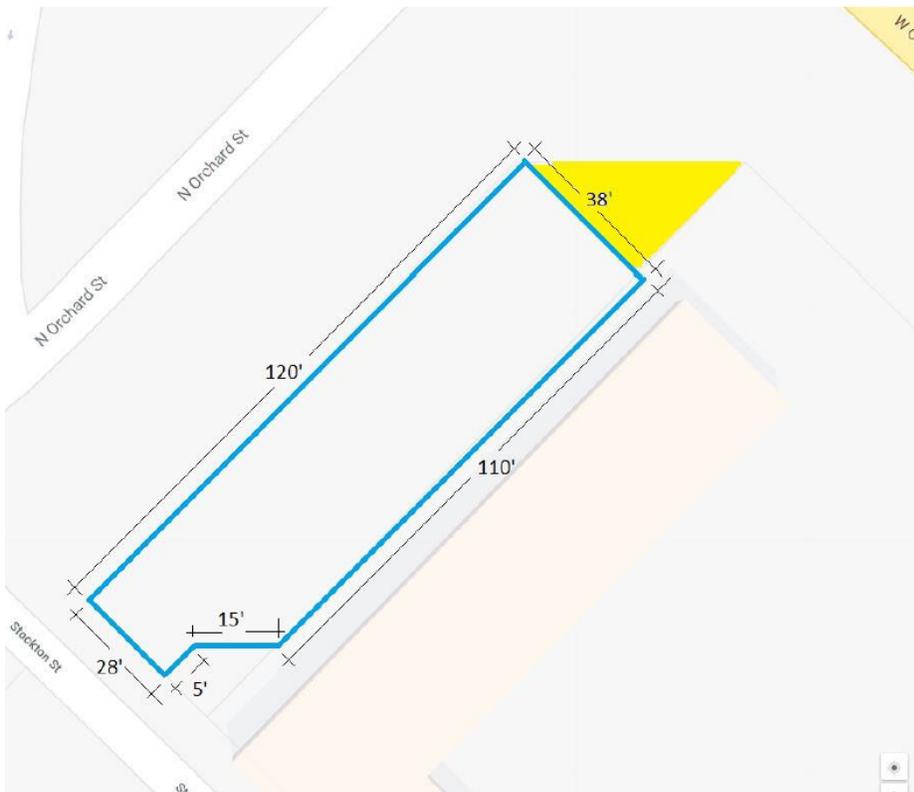




CITY OF GARDEN CITY

6015 Glenwood Street ■ Garden City, Idaho 83714
 ■ planning@gardencityidaho.org ■ www.gardencityidaho.org
 ■ Phone 208/472-2921

CUPFY2019-6
Conditional Use Permit
 For:
Use: Storage Facility or Yard
Location: E. 36th Street, Parcel # R2734530132, Garden City, Idaho
Applicant: Michael Nelson of Rocky Mountain Audio and Visual



LEGEND	
	Property Line
	City Property
	Roads
	Adjacent Bld

Staff Contact: Chris Samples (208) 472-2921; csamples@gardencityidaho.org

City of Garden City
Planning and Zoning Commission Staff
Report

Project Description:

Planning and Zoning Commission Public Hearing Date: Wednesday April 17, 2019 ,
at 6:30 p.m.

Application File Number: CUPFY2019-6

Applicant: Michael Nelson, Rocky Mountain Audio and Visual, Inc.

Location: E. 36th Street; Ada County Parcel # R2734530132; PAR# 0132 of Lot 34, Block L,
Fairview Acres Sub No. 4

Requested Use: Storage Facility or Yard

Project Synopsis: Michael Nelson with Rocky Mountain Audio Visual Inc. is requesting Conditional Use Permit approval of the use “Storage Facility or Yard” at N. 36th Street, Ada County Parcel R2734530132, Fairview Acres Sub. #4. The 0.099 acre lot is within the highway commercial (C-1) zoning district, and the Work-Live-Create and Transit Oriented Development designations of the Comprehensive Plan.

The applicant is proposing the use at this location for the storage of vehicles and trailers associated with his business located at 3623 W. Chinden Blvd. 3623 W. Chinden Blvd. is located across Orchard Street from the subject property.

