

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:) DSRFY2023-0007
)
Bardenay) FINDINGS OF FACT,
Address: 3100 W. Chinden Blvd.) CONCLUSIONS OF LAW
Garden City, Ada County, Idaho) AND DECISION
)

THIS MATTER came before the Garden City City Council for consideration on appeal on November 13, 2023. The City Council reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the City Council makes the following Findings of Fact, Conclusions of Law, and Decision:

FINDINGS OF FACT

1. The application is for new construction of a structure and redevelopment of the property dedicated to the uses as defined in Garden City Code Title 8: Eating Establishment, Full Service, and Food Products, Small Scale Processing.
2. The applicant is Andres Vasquez with CSHQA.
3. The property owner is Riverside Hospitality LLC.
4. The location of the project is 3100 W Chinden Blvd., Garden City, ID. Assigned Ada County Parcel No.: R2734541900. Property Description: LOTS 1 TO 3 INC BLK 38 FAIRVIEW ACRES SUB NO 5.
5. The project is located in the Garden City C-1 Zoning District.
6. The floodplain designation is:
 - 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. Partially within the 100-Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20 Lower Boise River, adopted by resolution 1083-20
7. The applicable Comprehensive Plan Land Use Map Designations are Green Boulevard Corridor and Live-Work-Create.
8. On August 10, 2023, the applicant sent a neighborhood meeting notice to the owners of neighboring properties within 300' of the application's subject property.

9. Noticing in accordance with Garden City Code 8-6A-5 Administrative Process with Notice was completed by the city on August 16, 2023.
10. A copy of the application was transmitted to affected public agencies; written comments were received from:
 - a. Ada County Highway District.
 - b. Department of Environmental Quality.
 - c. Idaho Transportation Department.
 - d. Republic Services.
11. The neighborhood meeting was held on August 28, 2023.
12. On September 9, 2023, public comment by Jeff Hatch was received by the city.
13. On September 18, 2023, a Design Review Consultation was held which resulted in staff approval of the application.
14. On September 19, 2023, Scott Leap, representing River City Annex LLC emailed the Development Services Department with concerns regarding both the access issues through Osage and on-site parking.
15. On September 20, 2023, City Associate Planner, Hanna Veal, emailed Scott Leap indicating that they were not able to access the Design Review meeting as it is not a public hearing open to the public. She further noted that the City Council would have the item on the consent agenda on September 25, 2023.
16. On September 21, 2023, Scott Leap emailed the City Council.
17. On October 2, 2023, Fred Oliver, registered agent of River City Annex LLC appealed the approval.
18. On October 16, 2023, the property owner, applicant, appellant, and interested parties were notified of the appeal.
19. On October 23, 2023, the City Council approved holding an appeal public hearing. It was noted that a *de novo* public hearing would be held.
 - a. Scott Leap consented to the *de novo* hearing.
 - b. Kevin Settles, president, and CEO of Bardenay consented to the *de novo* public hearing.
20. The public hearing was noticed for November 13, 2023.
 - a. On October 25, 2023:
 - i. A three-hundred-foot radius notice was sent.
 - ii. Interested parties were notified by standard mail.

- iii. The applicant, property owner of record, appellant's attorney, and appellant were notified by certified mail.
 - b. On October 27, 2023, a legal advertisement ran in the Idaho Statesman newspaper.
 - c. The applicant provided verification that the property was posted on or by November 3, 2023, at least ten or more days prior to the public hearing.
- 21. On November 6, 2023, additional appeal materials were submitted by Abigail R. Germaine with Elam & Burke Attorneys at Law.
- 22. On November 13, 2023, a public hearing was with the City Council.
 - a. This section will be completed to reflect the proceedings.
- 23. The record contains:
 - a. Application Materials.
 - b. Public Notice Documents.
 - c. Public Comment.
 - d. Agency Notices.
 - e. Staff Report.
 - f. Appeal Documents.
 - g. Appeal/Public Hearing Notice Documents.
- 24. The following standards apply to this proposal:
 - a. 8-1A-4 Applicability
 - b. 8-1B-1 Nonconforming Properties
 - c. 8-2B-1 Purpose
 - d. 8-2B-2 Allowed Uses
 - e. 8-2B-3 Form Standards
 - f. 8-2C-18 Food Products Processing
 - g. 8-4A-3 Fences and Walls
 - h. 8-4A-4 Outdoor Lighting
 - i. 8-4A-5 Outdoor Service and Equipment Areas
 - j. 8-4A-7 Stormwater Systems
 - k. 8-4A-8 Utilities
 - l. 8-4C-3 Design Provisions for Nonresidential Structures
 - m. 8-4C-5 Prohibitions
 - n. 8-4D Parking and Off-Street Loading Provisions
 - o. 8-4E Transportation and Connectivity Provisions
 - p. 8-4F Sign Provisions
 - q. 8-4I Landscaping and Tree Protection Provisions
 - r. Title 8, Chapter 6, Article A: Administration

