

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

In the Matter of:)) Conditional Use Permit) 9335 W. State Street) Garden City, Ada County, Idaho) _____)	CUPFY2019-10 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 19, 2019. 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 property owner and applicant is Jen Kwan – Totten.
2. The application is for:
 - a. Conditional Use Permit for the use “Vehicle Service”.
3. The location of the project is 9555 W. Street St., Ada County Parcel S0514438630; PAR#8630 at South Side SE1/4 SEC 14 4N 1E.
4. The subject property is .480 acres
5. The project is located in the Garden City C-2 Highway Commercial Zoning District.
6. The project is located in the Transit Oriented Development Node Buffer of the Garden City Comprehensive Plan Land Use Designation.
7. The existing use on the site is: Vacant.
8. Current access to the site is from W. State Street.
9. There are no sidewalks along the property on W. State Street.
10. The following sections of the Garden City Municipal Code apply to this proposal:

Standards	Compliant	Conclusions
GCC 8-7A Definitions of Uses	Noted	The definitions of uses that apply to this application are: Vehicle Service.
GCC 8-2B-2 Allowed Uses	Yes	The use “Vehicle Service” requires a conditional use permit in the C-2 Zoning District.
GCC 8-2C-43 Vehicle Service	Yes	The scope of the application is limited to window tinting and auto glass repair and replacement. Conditions of approval have been required to limit the scope of the use to this type of vehicle repair.
Title 8 Chapter 4 Design and Development Regulations	Yes	A design review is not required for this application. A detached sidewalk and landscaping is required along W. State Street.
GCC 8-6B-2 Conditional Use	No	1. The use is appropriate to the location, the lot, and the

		<p>neighborhood. The use is appropriate when limited to auto glass and windshield repair and replacement.</p> <p>2. The use will be supported by adequate public facilities or services to the surrounding area; or conditions can be established to mitigate adverse impacts. A condition of approval is required to install a detached sidewalk and landscape buffer along W. State Street. A condition of approval is required to obtain a will serve letter prior to obtaining a certificate of occupancy.</p> <p>3. The use at this location will not unreasonably diminish either the health, safety or welfare of the community. A condition of approval is required to obtain a will serve letter prior to obtaining a certificate of occupancy.</p> <p>4. The use at this location is in conformance with the comprehensive plan and other adopted plans, and ordinances of the city.</p>
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12. Other studies, plans or approvals reviewed include:

Garden City Comprehensive Plan	Yes	<p>The use at this location is in conformance with the Green Boulevard Corridor designation of the Comprehensive Plan Land Use Map.</p> <p>The use at this location is in conformance with the following goals, objectives, and action steps of the Comprehensive Plan:</p> <ul style="list-style-type: none"> • Goal 10: Plan for the Future <ul style="list-style-type: none"> ○ Objective 10.6: Continue to support commercial and industrial land uses
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Garden City Planning And Zoning Commission Sidewalk Policy	Yes	The policy was reviewed for this application. A waiver to sidewalk standards was not requested pursuant to the policy.
Comments from Other Departments and Agencies	Yes	This decision 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. North Ada County Fire and Rescue
 - b. Idaho Transportation Department Comments

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. Correspondence with applicant
 - l. Signed Findings of Fact, Conclusions of Law, and Decision

15. The application was received April 17, 2019. A letter of incomplete application was sent to the applicant on April 24, 2019.
16. A complete application was received May 13, 2019. 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. The application was scheduled for June 19, 2019.
17. A transmittal to other agencies including notice, application and other documents was sent on May 29, 2019 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 3, 2019 and on May 31, 2019, 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 property posting sign was posted on or before June 9, 2019, in accordance with Garden City Code 8-6A-7 for the public hearing of June 19, 2019.
20. On June 19, 2019, at the Planning and Zoning Commission public hearing:
 - a. The application was moved to the consent agenda after the applicant did not object to the draft findings of fact, conclusions of law, and decision, no one from the public wish to testify in opposition to the request, and no commissioner objected to the proposal.
 - b. Commissioner Page moved to approve the consent agenda.
 - c. Commissioner Brown seconded the motion.
 - d. The motion was approved unanimously.

CONCLUSIONS OF LAW

Conditional Use Permit

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 meets 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** the application subject to the following conditions:

Scope of Permit

1. The scope of the permit is for the use "Vehicle Service". The permit only authorizes vehicle window tinting and vehicle glass repair and replacement. No other work associated with the use "Vehicle Service" is authorized.

Prior to Occupancy

2. A detached sidewalk and landscaping meeting the requirements of Garden City Code 8-4E-6 and the Garden City Sidewalk Policy shall be installed along W. State Street.
3. A certificate of occupancy shall be obtained prior to commencing the use.
4. An access permit shall be obtained from the Idaho Department of Transportation.
5. A site and landscape plan shall be submitted for administrative review that complies with Garden City Code applicable to parking, access and connectivity, sidewalks, and landscaping. Improvements required by Garden City Code shall be installed.

Site Specific Requirements for the Duration of the Use

6. Minimum Site Area: The use shall have a minimum site area of fifteen thousand (15,000) square feet.
7. All hydraulic hoists and pits, and all equipment for greasing, lubrication, and allowed repairs shall be enclosed entirely within a structure.
8. Spray booths are prohibited on site.
9. All parts, inventory and vehicles waiting to be repaired shall be kept inside an entirely enclosed building or hidden behind a privacy fence or other visual barrier as set forth in section 8-2C-37, Storage Facility Or Yard, of this article.
10. All new structures constructed for vehicle/equipment repair shall be constructed so that the entrances to individual workstation/service bays do not face abutting residential parcels or the public rights-of-way.
11. Tires shall not be taken in on trade or stored on site.
12. The servicing of trucks in excess of one and one-half (1-1/2) ton capacity or industrial equipment of any type or character shall be allowed under this permit for the purposes of vehicle window tinting and auto glass repair and replacement only.
13. All vehicle/equipment repair uses and related activities shall be limited to between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Saturday.
14. Damaged or wrecked vehicles shall not be stored on site for purposes other than repair.
15. All vehicles that are repaired and are waiting to be picked up by the owner of the vehicle shall be parked on site and not in adjoining streets or alleys.

16. All discarded vehicle parts or equipment, permanently disabled, dismantled, or junked vehicles, or tires shall be removed from the premises within thirty (30) days of arrival.
17. Site Maintenance: All paved and unpaved areas shall be maintained grease and oil free.

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.
 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 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.
 33. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.

34. 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.
35. A takings analysis pursuant to Idaho Code may be requested on final decisions.
36. 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.

 27 June 2019

Chairman, Planning and Zoning Commission Date