



CITY OF GARDEN CITY

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File Number: CUPFY2021-0004

Requested Use: Coffee roasting facility with a store front for selling coffee and bakery items.

Use as Defined By GCC Title 8: Food Products, Small Scale Processing

Location: 108 W. 33rd St. Suite 106

Applicant: Michael Leo

Planning and Zoning Commission Hearing Date: January 20, 2021, 6:30 p.m.



STAFF REPORT

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A. Project Information

Proposed Scope of Work:

Request	Review Process	Public Hearing
Conditional Use Permit	GCC 8-6B-2	Planning and Zoning hearing is scheduled for: January 20, 2021

A conditional use may be found to be appropriate or inappropriate at a given property. In some situations, conditions of approval may be required to assist the proposed use in being appropriate to a location and in conformance with code. In other situations where the use cannot be conditioned to be appropriate to the location or code, it should not be permitted.

Project Details:

- 1) Applicant: Michael Leo
- 2) Owner: Dan Donegan with Sunrise Asset Management, LLC
- 3) Request: "Coffee roasting facility with a store front for selling our products, coffee beverages and bakery items."
- 4) Title 8 Use: It has been determined that the Garden City defined use that best describes the use is: Food Products, Small Scale Processing with Accessory Use Coffee Roaster
- 5) Definition of Use: Garden City Code 8-7A-1 defines this use as: The use of a site for producing, manufacturing, or processing of food products on a boutique or small scale and limited production. The use often contains a tasting or dining area. The use includes, but is not limited to, catering, smoking and curing, canning and preserving, confectioneries, brewing and winemaking."
- 6) The applicant has proposed exterior work. However, there were no exterior elevations submitted with this CUP application. A Design Review Committee hearing will be required.
- 7) No sidewalk is proposed.

Site Conditions:

- 1) Existing Use: Record of the use has not been identified and may not be legally established.
- 2) Street Address: 108 W. 33rd St. Suite 106
- 3) Parcel Number(s): R2734530320.
- 4) Property Description: LOTS 4 TO 7 INC LOTS 28/29 BLK N FAIRVIEW ACRES SUB 4
- 5) Legal Lot of Record: Yes
- 6) Property Size: 1.03 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay(s):
 - a) Surel Mitchel Live-Work-Create; Applicant has not requested to apply this overlay.
- 9) Comprehensive Plan Land Use Map Designation:
 - a) Activity Node: Transit Oriented Development
 - b) Live-Work-Create
- 10) Floodplain Designation:
 - a) 2003 FIRM: outside of the Special Flood Hazard Area
 - b) 2017 Draft FIRM: 100 Year
- 11) Surrounding Uses:
 - a) Research and Development

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- b) Drinking Establishment, Limited Service and Food Products, Small Scale Processing (Western Collective)
 - c) Health Club
 - d) Storage Facility or Yard, Warehouse
 - e) Motorcycle Repair and Sales Facility
- 12) Adjacent Zoning:** C-2
- 13) Adjacent Comprehensive Plan Designations:** Live-Work-Crete
- 14) Easements on site:** There are no records on file with Garden City of existing easements on the site.
- 15) Easements adjacent to the site:** Fairview Acres Sub 04 Plat, Utility Drainage, Irrigation easement along W 33rd. Street and Stockton
- 16) Site Access:** List street(s) that the development will be accessed from
- a) Front: W. 33rd Street
 - b) Side: Stockton and Brown
 - c) Rear: W. 34th Street
- 17) Sidewalks:** No sidewalk currently exists along W. 33rd Street.
- 18) Wetlands on site:** None identified.

C. Discussion

The applicant has proposed a small coffee shop at 108 W. 33rd street to sell coffee, other beverages, coffee shop products, and bakery items. They have also proposed to add a small capacity coffee roaster.

The requested use of “Coffee Roasting” on a small scale is not listed in Garden City Code schedule of uses. GCC 8-2B-2 allows the director to determine whether the use is equivalent to a permitted or conditional use. The applicants use is intended to provide coffee for retail consumption versus a large scale wholesale roaster. The use is similar in scope and scale to the use “Food Products, Small Scale Processing” with an Accessory Use”, both defined in GCC 8-7A (Definitions) as:

Food Products, Small Scale Processing: The use of a site for producing, manufacturing, processing of food products on a boutique or small scale and limited production. The use often contains a tasting or dining area. The use includes but is not limited to catering, smoking and curing, canning and preserving, confectionaries, brewing and wine making.

