

BEFORE THE CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	DSRFY2024-0006
	)	
Amendments	)	
Streetscape Requirements, Res 1062-19	)	FINDINGS OF FACT,
East 33 <sup>rd</sup> Street	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION
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THIS MATTER came before the Garden City Council for consideration on March 25, 2024. The City Council reviewed the request. Based on the evidence presented, the City Council makes the following Findings of Fact, Conclusions of Law, and Decision:

**FINDINGS OF FACT**

1. The request is to amend Resolution 1062-19, an adopted streetscape plan for 33<sup>rd</sup> Street and 35<sup>th</sup> Street from Chinden Boulevard to the Boise River and Clay Street from 32<sup>nd</sup> Street to 37<sup>th</sup> Street to remove the requirement for detached sidewalks and allow for the sidewalk furniture zone<sup>1</sup> to be back of sidewalk on East 33<sup>rd</sup> Street.
2. The requestor is Jason Jones with Wee Boise Inc.
3. The request is not consistent with the requirements for sidewalks in the Garden City Code.
4. Garden City Code 8-4E-6.C requires detached sidewalks unless in conflict with a street plan adopted by the transit authority and/or the city or there is existing attached sidewalk on both sides adjacent to the property.
5. Garden City Code 8-6A-10.C. requires that projects conform with an approved development application and states that any changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
6. Garden City Code 8-6B-5.C.2 provides a pathway for prospective applicants outside of City personnel to petition for a development code amendment.
7. Garden City Code 8-6B-9 governs the application requirements and processes for a variance if modifications for provision within the code need to be requested.

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<sup>1</sup> The furniture zone is the section of the sidewalk between the curb and the through zone in which one typically sees street furniture and amenities, such as lighting, benches, newspaper kiosks, utility poles, trees and landscaping, and bicycle parking are provided. In Garden City this is the desired location for the code required street trees.

8. On February 13, 2024, the Garden City Design Consultants indicated that a code amendment or Master Street Plan that could be adopted by Garden City and ACHD would be a more appropriate tool to utilize to request changes to street design standards.
9. The request was processed as a public hearing.
  - a. All property owners within 300' of East 33<sup>rd</sup> Street were notified on February 20, 2024.
  - b. An Agency referral was sent on February 20, 2024.
  - c. A notice of hearing ran in the Idaho Statesman on February 23, 2023.
10. Agency Comments were received by:
  - a. The Design Review Consultants<sup>2</sup>
  - b. Idaho Transportation Department
  - c. Idaho Department of Environmental Equality
  - d. City Engineer
  - e. Boise Fire
11. On March 11, 2024, the City Council held a public hearing:
  - a. Jason Jones presented the request.
  - b. Jenah Thornborrow provided a staff report.
  - c. Public Testimony was heard by:
    - i. Hannah Ball in favor of the request.
    - ii. Louis Landry in opposition to the request.
    - iii. Jessica Barns neutral to the request.
  - d. The Council called on Kristy Inselman and Rebecca Philips with ACHD.
  - e. Discussion included:
    - i. The Garden City Code is in place.
    - ii. Desire that Garden City and ACHD can work together to identify a design that will work.
    - iii. A long-term view should be taken.
    - iv. Question if the application is a request governed by Idaho Code 67-65.
  - f. Council Member Jorgensen moved to continue the application to a date certain of March 25, 2024, to determine if this is a matter that is under LLUPA.
  - g. Council President Page seconded the motion.
  - h. The motion passed on a 4/0 vote.
12. On approximately March 21, 2024, the City Attorney provided a Legal Memorandum to the City Council. The City Attorney recommended the City Council not consider the merits of the application because the application is an improper process to change street design.

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<sup>2</sup> Verbal Review

13. On March 25, 2024, Council President Page moved to decline to consider the application without prejudice. Councilmember Jacobs seconded the motion. The motion carried on a 3/0 vote.

14. The record contains:

- a. Request.
- b. Agency Comments.
- c. Public Comments.
- d. Staff Memorandum.
- e. Noticing Documents.
- f. Transcribable record of public hearing.

### CONCLUSIONS OF LAW

The City Council reviewed the application and concludes that the application was accepted in error. The requested change under the application would conflict with the Garden City Code. Amendment to a resolution is not the appropriate process to change Garden City Code, Title 8 "Development Code."

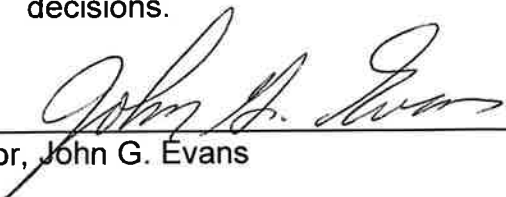
### REASONED STATEMENT

The applicant's request would be inconsistent with the requirements in the Garden City Code. A better vehicle to make this request would be through a code amendment request or a request to modify his specific parcel under the applicable procedures set forth in Garden City's Code. A reasoned statement is otherwise not required because the request is for legislative action, and the City Council need not reach the merits of the application.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council does hereby **Decline to Consider** this request.

1. The Application, DSRFY2024-0006, was accepted in error and the Council declines to consider it.
2. This decision is not under LLUPA.
3. Final decisions under LLUPA may be subject to judicial review pursuant to the Idaho Code.
4. A takings analysis pursuant to Idaho Code may be requested on certain final decisions.

  
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Mayor, John G. Evans

3/25/2024

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Date