Existing Conditions:

- The subject property is 0.099 acres
- The project is in the C-1 Highway Commercial Zoning District
- The project is located in the Transit Oriented Development Node and Green Boulevard Corridor Comprehensive Plan Land Use Designations
- The subject property is not located in 100 year floodplain designation.
- Surrounding Uses: Lodging, Lending Institution, Eating Establishment – Full Service
- Existing Use: No record of any conforming or legal non-conforming uses
- There are no records on file with Garden City of existing easements
- Access to the site is from Stockton Street.
- There are no/ sidewalks in good repair on or adjacent to the site.

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

1. GCC 8-7A Definitions of Uses

2. GCC 8-2B-2 Allowed Uses
3. GCC 8-1B-1 Nonconforming Properties
4. GCC 8-1B-3 Nonconforming Uses
5. GCC 8-2C-37 Storage Facility or Yard
6. GCC 8-1C-3 Property Maintenance Standards
7. GCC 8-4A-3 Fences and Walls
8. GCC 8-4E-3A Clear Vision Triangle
9. Title 8 Chapter 4 Design and Development Regulations
10. GCC 8-6B-2 Conditional Use

Additional Plans and Comments Noted:

1. Other Plans and Approvals Analysis
2. Department and Agency Comments
3. Public Comments

Staff Analysis:

GCC 8-7A Definitions of Uses

STORAGE FACILITY OR YARD: The use of more than twenty percent (20%) of a site where equipment, inventory, supplies, vehicles or other similar items of a nonresidential nature are stored inside or outside.

The applicant has disputed the nature of the use falls within the scope of the use “Storage Facility or Yard” and has listed “Parking” as the proposed use. The applicant notes that the proposed use is “leave as is for addition parking”. Parking as a use falls within the scope of the use “Parking Facility”, defined as:

PARKING FACILITY The primary use of a site for parking vehicles. The term “parking facility” includes surface lots and garages.

The applicant’s proposal, while parking vehicles, To be a parking facility, the use must be the primary use of the site. The applicant has indicated in the application the use of the site is intended to support a business located west of the property and across Orchard St. Evidence on the record suggests the site is not being operated as the use “Parking Facility”, but as the use “Storage Facility or Yard”.

For the purposes of this report, the use “Storage Facility or Yard” will be reviewed. The applicant and the Commission can discuss this dispute during the hearing.

GCC 8-2B-2 Allowed Uses

The use “Storage Facility or Yard” is a conditionally permitted use in the C-1 Highway Commercial Zoning District

TABLE 8-2B-1 ALLOWED USES IN ALL BASE ZONING DISTRICTS

P = permitted use; C = conditional use; and a blank denotes the use is not allowed in that district

	<i>R-1</i>	<i>R-2</i>	<i>R-3</i>	<i>R-20</i>	C-1	<i>C-2</i>	<i>M</i>	<i>LI</i>
Storage Facility or Yard*					C			C

GCC 8-1B-1 Nonconforming Properties

Under this subsection, properties that cannot meet the minimum lot size requirements for the zoning district the property is located in shall be considered a nonconforming property and are not granted entitlements unless the property is

- A) Unplatted contiguous parcels of land held in one ownership OR
- B) a lot or tract of land as recorded on any plat of record created prior to August 9, 1988 which do not meet the minimum lot size required by this title.

The parcel was platted originally in 1946 as Lot 34, Block L, Fairview Acres Subdivision No. 4, dimensioned as a 30' x 150' lot. However, according to the Ada County Assessor, the parcel was reconfigured in 1987 at the intersection of Orchard Street and W. Chinden Blvd for a right of way adjustment by the Idaho Transportation Department.

Garden City Code 8-2B-3 (Form Standards) requires each lot to be of sufficient size to meet the minimum setbacks of the zone and to accommodate the use intended for the zone. This is evaluated on a case by case basis due to the unique requirements of each use. If the parcel was unable to meet the minimum lot size requirements pursuant to Garden City Code 8-2B-3 (Form Standards), the parcel could be considered a nonconforming property pursuant to this section due to its date of reconfiguration.