Accessory Use: A use that is incidental, auxiliary and subordinate to the principal use, and is conducted upon the same property. Examples include but are not limited to the parking and storage intended solely for the primary use.

The intent of the use is to provide fresh coffee to consumers for immediate consumption. The small-scale nature of the proposed use positively contributes to bringing a “sense of place” to the neighborhood and is more of an artisanal activity that matches that of the neighboring Western Collective. The use is not intended to be industrial in nature. However, small scale coffee roasting, if not regulated, can produce emissions that can have a negative impact on neighborhood residents.

The director has determined the use to be “Food Products Processing, Small Scale with Accessory Coffee Roaster” and requires a conditional use permit in the C-2 Neighborhood Commercial Zoning District due to concerns regarding emissions emitted during the coffee roasting process.

Odor and emissions from the coffee roaster are a significant concern, as they can potentially offend and interfere with adjoining and surrounding property. A condition of approval is recommended prohibiting outdoor coffee roasting and requiring the use to have no discernible odor or emission detectable from outside of the property. An additional condition is recommended requiring the coffee roasting machine to use emission control equipment to eliminate all odors and emissions from the use.

Compliance with Idaho Department of Environmental Quality requirements regarding emissions is governed by the standard conditions of approval applicable to all agency requirements.

Garden City Code 8-4E Transportation and Connectivity Provisions:

There are no existing sidewalks along W. 33rd Street or Stockton Street. With no existing adjacent sidewalks, code requires a 5’ wide detached sidewalk to be installed at the site.

Garden City Sidewalk Policy notes that sidewalks and pedestrian pathways shall be detached as required by GCC 8-4E-6 E and provide for a 6' wide landscaping buffer (with root barrier) or 8' wide landscaping buffer (without root barrier). The landscaping buffer is prescribed by ACHD's policy for Class II or Class II trees.

Sidewalks along Osage and Stockton are not required; however, The Design Review Committee has required applications to build with consideration of pedestrians. This includes the requirements of site modifications to be aesthetically pleasing by including architectural features, landscaping, murals, or other design methods to help decrease the "alleyway" visual.

This site presents significant challenge to meeting the requirements of the ordinance and policy. The W. 33rd side of the property contains the designated parking location, facing the street. The setback between the building and the right of way on W. 33rd Street is 15'. If a 5' wide detached sidewalk with a 6' landscaping buffer is to be conditioned, it would consume about 11' of that front setback, effectively eliminating the existing parking area. This CUP is for Unit 106 to the building located at 108 W. 33rd. The Commission has previously interpreted that the landscaping and sidewalk requirements are equal to the percentage of square footage occupied by the tenant compared to the entirety of the building. This would require the applicant to install approximately 14.8% of the required landscaping and sidewalk that is required of the whole building (presumably adjacent to their storefront). Having the applicant put in a sidewalk before the adjacent unit could result with a poorly connected sidewalk. A sidewalk alternative would be a painted pathway running along 33rd Street, as it would take the existing site conditions and future redevelopment into consideration.

The applicant has *not* requested a waiver to the policy. A waiver to these standards is recommended. However, a painted pathway and portable landscaping, such as potted plants and/or trees, would be appropriate to this location.

Alternative solutions to the painted pathway and portable landscaping would require a conversation with ACHD and compliance with any additional requirements they might request. Please see below:

1. The right of way along W. 33rd street appears to be about 50' wide. If this were the case, then parallel street parking might act as an alternative to on site parking. This would allow for the 5' wide detached sidewalk with a 6' or 8' landscaping buffer to be installed between 33rd street and the building. However, the installation of a detached sidewalk would require the property owner giving up some of their property to the right of way.
2. If the on-street parking were still utilized, an attached sidewalk, with landscaping bulb outs could be a solution. This would meet code requirements and allow for the space between the street and the building to be available for customers in the form of a patio with landscaping.
3. Another alternative would allow for the painted pathway, the portable landscaping, the street parking and the patio area where the existing parking is located.

