



## CITY OF GARDEN CITY

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### MEMORANDUM

Date: For November 13, 2023  
To: Mayor and City Council  
From: Jenah Thornborrow, Development Services Director  
RE: Public Hearing: Objection of Design Review approval of DSRFY2023-0007

#### REQUESTED ACTION

Provide a *de novo* public hearing, review, and render a decision of an appeal of design review approval, file DSRFY2023-0007 for the new construction of an eating establishment, limited services, food products, and small-scale processing.

#### BACKGROUND

The Design Review Consultants reviewed DSRFY2023-0007, new construction for an eating establishment, limited services, and food products, small-scale processing on September 18, 2023. It was then approved by Garden City Associate Planner, Hanna Veal. Scott Leap, representing River City Annex LLC<sup>1</sup>, contacted the Garden City Development Services Department on September 19, 2023, and again on September 21, 2023, noting opposition to the proposed parking associated with the application. On October 2, 2023, Fred and Frances Oliver appealed the approval of file number DSRFY2023-0007. On November 6, 2023, additional appeal materials were submitted by Abigail R. Germaine with Elam & Burke Attorneys at Law.

Per GCC 8-6A-5 if a person with standing objects, then a public hearing will be held. On October 23, 2023, the City Council found the objection to be timely and a *de novo* public hearing was noticed for November 13, 2023.

#### OBJECTION<sup>2</sup>

1. The provided number of parking spaces is insufficient for the seating that will be provided.
2. There is no access to Osage and unsafe ingress and egress.<sup>3</sup>

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<sup>1</sup> Fred Oliver is the registered agent with the Idaho Secretary of State's Office for River City Annex, LLC.

<sup>2</sup> The objection has been rephrased in this memorandum. The intent of the rephrasing of the objections is to provide a condensed summarization. The appeal documentation is included as part of the record documents and should be reviewed by the Council.

<sup>3</sup> This objection is taken from correspondence provided by Scott Leap rather than the filed appeal. It is then further iterated in the documentation provided by Abigail R. Germaine with Elam Burke in her discussion regarding access to Chinden.

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#### **ALLEGED ADVERSE IMPACT OF DECISION<sup>4</sup>**

1. Economic and goodwill loss within the community will impact the adjacent Stagecoach Inn restaurant.

#### **APPELLANT PROVIDED EVIDENCE TO SUPPORT ERRORS OF DECISION<sup>5</sup>**

1. Reference to other municipalities' codes and the International Zoning Code
2. Idaho Climate information
3. Historical accounting of Stagecoach's operations regarding parking
4. Application record documents
5. Garden City Code
6. Garden City Comprehensive Plan

#### **REVIEW OF APPLICATION OF CODE**

Review of the code is provided in the linked [staff report](#) on pages 6-15. The objection is regarding parking. The staff's review of [Garden City Code \(GCC\) 8-4D Parking And Off-Street Loading Provisions](#) is found on pages 11-12 of the staff report.

Staff identified the proposed uses as Eating Establishment, Full Service and Food Products Processing, and Small-Scale. An Eating Establishment, Full Scale is identified in **GCC Table 8-4D-3** as a high parking need, necessitating 1 motor vehicle space per every 500 gross square feet dedicated to the use. **GCC Table 8-4D-3** also identifies Full Service and Food Products Processing, Small-Scale as a medium parking need, necessitating 1 motor vehicle parking space per every 1000 square feet dedicated to the use.

The staff report identifies 4,698 square feet dedicated to the Eating Establishment, Full-Service use, and 3,030 square feet dedicated to Food Products Processing, Small-Scale use. This results in 4,698 square feet divided by 500 square feet equaling 9 spaces required for the Eating Establishment, Full-Service use and 3,030 square feet divided by 1000 square feet equaling 3 spaces required for the Food Products Processing, Small-Scale use. This is a total of 12 motor vehicle spaces that are required for the site per **GCC 8-4D-5 Required Number of Off-Street Parking Spaces**. The application provides for 20 spaces resulting in an excess of 8 spaces. Subsequently, the staff report concludes that the application is compliant with the required number of parking spaces.

There were two questions that were subsequently posed.

1. Why wasn't the calculation for Eating Establishment, Full Service applied to the entire structure?
2. Why wasn't a cross-parking agreement required?

**8-4D-5.D. Calculation Of Required Spaces** notes that if more than one use is located on a site, the number of required parking spaces shall be equal to the sum of each use. All the same, if this calculation<sup>6</sup> had been utilized, the site would still be in excess of four spaces. A cross-

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<sup>4</sup> The perceived impact has been rephrased in this memorandum. The intent of the rephrasing of the perceived impact is to provide a condensed summarization. The appeal documentation is included as part of the record documents and should be reviewed by the Council.

