

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:	)	DSRFY2022-0023
	)	
Design Review	)	FINDINGS OF FACT,
306 E. 46 <sup>th</sup> St	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
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THIS MATTER, came before the Garden City Design Review Committee for consideration on December 5, 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 for a design review for new construction of a multi-family development consisting of 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 Jorre Delgado.
4. The property owner of record is Batta Philipp.
5. The location of the project is 306 E 46<sup>th</sup> St; Ada County Assessor parcel number R2734523571.
6. The property is a legal lot of record.
7. The application is for a design review for the use of Multi-Family Townhomes. The scope of the design review is limited to the Entire Property.
8. The subject property is 0.680 acres.
9. The project is located in the R-3 Medium Density Residential zoning district.
10. The project is located in the Mixed Use Residential Area 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 partially 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 8-4A Design and Development Regulations- General Provisions
  - c. Garden City Code 8-4B-3 Single Family and Two-Family Attached and Detached Dwelling
  - d. Garden City Code 8-4B-4 Multi-family Residential Dwelling Units
  - e. Garden City Code 8-4C Design Provisions for Nonresidential Structures
  - f. Garden City Code 8-4D Parking and Off-Street Loading Provisions
  - g. Garden City Code 8-4E Transportation and Connectivity Provisions
  - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - i. Garden City Code 8-4L Open Space Provisions
  - j. Garden City Code 8-6A-3 General Application Process
  - k. Garden City Code 8-6A-4 Required Application Information
  - l. Garden City Code 8-6A-5 Administrative Process with Notice
14. The following plans and policies apply to this proposal:
  - a. Garden City Comprehensive Plan
  - b. Garden City Sidewalk Policy
  - c. Garden City Street Light Policy
15. The applicant provided the following application information:

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

16. Additional application materials submitted include:
  - a. Application;

- b. Affidavit of Legal Interest;
  - c. Statement of Intent;
  - d. Sustainability Checklist;
  - e. Floor Plans;
  - f. Waiver request.
17. Agency Comments were received from:
- a. [Republic Services](#), dated October 19, 2022
  - b. [Garden City Engineer](#), dated November 6, 2022
  - c. [Boise Fire](#), dated November 7, 2022
  - d. Ada County Highway District.
18. Written public comments were received from:
- a. Noone
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		7/21/2022
Letter of Acceptance	8/20/2022	10/18/2022
Radius Notice	11/20/2022	11/15/2022
Interested Parties		NA
Legal Notice	11/16/2022	11/16/2022
Agency Notice	11/20/2022	10/19/2022
Property Posting Sign	11/25/2022	DATE
Affidavit of Property Posting and Photos	11/28/2022	DATE

20. On September 29, 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. Jorre Delgado presented the application.
    - i. Planning to pipe all the irrigation canals on the property.
    - ii. Front door is on the garage side.
    - iii. Garden beds are provided as private open space.
  - b. Discussion with the Committee included:
    - i. Flip the locations of the duplexes with the street front parking so that the parking is hidden behind the structures and the residences address the street.
    - ii. Additional glazing, pedestrian level-design, and architectural features is needed.
    - iii. Garage doors need glazing within them.
    - iv. Common open space vs. private open space map and calculations required.

- v. Front doors of each unit need a pathway to the public sidewalk through the site. This pathway needs to be noticeable and separated from vehicular uses.
  - vi. Terminal view from 46<sup>th</sup> Street requires improvement.
    - 1. Most extreme case would be elimination of the residential unit and replacement of landscaping.
  - vii. Rear facades of all units need to be submitted. Specifically, the rear facades of the units toward the back of the property. These are necessary considering they interact with the adjacent property and acts as its terminal view as well.
  - viii. Multi-family amenities need to be provided per code.
21. On December 5, 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. September 29, 2022 Design Review Committee Pre-application Minutes & Audio
  - g. December 5, 2022 Design Review Committee Hearing Minutes & Audio
  - h. Design Review Committee Signed Findings of Fact, Conclusions of Law, and Decision
23. 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:

**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.**

<b>GCC 8-6B-3 DESIGN REVIEW: REQUIRED FINDINGS</b>			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
<b>X</b>		<b>X</b>	<b>Finding 1.</b> The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district.

