

BEFORE THE GARDEN PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:	)	DSRFY2024-0013
	)	
Design Review and	)	
Planned Unit Development	)	
575 E. 42 <sup>nd</sup> Street	)	FINDINGS OF FACT
Garden City, Ada County, Idaho	)	CONCLUSIONS OF LAW,
	)	ANDRECOMMENDATION
	)	

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THIS MATTER, came before the Garden City Planning and Zoning for consideration on September 18<sup>th</sup>, 2024. The Garden City Planning and Zoning Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Garden City Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Recommendation:

**FINDINGS OF FACT**

1. The application is for a Design Review processed as a Planned Unit Development.
2. The applicant is Jeff Hatch.
2. The property owner of record is TSJ LLC.
3. The location of the project is 575 E. 42<sup>nd</sup> Street; Parcel #R2734520952
4. The subject property is 2.616 acres.
5. The project is located in the Mixed Use Residential and Activity Node designations of the Comprehensive Plan Future Land Use Map.
6. The project is in the C-2 General Commercial Zoning District.
7. The project is in the:
  - a. 500 Year of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study).
  - b. 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
8. The following section of the Garden City Development Code apply to this proposal:
  - a. Garden City Code 8-6B-7: Planned Unit Development

- b. Garden City Code 8-1A: General Regulations
- c. Garden City Code 8-1B: Existing Nonconforming Properties, Structures, and Uses
- d. Garden City Code 8-1C: Property Maintenance Standards
- e. Garden City Code 8-2B: Base Zoning District Provision
- f. Garden City Code 8-4A: Design and Development Regulations – General Provisions
- g. Garden City Code 8-4C: Design and Development Regulations – Design Provisions for Nonresidential Structures
- h. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- i. Garden City Code 8-4E: Transportation and Connectivity Provisions
- j. Garden City Code 8-4F: Master Sign Program
- k. Garden City Code 8-4E: Flood Hazard
- l. Garden City Code 8-4I: Landscaping and Tree Protection Provisions
- m. Garden City Code 8-6A: Administration

9. The applicant provided the following application information:

<b>Materials Provided Per GCC Table 8-6A-2 Required Application Information</b>		
<b>Provided</b>		
Yes	No	NA
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	Verification that address is an Ada County Approved Address

10. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application		06/24/2024
Letter of Acceptance	07/24/2024	08/13/2024
Radius Notice	09/03/2024	07/16/2024
Legal Notice	08/30/2024	07/17/2024
Agency Notice	09/03/2024	07/16/2024
Property Posting Sign	09/08/2024	09/06/2024
Affidavit of Property Posting and Photos	09/11/2024	09/09/2024

11. Agency Comments were received from:

- a. Boise Fire, July 16<sup>th</sup>, 2024
- b. Republic Services, July 17<sup>th</sup>, 2024
- c. City Engineer, July 19<sup>th</sup>, 2024
- d. DEQ, July 24th, 2024
- e. ACHD, July 26<sup>th</sup>, 2024
- f. Garden City Chief of Police, September 5<sup>th</sup>, 2024

12. Written Public Comments were received from:

- a. Brad McGirr, July 29<sup>th</sup>, 2024
- b. Bill Truax, August 8<sup>th</sup>, 2024
- c. Dieter and Joni Leipf, August 23<sup>rd</sup>, 2024
- d. Alex Leipf, August 21<sup>st</sup>, 2024

13. On September 18<sup>th</sup>, 2024, the Garden City Planning and Zoning Commission recommended Denial of the application, a summary of the hearing is as followed: subject to the following conditions:

- a. Jeff Hatch presented the application.
  - i. Requested a 68% prohibited use allowance per the Planned Unit Development mechanism for storage.
- b. Staff Hanna Veal presented the staff report.
  - i. The site is under parked.
  - ii. Planned Unit Development only allows for 10% of the gross site area to be dedicated to prohibited uses so long as the Findings are met.
- c. Public testimony was heard from:
  - i. Ian Carroll, comment read into record by the Chairman, in opposition.
  - ii. Alexander Leipf, comment read into record by the Chairman, in opposition.
  - iii. Chris Taylor, in favor.
  - iv. Weston Ellerbroke, in favor.
  - v. Hamish Bell; in favor.
  - vi. Hayden Ferrell, in favor.
  - vii. Jeff banks, in favor.
  - viii. Brad McGirr via Zoom, in opposition.
- d. Jeff Hatch provided rebuttal:
  - i. Proposing a structure that is intended for self-storage right now. Future uses would be low and medium uses.
  - ii. Increased façade glazing to 15% per Design Review Consultants comments.
  - iii. Would be willing to get a traffic impact study done.
  - iv. Landscaping requirements would remain the same no matter what the use.
  - v. Request a waiver to the PUD 10% limitation to allow for 68%.
  - vi. Would consider a restriction to prohibit uses that are considered a high use per parking code.
- e. Public testimony was closed.
- f. Discussion included:

