Pre-application Minutes
- n. August 16, 2021 Design Review Committee Pre-application Audio
- o. November 1, 2021 Design Review Committee Hearing Minutes
- p. November 1, 2021 Design Review Committee Hearing Audio
- q. 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			
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</p>

		<p>with the reviewed sections of code noted in this decision and in conformance with the dimensional regulations of the C-2 zoning district. The proposed expansion of the service provider use has already obtained an approved conditional use permit by the Planning and Zoning Commission.</p> <p>In Denial: The application does not meet this finding. The application is not in conformance with the reviewed sections Garden City Code, specifically that of 8-4C-3 and 8-4E-7.</p>
X		<p>X</p> <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. The application meets the findings as conditioned in this decision,. The installment of the pedestrian pathway along Stockton provides a better pedestrian connection than what currently exists on the site.</p> <p>In Denial: The application does not meet this finding. The application impacts the health safety, and general welfare of community by not adequately addressing the pedestrian connection between the two sites. Additionally, this application fails to comply with applicable sections of code including 8-4E-7.</p>
X		<p>X</p> <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 in conformance with the vision set forth in the</p>

			<p>Comprehensive Plan's Mixed-Use Commercial Future Land Use Designation. Additionally, the use and the proposed structural design is cohesive with the adjacent uses surrounding it.</p> <p>In Denial: The application does not meet this finding. The application is not in conformance with the vision set forth in the Comprehensive Plan's Mixed-Use Commercial Future Land Use Designation.</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. The application proposes a new pedestrian pathway connecting 43rd Street, along Stockton, and connecting with the primary entrance of the new building. Additionally, the plaza area provides bicycle parking and a bus schedule and bike route as a way to meet their sustainable development standards.</p> <p>In Denial: 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>In Approval: This application is conducive to development in a node pattern as envisioned in the Garden City Comprehensive Plan.</p>
X		X	<p>The proposed design supports a compact development pattern that enables</p>

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			intensification of development and changes over time. Explanation: In Approval: The proposed design, as conditioned in this decision, meets this finding by developing a currently vacant lot while maximizing pedestrian circulation through a system of pathways and plaza space that which connect the development to adjacent businesses and vehicular arterials. In Denial: The development is limited in its ability to attract a number of different users due to the lack of ingress and egress, and the necessity for a shared access drive.
X		X	The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages pedestrian activity. Explanation: In Approval: 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 8-4I and pedestrian connectivity meets the requirements of 8-4E. In Denial: The proposed landscaping is inadequate to promote pedestrian adjacent to and within the development.

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.
2. Approved plans include:
 - a. Landscape plans submitted October 20, 2021;
 - b. Site plans submitted October 20, 2021; and
 - c. Schematics submitted October 15, 2021.
3. A conditional use permit, CUPFY2021-0011, for a service provider use has been approved. Any conditions found within the approval decision documents are also applicable.
 - a. The Design Review Committee shall have authority over form standards and design and development standards.
4. A minor land division will be required prior to any of the two parcels being sold so to match the parcel descriptions; or the property owner shall consolidate both parcels into one to match that of the original Lot 31 of Fairview Acres.
5. The 814sqft plaza area shall be permitted to count towards the minimum street frontage percentage requirement of Garden City Code 8-4C-3.

Prior to issuance of a building permit:

1. A cross access easement agreement shall be made between parcels R2734510454 and R2734510452 to allow for the rear parcel to have both pedestrian and vehicular access to 43rd Street.
2. The South elevation blank wall be treated in one or more of the following code required ways:

- a. Installing a vertical trellis in front of the wall with climbing vines or plant materials; or
 - b. Providing a landscaped planting bed at least five feet (5') wide or raised planter bed at least two feet (2') high and three feet (3') wide in front of the wall, with plant materials that obscure or screen at least fifty percent (50%) of the wall's surface within three (3) years;
 - c. Providing artwork (mosaic, mural, sculpture, relief, etc.) over at least fifty percent (50%) of the blank wall surface.
3. A board or computer shall be located in a public space that provided the following information for both employees and customers:
 - a. Information on carpooling programs;
 - b. Transit trip planning assistance;
 - c. Transit maps;
 - d. Maps of preferred bike routes and the location(s) of secure bicycle parking, lockers and showers, if provided.
4. Site Layout: No structure, facility, drive lane, parking area, or loading area shall be located adjacent to a residential district.
5. Parking and Access:
 - a. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
 - b. All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material.

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. Perimeter landscaping shall be provided between other paved vehicular use areas, including driveways, and vehicle storage areas and all property lines unless otherwise determined by the Design Review Committee.
 - a. Perimeter landscaping is required along the southern property boundary line, adjacent to parcel # R2734510440.
 - b. A perimeter landscaping area shall be at least five (5) feet wide measured from the property line to the interior of the lot;
 - c. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
 - d. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity.

4. All existing barbed wire shall be removed from the site, and there shall be no installation of any additional barbed wire.
5. All existing chain-link fencing shall be removed from the site, and if it is to be replaced, it shall be replaced with materials that which are compliant with Garden City Code.
 - a. Any fence along Stockton shall be of open-vision material, and shall not exceed 3.5ft in height unless otherwise approved by the Design Review Committee.
 - i. The proposed 6ft wrought-iron fence as shown in the approved documents is permitted.

Site Specific Requirements for the Duration of the Use:

1. 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.
2. The site shall not be used as vehicle wrecking as herein defined.
3. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.
4. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
5. Outdoor storage areas shall comply with all sections of Garden City Code 8-1C-3, Property Maintenance Standards.
6. All streets and driveways shall adhere to the standards of a clear vision triangle.
7. A board or computer shall be located in a public space that provided the following information for both employees and customers:
 - a. Information on carpooling programs;
 - b. Transit trip planning assistance;
 - c. Transit maps;
 - d. Maps of preferred bike routes and the location(s) of secure bicycle parking, lockers and showers, if provided.
8. Limitations: The site shall not be used as vehicle wrecking as herein defined.
9. Site Maintenance:
 - a. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.

- b. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
10. Other Standards Apply: Outdoor storage areas shall comply with section 8-1C-3, Property Maintenance Standards

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

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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