<sup>5</sup> The evidence has been rephrased in this memorandum. The intent of the rephrasing of the evidence is to provide a condensed summarization. The appeal documentation is included as part of the record documents and should be reviewed by the Council.

<sup>6</sup>  $7,728/500 = 15.5$  (16 required spaces after rounding up)  
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parking agreement was not required as the parking was determined to be compliant with code as proposed.

Excerpts of the code are below:

**Table 8-4d-3 Required Motor Vehicle Parking Spaces For Nonresidential Uses**

<b>Parking Demands</b>	<b>Uses</b>	<b>Minimum Number of Spaces Required</b>
High	...Eating establishment, full service...	1 space per every 500 gross square feet
Medium	...Food products, small-scale processing...	1 space per every 1,000 gross square feet

**8-4D-5.D. Calculation Of Required Spaces:** The number of required parking spaces shall be calculated according to the following rules:

1. **Use Determination:** The use or uses as defined in section 8-7A-1 of this title, Definitions Of Uses, that best describe the proposed use or uses shall be utilized. If a proposed use is not specifically listed, the decision-maker will determine and utilize the parking ratio of a defined use that is most like the proposed use. If no use is specified, the high parking demands category of Table 8-4D-3 will be utilized.
2. **Square Footage Determination:** The area to be included in the calculations when based on square footage shall be the gross area dedicated to a use.
3. **Fractions:** If the calculation of required parking results in the requirement of a fractional space, such fraction, if one-half (0.5) or greater, shall be considered one (1) additional space; if the fraction is less than one-half (0.5), it shall result in no additional spaces.
4. **Sites with Multiple Uses:** If more than one (1) use is located on a site, the number of required parking spaces shall be equal to the sum of each use.

## GCC 8-7A-1 Definition of Uses

### Eating Establishment, Full Service:

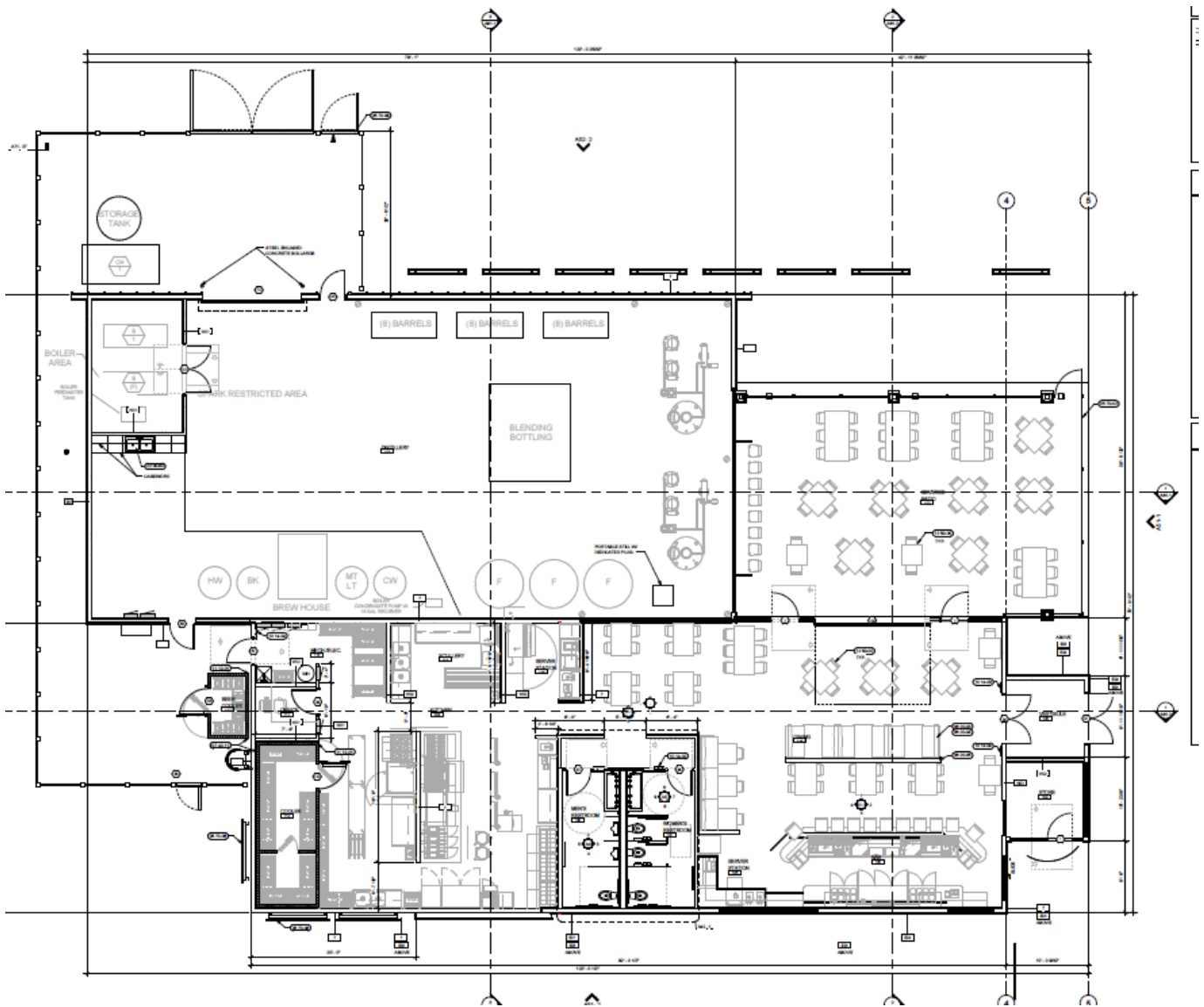
The use of a site for an establishment where a full range of food items are prepared, served, and consumed by patrons. The serving of alcoholic beverages may also be provided but is secondary to the service of food. The term includes cafe, caterer, diner, eatery, grill, restaurant, and steakhouse.

