

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:)	DSRFY2022-0022
)	
Design Review)	FINDINGS OF FACT,
233 & 311 E. 47 th Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Design Review Committee for consideration on February 6, 2023. 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 multi-family development with multiple structures.
2. There has been no denial of any Design Review application on this property within one year of this application.
3. The applicant is Katrina Klum.
4. The property owner of record is Fairview Acres 311 LLC.
5. The location of the project is:
 - a. 233 E. 47th Street; Ada County Assessor parcel number R2734523676 NUMBER; described as LOTS 21 & 22 BLK 26 FAIRVIEW ACRES SUB NO 3 #3670-3680-C;
 - b. 311 E. 47th Street; Ada County Assessor parcel number R2734523661; described as LOT 20 BLK 26 FAIRVIEW ACRES SUB NO 3.
6. The properties are legal lots of record.
7. The application is for a design review for the use of multi-family dwelling unit(s). The scope of the design review is limited to the entire property.
8. The subject properties are 2.06 acres.
9. The project is located in the R-3 Medium Density Residential.

- 10. The project is not located in a zoning overlay.
- 11. The project is located in the Mixed Use Commercial designation of the Garden City Comprehensive Plan Land Use Designation.
- 12. The project is in the 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 8-2B Base Zoning District Regulations
 - d. Garden City Code 8-2C Land Use Provisions
 - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - f. Garden City Code 8-4B-3 Single Family and Two-Family Attached and Detached Dwelling
 - g. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
 - h. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - i. Garden City Code 8-4D Parking and Off-Street Loading Provisions
 - j. Garden City Code 8-4E Transportation and Connectivity 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
- 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:
- Floor Plans;
 - Affidavit of Legal Interest;
 - Parking Study;
 - Arborist Report;
 - Fire Flow;
 - Open Space Diagram;
 - Sustainability Checklist;
 - Application;
 - Statement of Intent.
18. Agency Comments were received from:
- Ada County Highway District, dated January 30, 2023 (Drafted version; to be updated upon final version being submitted).
 - Garden City Engineer, dated January 7, 2023
 - Department of Environmental Quality, dated January 1, 2023
 - North Ada County Fire and Rescue, dated December 30, 2023
 - Republic Services, dated December 29, 2023
19. Written public comments were received from:
- None
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		10/12/2022
Letter of Acceptance	11/12/2022	11/09/2022
Radius Notice	01/22/2023	12/30/2022
Interested Parties	n/a	n/a
Legal Notice	01/18/2023	01/03/2023
Agency Notice	01/22/2023	12/29/2022
Property Posting Sign	01/27/2023	12/22/2022
Affidavit of Property Posting and Photos	01/30/2023	12/22/2022

21. On September 8, 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. Katrina Klum presented the application.
 - b. Discussion with the Design Review Committee included:
 - i. Northern property line doesn't have trees due to the open Thurman Mill irrigation.
 - ii. Street elevation of the units closest to 47th street are required to address the street. End unit could be a unique structure or design.
 - iii. Identify if the development's back structures are lost. There isn't a street, or a courtyard for the units to focus on. What is their amenity?
 - iv. Terminal views need to end in landscaping and beautification as opposed to dwelling unit garages. Is there opportunity where drive isle can become common open area with multi-uses?
 - v. Rooflines, hips, gables, and facial lines all need more depth and character.
 - vi. Parking reduction needs to be justified. Transit line has been removed and no longer opportunity.
 - vii. Pedestrian connectivity will be implemented through the long block in association with the adjacent property (DSRFY2022-2023).
22. On January 3, 2023, a public hearing before the Design Review Committee was held and the application was moved to the date certain of February 6, 2023 due to noticing errors.
23. On February 6, 2023, a public hearing before the Design Review Committee was held:
 - a. This section will be completed after the hearing.
24. The record contains:
 - a. Application Documents
 - b. Noticing Documents
 - c. Agency Comments
 - d. Written Public Comments
 - e. Staff report
 - f. September 8, 2022, Design Review Committee Pre-Application Minutes and Audio
 - g. January 3, 2023, Design Review Committee Hearing Minutes and Audio
 - h. February 6, 2023, Design Review Committee Hearing Audio and Minutes
 - i. Design Review Committee Signed Findings of Fact, Conclusions of Law and Decision
25. Required Findings: In order to approve a design review application after a recommendation by the design review consultant(s), the decision maker shall make a determination with written reasoned statements on 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: 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 shall comply with all design standards in this Title.</p> <p>Explanation:</p> <p>In Approval: As proposed and conditions, 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 R-3 zoning district. The proposed multi-family development is a permitted use within the zoning district.</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 8-2C-15, 8-4A-9, 8-4B-4, 8-4D-5, and 8-4I-5.</p>
<p>X</p>		<p>X</p>	<p>Finding 2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site.</p> <p>Explanation:</p> <p>In Approval: This proposal will not unreasonably diminish the health, safety, or welfare of the community as proposed and conditioned. The proposed pedestrian pathway connection to the adjacent property on 46th Street will enhance the</p>

			<p>overall connectivity of the neighborhood by providing a cross access within a long subdivision block.</p> <p>Additionally, the proposed amenities of the development promote community wellbeing and open spaces.</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 parking needs of the development, not utilizing the existing open irrigation facilities as a community amenity, and not providing enough privacy elements between the development and the neighboring properties.</p>
X		X	<p>Finding 3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise river and waterways, canals, and other surface irrigation.</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 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>

