



CITY OF GARDEN CITY

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File Number: CUPFY2019 - 15
For: Nonconforming Use Expansion
Location: 8561 W. State St.
Applicant: Shay Bertola, Maverik Country Stores
Report Date: 10/9/2019



Garden City Planning and Zoning Commission
Staff Contact: Chris Samples

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**City of Garden City
Staff Report**

A. Project Overview

Project Description:

Shay Bertola with Maverik Country Store is requesting a conditional use permit to expand an existing nonconforming use (fuel sales) located at 8561 W. State Street; Ada County Parcel R8123251860. The property is zoned C-2 General Commercial and located in the Green Boulevard Corridor land use designation of the Comprehensive Plan.

Proposed Scope of Work:

Request	Review Process	Notes
Conditional Use Permit to expand legal nonconforming use	8-6B-2 Conditional Use	None

Project Details:

- 1) Proposed development: Nonconforming use expansion to increase fuel sales from four pumps to 16 pumps
- 2) Number of buildings: 1
- 3) Parking spaces: 24
- 4) Bicycle parking: 2
- 5) Site Coverage:
 - a) Property: 53,293 sq. ft.
 - b) Building: 4,384 sq. ft.
 - c) Landscaping: 14,816 sq. ft.
- 6) Paved Areas: Unknown
- 7) Trash Enclosure: 1

Site Conditions:

- 1) Address: 8561 N. State Street
- 2) Parcel Number: R8123251860
- 3) Property Size: 1.2 acres
- 4) Zoning District: C-2 General Commercial
- 5) Comprehensive Plan Land Use Map Designation: Green Boulevard Corridor
- 6) Legal Parcel of Record: Yes
- 7) Floodplain Designation:
 - a) 2003 FIRM: X

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- b) 2017 Draft FIRM: X
- 8) Surrounding Uses: Only note uses that we have record of within 600' of the property
 - a) Dwelling Unit, Single Family Detached
 - b) Vehicle Service
 - c) Retail Sales
- 9) Existing Use: Legal nonconforming use – Auto Service Station
 - a) Use established: 1978 according to Ada County Assessor Land Records
- 10) Easements on site: There are no records on file with Garden City of existing easements
- 11) Site Access: Proposed dual access along W. State Street (consistent with existing access)
- 12) Sidewalks: None on site.

Required Decisions: The following decision processes are required for the project:

Decision	Recommendation Authority	Decision Authority	Hearing Date
Conditional Use	N/A	P&Z Commission	October 16, 2019
Design Review	N/A	Design Committee	October 7, 2019

Design Review application DSRFY2019 – 24 is under review by the Design Committee for the structure and site improvements.

Standards for Review: Standards for review of this application are:

Conditional Use Standards	
Standard	Staff Comments
8-1B-3 Nonconforming Uses	Existing use noted; Use expansion scope and conditions of approval noted;
8-6B-2 Conditional Use	Conditions of approval to meet required findings noted;

Policies and Studies: The following policies and studies were reviewed for this application:

1. [Garden City Sidewalk Policy](#)
2. [Garden City Street Light Policy](#)

Exhibits: [Link](#)

- 1) Staff Report
- 2) Draft Legal Findings
- 3) Application
- 4) Letter of Intent/Compliance Statement
- 5) Plan Sheets:
 - a) Cover Sheet
 - b) Civil Sheets C0.1 – C5.2
 - c) Landscape Sheets L1.1 – L3.1
- 6) Noticing:
 - a) Neighborhood Meeting
 - b) Acceptance Letter

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- c) Agency Notice
- d) Legal Notice
- e) Radius Notice
- f) Affidavit of Property Posting and Photos
- g) Agenda Posting
- 7) Agency Comments

B. Conditional Use

USE STANDARDS FOR REVIEW	
City Code	City Standards/Staff Comments
<u>GCC 8-1B-3 Nonconforming Uses</u>	<p>This subsection allows the expansion of a non-confirming use with a conditional use permit. The existing use consists of a four (4) pump fuel area. The applicant has proposed to expand to a 16-pump fuel area, which increases the intensity of the use.</p> <p>According to the Ada County Assessor, the use was established in 1978. Ordinance 132 was in effect at this time, which listed the use “auto service station” as a permitted use in commercial zones. The legal nonconforming use is “auto service station”. Ordinance 132 did not define this use. For the Commission’s reference, the Merriam Webster definition is provided:</p> <p style="text-align: center;"><i>Auto (referred to as automobile): a usually four-wheeled automotive vehicle designed for passenger transportation</i></p> <p style="text-align: center;"><i>Service Station: gas station</i></p> <p>The expansion is not classified as the use “fuel sales”, but as the use “auto service station”. As such, the standards of 8-2C-20 (Fuel Sales) do not apply to this use. While not classified as a fuel sales use under current code, these standards should be considered for potential conditions of approval as the legal nonconforming use and the fuel sales use are functionally the same. The applicable potential conditions will be evaluated in the required findings section below.</p>
<u>GCC 8-6B-2 Conditional Use</u>	