### Food Processing, Small-Scale:

The use of a site for producing, manufacturing, or processing food products on a boutique or small scale and limited production. The use often contains a tasting or dining area. The use includes, but is not limited to, catering, smoking, and curing, canning, and preserving, confectioneries, brewing, and winemaking.

The below images are of the application materials identifying the square footage and the floor plan.

PROJE	3100 WEST CHINDEN BLVD, GARDEN
CONSTR	
OCCUP	A-2: ASSEMBLY F-1: MODERATE-HAZARD FACTORY
2018 INTERNATIONAL BUILDING CODE (IBC) 2018 INTERNATIONAL ENERGY CONSERVATION CODE (IECC) 2018 INTERNATIONAL MECHANICAL CODE (IMC) 2018 INTERNATIONAL FUEL GAS CODE (IFGC) 2017 NATIONAL ELECTRICAL CODE (NEC) 2017 IDAHO STATE PLUMBING CODE (ISPC) 2018 INTERNATIONAL FIRE CODE ICC A117.1	
ALLOWABLE AREA (PER IBC 2018 SECTIONS 503, SECTION 506, TABLE 503) ALLOWABLE AREA: 24,000 SF BASED ON A-2 OCCUPANCY	
SQUARE FOOTAGE:	
TOTAL A-2: ASSEMBLY AREA:	4,698 SF
TOTAL F-1: INDUSTRIAL AREA:	3,030 SF
ALLOWABLE STORIES: NUMBER OF STORIES:	2 1
ALLOWABLE HEIGHT ABOVE GRADE:	
ACTUAL HEIGHT ABOVE GRADE:	
NON-SEPARATED OCCUPANCY PER IBC 508.3 FIRE SPRINKLERS:	
FIRE ALARM: NOT REQUIRED FOR A-2 OCCUPANCY PER IBC 907.2.1 NOT REQUIRED FOR F-1 PER IBC 907.2.4	
OCCUPANT LOAD CALCULATION DINING: ASSEMBLY UNCONCENTRATED (TABLE AND CHAIRS): KITCHEN, COMMERCIAL: OUTSIDE PATIO: F-1 DISTILLERY SPACE: TOTAL:	