The site currently does not have any painted striping for designated parking spots. Based off Google Imagery, it appears that there are two spots located in front of unit 106, however the stripes are very faded. The applicant has suggested and attempted to reach out to the property

owner of the adjacent bank building along W. Chinden, to see if they would be willing to have a shared parking agreement. This could be a viable solution for meeting parking standards.

As a note, staff would like to mention that there is a planned pedestrian crossing at Chinden and 33rd Street. Thus, pedestrian and bicycle access are highly anticipated and suggests that it should remain a priority along all of 33rd Street.

GCC 8-4I Landscaping and Tree Protection Provisions: Compliant with conditions

Required landscaping shall be installed in a proportional manner based on percentage of square footage of the strip mall, business park, or multi-tenant building.

The applicant has not provided a landscape plan demonstrating compliance with GCC 8-4I. The existing site configuration presents a significant challenge to meet this section, as most of the property is covered with an existing building and paved surfaces. Alternative landscaping solutions, such as potted plants, are recommended to help improve the look of the property. A condition of approval is recommended requiring the applicant to submit a Design Review Application.

D. Decision

The Planning and Zoning Commission has been provided a draft document that includes findings of fact, conclusions of law, and a decision in the affirmative and in denial. This is done to provide potential options based on the staff's review of the project. This is not intended to be a predetermined decision. All evidence will be considered, and the document may be updated based on the Planning and Zoning Commission's review of the application.

Required Decisions:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is the final decision maker for a Conditional Use Permit. There is no recommending authority to the Planning and Zoning Commission. Pursuant to [GCC 8-6A-2A](#), The City Council shall have the authority to review any action taken by the Planning and Zoning Commission regarding Conditional Use Permits, which would be final unless appealed.

Required Findings:

To approve a conditional use permit, the Planning and Zoning Commission must find the application meets the following findings found in [GCC 8-6B-2](#):

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.
5. There has been no denial of any application on this property within one year.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is :

4. Granted,
5. Granted with conditions, or
6. Denied.

The decision maker may find that there is inadequate information to render a decision and may also continue the hearing for additional materials to be supplied. It is recommended that they continue the hearing to a date certain for noticing purposes.

The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

Appeal of Decision:

Pursuant to [8-6A-9 Appeals](#), there is a 15-day appeal period to appeal the decision to the City Council. This period starts from the signed decision date and runs concurrently with the 15-day objection period noted above. An appeal is \$210 and must be filed on the appeal application form provided by the City. Appeals received after the 15-day appeal period will not be accepted.

E. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
Ada County Highway District	None received to date	
Boise School District	None received to date	
Central District Health	12/29/2020	Will require plans be submitted for plan review for any food or beverage establishment. Click Here
COMPASS	None Received to date	
Garden City Engineer	12/19/2020	Standard comments including a comment requiring a new Affidavit must be provided with Sunset Asset management LLC as the signing landowner. The original affidavit was signed on 11/19/2020. The applicant has provided the corrected affidavit on 12/22/2020 and dated 12/10/2020. Click Here
Idaho Transportation Department	None received to date	
Irrigation: Fairview Acres	None Received to date	
North Ada County Fire and Rescue	12/30/2020	Can approve the CUP. Not approval for a Certificate of Occupancy, Building Permit or Occupancy review. Inspection will be required to determine a Certificate of Occupancy prior to Occupancy. Click Here
Meridian School District	None received to date	

F. Public Comment

No public comments were provided as of the drafting of this document.

Commenter	Comment Date	Summary
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No Comments Received		

G. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 7 Building Regulations			
7-2-1 Building Code	N/A	No compliance issues as conditioned.	The applicant is proposing to occupy an existing building while altering the structure. The interior and exterior renovations have not been submitted with this CUP application, and a Design Review Committee review and approval will be required. Because the applicant is proposing alterations to the existing structure, a building permit will be required to be completed prior to occupancy of the structure.
Title 8, Chapter 1: General Regulations			
8-1A-4 Applicability			The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
8-1B-2 Nonconforming Structures		No compliance issues noted	The existing building is a legal nonconforming structure. The building currently lies on the northeastern property line along Stockton Street. This Conditional Use Permit is not proposing to enhance the nonconformity.
8-1B-3 Nonconforming Uses		No compliance issues noted	Food Products, small scale processing is a permitted use within the C-2 zoning district that would not require a conditional use permit. However, the installation and use of a coffee roaster as an accessory use is triggering the requirement of a conditional use permit.
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose		No compliance issues noted	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.
8-2B-2 Allowed Uses	PZ		Garden City Code Table 8-2B-1 does not require a conditional use permit for food products, small scale processing. However, the accessory use of a coffee roaster does require a conditional use permit. See Discussion.
8-2B-3 Form Standards		No compliance issues noted. Compliant as a legal nonconforming structure	The applicant is proposing interior and exterior changes to their unit (106) of the building, however, those plans have not been included with this application. A Design Review Application will need to be approved. The building is currently a legal nonconforming structure. C-2 setbacks are:

