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|  |  | <p>surrounding area;</p> <p>3. The use, as conditioned, will not unreasonably diminish either the health, safety or welfare of the community; and</p> <p>4. The use, as conditioned, is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> |
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12. Other studies, plans or approvals reviewed include:

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| Garden City Comprehensive Plan                             | Yes | <p>The proposal is consistent with the Mixed Use Commercial designation of the Comprehensive Plan. It is also in conformance with Garden City Comprehensive Plan Goals and Objectives:</p> <p><b>Goal 7. Connect the City</b><br/> <i>7.1. Objective: Create pedestrian and bicycle friendly connections.</i><br/> <i>7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</i></p> <p><b>Goal 10. Plan for the Future</b><br/> <i>10.6 Objective: Continue to support commercial and industrial land uses.</i></p> |
| Garden City Planning And Zoning Commission Sidewalk Policy | Yes | <p>The Commission grants the following partial waiver to the Garden City Sidewalk Policy:</p> <ol style="list-style-type: none"> <li>1. An attached sidewalk connecting to the adjacent sidewalk located at 216 W. 38<sup>th</sup> Street (Ada County Parcel # R273451121-) shall be installed across the property. The sidewalk shall be installed by December 31, 2019.</li> <li>2. The landscaping requirements are waived due to site constraints.</li> </ol>   |
| Comments from Other Departments and Agencies               | Yes | <p>This approval includes a condition requiring compliance and approval from applicable agencies.</p>   |

13. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:
  - a. Idaho Department of Environmental Quality
  - b. Ada County Highway District
  - c. Idaho Department of Transportation
  
14. The record contains:
  - a. Application Materials
  - b. Site Plan
  - c. Letter of Application Acceptance
  - d. Agency Review Transmittal
  - e. Radius Notice
  - f. Legal Advertisement in Idaho Statesman
  - g. Affidavit of property posting
  - h. Agency Comments
  - i. Staff report, and referenced materials
  - j. Public Comments
  - k. Planning and Zoning Commission Hearing Sign Up Sheet
  - l. Signed Findings of Fact, Conclusions of Law, and Decision
  
15. The application was received January 4, 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.
16. On January 10, 2019, 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 January 10, 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 February 4, 2019.
19. On January 10, 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.
20. A sign was posted on January 25, 2019, in accordance with Garden City Code for the public hearing of February 20, 2019.
21. An affidavit of property posting was submitted on January 25, 2019 in accordance with Garden City Code.
22. On February 20, 2019, at the Planning and Zoning Commission public hearing:
  - a. Applicants Lisa Cahill and David O'Leary presented the application.
  - b. Associated Planner Chris Samples presented the staff report.
  - c. No public testimony was given on the application.
  - d. Commissioner Nunley moved to approve the application and modify the proposed findings of fact, conclusions of law, and decision as follows:
    1. Site specific condition # 2 is stricken and replaced with:
      - i. An attached sidewalk to curb sized and design to match the existing attached sidewalk at 216 W. 38<sup>th</sup> Street shall be installed across the property. The landscaping requirement is waived. The applicant shall have until December 31, 2019 to install the sidewalk. A temporary

certificate of occupancy may be granted to allow for the sidewalk to be constructed.

- e. Commissioner Brown seconded the motion. The motion passed unanimously.

### **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 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** of the application subject to the following conditions:

#### **Scope of Permit**

1. The scope of the proposed warehouse use shall be limited to Suites E and F, as depicted in the applicant's site plan.

#### **Partial of the Garden City Sidewalk Policy**

2. An attached sidewalk to curb sized and design to match the existing attached sidewalk at 216 W. 38<sup>th</sup> Street shall be installed across the property. The detached landscaping requirement is waived. The applicant shall have until December 31, 2019 to install the sidewalk.

#### **Prior to Occupancy**

3. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.

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

4. Operating hours of the proposed warehouse use are limited to 7 am – 9 pm.
5. Outside activity areas shall be located a minimum of three hundred feet (300') from any property line adjoining a residence or a residential district. The loading and unloading of materials from a vehicle directly into the warehouse shall not be considered an outside activity area.
6. The storage of materials outdoors and the loading and unloading of materials to areas of the property other than Suites E and F is prohibited.
7. The use may include accessory office uses not to exceed twenty five percent (25%) and retail sales not to exceed ten percent (10%) of the gross floor area of the use.

#### **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 (15) 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.

*Chris Elger*

*22 FEB 2019*

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Chairman, Planning and Zoning Commission

Date