

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

In the Matter of:)	CUPFY2020-02
)	
Conditional Use Permit 5107 N. Alworth St. Garden City, Ada County, Idaho)	FINDINGS OF FACT, CONCLUSIONS OF LAW; AND DECISION
)	
)	

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on January 15, 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 property owner and applicant is Stixx, LLC.
2. The application is for a conditional use permit for the use "Service Provider".
3. The location of the project is 5107 N. Alworth Street, Garden City, ID 83714; Ada County Parcel # R7334160231.
4. The subject property is 0.683 acres.
5. The project is located in the Garden City C-2 General Commercial Zoning District.
6. The project is located in the Light Industrial Bradley Technology District, Activity Node – Neighborhood Destination, and Main Street Corridor designations of the Comprehensive Plan.
7. The existing use on the site is: Manufactured Home Park.
8. Current access to the site is from N. Alworth Street.
9. There is a sidewalk installed along the property on N. Alworth Street.
10. The following sections of the Garden City Municipal Code apply to this proposal:

The findings are written both in approval and in denial. The Commission will make a decision on the project during the hearing.		
Standards	Compliant	Conclusions
GCC 8-2B-2 Allowed Uses	Yes/No	IN APPROVAL AND IN DENIAL: The use "Service Provider" requires a conditional use permit in the C-2 Zoning District.
GCC 8-2C-36 Service Provider	Yes/No	IN APPROVAL: The use, as conditioned, meets the requirements of this section. IN DENIAL: The use does not meet the requirements of this section.

<p>Title 8 Chapter 4 Design and Development Regulations</p>	<p>Yes/No</p>	<p>IN APPROVAL: The use, as conditioned, meets the requirements of this section.</p> <p>IN DENIAL: Not applicable.</p>
<p>GCC 8-6B-2 Conditional Use</p>	<p>Yes/No</p>	<p>IN APPROVAL:</p> <ol style="list-style-type: none"> 1. The use, as conditioned, is appropriate to the location, the lot, and the neighborhood; 2. The use, as conditioned, is supported by adequate public facilities or services to the surrounding area. Conditions have been placed to mitigate adverse effects. 3. The use will not unreasonably diminish either the health, safety or welfare of the community as conditioned; 4. The use at this location is in conformance with the comprehensive plan and other adopted plans, and ordinances of the city. <p>IN DENIAL:</p> <ol style="list-style-type: none"> 1. The use is not appropriate to the location, the lot, and the neighborhood; 2. The use is not supported by adequate public facilities or services to the surrounding area. Conditions cannot be established to mitigate adverse impacts. 3. The use will unreasonably diminish either the health, safety or welfare of the community as conditioned; and 4. The use at this location is not in conformance with the comprehensive plan and other adopted plans, and ordinances of the city.

12. Other studies, plans or approvals reviewed include:

<p>Garden City Comprehensive Plan</p>	<p>Yes/No</p>	<p>IN APPROVAL: The proposal is consistent with the comprehensive land use designations of Light Industrial Bradley Technology District, Activity Node – Neighborhood Destination, and Main Street Corridor.</p> <p>IN DENIAL: The proposal is not consistent with the comprehensive land use designations of Light Industrial Bradley Technology District, Activity Node – Neighborhood Destination, and Main Street Corridor.</p>
<p>Garden City Planning And Zoning Commission Sidewalk Policy</p>	<p>Yes/No</p>	<p>IN APPROVAL AND IN DENIAL: An existing sidewalk is installed along the property on N. Alworth Street in accordance with the policy.</p>
<p>Garden City Street Light Policy</p>	<p>Yes/No</p>	<p>IN APPROVAL AND IN DENIAL: A streetlight is located within 400' of the property in accordance with the policy.</p>
<p>Comments from Other Departments and Agencies</p>	<p>Yes/No</p>	<p>IN APPROVAL: This approval includes a condition requiring compliance and approval from applicable agencies.</p> <p>IN DENIAL: Not applicable.</p>

13. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:

- a. Garden City Engineer
- b. Department of Environmental Quality

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. Signed Findings of Fact, Conclusions of Law, and Decision
15. The application was received October 31, 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 scheduled within sixty (60) days of receipt of an application certified as complete.
 16. On November 13, 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 November 14, 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 November 16, 2019.
 19. On November 14, 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 not posted on or before December 8, 2019 in accordance with Garden City Code for the public hearing of December 18, 2019.
 21. To allow the applicant to complete the required property noticing sign, at the December 18, 2019 hearing, the Planning and Zoning Commission continued the application to a date certain of January 15, 2020 in accordance with Section 8-6A-7 of the Garden City Municipal Code.
 22. A property notice sign was posted on or before January 5, 2020. An affidavit of property posting was not provided in accordance with Garden City Code for the public hearing of January 15, 2020.
 23. On January 15, 2020, at the Planning and Zoning Commission public hearing:
 - a. This section will be completed after the hearing.

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/does not meet** 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/ DENIES** of the application subject to the following conditions:

Findings in approval are in grey

Findings in denial are in red

In Approval

Scope of Permit

1. The scope of the permit is for the use "Service Provider". No other uses are authorized under this permit.

Prior to Initiation of the Use

1. There is an existing manufactured/mobile home park on site. This approval is not intended to nullify or vacate the use of the site as a manufactured/mobile home park.
2. An occupancy permit shall be applied for and approved by Garden City Development Services Department.
3. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
4. Prior to the issuance of an occupancy permit and a certificate of compliance for the conditional use permit, a parking study shall be submitted to the Development Services department for review and decision. The study shall address the parking needs of the use, including employee and visitor/customer parking.
5. Prior to the issuance of an occupancy permit and a certificate of compliance for the conditional use permit, landscaping shall be installed meeting the requirements of Garden City Code. A landscaping and site plan for the entire site shall be submitted for administrative review. This landscaping shall include a landscaping buffer between the existing manufactured home park and the use. The buffer shall include at least one class II or class III tree.
6. The affidavit of legal interest must be corrected to reflect the correct owner.

Site Specific Requirements for the Duration of the Use

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.
3. The site shall not be used as vehicle wrecking as herein defined.
4. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.
5. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
6. Outdoor storage areas shall comply with section 8-1C-3, Property Maintenance Standards, of this title.
7. Operating hours are limited to 8:00 am – 5:00 pm seven days a week.
8. Vehicles and outdoor storage areas shall not be located or stored adjacent to the existing manufactured home park located on the property.
9. The replacement of existing manufactured homes with another manufactured home shall require the existing manufactured home park comply with the applicable provisions of Garden City Code 8-4J (Manufactured and Mobile Home Provisions).

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 fifteen (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.

Chairman, Planning and Zoning Commission

Date

IN DENIAL

1. 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 fifteen (15) days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code.
3. 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.
4. A takings analysis pursuant to Idaho Code may be requested on final decisions.

Chairman, Planning and Zoning Commission

Date

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