

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

In the Matter of:	)	CUPFY2020-13
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
5103 N. Sawyer	)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho	)	AND DECISION
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THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on July 15<sup>th</sup>, 2020. 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 request is for the use Retail and wholesale of granite and home improvement defined by Garden City Code 8-7A-1 as "Building material, garden, and equipment".
2. The applicant is Brian and Gisele Pope.
3. The property owner of record is Richard C. Ripple Jr.
4. The location of the project is 5103 N. Sawyer; Ada County Assessor parcel number(s) R7851270030.
5. The property is a legal lot of record.
6. The application is a conditional use permit for the use Building material, garden, and equipment. The scope of the conditional use permit is limited to Entire Property.
7. The subject property is 0.972 acres.
8. The project is located in the C-2 General Commercial zoning district.
9. The project is located in the Light Industrial Bradley Technology District; Comprehensive Plan Land Use Designation.
10. The project is not located in the SFHA according to the 2003 FIRM.
11. The project is not located in the SFHA according to the 2017 FIS.
12. The existing use on the site is Food Products, Small Scale processing.
13. The following standards apply to this proposal:
  - a. Garden City Code 8-2B-2: Conditional Use
  - b. Garden City Code 8-2C

- c. Garden City Code 8-4A-3: Fences and Walls
- d. Garden City Code 8-4D: Parking and Off-Street Loading Provisions
- e. Garden City Code 8-4E-7: Pedestrian and Bicycle Accessibility Standards
- f. Garden City Code 8-6A: Administration – General Provisions

14. The following plans and policies apply to this proposal:

- a. Garden City Comprehensive Plan
- b. Garden City Street Light Policy

15. The following previous approvals apply to this proposal:

- a. BLD1996-1016T1
- b. BLD2000-05030C
- c. BLD2010-00149
- d. BLDFY2017-0003
- e. ZON2007-00010

16. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

<b>Conditional Use Permit</b>			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Will Serve

17. Additional application materials submitted include:

- a. Floor Plans;
- b. Landscape Plan;
- c. 300' Neighborhood List;
- d. Affidavit of Legal Interest;
- e. Application;
- f. Neighborhood Sign-In Sheet;
- g. Recorded Neighborhood Meeting;
- h. Site Photos; and
- i. Statement of Intent.

18. Agency Comments were received from:

- a. Ada County Highway District, dated May 5, 2020
- b. Garden City Engineer, dated June 15, 2020
- c. North Ada County Fire and Rescue, dated May 15, 2020
- d. Department of Environmental Quality, dated June 19, 2020

19. No Public Comment was Received

20. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Neighborhood Meeting Notice <a href="#">(here)</a>	05/29/2020	05/18/2020
Receipt of Application	06/09/2020	05/27/2020
Letter of Acceptance (30 days after application)	07/09/2020	06/17/2020
Radius Notice (15 days prior to hearing)	07/01/2020	06/01/2020
Interested Parties	No interested parties	
Legal Notice (19 days)	06/24/2020	06/01/2020
Agency Notice ( 15 days)	07/01/15	06/01/2020
Property Posting Sign (7-10 days)	07/08/2020	06/29/2020
Affidavit of Property Posting and Photos (7 days)	07/08/2020	06/29/2020

21. On July 15, 2020, a public hearing before the Planning and Zoning Commission was held:
- a. Applicant Gisele Pope presented the application. She requested relief from the draft conditions that which required:
    - i. Internal sidewalk;
    - ii. Removal of a noncompliant chain link fence and;
    - iii. A streetlight installation.
  - b. Staff member Hanna Veal presented the staff report.
  - c. Public testimony was heard from Brian Pope in favor, noting that all surrounding neighbors want fencing. The asphalt on the property covers need of pedestrian accessibility.
  - d. The applicant did not wish to provide a rebuttal.
  - e. Public testimony was closed.
  - f. Discussion included:
    - i. Change necessitates that properties come into compliance.
    - ii. Appreciate the work that the applicant has done.
    - iii. Great to see a Garden City business grow and choose to remain in Garden City.
    - iv. The street may not necessitate a streetlight.
    - v. The Commission had conflicting views if whether the sidewalk and removal of fencing was appropriate.
  - g. Commissioner Rasmussen moved to approve the application as drafted in the draft decision in the affirmative with draft conditions of approval as amended to include the following conditions:
    - i. Removal of the requirement for a streetlight.
    - ii. The razor wire must be removed within 30 days of this approval. The existing chain link fence can remain.
    - iii. The internal sidewalk must be installed by end of 2021. Occupancy can occur prior to the installation.
  - h. Commissioner Pelton seconded the motion.
  - i. The motion carried unanimously.