GCC 8-1B-3 Nonconforming Uses

The applicant is disputing the need for a conditional use permit. According to the application, the applicant is claiming that the use is a legal nonconforming use by virtue of using the property for 16 years.

For a use to be considered a legal nonconforming use, GCC 8-1B-3 requires the use to have been established in accordance with the ordinances in effect at the time of establishment. The property was zoned C-1 Highway Commercial in 2003, as no record of a zoning map amendment was found for the property at that date or after. City Code in effect in 2003 listed the use "Storage Yard" as a prohibited use in the C-1 zoning district. The use "Storage Yard" was defined in the code in effect in 2003 as "An outside facility where equipment, inventory, supplies, or other similar items are stored. A building with a roof but without walls completely enclosing the building is a storage yard. The definition of "storage yard" is applicable to residential, commercial, and industrial uses".

The existing use at this location is not considered a legal non-conforming use. A conditional use permit is required for the use "Storage Facility or Yard".

GCC 8-2C-37 Storage Facility or Yard; GCC 8-1C-3 Property Maintenance Standards; GCC 8-4A-3 Fences and Walls; GCC 8-4E-3A Clear Vision Triangle

Garden City Code 8-2C-37 (Storage Facility) requires specific standards for this use. The application does not appear to comply with the following standards of this subsection:

B. Parking And Access:

1. *The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.*
2. *All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material.*

D. Site Maintenance:

1. *All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.*
2. *Materials or vehicles shall not be stored within the required yard setbacks.*

E. Other Standards Apply: Outdoor storage areas shall comply with section 8-1C-3, Property Maintenance Standards, of this title.

The applicant has not indicated in their application the specific location of vehicles and equipment on the site.

Pursuant to subsection E, the application does not appear to comply with the following provisions of GCC 8-1C-3 (Property Maintenance Standards):

Q. Outdoor Storage: Where allowed the outdoor storage of vehicles, equipment, materials, or merchandise shall be in compliance with the following standards:

1. *No outdoor storage items shall block sidewalks, driveways to the site, or impede vehicular and pedestrian traffic and parking.*
2. *For nonresidential uses, outdoor storage areas shall be screened from the view of adjacent property by a solid masonry wall or privacy fence or approved landscape buffer. The height of the wall or fence shall be the maximum of eight feet (8').*
4. *No junk materials, goods, merchandise, or wares shall be stored outside in any residential zoning district or visible from an arterial street.*

5. Outdoor storage areas shall not exceed fifty percent (50%) of the total area of the site except where landscaping is provided in addition to the required setbacks as follows:

- a. The additional landscaping shall be equal to at least ten percent (10%) of the area of storage that is over the fifty percent (50%) of total site area; and
- b. The additional landscaping shall be located on the outside of the required solid masonry wall or privacy fence.
- c. Notwithstanding the provisions of this subsection, outdoor storage shall be allowed without landscaping in conjunction with the following land uses: agriculture; building material, garden and equipment; equipment rental, sales and services; nursery; vehicle sales and services.

The applicant has not indicated the specific location of vehicles and equipment on the site. The applicant has not proposed any fencing or screening. The applicant has not indicated the percentage of the site that will be dedicated to storage, which determines whether landscaping is required.

Fencing required by GCC 8-1C-3 must also comply with the following provisions of 8-4A-3 (Fences and Walls):

D. Setbacks: Fences greater than three and one-half feet (3.5') shall be set back to be flush or behind the building frontage. Where there is no building frontage, fences greater than three and one-half feet (3.5') shall be set back minimally ten feet (10') from the back of the sidewalk so as to allow for street trees and landscaping between the fence and the sidewalk.

GCC 8-4E-3 (Public Street Connections) contains the following clear vision requirements:

A. *Clear Vision Triangle: All streets and driveways shall adhere to the standards of a clear vision triangle.*

1. *Measurement: The clear vision triangle shall be measured as follows:*

- a. *The area is measured from the intersection of two (2) streets from the edge of pavement at the corner to a distance of forty feet (40') along each public street. The triangular area within is the "clear vision triangle". (Ord. 898-08, 9-8-2008)*
- b. *The area of the clear vision triangle at the intersection of private streets or driveways with a public street is dependent on the volume of traffic and existing safety conditions at the intersection as determined by the transportation authority. The clear vision triangle shall not be less than seven feet (7').*

GCC 8-7A (Definitions) defines the term “clear vision triangle” as “a triangular area on a corner lot within which there are certain height limitations in order to provide sight distance for vehicles.”

