

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

In the Matter of: ) ) Public Service Conditional Use Permit ) 3775 (3770) Adams Street ) Garden City, Ada County, Idaho ) _____ )	CUPFY2017-10  FINDINGS OF FACT, CONCLUSIONS OF LAW; AND DECISION
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THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on June 21, 2017. 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 applicant is CTA Architects Engineers - Angela Hansen.
2. The property owner of record is Ada County Highway District.
3. The application is for an expansion of a Public Service Facility.
4. The location of the project is 3775 (3770) Adams St., Ada County Parcel S1005141695; PAR #1695 in CTR POR NE4 SEC 5 3N 2E & OF Block 12 Fairview Acres #3.
5. The subject property is 5.85 acres.
6. The project is located in the Garden City C-2 General Commercial Zoning District.
7. The project is located in the Mixed Use Residential and Transit Oriented Development Node Buffer of the Garden City Comprehensive Plan Land Use Designation.
8. The existing use on the site is: Public Service Facility.
9. Current access to the site is from Adams Street.
10. There are no sidewalks along Reed St. and a partial sidewalk along Adams St.
11. The following sections of the Garden City Municipal Code apply to this proposal:

Standards	Compliant	Conclusions
<b>GCC 8-7A Definitions of Uses</b>	N/A	The definitions of uses that apply to this application are: Public Service
<b>GCC 8-B-2 Purpose</b>	No	The Purpose of the C-2 Zoning District is for activities that are more compatible with mixed use or residential uses. This structure is not compatible with residential or mixed-use.
<b>GCC 8-2B-2 Allowed Uses</b>	Yes	A <i>Public Service</i> establishment requires a conditional use permit in the C-2 Zoning District.
<b>GCC 8-1B-3 Nonconforming Uses</b>	Yes	Provided that all conditions of approval are met, this request is appropriate to allow ACHD to move towards compliance with relevant regulations.
<b>8-3B-5-6 Critical Facility</b>	No	This approval is only temporary and includes provisions to reduce flood risk.
<b>8-3D Neighborhood</b>	N/A	Discussed as vision set forth by code and

<b>Commercial Node</b>		ordinance that is applicable for this property. This code is not a regulatory requirement for this application.
<b>Title 8 Chapter 4 Design and Development Regulations</b>	No	As conditioned, and per authorities granted by Garden City Code, the Garden City Design Review Committee has approved the design of the application.
<b>GCC 8-6B-2 Conditional Use</b>	No	<ol style="list-style-type: none"> <li>1. The use is not appropriate to the location, the lot, and the neighborhood and should not be permanent at this location;</li> <li>2. The use at this site may hinder services to Ada County, as conditioned these adverse impacts are mitigated;</li> <li>3. The use will not unreasonably diminish either the health, safety or welfare of the community as conditioned; and</li> <li>4. The use at this location is in conflict with the comprehensive plan and other adopted plans, and ordinances of the city and should not be permanent at this location.</li> </ol>

12. Other studies, plans or approvals reviewed include:

Garden City Comprehensive Plan	No	<p>The proposal is not consistent with the comprehensive land use designations of Mixed Use Residential or Transportation Oriented Node. It is also in conflict with Garden City Comprehensive Plan Goals and Objectives:</p> <p><i>Goal 2. Improve the City Image</i></p> <p><i>1.4 Objective: Create a premier destination place to live, work and recreate.</i></p> <p><i>2.3 Objective: Promote quality design and architecturally interesting buildings.</i></p> <p><i>2.4 Objective: Improve the appearance of street corridors.</i></p> <p><i>Goal 3. Create a Heart for the City</i></p> <p><i>Goal 5. Focus on the River</i></p> <p><i>4.3 Objective: Beautify sidewalks and gateways with landscaping and trees.</i></p> <p><i>4.3.1 Continue to require sidewalks and landscaping in all new development, and in major alterations and re-use of existing commercial sites.</i></p> <p><i>9.2 Objective: Protect riparian and flood</i></p>
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		<p>way areas.</p> <p>10.2 Objective: The Old Town site is a live-work district.</p> <p>10.5 Objective: Create a "Main Street" commercial district along portions of Adams Street and other neighborhood locations.</p> <p>The proposal is supported by the following goals and objectives:</p> <p>Goal 8. Maintain a Safe City</p> <p>9.1.1 Continue to enforce city codes for regulating or eliminating discharges from spills, dumping or disposal of waste materials, and reducing pollutants in storm water discharges.</p>
University of Idaho College of Art and Architecture Garden City Urban Centers Plan	NA	Discussed as an example of what would be appropriate at this location. Adherence to this plan is not a regulatory requirement for this application.
Garden City Planning And Zoning Commission Sidewalk Policy	No	In that this approval is temporary, permanent infrastructure improvements have not been required.
Comments from Other Departments and Agencies	Yes	This approval includes a condition requiring compliance and approval from applicable agencies.

13. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:
  - a. Garden City Engineer
  - b. Garden City Sewer
  - c. Central District Health Department
  - d. North Ada County Fire and Rescue
  - e. Ada County Highway District
  - f. Department of Environmental Quality
  
14. The record contains:
  - a. Application Materials
  - b. Letter of Application Acceptance
  - c. Agency Review Transmittal
  - d. Radius Notice
  - e. Legal Advertisement in Idaho Statesman
  - f. Affidavit of property posting
  - g. Agency Comments
  - h. Staff report, and referenced materials
  - i. Public Comments
  - j. Planning and Zoning Commission Hearing Sign Up Sheet
  - k. Signed Findings of Fact, Conclusions of Law, and Decision

15. The application was received May 8, 2017. Notification of application acceptance and completion was sent to the applicant within 30 days of receipt of the application. The Commission Public Hearing was held within sixty (60) days of receipt of an application certified as complete.
16. On May 11, 2017 a letter of acceptance with hearing date was sent to the applicant.
17. A transmittal to other agencies including notice, application and other documents was sent on May 11, 2017 more than fifteen days prior to the public hearing.
18. A legal public hearing notice for the proposed conditional use permit application was published on June 6, 2017, and on May 11, 2017, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements of Section 8-6A-7 of the Garden City Municipal Code.
19. A sign was posted on or before June 9, 2017, in accordance with Garden City Code for the public hearing of June 21, 2017.
20. On June 21, 2017, at the Planning and Zoning Commission public hearing:
  - a. Commissioner Brown recused himself.
  - b. Staff, Jenah Thornborrow presented the application.
  - c. The applicant, Angela Hansen and property representative Don Roell represented the application. The applicant requested the condition site specific #2 be amended to allow for an approval time of five years.
  - d. Steven Anderson testified in opposition to the application.
  - e. The Commission noted that the use is not changing that the structure is requested to be in compliance with an EPA regulation.
  - f. The application was approved 2/0

### **CONCLUSIONS OF LAW**

The Planning and Zoning Commission reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, concludes the application meet the standards of approval under **GCC 8-6B-2 Conditional Use**.

### **DECISION**

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **APPROVES** of the application subject to the following conditions:

#### **Prior to Occupancy**

1. A building permit for the structure shall be applied for and approved by Garden City Development Services Department.
2. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
3. Verification that Don Roell and Timothy Morgan have signing authority as property owner or a revised affidavit of legal interest signed by the signing authority of the record owner of the property.
4. Prior to commencement of this use, a plan in case of flooding must be submitted to Garden City identifying:
  - a. That the structure is adequately anchored to withstand flooding and constructed and placed so as to offer the minimum resistance to the flow of floodwaters or that the structure will be removed immediately upon flood warning;
  - b. The level of the Boise River that shall be considered potential of flooding (i.e. 10,000 cfs at Glenwood Bridge)

- c. All stored materials shall be removed from the ACHD site immediately upon flood warning;
- d. The title, email, and phone number of the individual responsible for the removal of the temporary structure;
- e. Verification that ACHD will remove or a copy of the contract or other suitable instrument with the entity responsible for physical removal of the structure in case of flood warning;
- f. Designation, accompanied by documentation, of a location outside the Special Flood Hazard Area, to which the temporary structure and materials will be moved in case of flood warning notification;
- g. The time frame prior to the event at which a structure will be permanently removed.

**Site Specific Requirements for the Duration of the Use**

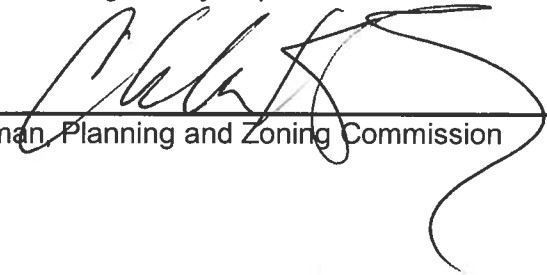
- 1. An 110'x120'x50' pre-engineered structure intended to cover sand and salt is approved provided all conditions of this decision are complied with. The purpose of the structure is to cover sand and salt currently stored on site. The structure is needed to be in compliance with EPA standards and protect the Boise River.
- 2. This approval is valid for three years from the date of Certificate of Occupancy. Should an extension be requested documentation shall be provided that ACHD is actively working to relocate the salt and sand storage. Garden City Development Services staff may approve extensions of this approval provided that the approval is extended for not more than one year.
- 3. The sand/salt and the structure must be removed once this approval is no longer valid.
- 4. The use must be in compliance with the approval from Garden City Design Review Committee approval dated May 22, 2017, file DSRFY2017-17.
- 5. The structure and all stored material must adhere to the required flood plan immediately upon flood warning notification.

**General Requirements**

- 1. 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 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.
- 2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
- 3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
- 4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. 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.
- 5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.

6. 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.
7. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City Public Works or Planning Official.
8. The property owner is responsible to maintain the site to edge of roadway asphalt.
9. If there are any tree grates, they shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right of way.
10. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead and diseased plant materials shall be replaced.
11. 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.
12. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
13. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
14. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
15. 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.
16. 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. 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.
17. The landscape installation shall stabilize all soil and slopes.
18. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
19. This approval is for this application only. Additional permits, licenses and approvals may be necessary.
20. Property maintenance standards shall be maintained as required by Garden City Code 8-1C.
21. The property owner is responsible for the maintenance of all landscaping and screening devices required.
22. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
23. 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.
24. No change in terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his or her authorized representative and an authorized representative of the reviewing agency. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Garden City.

25. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
26. Any violation of the conditions of this application is a criminal offence.
27. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
28. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
29. All previous uses are null and void unless otherwise conditioned.
30. This approval shall become null and void if a building permit or certificate of occupancy has not been issued within one year of the approval. An extension may be granted by the Commission upon findings that the application and or the applicable City regulations have not changed. Such extension shall be applied for sixty (60) days prior to the expiration date for the original approval; only one extension of not more than three hundred sixty five (365) days shall be granted.
31. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
32. There is a 10 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.
33. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
34. A takings analysis pursuant to Idaho Code may be requested on final decisions.

  
Chairman, Planning and Zoning Commission

26 June 2017  
Date