

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:)	REZONE2020-08)
Planning and Zoning)	FINDINGS OF FACT,	
3801 N. Adams St.)	CONCLUSIONS OF LAW	
Garden City, Ada County, Idaho)	AND DECISION	
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THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on August 19, 2020. The Planning and Zoning Commission reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The application is for a rezone for zoning ordinance R-3 to be changed to C-2.
2. The applicant is Robert O'Dell.
3. The property owner of record is Deslyn O'Dell.
4. The location of the project is 3801 n. Adams St.; Ada County Assessor parcel number(s) R2734502637
5. The property is a legal lot of record.
6. The scope of the rezone is limited to the entire property.
7. The subject property is 0.445 acres.
8. The project is located in the R-3 Medium Density Residential
9. The project is located in the Main Street Corridor and Mixed-Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the AE flood hazard category according to the 2003 FIRM.
11. The project is in the AE flood hazard category according to the 2017 FIS.
12. 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 8-1C-3 property Maintenance Standards
- d. Garden City Code 8-2B-1 Purpose
- e. 8-2B-2 Allowed Uses
- f. Garden City Code 8-2B-3 Form Standards
- g. Garden City Code 8-6A-3 General Application Process
- h. Garden City Code 8-6A-4 Required Application Information
- i. Garden City Code 8-6A-7 Public Hearing Process

13. 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
- d. Old Town Circulation network plan

14. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			Application Information
Provided			
Yes	No	Waived pursuant to GCC 8-6A-4	
X			Compliance Statement
X			Preliminary Title Report
X			Neighborhood Map
		X	Master Plan
		X	Site Plan
X			Topographic Survey
		X	Natural Hazard and Resources Analysis
		X	Dedications and Easements

15. Additional application materials submitted include:

- a. 300' Neighborhood List;
- b. Affidavit of Legal Interest;
- c. Application;
- d. Neighborhood Sign-In Sheet;
- e. Recorded Neighborhood Meeting;
- f. Statement of Intent.
- g. Waiver Request

16. There were no agency comments received.

17. Public comments were received from:

- a. Ada County Highway District on August 11, 2020.

18. 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 here	July 14, 2020	June 19, 2020
Letter of Acceptance (30 days after receipt of application)	August 14, 2020	July 22, 2020
Radius Notice (15 days prior to hearing)	August 4, 2020	July 23, 2020
Interested Parties		n/a
Legal Notice (19 days)	July 31, 2020	July 24, 2020
Agency Notice (15 days)	August 4, 2020	July 23, 2020
Property Posting Sign (10 days)	August 9, 2020	August 8, 2020
Affidavit of Property Posting and Photos (7 days)	August 12, 2020	August 4, 2020
Neighborhood Meeting	July 13, 2020	July 8, 2020

19. On August 19, 2020, in accordance with GCC 8-6B-10, a public hearing before the Planning and Zoning Commission was held. The Commission provided the following comments and requests:

- a. This section will be completed after the hearing
- a. The record contains:
 - b. Application Documents
 - c. Noticing Documents
 - d. Agency Comments: None provided
 - e. Written Public Comments: None provided
 - f. Staff report
 - g. August 19, 2020 Planning and Zoning Hearing Minutes
 - h. August 19, 2020 Planning and Zoning Hearing Audio
 - i. Planning and Zoning Signed Findings of Fact, Conclusions of Law and Decision

20. In order to approve a rezone application, the Planning and Zoning Commission shall make the following findings:

The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided.

GCC 8-6B-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X		X	<p>Standard: The zoning map amendment complies with the applicable provisions of the comprehensive plan;</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.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</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.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>The zoning map amendment shall not be materially detrimental to, or impacts can be mitigated that affect, the public health, safety, and welfare or impacts;</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.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>The zoning map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts;</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.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>The annexation of land, if proposed, is in the best of interest of the city and complies with the procedures as set forth in Idaho Code section 50-222. .</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.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>

X		X	<p>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 application meets this finding. The application is in conformance with the reviewed sections of code noted in this decision.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>
X		X	<p>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: The application meets this finding. The application is in conformance with the reviewed sections of code noted in this decision.</p> <p>In Denial: LIST WHAT ACTIONS, IF ANY, THE APPLICATION COULD HAVE TAKEN TO OBTAIN APPROVAL.</p>

21. The record was reviewed by the Design Committee to render the decision.

CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code, and based on the conditions required herein, recommends to City Council that the application **meets/ does not meet** the standards of approval under **GCC 8-6B-10 Zoning Map Amendment and Annexation.**

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:

Prior to Occupancy:

1. The applicant shall submit a Record of Survey to the City depicting the scope of the zoning map amendment for review and approval. The approved Record of Survey shall be recorded prior to the City adopting the ordinance to rezone the property from R-3 Medium Density Residential to C-2 General Commercial.
2. This rezone decision document is not granting the approval of any specific use.
3. A development agreement shall be approved prior to the recording of the rezone ordinance. The purpose of the development agreement will be to allow for the property to limit uses and restrict height standards. The development agreement must be approved by the City Council.
4. The installation of a detached sidewalk and landscaping meeting the requirements of Garden city Code 8-4E-6 and the Garden City Policy shall be installed along 38th St.

General Requirements:

1. If this rezone is a result of a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.
2. 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.
3. 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.

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 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. 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.
23. 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.
24. 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.
25. Occupying the site prior to Certificate of Occupancy is a criminal offense.
26. 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.
27. 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 CONDITIONS FOR DENIAL DECISION

1. 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.
2. Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section 67-8003, Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section 67-

6521(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by chapter 52, title 67, Idaho Code.

3. 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.
4. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
5. 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