The proposed use’s location adjacent to the clear vision triangle at the intersection of Orchard Street and Brown Street may present a significant safety hazard. The proximity of the entrance to the property off of Brown Street and the location of an existing power pole within the triangle could endanger pedestrians, cyclists, and vehicles at this intersection.

Compliance with the above provisions appears to significantly limit the scope of the use due to the property’s size and configuration and could limit its viability at the site. Fencing required by 8-1C-3 must be screened by a fence or wall no taller than 8’ or an approved landscaping buffer. 8-4A-3D requires that fence to be set back a minimum of 10’ from the back of the sidewalk. GCC 8-2C-37D prohibits storage within the setbacks of the C-1 zone. GCC 8-2B-2 (Form Standards) requires a 5’ setback from all property lines. The property dimensions are 32’ wide by 118’ long at its shortest measurement and 150’ long at its longest measurement. The back of sidewalk along Orchard Street is located in the right of way and is 5’ from the west property line. The back of sidewalk along 36th Street varies from 0’ to 6.5’. These requirements along limited storage to 22’ wide by 118’ (at the shortest point) to 145’ (at the longest point). If the applicant were to exceed 50% of the total area of the site with storage, GCC 8-1C-3Q-5 requires at least an additional 10% of the total area site to be landscaped. The property is 4,312 square feet, requiring 432 sq. ft. of landscaping. This would further reduce the available area for storage.

Title 8 Chapter 4.

GCC 8-4A General Provisions

Garden City Code 8-4A-3 (Fences and Walls) is reviewed in a previous section.

GCC 8-4E Transportation and Connectivity Provisions

Code requires that whenever a new use commences at a site, that the property be compliant with transportation and connectivity provisions.

GCC 8-4E-3 (Public Street Connections)

This subsection is reviewed in a previous section of this report.

GCC 8-4E-6 (Sidewalk Standards)

This subsection requires sidewalks for new and more intense use of property. At times there is overlap between design and use. ***Garden City Sidewalk Policy*** notes that a sidewalk and landscaping buffer is not required if a sidewalk is in good repair on or adjacent to the property. An existing sidewalk in good repair is located on Orchard Street and W. Chinden Blvd, but not along Brown Street. Although there appears to be difficulty in complying with this requirement on Brown Street, the applicant has not

requested a waiver request pursuant to the policy. In the absence of a waiver request, a sidewalk and landscaping meeting the requirements of this section is required.

8-6A-7B-3 Posting On the Site (Property Posting Requirements)

The application was originally scheduled for April 17, 2019 but was not listed on the agenda due to noncompliance with the required property posting requirements of this section. The proposal did not meet the property posting requirements again for the May 15, 2019 hearing and the application was continued to a date certain of June 19, 2019.

The applicant was informed of the signage requirement during a meeting with staff on January 11, 2019. The applicant was reminded of the property posting on the following dates:

By e-mail:

- March 20, 2019 (Acceptance Letter)
- April 15, 2019
- April 18, 2019
- May 7, 2019
- May 20, 2019 (Revised Acceptance Letter to inform applicant of continuance)

By phone:

- April 17, 2019 (Connie Sol, Code Enforcement Officer)

The applicant provided a notarized affidavit of property posting on June 12, 2019 in conformance with this subsection.

8-6B-2 D [Conditional Use] Required Findings

In order to approve a conditional use permit the Planning and Zoning Commission must find:

1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;
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;
3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.

Impacts to Finding 1:

There appears to be evidence on the record that the use may not be appropriate to the location and the lot. As noted in this report, the proposal does not appear to

comply with GCC 8-2C-37, GCC 8-1C-3, GCC 8-4A-3, and GCC 8-4E-3. The size and configuration of the property combined with the required standards of Garden City Code appears to significantly restrict the proposed use. Such limited use raises concerns that the use is not viable at this location. A non-viable use may not be appropriate at this location and lot.