			<p><b>Explanation:</b></p> <p><b>In Approval:</b></p> <p>The application meets this finding. The application is in conformance all design standards in Garden City Code, Title 8.</p> <p><b>In Denial:</b></p> <p>The application is in not conformance with the reviewed sections of code noted in this decision including 8-2C-15, 8-4A-9, 8-4B-4, 8-4C-4, 8-4D-5, 8-4E-6, 8-4I-4, 8-4I-5, 8-4I-7, 8-4L-3, 8-4L-5</p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</p>
X		X	<p><b>Finding 2.</b> The proposed design adheres to standards for the protection of health, safety, and general welfare.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b></p> <p>This proposal will not unreasonably diminish the health, safety, or welfare of the community as defined in the purpose of the Local Land Use Planning Act, Idaho Code 67-6502.</p> <p><b>In Denial:</b></p> <p>The proposal will be detrimental to and unreasonably diminish the health, safety, or welfare of the community as defined in the purpose of the Local Land Use</p>

		<p>Planning Act, Idaho Code 67-6502 for the following reasons:</p> <p>The proposal fails to: <b>pick which applies</b></p> <p>(a) To protect property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks.</p> <p>(b) To ensure that adequate public facilities and services are provided to the people at reasonable cost.</p> <p>(c) To ensure that the economy of the state and localities is protected.</p> <p>(d) To ensure that the important environmental features of the state and localities are protected.</p> <p>(e) To encourage the protection of prime agricultural, forestry and mining lands and land uses for production of food, fiber, and minerals, as well as the economic benefits they provide to the community.</p> <p>(f) To encourage urban and urban-type development within incorporated cities.</p> <p>(g) To avoid undue concentration of population and overcrowding of land.</p> <p>(h) To ensure that the development on land is commensurate with the physical characteristics of the land.</p> <p>(i) To protect life and property in areas subject to natural hazards and disasters.</p> <p>(j) To protect fish, wildlife, and recreation resources.</p> <p>(k) To avoid undue water and air pollution.</p> <p>(l) To allow local school districts to participate in the community planning and development process so as to address public school needs and impacts on an ongoing basis.</p> <p>(m) To protect public airports as essential community facilities that</p>
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			<p>provide safe transportation alternatives and contribute to the economy of the state.</p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</p>
X		X	<p><b>Finding 3.</b> The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b></p> <p>The application is in conformance with the vision set forth in the Comprehensive Plan's Land Use Designations:</p> <p>a) Mixed Use Commercial</p> <p><b>In Denial:</b></p> <p>The application is not in conformance with the vision set forth in the Comprehensive Plan's Land Use Designation:</p> <p>b) Mixed Use Commercial</p> <p><b>List why.</b></p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, since the use is not</p>

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DSRFY2022-0019; Adams St. Apartments; 4044 N Adams St

			allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.
X		X	<p><b>Finding 4.</b> The proposed design improves the accessibility of development to non-motorized and public modes of transportation.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The proposed design improves the accessibility of development to non-motorized and provides a framework for future public transportation.</p> <p><b>In Denial:</b> The proposed design does not improve the accessibility of development to non-motorized and public modes of transportation. <b>List why</b></p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</p>
X		X	<p><b>Finding 5.</b> The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> This application is conducive to development in a node pattern as envisioned in the Garden City Comprehensive Plan.</p>