			<p>Front: 5' Rear: 5' Interior Side: 5' Street Side: 5'</p> <p>The building is nonconforming in that the northeastern wall of the structure lies on the property line that faces Stockton Street.</p> <p>There is a roll-up garage door adjacent to the main entrance to unit 106. However, it does not appear that the intent of the garage door is to be used as a garage entrance. The dimensions of the door are also not disclosed. Code states that garages facing a public street (W. 33rd) are to be set back at least 20' from the back of the sidewalk or property line if no sidewalk is present. The current garage door is setback 20' from the property line as shown in the Site Plan submitted 12/07/2020 and dated 11/28/2020.</p>
8-2C			There are no land use conditions specific to this use
Title 8, Chapter 4: Design and Development Regulations			
8-4A-3 Fences and Walls	DC	Design Review Required	No fencing proposed.
8-4A-4 Outdoor Lighting	DC	Design Review Required	No lighting plan submitted.
8-4A-5 Outdoor Service and Equipment Areas	DC	Design Review Required	Not enough information to review.
8-4A-7 Stormwater Systems	DC	Design Review Required	Not enough information to review.
8-4A-8 Utilities	DC	Design Review Required	Not enough information to review.
8-4D Parking and Off-Street Loading Provisions			
8-4D-3 Parking Design and Improvement Standards	DC	Design Review Required	<p>The design standards as set forth in section 8-4D-3, "Parking Design And Improvement Standards", shall apply to any new construction, alteration, or moving of a structure or <u>any new or more intense use of property</u>.</p> <p>Submitted site plans, site photos, and Google Earth imagery show a parking area, located along W. 33rd Street. Painted parking spots do not exist, therefore it is unclear how many parking spots exist at the site. Faded paint show the possibility of about 2 or 3 parking spots located directly in front of unit 106.</p>

			<p>The site presents a significant challenge to meeting the requirements of code standards as it appear that the area designated to parking is only 15' wide due to conflicts with the property line. Parking spots, per code, are required to be at least 20'. If this area is to be designated as parking, the required 10x20' parking spots will be designed to lay partially in the 33rd street right of way.</p> <p>No bicycle parking is proposed at this point.</p>
8-4D-4 Parking Use Standards	DC	Design Review Required	Upon any change of use, the number of vehicle parking spaces to be provided shall be calculated according to the requirements for the new use.
8-4D-5 Required Number of Off-Street Parking Spaces	DC	Design Review Required	<p>The minimum and maximum number of required off street vehicle parking for nonresidential uses and mixed use shall be determined by the planning official.</p> <p>No bicycle parking proposed at this point.</p>
8-4D-6 Standards for Alternatives to On Site Parking	DC	Design Review Required	Alternatives to providing on-site parking are encouraged, including, but not limited to, shared use facilities, access to transit and availability of other forms of transportation such as carpools and vanpools.
8-4E Transportation and Connectivity Provisions			
8-4E-2 Applicability		May not be Compliant – Design Review Required.	<p>At times there is overlap between design and use. Provisions apply to any new construction, addition, expansion, grading, alteration, or any new or <u>more intense use of property</u>. A Conditional Use Permit is inherently more intense use and a such is classified as requiring special analysis.</p> <p>See Discussion for all GCC8-4E analysis.</p>
8-4E-3 Public Street Connections	DC	May not be Compliant– Design Review Required.	
8-4E-4 Internal Circulation Standards	DC	May not be Compliant– Design Review Required.	
8-4E-6 Sidewalk Standards	DC	May not be Compliant– Design Review Required.	<p>Code requires that the applicant install a 5' wide detached sidewalk. There is a condition of approval drafted that this is installed prior to Certificate of Occupancy. The applicant will be required to install the sidewalk per the ITD/ACHD's requirements. The application will also be required to submit a Public Works and Utility application to the City for review and approval.</p> <p>A waiver has <i>not</i> been requested pursuant to the sidewalk policy. Discussed in the Garden City Sidewalk Policy review section.</p>
8-4E-7 Pedestrian and Bicycle	DC	May not be Compliant –	

