

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

In the Matter of:)	CUPFY2021-0010
)	
Conditional Use Permit)	FINDINGS OF FACT,
4665 W. Chinden Blvd..)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on May 19, 2021. 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 of Equipment Rental and Sales defined by Garden City Code 8-7A-1 as “The use of a site for the sale, rental or servicing of tools, trucks, tractors, construction equipment, agricultural implements, or similar industrial equipment.
2. The applicant is Abe Roessler.
3. The property owner of record is Equipment Share, Inc.
4. The location of the project is 4665 W. Chinden Blvd.; Ada County Assessor parcel number(s) R7334140005.
5. The property is a legal lot of record.
6. The scope of the request applies to the entire property.
7. The subject property is 5.195 acres.
8. The project is located in the C-1 zoning district.
9. The project is located in the Green Boulevard Corridor and the Mixed-Use Commercial of the Garden City 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 Vacant.
13. The following standards apply to this proposal:
 - a. Garden City Code 8-1A-4 Applicability
 - b. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
 - c. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - d. Garden City Code 8-4C Design Provisions for Nonresidential Structures
 - e. Garden City Code 8-4E Transportation and Connectivity Provisions
 - f. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - g. Garden City Code 8-6A Administration
14. The following plans and policies apply to this proposal:
 - a. Garden City Comprehensive Plan
 - b. Garden City Sidewalk Policy
 - c. Garden City Street Light Policy
 - d. Chinden ITD Access Management
15. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

Conditional Use Permit			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Will Serve

16. Additional application materials submitted include:
 - a. Site Plan;
 - b. Site Photos;
 - c. 300' Neighborhood List;
 - d. Neighborhood Meeting Sign-In Sheet;
 - e. Affidavit of Legal Interest;
 - f. Application;
 - g. Waiver Requests;
 - h. Sidewalk Waiver;
 - i. Statement of Intent.
17. No Agency Comments were received.
18. No public comments were received.
19. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application	04/13/2021	04/09/2021
Letter of Acceptance (30 days after receipt of application)	05/06/2021	04/26/2021
Radius Notice (15 days prior to hearing)	05/04/2021	04/23/2021
Interested Parties	None	None
Legal Notice (19 days)	04/30/2021	04/23/2021 04/26/2021 Amended
Agency Notice (15 days)	05/04/2021	04/23/2021 04/26/2021 Amended
Property Posting Sign (10 days)	05/09/2021	05/07/2021
Affidavit of Property Posting and Photos (7 days)	05/12/2021	05/07/2021

20. On May 19, 2021, a public hearing before the Planning and Zoning Commission was held:

- a. Abe Roessler and presented the application.
- b. Staff Hanna Veal presented the staff report.
- c. Public testimony was heard from:
 - i. Grant Waldey, in support;
 1. Exterior lighting should be pointed down, not up.
 2. Timing of the product – needs to be considerate of the neighbors and have appropriate timing.
 3. In support of the bike and pedestrian easement.
 4. Best product of all the applications that have come through for this site.
 - ii. Nicholas Guthrie, in support;
 1. Easement would be in a strange location.
 - iii. Ben Lockwoods, in support;
 1. 47th Street has always had the current access points and it has never been a problem for this parcel.
 2. Access points along Chinden are not an issue, and they shouldn't be with this business.
- d. Abe Roessler provided rebuttal:
 - i. Not adding any light poles, censor lights will be installed on the outside of the buildings.
 - ii. 7:00am-5:00pm company, with no work on weekends.
 - iii. Noise level of equipment has been reduced and CO2 emissions are all up to current federal standards.
 - iv. Only occupy the property in the first phase to get revenue to help pay for the second phase.

- v. All landscape requirements and sidewalk requirements will be completed during phase two.
- vi. Limiting the access to only 47th does not provide adequate turn around space for some of the equipment.
- vii. Need to do a traffic study.
- viii. The site is not a parking lot, it is a storage facility. Actual parking is for employees only.
- ix. How much equipment will be placed at the location? Short term is maximizing revenue, initial drop, want visibility for customers driving on Chinden and 47th.
- x. 8 million dollars worth of equipment. Won't occupy the space to be disregarding the safety.
- xi. Exiting and entering Chinden will be addressed through a traffic study.
- xii. Historically, the site has always had the access points.
- xiii. On the busiest day there might be trucks entering and leaving the property 3-4 times a day.
- e. Public testimony was closed.
- f. Discussion included:
 - i. Chinden is to be mixed-use according to the Comprehensive Plan's Green Boulevard Corridor and reducing access points along Chinden is creating a vehicle oriented thorough-fair.
 - ii. ITD is going to be in charge of Chinden ingress/egress points. Conversation with ITD should be required.
 - iii. Need Thurman mill ditch company communication regarding the pedestrian pathway.
 - iv. 2019 ITD access plan shows the elimination of both access points. Elimination of both access points on such a long frontage does not make sense. Elimination of one access point along Chinden is adequate.
 - v. Not supportive of site-specific condition number eleven for public easement along the Thurman Mill canal.
 - vi. In favor of the business.
 - vii. Phase one should not require the ingress/egress along 47th street to move. It should be re-addressed at Design Review during the second phase.
- g. Commissioner Wilde moved to approve the application as drafted in the draft decision in the affirmative, with the following modifications:
 - i. Striking site specific condition number eleven.
 - ii. Modifying number eight to state that only one vehicular access point along Chinden shall be removed.
- h. Commissioner Rasmussen seconded the motion.
 - i. Commissioner Wilde moved to amend the motion to amend condition number seven to state that "the access point along W. 47th Street shall be moved south to the intersection of Goodall and

47th Street, when phase two commences and Design Review approves the site plans.”