GCC 8-6B-2D Required Findings	To approve a conditional use permit the Planning and Zoning Commission must determine the request meets the required findings of this section. The findings are analyzed below.
Finding 1	<p data-bbox="727 359 1469 499">Finding: 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 data-bbox="727 506 1469 1087">Analysis: The proposed use may require conditions of approval to meet this finding. The proximity of the proposed food store to existing residential uses on the west and south property lines could create potential conflicts. 8-1C-3 (Property Maintenance Provisions) and 8-4A-3 (Outdoor Lighting) prohibits outdoor lighting from projecting onto adjacent properties. The standards of these sections include requirements light fixture down shielding. A photometric plan and fixture cut sheets were not provided. A condition of approval is recommended requiring a photometric plan and fixture cut sheets be submitted for administrative review.</p>
Finding 2	<p data-bbox="727 1094 1469 1268">Finding: 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 data-bbox="727 1274 1469 1890">Analysis: The proposed use may require conditions of approval to meet this finding. The general conditions already contain provisions for any conditional use to obtain adequate public facilities and services. 8-4E-3 (Public Street Connections) require any use to have access to a public street as approved by the transportation authority. While the proposed access points exist, ITD must review and approve the access for the expansion. A condition of approval should be considered requiring access be approved by ITD prior to the issuance of a building permit. The Garden City Streetlight Policy requires a streetlight every 400'. The nearest streetlight to the</p>

	<p>property is 410 ft. away, located at the intersection of Bogart St. and W. State St. An additional streetlight is required by the policy. A condition of approval to this effect may be warranted.</p>
<p>Finding 3</p>	<p>Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Analysis:</p> <p>The proposed use may require conditions of approval to meet this finding.</p> <p>8-1C-3 (Property Maintenance Provisions) and 8-4A-3 (Outdoor Lighting) prohibits outdoor lighting from projecting onto adjacent properties. The standards of these sections include requirements light fixture down shielding. A photometric plan and fixture cut sheets were not provided. A condition of approval is recommended requiring a photometric plan and fixture cut sheets be submitted for administrative review.</p> <p>Vehicular and pedestrian circulation impact the health, safety or welfare of the community as a hazard is present from potential vehicle/pedestrian conflicts. The applicant's plans do not depict vehicular or pedestrian circulation flows. The Commission can request the applicant return with this information or add a condition of approval requiring Design Committee approval of this circulation, as the Design Committee reviews circulation with a Design Review.</p> <p>8-2C-20 requires a 500' distance buffer from residences to fuel sales, but this does not apply to a non-conforming use expansion. However, the proximity of fuel sales and underground fuel tanks to residences may present a potential hazard. The existing fuel pumps are located closer to the right of way than the proposed fuel pumps. The application documents show the fuel pumps protected by u-shaped barriers. More information concerning safety procedures may be warranted.</p> <p>The underground storage tanks are proposed in the location of the existing fuel pumps but are located underground and are required to meet fire</p>

	<p>department and Idaho DEQ standards.</p> <p>The standards of 8-2C-20, subsections C – G, are intended to protect the health, safety and welfare of the community as applied to a fuel sales use. These standards should be considered for potential conditions of approval to meet this finding.</p>
<p>Finding 4</p>	<p>Finding: The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p>Analysis:</p> <p>Comprehensive Plan:</p> <p>The proposed use expansion may be in conformance with the Comprehensive Plan.</p> <p>The property is located in the Green Boulevard Corridor designation of the Plan's Future Land Use Map</p> <p>Green Boulevard Corridor:</p> <p><i>The state highways and arterials are identified as green boulevard corridors. This is a bold statement that these corridors should be dramatically changed from the current single purpose function for moving vehicles. The intent of this designation is to create more multi-modal characteristics on these corridors, including sidewalks with parkways, bus stops, landscape medians with pedestrian refuges and channelized left-turn lanes. Mobility for vehicles should be maintained, but improvements to the safety and convenience for transit and pedestrians is needed that will influence changes in the adjacent land uses. Existing uses, including commercial uses, are allowed in the corridors. New uses, including commercial uses, should be designed to encourage multi-modal over single occupancy vehicles. Uses which generate high volumes of single occupancy vehicular traffic should be</i></p>

	<p><i>restricted. Development regulations in the corridor should include access management including number and spacing of driveways, location of parking behind the buildings and maximum setback requirements from the street.</i></p> <p>The designation indicates that existing uses should remain but that new uses should be designed to encourage multi-modal transportation over single vehicle patrons. The designation is silent on legal nonconforming use expansions, but consideration of the impact of a proposed expansion on multi-modal transportation, streetscape, access points, and site configuration may be warranted.</p> <p>The proposed use appears to conform with the following goals, objectives, and action steps of the Plan:</p> <p style="padding-left: 40px;"><i>Goal 12: Evolve as a Destination</i> <i>Objective 12.2: Continue to support commercial and industrial land uses</i></p> <p>Policies:</p> <p>The Garden City Sidewalk Policy and Garden City Street Light Policy were reviewed as part of this report. The policies are analyzed below.</p> <p>Ordinances:</p> <p>The proposed use expansion, as conditioned, does not appear to be in conflict with City ordinances.</p>
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C. Agency and Public Comments

Agency Comments: The following agency comments were provided:

Agency	Comment Summary
Garden City Engineer	Standard comments.
Republic Services	Dumpster location and access concerns. Further details not provided by commenter.

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Public Comments: None received

D. Policy and Study Analysis

Policy/Study	Staff Comments
<u>Garden City Sidewalk Policy</u>	The Sidewalk Policy was reviewed as part of this report. The applicant has proposed a detached sidewalk and landscaping, but tree placement in the ROW remains a challenge as ITD will not allow trees within the ROW. The applicant is working with the Design Committee to determine a solution. A condition of approval could be required to require the detached sidewalk and landscaping with its configuration approved by the Design Committee.
<u>Garden City Street Light Policy</u>	The Streetlight Policy requires one street light every 400 ft. along a street. The nearest street light to the property is 410 ft. away, located at the intersection of Bogart St. and W. State St. An additional streetlight is required by the policy.

E. Decision Options

The Commission may take one of the following actions:

1. Approve the application as presented;
2. Approve the application with conditions;
3. Request the applicant return with revised materials for additional review;
4. Deny the application.