25. In order to approve a design review application and based on the standards set forth in Chapter 4, Article C of this title, the decision-maker shall make the following findings:

GCC 8-6B-3 Required Findings	Determination	Reasoned Statements
<p>1. The proposed design shall comply with all design standards in Garden City Code, Title 8.</p> <p>2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site.</p> <p>3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise River and waterways, canals, and other surface irrigation.</p> <p>4. The proposed design shall be compatible with the neighborhood in scale and intensity.</p> <p>5. The proposed design shall not create an adverse impact on the surrounding neighborhood.</p> <p>6. The proposed architecture and site improvements shall have facades, features, materials, and building form, and other physical improvements that are compatible with or enhance the neighborhood.</p> <p>7. The proposed design and landscape shall improve the design and function of the site and be consistent with the southwest Idaho climatic conditions; and</p>	Complaint as Conditioned	<p>In Affirmative This application meets all required findings for the following reasons:</p> <p>The application as conditioned is compliant with all applicable sections of Garden City Code, Title 8. These code sections are intended to ensure compliance with the required findings.</p> <p>The design provides for a bicycle path to and around the site.</p> <p>The design takes measures to improve the roadway and sidewalk system by adding a landscape buffer to the adjacent public sidewalk.</p> <p>The application is also conditioned to explore if it is possible to detach the sidewalk which would enhance the safety and comfort of pedestrians and bicyclists.</p> <p>The fact that 31st Street has been vacated does not change the location of the proposed ingress and egress which utilizes the former 31st Street drive aisle for the project's</p>

8. The proposed design shall be compatible with applicable natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, and historic structures.

access to Chinden Boulevard. Rather, this application improves the safety of Chinden by removing existing additional curb cuts onto Chinden Boulevard.

While Osage has been vacated, the design of the project does not compel motor vehicle use of the vacated Osage Street. Moreover, there is landscaping separating the subject site and the area referred to as Osage.

The application is compatible with the neighborhood in that it is similar in scale and intensity to other adjacent uses such as restaurants that are a part of the Riverside Hotel, Stagecoach Inn restaurant, Barbarian Brewery, Split Rail Winery, and Telya Winery.

There has been an objection to this development because of the perceived impacts that associated overflow parking would have on the adjacent property that is utilized by the Stagecoach Inn restaurant. To demonstrate the hardships that the parking would have on the

	<p>Stagecoach Inn restaurant, the objection noted that there is currently parking of patrons from other adjacent businesses utilizing their private parking. This requires monitoring of their parking lot. There is nothing that precludes the Stagecoach Inn from fencing their lots or otherwise employing other monitoring approaches. However, precluding or limiting this proposed development would not rectify the parking on the Stagecoach Inn property by individuals who are not visiting the Stagecoach Inn that currently occurs. Finally, this application exceeds the required parking as outlined by Garden City Code 8-4D-5 Required Number of Parking Spaces. The code provides an established objective standard for the number of parking spaces that should be required for a project.</p> <p>The application was reviewed and found to provide design and architectural features that are compatible with the neighborhood.</p> <p>The proposed landscaping enhances the site as well as the</p>
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		<p>public realm by addressing Chinden Boulevard.</p> <p>There are no natural features such as wetlands or historic features on site.</p> <p>Therefore, for these reasons application meets the required findings.</p> <p>Or</p> <p>Disaffirming</p> <p>Due to inadequate parking and unsafe ingress and egress onto Chinden Boulevard, the application does not meet the findings:</p> <p>4. The proposed design shall be compatible with the neighborhood in scale and intensity; and</p> <p>5. The proposed design shall not create an adverse impact on the surrounding neighborhood.</p>
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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 8-4C and the required findings under 8-6B-3D.

DECISION **[For approval of the application and denial of the appeal]**

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the City Council hereby **AFFIRMS** the staff decision and therefore **GRANTS** the application, subject to the following conditions:

Site Specific Requirements:

Prior to Construction:

1. Verification from the Idaho Transportation Department (ITD) shall be provided that confirms that their review of this application understands that 31st Street has been vacated. Should ITD indicate the fact that 31st Street has been vacated affects their review with respect to safety, these concerns shall be remedied prior to construction permits being issued.
2. A lot line consolidation shall be approved and recorded prior to construction.
3. All future outdoor lighting will be required to be in compliance with code at the time of development.
4. A sustainability checklist shall be provided in accordance with Garden City Code 8-4G. At least 18 points are required.
 - a. Proof of no-cost membership in a car share or vanpool program shall be provided.
 - b. Proof of incentives for employees who carpool or use alternative transportation to get to work shall be provided.
5. Landscaping shall be compliant with Garden City Code 8-4I Landscaping and Tree Protection Provisions.
 - a. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
 - b. A minimum of one Class III or Class II tree shall be planted in the frontage and every adjacent streetside. An additional Class II or III tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
 - i. A minimum of 4 trees are required along the frontage of W. Chinden Blvd.
 - c. A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.
 - d. Internal shade trees shall be provided at a minimum ratio of one tree planted for every five (5) parking spaces supplied.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from the Garden City Development Services Department.
2. A Building permit shall be applied for and approved by the Garden City Development Services Department.
3. All onsite service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property or shall be screened from view from a public street

and adjoining property with a privacy fence.

