

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

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.

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
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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 here	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. This section will be completed after the hearing.

21. The record contains:

- b. Application Documents
- c. Noticing Documents
- d. Agency Comments
- e. Written Public Comments
- f. Staff report
- g. May 19, 2021 Planning and Zoning Commission Hearing Minutes
- h. May 19, 2021 Planning and Zoning Commission Hearing Audio
- i. 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:

The draft findings are written both in approval and in denial. The Planning and Zoning Commission will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided.	
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS	
Conclusion	

Compliant	Not Applicable to this Application	Not Compliant	Standard
X		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>In Approval: The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p> <p>In Denial: The use is not appropriate to the location, lot, and the neighborhood. The use is not compatible with the Comprehensive Plan's Land Use Designation as it does not meet the minimum density goals of the Mixed-use Commercial, nor does it provide multi-modal connections along W. Chinden Boulevard. The two-phase process proposed is irrelevant as the City cannot guarantee that the second phase will commence.</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>In Approval: There are public services available that can accommodate the proposed development.</p>
X		X	<p>Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>In Approval: 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</p>

			<p>conditioned.</p> <p>In Denial: The use of equipment rental and sales will diminish the health, safety and welfare of the community as the proposal requests sidewalk waivers. By not providing the required sidewalks along W. Chinden and 47th Street, pedestrians and bicyclists do not have safe connectivity around or through the site. Additionally, the application proposes to continue the use of the ingress and egress drive isle along W. Chinden. ITD has had previous conversations with the City that this should not be permitted due to safety concerns.</p>
X		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>In Approval: 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> <ul style="list-style-type: none"> a.) 1.4 Objective: Create a premier destination place to live, work, and recreate. <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. c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce. <p>Furthermore, the use has been found to be compliant with the sections of code applicable to the application.</p>

			<p>In Denial: The application is cohesive with the Comprehensive Plan’s designation of the Green Boulevard Corridor and Mixed-Use Commercial future land use designations. The application may not be supported by Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.3 Objective: Promote quality design and architecturally interesting buildings. b.) 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.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art. <p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> a.) 7.1 Objective: Create pedestrian and bicycle friendly connections. b.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.
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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/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:

POTENTIAL 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.

Prior to Certificate of Occupancy Permit Being Issued:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. A Fire and Environmental Review to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.
3. 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 prior to the certificate of occupancy being issued.
 - 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.
4. 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.
5. 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 instalment can be extended so as to meet the Design Review application's site plan and conditions.
6. 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.
7. The access point on W. 47th Street shall be moved south to the intersection of Goodall and 47th Street.

- a. The existing access point shall be filled in to allow for the detached sidewalk with landscape buffer and street trees.
8. All vehicular access points along W. Chinden Boulevard shall be removed.
9. 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.
10. 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.
11. A minimum 16-foot-wide public access easement shall be granted along the southern property boundary line for the future pedestrian pathway along Thurman Mill Canal.
 - a. The easement shall be wide enough to allow for a minimum 12-foot-wide pedestrian pathway with at least 2-foot clearance zones on each side.
 - b. The easement shall be wide enough to allow for maintenance vehicles.
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.

Chairman, Planning and Zoning Commission

Date

STANDARD CONDITIONS FOR DENIAL DECISION

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 ten (10) days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
4. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
5. 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