			<p><b>In Denial:</b> The proposed design does not create an adverse impact on the surrounding neighborhood because <b>LIST REASONS.</b></p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</p>
X		X	<p><b>Finding 6.</b> The proposed design supports a compact development pattern that enables intensification of development and changes over time.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The proposed design, as conditioned in this decision, meets this finding.</p> <p><b>In Denial:</b> The proposed design does not support a compact development pattern that enables intensification of development and changes over time because <b>list why</b></p> <p><b>AND/OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</p>
X		X	<p><b>Finding 7.</b> The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and encourages</p>

			pedestrian activity.
			<p><b>Explanation:</b></p> <p><b>In Approval:</b> 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><b>In Denial:</b> By not being compliant with the code required landscape provisions for trees, the proposed landscaping is inadequate for the climate.</p> <p><b>OR</b></p> <p>The application is not in conformance with Garden City 8-2B in that it is not an allowed use in the zoning district. Subsequently, per GCC 8-1A-4.A.1, since the use is not allowable, the proposed application is not appropriate, and the committee is unable to provide a determination on the application.</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.

#### Prior to Construction:

1. The canals on site shall remain untiled.
2. A revised landscaping plan shall be provided showing:
  - a. A minimum of 31 trees.
  - b. A minimum of 80 square feet of private open space for each unit.
  - c. A minimum of 5,550 square feet of common open space.
  - d. A 5' detached sidewalk, detached sufficiently to meet ACHD's requirements to allow for the required street trees to be between the sidewalk and travel way.
3. A corrected affidavit of legal interest shall be submitted.
4. A public access easement shall be provided from E. 4<sup>th</sup> Street the entire northern property boundary to the property line to accommodate the pathway.
5. The public access shall be constructed to a minimum of 12'<sup>5</sup>/<sub>8</sub> in width.
6. Should a future a future master sign plan be proposed in conjunction with this application, it shall be submitted prior to the issuance of a building permit. This provision does not preclude a future master sign plan, however if not completed prior to building permits it will be processed as a separate application.
7. A building permit shall be applied for and approved by Garden City Development Services Department.
8. A full mitigation plan and certified arborist report shall be submitted and approved by staff prior to the issuance of a building permit.
9. The structure shall be built with the lowest floor and all mechanical equipment to be at least at or above the base flood elevation as identified in the most recent FEMA flood model of the Lower Boise River or a floodplain acknowledgement shall be recorded with Ada County Records.
10. All existing and future fencing shall be found in conformance with Garden City Code 8-4A-3.
  - a. If the an existing fence to remain is not code complaint and not owned by the property owner, the property owner must submit:

- i. A certified letter to the owner of record of the adjacent property noting the intent to remove the fence unless the owner of the fence provides notarized documentation acknowledging full ownership of the fence.
  - ii. A notarized document to the city relinquishing all interest to the fence.
11. 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.
12. The will serve, approved addresses, lighting plan, irrigation letter shall all be submitted with or before the submittal of building permits. Building permits will not be issued unless the documents are found to be code compliant.

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. There will be a minimum of 39 vehicular parking spaces provided; with 17 to be enclosed.
6. There will be a minimum of 3 bicycle parking spaces provided.

Site Specific Requirements for the Duration of the Use:

1. The following amenities shall be provided or replaced so as to maintain an amenity from at least two categories of amenity as identified in Garden City Code:
  - a. Quality of life amenities provided: art that is visible to the public.
  - b. LIST
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. The required clear vision triangle shall be maintained.

### **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 lighting shall be compliant with GCC 8-4A-4 Outdoor Lighting.
4. 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.
5. All utilities in the right-of-way adjacent to the site and on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
6. 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.
7. 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.
8. 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.
9. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
10. 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.
11. 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.
12. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
13. 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.
14. 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.
15. 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.
  16. The landscape installation shall stabilize all soil and slopes.
  17. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
  18. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
  19. 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.
  20. Property Maintenance Standards shall be maintained as required by Garden City Code.
  21. The property owner is responsible for the maintenance of all landscaping and screening devices required.
  22. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
  23. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
  24. All stormwater systems must comply with Garden City Code 8-4A-7.
  25. 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.
  26. 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.
  27. 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.
  28. Occupying the site prior to Certificate of Occupancy is a criminal offense.
  29. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.
  30. 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.

31. 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.

Date

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This signature verifies that this decision document has been reviewed and approved by the Design Review Committee

### **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., meeting 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) daytime 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