

BEFORE THE GARDEN CITY COUNCIL
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.

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| In the Matter of: |) | DSRFY2022-0014 |
| |) | |
| Design Review |) | FINDINGS OF FACT, |
| 210 E 35 th St |) | CONCLUSIONS OF LAW |
| Garden City, Ada County, Idaho |) | AND DECISION |
| _____ |) | |

THIS MATTER, came before the Garden City Council for consideration on October 24, 2022. The Garden City Council reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Garden City Council makes the following Findings of Fact, Conclusions of Law, and Decision:

FINDINGS OF FACT

1. The application is 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 Cathy Sewell
4. The property owner of record is Brooksource Development, LLC
5. The location of the project is 210 E 35th St; Ada County Assessor parcel number(s) R2734540260; described as LOTS 5/6 BLK 28 FAIRVIEW ACRES SUB NO 5 #509/109.
6. The property is a legal lot of record.
7. The application is for a design review for the use of a Mixed-Use Multi-Family development. The scope of the design review is limited to the entire property.
8. The subject property is 0.280 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 in the floodway 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 8-2B Base Zoning District Regulations
 - d. Garden City Code 8-2C-15 Multi-Family
 - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - f. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
 - g. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - h. Garden City Code 8-4D Parking and Off-Street Loading Provisions
 - i. Garden City Code 8-4E Transportation and Connectivity Provisions
 - j. Garden City Code 8-4F Sign Provisions
 - k. Garden City Code 8-4G Sustainable Development Provisions
 - l. Garden City Code 8-4H Flood Hazard
 - m. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - n. Garden City Code 8-4L Open Space Provisions
 - o. Garden City Code 8-6A-3 General Application Process
 - p. Garden City Code 8-6A-4 Required Application Information
 - q. 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
15. The applicant provided the following application information:

| Materials Provided Per GCC Table 8-6A-2 Required Application Information | | | |
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| 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 |

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| | X | Will Serve |
| X | | Approved Address |

16. Additional application materials submitted include:
- Floor Plans;
 - Arborist Letter;
 - Demo Plan;
 - Improvement Plan;
 - Affidavit of Legal Interest;
 - Parking Study;
 - Application;
 - Statement of Intent.
17. Agency Comments were received from:
- Garden City Engineer, dated August 20, 2022
 - Department of Environmental Quality, dated August 12, 2022
 - North Ada County Fire & Rescue District, dated August 31, 2022
 - ACHD, dated September 26, 2022
 - Republic Services, dated September 28, 2022
18. Written public comments received from:
- Adam Straubinger; August 30, 2022
 - Janet Hasson; August 26, 2022
 - Stacy Quick; August 29, 2022
 - Belinda Isley; September 4, 2022 and September 19, 2022,
 - Kim Spears; September 6, 2022
 - Kate Falkenstien; September 12, 2022
19. The following noticing was completed in accordance with GCC 8-6A and GCC 8-6B-3:

| Design Review Noticing | | |
|--|---------------|-----------------|
| Noticing Requirement | Required Date | Completion Date |
| Receipt of application | 08/12/2022 | July 21, 2022 |
| Letter of Acceptance | 08/21/2022 | 08/18/2022 |
| Radius Notice | 08/22/2022 | 08/12/2022 |
| Interested Parties | n/a | n/a |
| Legal Notice | 08/18/2022 | 08/11/2022 |
| Agency Notice | 08/22/2022 | 08/11/2022 |
| Property Posting Sign | 08/26/2022 | 08/27/2022 |
| Affidavit of Property Posting and Photos | 08/29/2022 | 08/30/2022 |

| City Council Noticing | | |
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| Noticing Requirement | Required Date | Completion Date |
| Radius Notice | 10/09/2022 | 10/07/2022 |

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| Interested Parties | n/a | 09/27/2022 |
| Legal Notice | 10/05/2022 | 10/03/2022 |
| Agency Notice | 10/09/2022 | 09/27/2022 |
| Property Posting Sign | 10/14/2022 | |
| Affidavit of Property Posting and Photos | 10/17/2022 | |