- i. Restrict the property so that high uses per parking code would not be permitted.
- ii. The site is deficient in parking.
- iii. Planned Unit Development code standards should not be waived.
- iv. The request for 68% of the site to be dedicated to self-service storage, which is a prohibited use in the C-2 Zoning District, should not be permitted because the Planned Unit Development only allows for 10%.
- v. Inappropriate waiver request.
- vi. Support the low traffic use due to the adjacent schools.
- vii. There is a need for climate-controlled self-storage in the neighborhood.
- viii. The proposal does not meet the intent or the findings of the Planned Unit Development.
- ix. Seems like trying to shoehorn a rezone into a Planned Unit Development. The Commission cannot condition the decision to achieve applicant's request. Using the Planned Unit Development in a way it is not designed for, in an attempt to sidestep zoning code.

- g. Commissioner Wilde moved to deny the application as drafted in the draft decision in the denial.
- h. Commissioner Brown seconded the motion.
- i. The motion carried unanimously.

14. The record contains:

- a. Application
- b. Noticing Documents
- c. Agency Comments
- d. Public Comments
- e. Design Review Consultation Audio: August 19, 2024, and September 16, 2024
- f. Planning and Zoning Minutes and Hearing Audio: September 18, 2024
- g. Planning and Zoning Commission Recommendation

15. In consideration of a planned unit development, the decision maker shall make the following findings:

GCC 8-6B-7: PLANNED UNIT DEVELOPMENT: REQUIRED FINDINGS			
Conclusion		Standard	
Compliant	Not Applicable to this Application	Not Compliant	
		X	<b>Finding 1.</b> The applicant has demonstrated that the proposed development can be initiated within two (2) years of the date of approval;

			<p><b>Explanation:</b>  <b>In Denial:</b>  The application has not provided documentation that the development will be initiated within two years of the date of approval.</p>
		X	<p><b>Finding 2.</b> Each individual unit of the development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which would not be achieved under standard district regulations;</p> <p><b>Explanation:</b>  <b>In Denial:</b>  If the entire project fails to be completed the components of the development cannot sustainably continue.</p>
		X	<p><b>Finding 3.</b> The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic and increased densities will not generate traffic in such amounts as to overload the street network outside the PUD;</p> <p><b>Explanation:</b>  <b>In Denial:</b>  The PUD subdivision development does not propose adequate parking and thus will cause congestion on the street. The functionality of the commercial spaces with the intent of using medium parking demand will cause an increase in traffic density which will cause an overload to the street network.</p>
		X	<p><b>Finding 4.</b> Any proposed commercial development can be justified at the locations proposed.</p> <p><b>Explanation:</b>  <b>In Denial:</b></p>

			<p>There is inadequate parking available to support the requested commercial component of this application.</p>
		X	<p><b>Finding 5.</b> Any exception from standard district requirements is warranted by the design and other amenities incorporated in the final development plan, in accordance with the PUD and the adopted policy of the council</p> <p><b>Explanation:</b>  <b>In Denial:</b>  The exception from standard district requirements is not warranted as there is inadequate demonstration that 8-6B-7 A is achieved. Subsequently, the proposal has not achieved the ability deviate from code standards. More specifically, the application does not create a more useful pattern of open space and recreational areas, establish a development pattern which utilizes the land more efficiently than what is achieved through conventional development, or provide a land pattern in harmony with transportation and community facilities.    Additionally, the application results in a proposal that is over taxing of the location and detracts from the adjacent recreational areas of the greenbelt, Boys and Girls Club, and Boise River that already exist.</p>
		X	<p><b>Finding 6.</b> The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;</p> <p><b>Explanation:</b>  <b>In Denial:</b>  The proposed development is not compatible with the surrounding uses nor the neighborhood's vision as identified in the Comprehensive Plan.</p>