- i. The motion carried unanimously.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. May 19, 2021 Planning and Zoning Commission Hearing Minutes
- g. May 19, 2021 Planning and Zoning Commission Hearing Audio
- h. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

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

GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p>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>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>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>Explanation:</p> <p>There are public services available that can accommodate the proposed development.</p>

X			<p>Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;</p>
			<p>Explanation:</p> <p>The use of equipment rental and sales will not unreasonably diminish either the health, safety, or welfare of the community as it has been adequately conditioned.</p>
X			<p>Finding: The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation:</p> <p>The application is cohesive with the Comprehensive Plan's designation of the Green Boulevard Corridor and Mixed-Use Commercial. And is supports the Comprehensive Plan's Goal 1. Nurture the City.</p> <p>a.) 1.4 Objective: Create a premier destination place to live, work, and recreate.</p> <p>Goal 12. Evolve as a Destination</p> <p>a.) 12.1 Objective: Support a positive business environment</p> <p>b.) 12.2 Objective: Continue to support commercial and industrial land uses.</p> <p>c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce.</p> <p>Furthermore, the use has been found to be compliant with the sections of code applicable to the application.</p>

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:

CONDITIONS FOR APPROVAL DECISION

Application Specific Requirements:

Scope of Permit:

1. The scope of this permit is to allow for the use of an Equipment Sales and Rental.
2. A five-foot wide detached sidewalk with landscaping buffer meeting requirements of Garden City Code 8-4E (Transportation and Connectivity Provisions) and the Garden City Sidewalk policy shall be installed along W. 47th Street During the second phase of development associated with the approved Design Review Application materials.
 - a. If the sidewalk is to be located on the property, not in the right of way, a public access easement shall be granted for the length and width of the sidewalk.
3. The access point on W. 47th Street shall be moved south to the intersection of Goodall and 47th Street when phase two commences and Design Review approves the site plans.

Prior to Certificate of Occupancy Permit Being Issued:

4. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
5. A Fire and Environmental Review to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.
6. A public works and utility permit shall be submitted for review and approval of the site work that will be required to bring the site into compliance with:

- a. A detached sidewalk shall be installed in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
 - b. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
7. A twelve-foot wide, detached asphalt pedestrian pathway along W. Chinden Blvd. shall be installed within a year of the approval.
 - a. If a Design review application is applied for within the year, the sidewalk installment can be extended so as to meet the Design Review application's site plan and conditions.
8. Prior to a certificate of occupancy being issued, a parking plan shall be submitted to the Planning Department Staff.
 - a. All vehicles and equipment shall park on the site according to the parking plan submitted.
9. One vehicular access point along W. Chinden Boulevard shall be removed.
10. A pathway system shall extend through the development site and connect the street sidewalk to all primary building entrances.
 - a. The pathway shall be designed to connect or stub a pathway(s) to adjacent private property, transit stops, adjacent trails, plazas, future phases of development, and open space areas.
11. The site shall acknowledge the future pathway development along the Thurman Mill canal through pedestrian oriented features such as landscaping.
 - a. Garden city Code 8-4I-5 Perimeter Landscaping Provisions shall act as the guiding standards.
12. At least one bicycle parking spot shall be provided on site in accordance with Garden City Code 8-4D-5.
13. All chain-link fencing shall be removed and replaced with code compliant fencing materials per Garden City Code 8-4A-3 Fences and Walls.
14. All outdoor lighting shall be found in conformance with Garden City Code 8-4A-4 Outdoor Lighting.
15. All outdoor service and equipment areas shall be found in conformance with Garden city Code 8-4A-5.
16. The applicant shall mitigate for removed trees or shall provide a certified arborist's certification demonstrating the trees removed were dead, dying or a hazard in accordance with GCC 8-4I-7 (Tree Preservation Provisions).

Site Specific Requirements for the Duration of the Use:

1. At no point in time shall any equipment including but not limited to boom lifts, scissor lifts, forklifts, or other types of manlifts or aerial lifts extend their arm, bucket, or boom to a height for the purposes of advertisement.
2. All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.
3. All equipment repairs shall be limited to between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Saturday.
4. Damaged or wrecked equipment shall not be stored on site for purposes other than repair.
5. All equipment shall be parked on site and not in adjoining streets or alleys.
6. All discarded vehicle parts or equipment, or permanently disabled, dismantled, or junked vehicles shall be removed from the premises within thirty (30) days of arrival.
7. All new structures constructed for equipment repair shall be constructed so that the entrances to individual workstation/service bays do not face abutting residential parcels or the public rights of way.
8. All paved and unpaved areas shall be maintained grease and oil free.
9. Maintenance of the clear vision triangle in accordance with garden City Code 8-4E-3 Public Street Connections shall be adhered.

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. All utilities on the site, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
23. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
24. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
25. All stormwater systems must comply with Garden City Code 8-4A-7.
26. 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.
27. 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.
28. 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.
29. 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.
30. Any violation of the conditions of this application is a criminal offence.
31. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
32. All previous uses are null and void unless otherwise conditioned.
33. 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.
34. 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.
35. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code.
36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.

37. 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.
38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
39. 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.

Kent Brown
Chairman, Planning and Zoning Commission

05/21/2021
Date