Accessibility Standards		Design Review Required.	
8-4I Landscaping and Tree Protection Provisions			
8-4I-2 Applicability		May not be Compliant – Design Review Required.	For all new residential and nonresidential uses, all landscaping standards of this article shall be met. No landscaping plan was submitted. The applicant has stated that they propose site modification, however, no site modification plans have been submitted as part of this conditional use permit application. Site modifications that account for 25% or more of the existing site to be changed, shall install all required landscaping. See Discussion
8-4I-3 General Landscaping Standards and Irrigation Provisions		Design Review Required	No landscaping plan submitted.
8-4I-4 Landscaping Provisions for Specific Uses	DC	Design Review Required	No landscaping plan submitted.
8-4I-5 Perimeter Landscaping Provisions	DC	Design Review Required	Perimeter landscaping not required per code.
8-4I-6 Parking Lot Landscaping Provisions	DC	Design Review Required	No landscaping plan submitted.
8-4I-7 Tree Preservation Provisions	DC	Design Review Required	No landscaping plan submitted. Site appears to have no existing trees.
Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process		No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information			Application waivers requested pursuant to 8-6A-4A: - Irrigation Ditch Company Letter, the site does not have an irrigation ditch running though it or near it.
8-6A-7 Public Hearing Process		No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided a radius notice, notifications to agencies with jurisdiction, and ran a legal notice in the Idaho Statesman, at least 15 days prior to the first hearing. The applicant provided an affidavit of property posting more than 7 days in advance of the hearing validating that the property was posted more than 10 days prior to the hearing.

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
<p>Idaho Code 67-6512 Local Land Use Planning Special Use Permits, Conditions, and Procedures</p>	<p>Garden City Code noticing requirements are compliant with this Statute.</p> <p>The statute notes that upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:</p> <ol style="list-style-type: none"> (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. <p>Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.</p>
<p>Previous entitlement that might affect this project</p>	<p>DSRFY2018-28: A Design Review application for Simply LED's Expansion. The proposal was for an addition that was less than 25% of the gross floor area of the existing building. Under the applicability section, only the addition has to meet the standards of code. The entire structure does not have to be brought to conformance with code.</p> <p>Staff noted that "the proposed addition's scale would only trigger a negligible amount of sidewalk on the site. Waiting for a redevelopment of the entire site would result in a complete sidewalk."</p>
<p>Garden City Comprehensive Plan</p>	<p>This application is in future land use designations of the Comprehensive Plan:</p> <ol style="list-style-type: none"> a.) Activity Node: Transit Oriented Development b.) Live-Work-Create <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ol style="list-style-type: none"> a.) 1.4 Objective: Create a premier destination place to live, work, and recreate. <p>Goal 2. Improve the City Image</p> <ol style="list-style-type: none"> a.) 2.1 Objective: Encourage new and distinctive neighborhoods. <p>Goal 7. Connect the City</p> <ol style="list-style-type: none"> a.) 7.1.5 Re-develop Osage and Stockton streets as shared mobility corridors that are attractive for pedestrians and bicyclists while maintaining access to local businesses. Consider the opportunities for an art pathway and one-way direction for each street. (See also Action Steps 2.4.1 and 2.4.2

	<p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment b.) 12.2 Objective: Continue to support commercial and industrial land uses. <p>The application may not be supported by:</p> <p>Goal 2 Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting. <p>Goal 4. Emphasize the “Garden” in Garden City</p> <ul style="list-style-type: none"> a.) 4.1 Objective: Beautify the Landscape b.) 4.3 Objective: Beautify streets, sidewalks, and gateways with landscaping, trees, and public art.
Garden City Sidewalk Policy	<p>No waiver was submitted. Waiver of the sidewalk requirements recommended.</p>
Garden City Street Light Policy	<p>A streetlight is installed along w 33rd Street in accordance with the policy.</p>
Chinden- ITD Access Management Chinden Corridor Access Map	<p>No access proposed onto Chinden.</p>