		X	<p><b>Finding 7.</b> The PUD is in general conformance with the comprehensive plan;</p> <p><b>Explanation:</b>  <b>In Denial:</b>  The application is not cohesive with the Comprehensive Plan's Mixed-Use Residential future land use designation. The proposal does not achieve the necessary design standards to create a form and scale that is residential in character and design. The proposal exceeds the maximum height of two stories as identified in the Comprehensive Plan.</p> <p>Specific goals and objectives that are not met include:</p> <p><b>Goal 2. Improve the City Image</b></p> <ul style="list-style-type: none"> <li>2.3 Objective: Promote quality design and architecturally interesting buildings.</li> </ul> <p><b>Goal 7. Connect the City</b></p> <ul style="list-style-type: none"> <li>7.1 Objective: Create pedestrian and bicycle friendly connections.</li> <li>7.3 Objective: Protect neighborhoods from through traffic.</li> </ul>
		X	<p><b>Finding 8.</b> The existing and proposed utility services are adequate for the population densities and nonresidential uses proposed;</p> <p><b>Explanation:</b>  <b>In Denial:</b>  Without knowing the future uses of this building, it cannot be determined that the city has the ability to serve it.</p>
<b>GCC 8-6B-7 PLANNED UNIT DEVELOPMENT: When allowing for uses not otherwise permitted in the district, the commission shall make the additional findings</b>			
Conclusion			
Compliant	Not Applicable	Not Compliant	Standard

	To this Application		
		X	<p><b>Finding 1.</b> The uses are appropriate with the residential uses.</p> <p><b>Explanation:</b> <b>In Denial:</b> The PUD does not propose residential uses, however, the identified non-residential uses proposed are not appropriate for the surrounding residential neighborhood. Additionally, because the application does not specify the exact use other than self-service storage, it is unclear if any future use will be compatible with the neighborhood.</p>
		X	<p><b>Finding 2.</b> The uses are intended to principally serve the residents of the PUD.</p> <p><b>Explanation:</b> Not Applicable, there are no residential aspects to the PUD.</p>
		X	<p><b>Finding 3.</b> The uses are planned as an integral part of the PUD.</p> <p><b>Explanation:</b> <b>In Denial:</b> The proposed use of self-service storage is not an integral part of the PUD. The PUD could be considered complete without the requested prohibited use or rather the PUD would not be necessary.</p>
		X	<p><b>Finding 4.</b> The uses be located and so designed as to provide direct access to a collector or an arterial street without creating congestion or traffic hazards.</p> <p><b>Explanation:</b> <b>In Denial:</b> Without knowing the exact uses proposed as part of the PUD, it is difficult to determine if there will be traffic hazards or congestion.</p>
	X		<p><b>Finding 5.</b> A minimum of fifty percent (50%) of the residential development</p>

			<p>occurs prior to the development of the related commercial or industrial land uses.</p> <p><b>Explanation:</b> Not applicable, there are no residential aspects to the PUD.</p>
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
		X	<p><b>Finding 1.</b> The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p><b>Explanation:</b> <b>In Denial:</b> The application is not appropriate to the location or the neighborhood as the proposal is more intensive than what is envisioned by the Mixed-Use Residential future land use designation.</p>
		X	<p><b>Finding 2.</b> The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p> <p><b>Explanation:</b> <b>In Denial:</b> The application does not meet this finding as the proposed future uses were not all identified. Furthermore, the proposal is under parked.</p>
		X	<p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community;</p> <p><b>Explanation:</b> <b>In Denial:</b> Lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to and unreasonably diminish the health, safety, and welfare of the community.</p>

		X	<p><b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p><b>Explanation:</b>  <b>In Denial:</b>  Refer to Finding 8-6B-7 Finding 7.</p>
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16. The record was reviewed in its entirety by the Garden City Planning & Zoning Commission to render the decision.

## CONCLUSIONS OF LAW

The Garden City Planning & Zoning Commission reviewed the application with regard to Garden City Code, Title 8, and based on the conditions required herein, concludes the application does not satisfy the required findings under GCC 8-6B-2, and GCC 8-6B-7.

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and Decision, the Garden City Planning and Zoning Commission hereby recommends **denial** of application DSRFY2024-0013 for a Planned Unit Development and is subject to the following conditions:

### Conditions of Denial

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-2 and 8-6B-7. This project is not in compliance with 8-6B-2 and 8-6B-7 standard(s) because it is not in compliance with the Planned Unit Development purpose statements; specifically in that it does not create a more useful pattern of open space and recreational areas, it does not establish a development pattern which utilizes the land more efficiently than what is achieved through conventional development, or provide a land pattern in harmony with transportation and community facilities. It also does not meet the Planned Unit Development Findings 1, 3, and 4 when allowing for uses not otherwise permitted in the district. Furthermore, the application is not in compliance with Garden City code section 8-4D-5, as the site is deficient in parking.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
4. A takings analysis pursuant to Idaho Code 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.



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Planning and Zoning Chairman

09/19/2024

Date