

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:)	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 Design Review Committee for consideration on September 8, 2022. 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 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			
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:
- 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
18. Written public comments received from:
- Adam Straubinger; August 30, 2022
 - Janet Hasson; August 26, 2022
 - Stacy Quick; August 29, 2022
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	08/12/2022	July 21, 2022
Letter of Acceptance (30 days after receipt of application)	08/21/2022	08/18/2022
Radius Notice (15 days prior to hearing)	08/22/2022	08/12/2022
Interested Parties	n/a	n/a
Legal Notice (19 days)	08/18/2022	08/11/2022
Agency Notice (15 days)	08/22/2022	08/11/2022
Property Posting Sign (10 days)	08/26/2022	08/27/2022
Affidavit of Property Posting and Photos (7 days)	08/29/2022	08/30/2022

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:
- Cathy Sewell and Mathew Clark presented the application.
 - Discussion with the Design Review Committee included:

DESIGN REVIEW DECISION - 3

DSRFY2022-0014; The Sonder; 210 E. 35th St, Garden City

- 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. This section will be completed after the hearing.

22. 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. 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:

<p>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.</p>			
<p>GCC 8-6B-3 DESIGN REVIEW COMMITTEE: REQUIRED FINDINGS</p>			
<p>Conclusion</p>			<p>Standard</p>
<p>Compliant</p>	<p>Not Applicable to this Application</p>	<p>Not Compliant</p>	
<p>X</p>		<p>X</p>	<p>Finding 1. 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 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 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 8-4B-4, and 8-4D-5.</p>
<p>X</p>		<p>X</p>	<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: This proposal will not unreasonably diminish the health, safety, or welfare of</p>

			<p>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 addition of street trees also helps to contribute to enhanced safety of pedestrians and bicyclist utilizing the sidewalk. The project's proximity, and its consideration for pedestrians and bicyclists, encourages activity and connection to the adjacent Greenbelt pathway systems.</p> <p>The proposed rooftop and courtyard vegetation will contribute to the welfare of both residence and the public by creating a denser urban canopy than what would be possible if just limiting it to the ground floor landscape space.</p> <p>Access to the rooftop community gardens will promote healthy eating and potential hobbyist recreation.</p> <p>In Denial: The proposal will be detrimental to and unreasonably diminish the health, safety, or welfare of the community by not adequately addressing the need for on-site private and public vehicular parking. The lack of vehicular parking creates potential conflict between the future pedestrian and vehicular users of The Sonder.</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</p>

		<p>Future Land Use Designation. The development proposed contains residential units that have associated work units off “The Courtyard” deck. The Courtyard contains small tenant units to serve the public in a non-intense capacity. 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 Live-Work-Create Future Land Use Designation. The application is too large in form, scale, and character, and contradicts the designation’s goal to limit lot size, building footprint, or square footage.</p>
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 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.</p>
X		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 with development in a node as envisioned in the Garden City Comprehensive Plan. The design and lack of compliance with code, specifically the project's inability to adequately park itself, is a detriment to the community's welfare.</p>
X		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 work spaces within The</p>

			<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 the lack of ingress and egress, lack of vehicular parking, the limited vertical clearance of the garage, and limited square footage of the workspaces.</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.</p>

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 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 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 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 8-4B,

and 8-4D. Compliance can be met by providing additional vehicular parking; providing a scale and form more align with the existing and planned neighborhood.

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.

This signature verifies that this decision document has been reviewed and approved

by the Design Review Committee Date