20. On June 20, 2022, 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. Cathy Sewell and Mathew Clark presented the application.
 - b. Discussion with the Design Review Committee and applicant included:
 - i. The lease spaces are intended to be used as home offices or businesses for residents.
 1. The intent of the project is to provide workspaces for the residents occupying the structure so they don't have to commute. Thus, the need for parking is diminished as there will be less vehicular traffic.
 - ii. There is one commercial space located on the first floor.
 - iii. The live-work-create overlay would have limited the type of development as desired.
 - iv. The commercial space is to act as a primary entrance to other lease spaces and residential units.
 1. Strengthen the primary entrance elements to the street to show people that the main entrance is "here."
 2. The direct stair entrance should act as a secondary entrance.
 - v. The code requires a certain amount of parking. As a site that is promoting a commercial aspect and 8-9 potential businesses, the site should be able to support the developments desired function, which includes providing adequate guest parking.
 1. Alternatives to parking in addition to vehicle ride-sharing should be pursued. A parking analysis should be performed and submitted.
 2. There are about 30+ enclosed and surface bike parking spaces.
 3. Two spaces for on-street parking spaces.
 - vi. ACHD requires a 10' landscape buffer for a Class III Street tree.
 - vii. Tree calipers need to be mitigated for at a 1:1 ratio.
 - viii. If the perimeter landscaping is enhanced where it is not 5' in width and the enhancement creates a better pedestrian connection, it could be permitted.
 - ix. Landscaping along the roof cornices can mitigate for long rooflines.
21. On September 8, 2022, a public hearing before the Design Review Committee was held:
- a. Cathy Sewell, Matthew Clark, and Brie Katz presented the application.

- b. Staff Hanna Veal presented the staff report.
- c. Public testimony was heard from:
 - i. Kate Folkenstien in opposition; neighborhood would not provide enough amenities to be conducive to a non-vehicular lifestyle. On-street parking should be for guests and non-residence.
 - ii. Karl Wirkns in opposition; the building is too big; the constructability is going to be expensive; Floodplain is a concern.
 - iii. Louis Landry in opposition; letter of intent to approve verbiage is confusing. Is irrigation required? Shared parking is brilliant problem solving. Shaded streets require big street trees. The city needs to require larger street trees.
 - iv. Belinda Isley in opposition: the massing and design of the structure is too overbearing. Parking per code requirements should be required.
 - v. Jason Jones in favor: Garden City Code 8-4D for mixed-use parking determined on a case-by-case basis. Judge of judicial review said that it wasn't legal to do as such. Enforcing parking code for mixed-use projects is illegal.
- d. Cathy Sewell and Brie Katz provided rebuttal:
 - i. Garden City Code requires one parking space for one-bedroom units and two parking stalls for two-bedrooms. Other sections of Garden City Code provided guidance for development plans even though it wasn't applicable.
 - ii. Comprehensive plan speaks to maintaining the existing small lots, discouraging large developments.
 - iii. Many conversations with neighbors and friends included the fact that they wished they could not have a car.
 - iv. Code defines the primary entrance as the entrance used by the greatest number of users.
- e. Public testimony was closed.
- f. Committee Discussion included:
 - i. Small deficiencies in parking have been mitigated for in other applications by providing alternatives and surpluses of other mode of transportation.
 - ii. Development is similar to Live-Work-Create projects, but the overlay doesn't apply.
 - iii. Committee member Hurd believes that the site appears to be sufficient and park itself. Code has many sections of verbiage that indicate less parking is permitted in some circumstances.
 - iv. Committee member Labrie does not believe the site provides adequate parking. Residential parking code is specific, and the application is not compliant with the standards.
 - v. Residential connection to the street has not been enhanced. Entry points to the residential units need to act and appear as the primary entrance.