4. HVAC equipment, trash dumpsters, recycling, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
5. All signs associated with the application shall obtain approval of a sign permit or master sign plan.
6. A 12' wide public bicycle and pedestrian easement shall be located along Osage and 31st Street and maintained in perpetuity.
7. An easement shall be provided for all public water and sewer lines on site.
8. A cross-access easement shall be provided for access to the trash location if the property is not combined with parcel #R2734541997 via the lot line adjustment.
9. Chinden-facing mechanical units shall have architecturally integrated screening.
10. The two existing ingress/egress curb cuts along W. Chinden Boulevard shall be permanently closed in accordance with the Idaho Transportation Department Chinden Access Management Plan unless otherwise recommended by ITD.
 - b) To close each existing ingress/egress curb cut:
 - i) Curb, gutter, and sidewalk improvements shall be installed in the area that is currently designed as an access apron.
 - c) To maintain a curb cut onto Chinden the following shall be provided:
 - i) Documentation from the Idaho Transportation Department recommending that ingress/egress onto Chinden Boulevard remain.
11. A 12-foot-wide concrete sidewalk with 5-foot x 8-foot tree wells for Class II or III street trees shall be installed adjacent to W. Chinden Boulevard upon approval of ITD.
12. If ITD cannot approve the streetscapes in condition number #11, then the applicant shall work with staff and ITD to develop a suitable bicycle and pedestrian-oriented streetscape in conformance with Garden City Code, Garden City Sidewalk Policy, Idaho Transportation Department, and ADA standards.
13. The proposed trash enclosure located on the Riverside Hotel property shall meet all applicable Garden City Codes and submit required permits at the time of development. The trash enclosure shall be complete prior to the occupancy permit for 3100 W. Chinden being granted.

14. The bicycle and pedestrian pathway as proposed shall be resubmitted for further review once further plans are developed. The pathway, landscaping, and lighting shall be installed prior to the occupancy permit for 3100 W. Chinden being granted.

15. At least fourteen (14) bicycle parking spaces shall be provided on-site.

Site-Specific Requirements for the Duration of the Use:

1. No outside activity or event shall be allowed on the site, except as allowed through a Conditional Use Permit that considers the public health and welfare, the interests of adjoining property owners, odor, noise, traffic, and vehicular and pedestrian safety.
2. The operator shall have a continuing obligation to comply with all city, county, and state regulations relative to such an operation.
3. All streets and driveways shall adhere to the standards of a clear vision triangle.
4. If the parking area is intended to be used after daylight hours, the parking area shall be properly illuminated. Any lights used to illuminate parking lots shall be arranged to reflect the light away from the adjoining property and be on a motion detector or timer.

General Requirements:

1. This review and approval are 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 the submittal of an application for modification and approval of that application prior to commencing any change.
3. 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.
4. 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.
5. 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.

6. Plant materials that exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
7. 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.
8. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
9. 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.
10. 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.
11. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
12. 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.
13. 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.
14. 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.
15. The landscape installation shall stabilize all soil and slopes.
16. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
17. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to the Certificates of Occupancy.
18. 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.
19. Property Maintenance Standards shall be maintained as required by Garden City Code.
20. The property owner is responsible for the maintenance of all landscaping and screening devices required.
21. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions - Living Space Requirements.
22. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
24. System Installation Required: Each and every lot within the subdivision shall have underground pressurized irrigation water. The pressurized irrigation system shall be

constructed and installed at the same time as the domestic water lines but shall not necessarily be in the same trenches.

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 a Certificate of Occupancy is a criminal offense.
29. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
30. This approval shall expire one (1) year from its approval unless otherwise extended as allowed by Garden City Code.
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.
32. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
33. 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.
34. A takings analysis pursuant to Idaho Code may be requested on final decisions.
35. 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.

DECISION [For denial of the application and approval of the appeal]

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the City Council hereby **VACATES/REMANDS** the staff decision and therefore **DENIES** the application, subject to the following conditions:

1. For approval of this application, the following must be done:
 - a. An additional [number] of motor vehicle parking spaces shall be provided.

2. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures 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.

November 13, 2023

Mayor, John G. Evans

Date