Impacts to Finding 2:

There appears to be evidence on the record that the use may not be supported by adequate public facilities. There also appears to be evidence that conditions cannot be established to mitigate adverse impacts. As noted in this report, the proposed use may be significantly impacted by required compliance with the clear vision triangle requirements of GCC 8-4E-3. Impacts to the clear vision triangle may significantly impact the ability of the Ada County Highway District to provide safe access to Orchard Street and Stockton Street. Conditions that could mitigate this issue could not be identified.

Impacts to Finding 3:

There appears to be evidence on the record that the proposed use may unreasonably diminish the health, safety, and welfare of the community. As noted in this report, the proposed use does not comply with the clear vision triangle requirements of GCC 8-4E-3. Impacts to the clear vision triangle may significantly impact the ability of the Ada County Highway District to provide safe access to Orchard Street and Stockton Street.

A power pole is adjacent to the entrance to the proposed use and a power line and support wire for power pole is directly over the entrance to the property on Stockton Street:



The proximity of this infrastructure to the proposed entrance may present a significant impact to the health, safety, and welfare of the community. There appears to be a significant risk of a vehicle or trailer hitting the power pole or guide wire, which could interrupt power service in the area.

Impacts to Finding 4:

There appears to be evidence on the record that the proposed use may not in conformance with the Comprehensive Plan.

In and of itself, a Comprehensive Plan is not legally binding. However, a required Conclusion of Law for conditional use permits in Garden City is that the use is in compliance with the Comprehensive Plan. In this way the Garden City Zoning Code ensures that proposed uses are not only required to be compatible with existing neighborhoods, but are also progressing the vision that the community has for those neighborhoods.

The proposed use is located in the Transit Oriented Development Node and Green Boulevard Corridor Comprehensive Plan Land Use Map Designations.

TRANSIT ORIENTED DEVELOPMENT NODE: The transit oriented development (TOD) nodes are identified within one quarter mile of locations where a transit station has been planned or could be located. It is not intended that all nodes could be developed within the twenty year period of the plan. A mix of uses including higher density residential, retail, office, research and public uses are included in the TOD area designation. A development to be considered for the TOD designation should include 50,000 square feet of non-residential uses and 60 – 80 dwelling units. The form of the development should be multi-story (three or more stories) along the boulevard corridor with lower height moving away from the street. Site design characteristics should include walkability, public spaces, and transit station design. Lower parking standards should be allowed.

The proposed use at this location does not appear to contribute to the implementation of a TOD node. While the proposed use does not intend to create structures or other permanent improvements that would impede future development, the use is not among the recommended uses listed in the designation. The proposed use does not appear to be at the level of intensity as the uses recommended by the designation.

GREEN BOULEVARD CORRIDOR: 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, but new uses which generate high volumes of vehicular traffic should be 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.

The proposed use at this location does not appear to contribute to the implementation of the Green Boulevard Corridor. The application is not clear on whether it will generate high volumes of traffic, as the application does not provide information concerning the frequency as which stored vehicles and trailers will be taken to and removed from the site.

The proposed use at this location does not appear to be in conformance with any of the goals, policies and action steps of the Comprehensive Plan.

Other Plans and Approvals Analysis

The Garden City Sidewalk Policy was reviewed in association with this application.

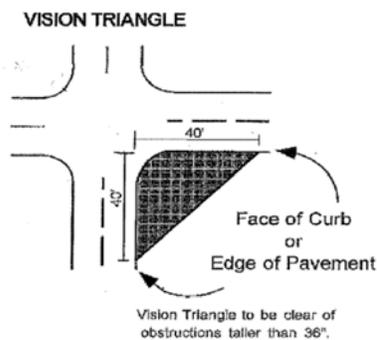
Comments from Other Departments and Agencies

Garden City Engineer

The Garden City Engineer has noted concerns with maneuvering within the property. Standard comments were also applied.

Idaho Transportation Department

ITD notes that the clear vision triangle must remain unobstructed from vehicles, landscaping, and other improvements:



Compliance with the triangle reduces the size of the proposed storage area and limits the viability of the proposed use.

Summary of Comments from Public

There have been no written public comments received to date.