- vi. Proposed height is permitted. C-2 allows for unlimited height. Denying and application based on height is arbitrary.
 - vii. Proposed development is a mixed-use multi-family project.
 - viii. More direct entryway focal element that provides and identity for the residential entity on the street. Re-design needs to come back for committee review.
 - 1. Two secondary accesses are not appropriate.
 - g. Committee member Labrie moved to continue to a date certain of September 19, 2022.
 - h. Committee member Hurd seconded the motion.
 - i. The motion carried unanimously.
22. On September 19, 2022, a public hearing before the Design Review Committee was held:
- a. Cathy Sewall, Brie Katz, and Matthew Clark presented the application.
 - b. Staff Hanna Veal presented the staff report.
 - c. Public testimony was heard from:
 - i. Kate Falkenstien; in opposition. Logistical questions regarding the car-share program and operation. Longevity concerns of the car-share program. Private garage is not open to the public, all workspaces and commercial spaces guests and employees are required to use street-parking.
 - ii. Belinda Isley; in opposition. High-density infill development has many benefits, the primary use of the development is residential, the city should not have to pay for the deficiency of parking in new developments when the on-street parking is at capacity. Workspaces are not required to be used by the residence; the lease can go out to anybody. Design is wonderful for the area.
 - iii. Jason Jones; in favor. Mixed -use parking development code does not state minimum or maximum requirements so denying the application based on lack of parking is against state law.
 - b. Matthew Clark, Cathy Sewell provided rebuttal:
 - i. The building property management will own, operate, and maintain the shared vehicle including the tools and programs to schedule and book the vehicle ahead of time.
 - ii. Three story parking garage would allow for the required parking spaces.
 - d. Public testimony was closed.
 - e. Committee Discussion included:
 - i. Design changes have met the intent of code and the committee's requests. The elements proposed out front bring the pedestrian around the corner to the back.
 - ii. Committee Member Hurd: On-site parking, in addition to the alternatives being proposed, is sufficient enough to meet the minimum parking standards of Garden City Code.

- iii. Committee Member Labrie: Walking, biking, shared vehicle, and live-work commuters are not providing enough alternatives for parking to account for the parking deficiency.
- iv. Parking reduction quantity requested is too many.
- f. Committee Member Hurd moved to approve the application as drafted in the draft decision in the affirmative.
- g. The motion failed due to lack of second.
- h. There was no motion on the application. The application will be noticed to be heard by City Council.

23. On October 24, 2022, a public hearing before the City Council was held:
 a. A summary of the hearing will be included here after the meeting has commenced.

24. The record contains:
- a. Application Documents
 - b. Noticing Documents
 - c. Agency Comments
 - d. Written Public Comments
 - e. Staff report
 - f. June 20, 2022, Design Review Committee Pre-Application Minutes
 - g. June 20, 2022, Design Review Committee Pre-Application Audio
 - h. September 8, 2022, Design Review Committee Hearing Minutes
 - i. September 8, 2022, Design Review Committee Hearing Audio
 - j. September 19, 2022, Design Review Committee Hearing Minutes
 - k. September 19, 2022, Design Review Committee Hearing Audio
 - l. October 24, 2022, City Council Hearing Minutes and Audio
 - m. Design Review Committee Drafted Findings of Fact, Conclusions of Law, and Decision
 - n. City Council Signed Findings of Fact, Conclusions of Law, and Decision

25. In order to approve a design review application, the Garden City Council shall make the following findings:

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| The draft findings are written both in approval and in denial. The City Council 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 | Finding 1. The proposed design is in conformance with the purpose of the |