			LIST REASONS.
X		X	<p>Finding 4. The proposed design shall be compatible with the neighborhood in scale and intensity.</p> <p>Explanation:</p> <p>In Approval: The application meets this finding. The application proposes a new pedestrian pathway connecting 47th Street to an adjacent property with a public cross access easement to 46th Street. As conditioned, the site promotes non-vehicular modes of transportation.</p> <p>In Denial: The proposal does not include any augmentation of accessibility to public modes of transportation nor does it improve the accessibility of development to non-motorized modes of transportation.</p>
X		X	<p>Finding 5. The proposed design shall not create an adverse impact on the surrounding neighborhood.</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> <p>In Denial: The application is not conducive with to development in a node as envisioned in the Garden City Comprehensive Plan.</p> <p>LIST REASONS.</p>
X		X	<p>Finding 6. The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood.</p>

			<p>Explanation:</p> <p>In Approval: The proposed design, as conditioned in this decision, meets this finding by developing a currently low-density residential lot while maximizing pedestrian circulation through a system of pathways and plaza space that which connect the development to adjacent developments.</p> <p>In Denial: The proposed design does not support a compact development pattern that enables intensification of development and changes over time. LIST REASONS.</p>
X		X	<p>Finding 7. The proposed design and landscape shall improve the design and function of the site and be consistent with the southwest Idaho climatic conditions; and</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 are conditioned to meet the requirements of 8-4I and pedestrian connectivity meets the requirements of 8-4E.</p> <p>In Denial: The proposed landscaping is inadequate, and does not meet code requirements. The proposed landscaping does not promote pedestrian activity throughout the site, nor does it promote urban tree canopies which provide shade and climactic benefits.</p>

26. 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 existing Fairview Acres irrigation ditch is permitted to be tiled based on the Design Review Committee's determination per Garden City Code 8-4A-9:
 - a. The irrigation ditch, lateral, canal, or drain is enclosed on both ends adjacent to the property, and the adjacent properties are fully developed in a manner that future opening of the enclosed irrigation ditch, lateral, canal, or drain is infeasible.
3. The site is permitted to have a maximum parking deficiency of 8 vehicular parking spaces based on Garden City Code 8-4D-6 Standards for Alternatives to On-Site Parking if the site provides:
 - a. Ride-share parking space;
 - b. E-bike parking facilities;
 - c. Scooter parking facilities.
4. The northern property boundary line is permitted to not include the required perimeter screening trees due to conflict with GIRR utilities.

Prior to Building Permit Issuance:

1. A lot line consolidation shall be applied for review. The record of survey shall be recorded with the county prior to construction.
2. An updated sustainability checklist shall be provided, and the application shall provide the minimum number of points as required per the checklist.
3. The landscaping shall be compliant with Garden City Code 8-4I Landscaping and Tree Protection Provisions:
 - a. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.

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. The buildings interior to the development must be 10' apart from one another.
4. 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.
- 5.
6. Any existing chain-link fence, chain-link with slats fence, barbed wire fence, or any other prohibited fencing materials according to GCC 8-4A-3 shall be removed and replaced with code compliant materials. All proposed fencing shall be compliant with GCC 8-4A-3 Fences and Walls.
7. There will be a minimum of 10 bicycle parking spaces provided.
8. The pedestrian pathway system shall be designed to connect to adjacent private property, trails, plazas, and open space areas.
 - a. The pedestrian pathway shall stub in with the adjacent public access pathway associated with DSRFY2022-0023 located at 306 E. 46th Street.
 - i. The pedestrian pathway shall be installed so that the hardscape transitions between the two properties is even.
 - b. A public pedestrian and bicycle cross access easement shall be provided through the site to connect 47th Street with the adjacent public pedestrian access easement.
 - i. The location of the pathway shall be designed in a direct manner and not involve a significant amount of out of direction travel for likely users.
 - c. The pathway shall be a minimum of 5' wide.

- d. The public pedestrian and bicycle cross access easement shall be a minimum of 5' wide.
 - e. Pedestrian amenities shall be provided along the pathway to support defensible space, crime prevention, pedestrian comfort and accessibility.
9. Contrasting hardscape material shall be installed at the drive aisles to better identify the pedestrian crossings within the development.
10. Perimeter landscaping shall be installed along all property boundaries in accordance with Garden City Code 8-41-5 Perimeter Landscaping Provisions unless otherwise provisioned in this document.
 - a. The northern and portions of the eastern property boundaries perimeter landscaping shall consist of screening vegetation to enhance the privacy between the subject property and those adjacent.
 - b. Landscape shall consist of both evergreen and deciduous plants.
11. Mitigation shall be required for all existing trees four-inch (4") caliper or greater that are removed or damaged from the site.
 - a. Mitigation shall be replacement of the total calipers lost on site up to an amount of one hundred percent (100%) replacement.
 - b. 179.75 caliper inches shall be mitigated for.

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: enclosed bike storage public art visible or otherwise usable by the public and outdoor kitchen/ BBQ area;
 - b. Open space: plaza area with fire pit and benches;
 - c. Recreation amenities: children's play structures and sports courts.
2. A property management office must be on site, and tenants, and outside members of the public or police must be able to get a hold of emergency services 24- hours of the day.
3. A maintenance storage area must be provided.
4. A central mailbox location is provided in accordance with this approval.
5. A directory and map of the development is located at the entrance or convenient location for those entering the development.
6. All roof and wall mounted mechanical, electrical, communications, and service equipment should be screened from public view from the adjacent public streets and properties by the use of parapets, walls, fences, enclosures, or by other suitable means.

7. Any future fence or wall will be required to be in compliance with code at the time of development.

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.

February 6, 2023

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) e.g. 1,2,3 because it is not in compliance with the Garden City Comprehensive Plan Sections X, Y, Z and Garden City code sections X, Y, Z. Compliance can be met by e.g., providing additional 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

DRAFT