22. The record contains:
- b. Application Documents
  - c. Noticing Documents

- d. Agency Comments: Ada County Highway District, Garden City Engineer, North Ada County Fire and Rescue, Department of Environmental Quality
- e. Written Public Comments: none provided
- f. Staff report
- g. July 15, 2020 Planning and Zoning Commission Hearing Minutes
- h. July 15, 2020 Planning and Zoning Commission Hearing Audio
- i. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

23. In order to approve a conditional use permit application, the Planning and Zoning Commission shall make the following findings:

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p><b>Finding:</b> 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><b>Explanation:</b></p> <p><b>In Approval:</b> The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p>
X			<p><b>Finding:</b> 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><b>Explanation:</b></p> <p><b>In Approval:</b> There are public services available that can accommodate the proposed development.</p>
X			<p><b>Finding:</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The proposed design adheres to standards for the protection of health, safety, and general welfare.</p>

X			<b>Finding:</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.
			<b>Explanation:</b>  <b>In Approval:</b> The application is cohesive with the Comprehensive Plan's designation of Light Industrial Bradley Technology District. And supports the Comprehensive Plan's Goal 2, Improve the City Image, and Goal 12, Evolve as a Destination.  Furthermore, the use has been found to be compliant with the sections of code applicable to the application.

18. The record was reviewed by the Planning and Zoning Commission to render the decision.

### 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:

### POTENTIAL CONDITIONS FOR APPROVAL DECISION

**Application Specific Requirements:**

Scope of Permit:

1. The scope of this permit is to allow for the "building material, garden and equipment" use.

Prior to Occupancy:

1. 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:

1. All streets and driveways will adhere to the standards of a clear vision triangle.

2. The razor wire must be removed from the chain-link fence within 30 days of this approval. The existing chain link fence may remain.
3. The internal sidewalk that which is ADA compatible and connects the primary entrances of the building to the sidewalk on N. Sawyer St. must be installed by end of 2021.
4. The following conditions shall apply to all uses within the scope of the use "Building material, garden, and equipment".
  - a. Limitations:
    - i. Any lumberyard or stacks of lumber or to stack lumber in the city in such a manner as to create a fire hazard or a nuisance or in such a manner as to endanger the life or wellbeing of any persons shall not be permitted.
    - ii. All lumberyards or stacks of lumber shall be maintained as to minimize the possibility of fire spreading from such yards to any nearby buildings or improvements.
    - iii. All lumberyards and stacks of lumber shall be enclosed by a building or fence so that persons other than those having business interests in connection therewith shall not have access thereto unless permitted to have such access by the person in charge of such lumberyard or stacked lumber.
5. The outdoor display of merchandise shall be allowed in compliance with the following standards
  - a. The sale of the merchandise displayed outside shall be associated with a specific business located on the site.
  - b. The outdoor display shall not be located on the public right-of-way, including sidewalks, in the parking lot or in a landscaped area
6. Outdoor storage areas for materials (excluding growing plants in ground or in containers), and mechanical equipment shall comply with the provisions as set forth in section 8-1C-3, "Property Maintenance Standards," of "Building material, garden, and equipment."
  - a. Where outdoor storage is allowed it may not block sidewalks, driveways, or impede vehicular and pedestrian traffic and parking.
  - b. All outdoor storage areas must 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 will not exceed the maximum height of eight feet (8').
  - c. All outdoor storage areas will not exceed fifty percent (50%) of the total area of the site except where landscaping is provided in addition to the required setbacks.
  - d. Outside storage for commercial or industrial uses will be limited to those items owned or used by the business.

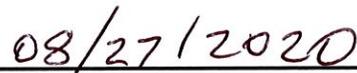
### **General Requirements**

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. The property owner is responsible to maintain the site to edge of roadway asphalt.
8. 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.
9. 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.
10. 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.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
14. 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.
15. 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.
16. The landscape installation shall stabilize all soil and slopes.
17. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
18. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
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. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
28. All previous uses are null and void unless otherwise conditioned.
29. 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.
30. 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 15 days after the action of the decision.
31. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
32. 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.
33. A takings analysis pursuant to Idaho Code may be requested on final decisions.
34. 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.

  
Chairman, Planning and Zoning Commission

  
Date