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| | | | <p>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 reviewed sections of code noted in this decision and in conformance with the dimensional regulations of the C-2 zoning district. The proposed multi-family development is a permitted use within the base zoning district, and it has been conditioned to require a conditional use permit for any of the commercial uses that might need a conditional use permit prior to occupancy.</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 8-4D-5.</p> <p>The application includes both residential (multi-family) and non-residential components ("workspaces" identified as nonresidential spaces, with the specific use(s) yet to be determined). There is no exclusion identified in code that the individual uses on a site are precluded from being reviewed based on their use if there is more than one use on a site.</p> <p>8-4D-4 has two specific provisions that that specify that mix-use is required to adhere to parking standards for the uses that are proposed on site:</p> <p>A. Number Of Spaces: <u>No use</u> shall provide less than the minimum or more than the maximum number of off street parking spaces required under section <u>8-4D-5</u>, "Required Number Of Off Street Parking Spaces", of this article.</p> |
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| | | | <p>B. Nonresidential And <u>Mixed Uses: The minimum and maximum number of required off street vehicle parking for nonresidential uses and mixed use shall be determined by the planning official based on the following criteria:</u></p> <p>1. <u>The specific use(s) proposed and/or on the property.</u></p> <p>The proposal contains a multi-family component. The multi-family standards shall apply to the components of the project which are to be utilized as multi-family.</p> <p>There are objective criteria to determine the residential parking requirements in Table 8-4D-2.</p> <p>Excluding the need to park for the non-residential components of the application, the project fails to meet the minimum parking standards of the multi-family parking code. The project fails to meet parking code standards.</p> |
| X | | X | <p>Finding 2. The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p>Explanation:</p> <p>In Approval:</p> <p>This proposal will not unreasonably diminish the health, safety, or welfare of the community as conditioned. The application proposes a code compliant sidewalk and landscape buffer along E. 35th Street which will provide for a better pedestrian connection than what currently exists on site. The project's proximity, and its consideration for pedestrians and bicyclists, encourages activity and</p> |

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| | | | <p>connection to the adjacent Greenbelt pathway systems.</p> <p>The residential “Courtyard” provides a common area in which pedestrians can utilize to traverse the upper stories of the structure.</p> <p>There is a residential pathway around the lot to act as a pedestrian walking trail and pet park.</p> <p>The application’s proposal is for a development that is not car-centric and instead focuses on the pedestrian, bicyclists, and other alternative forms of transportation.</p> <p>In Denial: The lack of adherence to the code standards is directly in conflict with the health and welfare of the city as the city would be acting arbitrarily and capriciously if it disregards its regulations. Moreover, the lack of parking would adversely affect the neighborhood, which is in direct conflict with Garden City Code 8-4D-1 Purpose: A. To provide for off street parking and loading areas that minimize traffic hazards and congestion, and mitigates impacts on surrounding properties</p> |
| X | | X | <p>Finding 3. 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 Comprehensive Plan’s Live-Work-Create Future Land Use Designation, and the adopted 34th Streetscape Plan Resolution</p> |

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| | | | <p>No. 1062-19. Additionally, the use and the proposed structural design is cohesive with the adjacent uses surrounding it. The applicant is required to obtain approval from other agencies such as public works, ACHD, North Ada County Fire and Rescue prior to construction. The application will be subject to further review, and compatibility or improvements will be required.</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 Live-Work-Create Future Land Use Designation as the application has a scale and square footage in relation to the lot that contradicts the designation's stated intention to limit lot scale, size, and square footage in relation to the size of lot.</p> |
| X | | X | <p>Finding 4. The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p>Explanation: In Approval: The application meets this finding. The application proposes a new sidewalk on 35th Street, further enhancing a currently underdeveloped streetscape. Excess bicycle and scooter parking is provided for both residents and the public to utilize, in an effort to promote neighborhood walkability. Additionally, the proposed ride-share for residences reduces the need for every resident to own a vehicle, thus reducing the need for parking and dwindling vehicle trips to and from the site.</p> <p>As conditioned, the development is required to provide a board or computer located in a public space that provides information including carpooling, transit</p> |

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| | | <p>trip planning assistance, transit maps, and maps of preferred bike routes.</p> <p>In Denial: The proposal does not include any access to public modes of transportation. STATE WHY</p> |
| X | | <p>Finding 5. 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. The combination of commercial and workspaces with residential units and amenities above provide a successful approach for creating a mixed-use development. The project helps to establish a new urban space that contributes to the vision of the Live-Work-Create neighborhood.</p> <p>In Denial: The application is not conducive to supporting development patterns in nodes rather than strip development: STATE WHY</p> |
| X | | <p>Finding 6. 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 proposed design, as conditioned in this decision, meets this finding by redeveloping a currently residential lot to serve a mix of uses while maximizing pedestrian circulation through a sidewalk and plaza space that which connects the development to adjacent businesses and vehicular arterials. The proposed street-level commercial tenant space, and the 7 workspaces within The</p> |