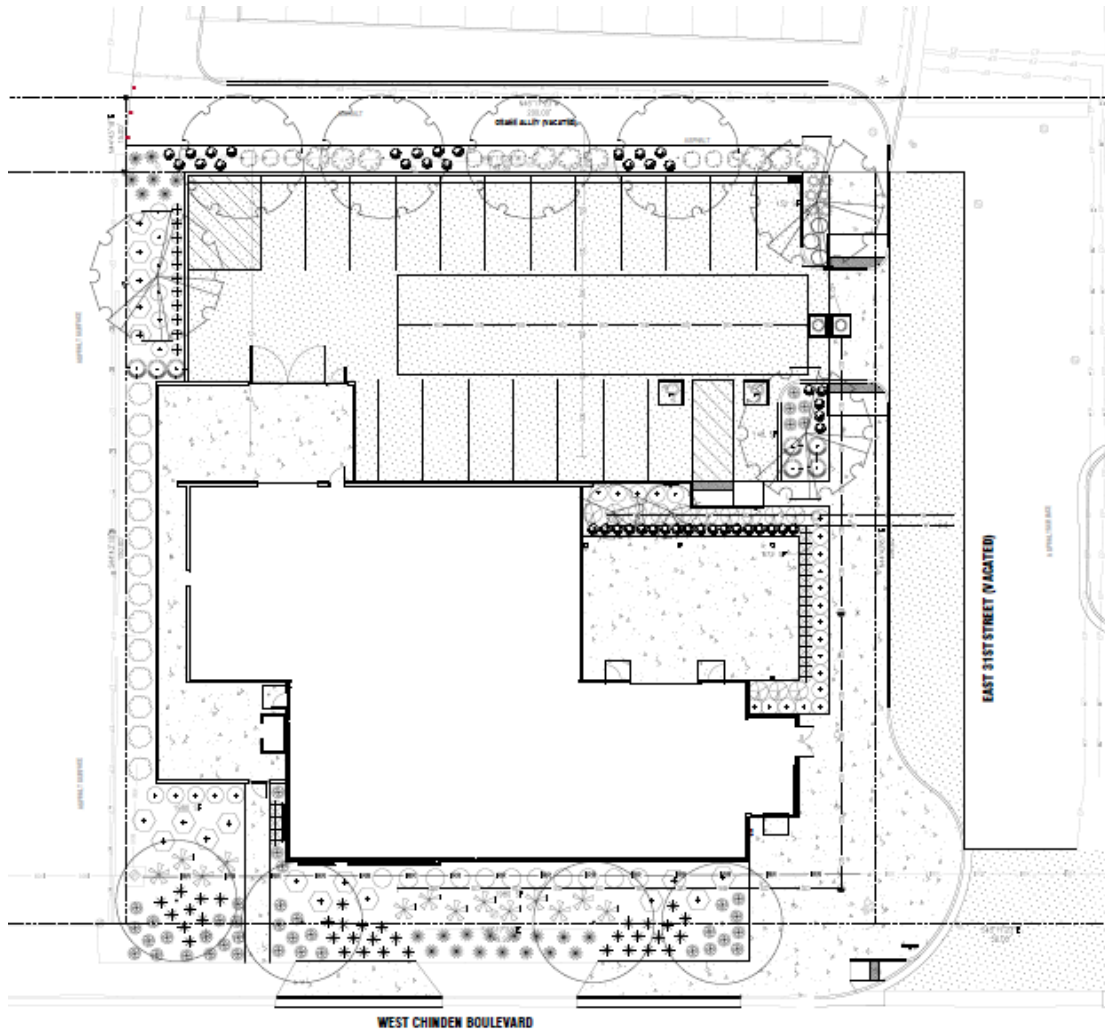
**REVIEW OF ACCESS**

The only motor vehicle access is from the previously vacated 31<sup>st</sup> Street that connects to Chinden Boulevard. Due to the positioning of the structure and landscaping, there is no other motor vehicle access that can occur to the site. There will be two direct motor vehicle access points onto Chinden Boulevard that will be abandoned.

Consolidation of access points is generally considered to be best practice. The linked [Federal Highway Administration Access Management in the Vicinity of Intersections](#) publication notes:

*It is desirable to minimize the number of conflict points created with existing and future driveways since more conflict points increase the risk of a crash occurring.*

The below image is the site plan.



## **PROCEDURES**

As this appeal will be a *de novo* public hearing, it is suggested that the standard [public hearing procedures](#) be utilized. Any Councilmember with a conflict of interest or bias should declare the conflict and recuse themselves prior to the hearing. Similarly, Council members should disclose any communication that they have had that is not a part of the record.

## **ACTIONS**

Typically appeals are on the record and deference is given to the decision maker. However, this appeal has been processed as a *de novo* public hearing. The Council shall consider all evidence in the record when rendering their decision.

The draft decision with the required findings drafted in the affirmative denies the appeal and sustains the staff decision. The draft decision with the required findings noted as disaffirming grants the appeal and rejects the staff decision. The City Council may also remand the application to staff for further review or continue the matter. The draft decision document is not intended to provide a predetermined decision. It may be amended by the City Council upon the review of this matter.

**ATTACHMENTS:**

- Appeal documents
- Garden City Legal Opinion
- Draft potential decision
- Application plan set
- Staff report and decision

**LINKS:**

[Entire file including record materials and appeal documentation](#)

[Public hearing procedures](#)