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| | | | <p>Courtyard, help to create a dynamic neighborhood and serve a variety of uses overtime.</p> <p>In Denial: The development is limited in its ability to attract a number of different users due to lack of vehicular parking.</p> |
| X | | X | <p>Finding 7. 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: 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.</p> <p>In Denial: The proposed landscaping is inadequate to promote pedestrian activity adjacent to and within the development. STATE WHY</p> |

26. The record was reviewed by the City Council to render the decision.

CONCLUSIONS OF LAW

The City Council 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 City Council 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 perimeter landscaping as proposed is approved.
 - a. The perimeter landscaping where it is not 5' in width has been enhanced to encourage pedestrian connectivity to the primary entrances of the residents and the courtyard.
3. Landscaping along the roof cornices shall mitigate for the proposed long rooflines.

Prior to Construction:

1. A building permit shall be applied for and approved by the Garden City Development Services Department.
2. A lot line consolidation shall be applied for and approved.
3. Contrasting hardscape material shall be installed at the drive aisle to better identify the pedestrian crossing along E. 35th Street.
4. The ability to serve shall be provided prior to construction.
5. A designated parking spot for the ride-sharing service available to all residents shall be shown on site plans and installed accordingly.
 - a. A designated location within the parking garage shall be clearly marked.
6. Mitigation shall be required for all existing trees four-inch caliper or greater that are removed or damaged from the site. A full mitigation plan and certified arborist report shall be submitted and approved by staff prior to the issuance of a building permit.

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 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.

3. There will be a minimum of 17 vehicular parking spaces provided; with 17 to be enclosed.
4. There will be a minimum of 34 bicycle parking spaces provided.
5. All proposed fencing shall be compliant with Garden City Code 8-4A-3 Fences and Walls standards.
 - a. A fence or wall over six feet in height shall first obtain design review committee approval and a building permit from the city prior to construction.
6. All lightning shall be compliant with Garden City Code 8-4A-4 Outdoor Lighting standards.
7. All Outdoor Service and Equipment Areas shall be compliant with Garden City Code 8-4A-5 Outdoor and Service Equipment Areas standards.
8. Public art shall be installed along the facades as shown in the submitted plans. The art shall be impactful and to scale of the development. Surel's Place is permitted to determine the art.
9. The application shall be compliant with Garden City Code 8-4G Sustainable Development Provisions.

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 amenities provided: a) enclosed bike storage b) bike storage
 - b. Open space: a) Community Lounge and Courtyard space; b) community garden; c) Pet relief landscaped walkway
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. All commercial workspaces shall obtain a certificate of occupancy prior to occupancy of the spaces.
 - a. A Conditional Use Permit shall be applied for and approved by the Planning and Zoning Commission if any use is considered a conditional use per the current zoning district.

4. All bicycle parking shall be located so as to not prevent the sidewalk traffic from maintain a continuous momentum.
5. Bicycle parking spaces shall be placed in such a way that when mounting and dismounting the bicycles do not reverse into the sidewalk traffic area.
6. Driveways shall always adhere to the standards of the clear vision triangle.
7. A funding mechanism shall be identified so that the public art shall be maintained in their original state from the date of approval.
 - a. If vandalism or fading is to occur, restoration shall commence immediately to return the art to its original state.
8. The Courtyard shall remain open to the public for the duration of the development's use.
9. There shall be information provided to residence and the public regarding the Valley Regional Transit ride-share program to bus stops for the duration of the program.
10. A board or computer shall be in a public space that provides the following information for residence, employees, and customers of The Sonder:
 - a. Information on carpooling programs;
 - b. Transit trip planning assistance;
 - c. Transit maps; and
 - d. Maps of preferred bike routes and the location(s) of secure bicycle parking, lockers, and showers, if provided.

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 Code 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.

Mayor, John G. Evans

Date

STANDARD DENIAL DECISION

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-3. This project is not in compliance with 8-6B-3 standard(s) 2, 3, and 6 because it is not in compliance with the Garden City code sections 8-4D. Compliance can be met by providing additional vehicular parking that is compliant with code standards.

2. 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.
3. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
4. 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.
5. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
6. 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.

Mayor, John G. Evans

Date