

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

In the Matter of:	)	CUPFY20210-012
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
219 E 50 <sup>th</sup> St	)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER came before the Garden City Planning and Zoning Commission for consideration on August 18, 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 Industry Flex defined by Garden City Code as “The use of a site where there may be the use of heavy equipment or machinery, and/or noise, smells, environmental pollutants, or fire concerns. Light industry typically is for the manufacture, processing, fabrication, analysis, assembly, treatment, and/or packaging of finished products or parts. The use of paint booths not related to vehicle service shall be included in this use category.”
2. The request is also for the use of Warehouse defined by Garden City Code as “The use of a site as a major stopping or transferring point for freight, storage, wholesale and distribution of manufactured products, supplies and equipment, excluding retail sales.”
3. The applicant is JST Properties LLC.
4. The property owner of record is JST Properties LLC.
5. The location of the project is 219 E 50<sup>th</sup> St, Garden City, ID 83714, Ada County Assessor parcel number R1055420240; Lot 02 Block 04 of Bradley Park subdivision.
6. The property is a legal parcel of record.
7. The subject property is 1.570 acres.
8. The scope of the request applies to the entire property.
9. The project is located in the C-2 General Commercial zoning district.

10. The project is located in the Activity Node: Neighborhood Destination and the Light Industrial Bradley Technology of the Garden City Comprehensive Plan Land Use Designation.
11. The project is not located in the SFHA according to the 2003 FIRM.
12. The project is not located in the SFHA according to the Flood Insurance Model utilized for the 2020 FIRM.
13. The existing use on the site is Industry, Flex or Light; Warehouse, Storage and Wholesale
14. 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 8-1B-3 Nonconforming Uses
  - d. Garden City Code 8-2B Base Zoning District Regulations
  - e. Garden City code 8-2C Land Use Provisions
  - f. Garden City Code 8-4A Design and Development Regulations - General Provisions
  - g. Garden City Code 8-4C Design Provisions for Nonresidential Structures
  - h. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - i. Garden City Code 8-4E Transportation and Connectivity Provisions
15. 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
16. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

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

17. Additional application materials submitted include:
  - a. Site Plan;
  - b. Floor Plan;
  - c. Request to Obtain Fire Flow Test

- d. ATS Request
- e. Neighborhood map
- f. Neighborhood Meeting Notice
- g. Neighborhood Meeting Sign-In Sheet
- h. 300' Neighborhood List;
- i. Affidavit of Legal Interest;
- j. Application;
- k. Statement of Intent.

18. Agency Comments were received from:

- a. Boise Fire, dated July 31, 2021
- b. City Engineer, dated July 24, 2021
- c. Fairview Acres, dated July 31, 2021
- d. Ada County Highway District, dated July 27, 2021

19. Public comments were received from:

- a. None

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

Receipt of application	07/13/2021	07/14/2021
Letter of Acceptance (30 days after receipt of application)	07/17/2020	07/21/2021
Radius Notice (15 days prior to hearing)	08/03/2021	07/27/2021
Interested Parties	None	None
Legal Notice (19 days)	07/30/2021	07/27/2021
Agency Notice (15 days)	08/03/2021	07/22/2021
Property Posting Sign (10 days)	08/08/2021	08/06/2021
Affidavit of Property Posting and Photos (7 days)	08/11/2021	08/08/2021

21. On August 18, 2021, a public hearing before the Planning and Zoning Commission was held:

- a. At the beginning of the meeting the Chairman asked if the applicant was in attendance and if they agreed with the draft findings of fact conclusion of law and recommended decision in the affirmative, if there was any member of the public who wished to testify in opposition to the application, or if the staff or any member of the Commission have any reason that the application should be heard.

- b. The applicant, Lois Bertognollis, noted that she was in attendance and that she he agreed with the decision and conditions as drafted in the affirmative.
- c. There was no one from the public who wished to testify.
- d. The staff nor any member of the Commission noted a reason why this item needed to be heard.
- e. The application was moved to the consent agenda and approved.

22. The record contains:

- b. Application Documents
- c. Noticing Documents
- d. Agency Comments
- e. Written Public Comments
- f. Staff report
- g. August 18, 2020 Planning and Zoning Commission Hearing Minutes
- h. August 18, 2020 Planning and Zoning Commission Hearing Audio
- i. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

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

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p><b>Finding:</b> The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p><b>Explanation:</b></p> <p>The uses of industry flex and warehouse are appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District. Additionally, it is compatible with the Light Industrial Bradley Technology district of the Garden City Comprehensive Plan Land Use Designation.</p> <p>Where the application is not compliant with current code, conditions of approval have been required to make the site</p>

			<p>compliant with current code requirements.</p> <p>The use of Industry Flex and Warehouse is not appropriate to the location, lot, and neighborhood as the function of the property is too industrial in nature. Additionally, the uses are not compatible with the uses found within the C-2 Zoning District.</p>
X			<p><b>Finding:</b> The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p> <p><b>Explanation:</b></p> <p>While the ability to serve request form has been filled out, it has not been reviewed. The application has been properly conditioned to require approval of the ability to serve prior to occupation of the site.</p>
X			<p><b>Finding:</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p>The proposed uses of Industry Light and Warehouse will not diminish the health, safety, or welfare of the community. Any uses that which occupy a tenant space shall obtain a certificate of occupancy and comply with all agencies.</p>
X			<p><b>Finding:</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p><b>Explanation:</b></p> <p>The application is for a neighborhood in transition and does not detract from the redevelopment potential of the neighborhood in alignment with the Comprehensive Plan's land use designation of an activity node.</p>

			<p>Furthermore, the use has been found to be compliant, or conditioned to be compliant, with the sections of code applicable to the application.  Furthermore, the use has been found to be compliant with the sections of code applicable to the application.</p> <p>The application supports the Comprehensive Plan's Goals:  Goal 1. Nurture the City a.)  a) 1.4 Objective: Create a premier destination place to live, work, and recreate.</p> <p>Goal 12. Evolve as a Destination  a.) 12.1 Objective: Support a positive business environment  b.) 12.2 Objective: Continue to commercial and industrial land uses.  c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce.  d.) 12.3.5 Market the city to smaller businesses and support a positive environment for entrepreneurial businesses.</p>
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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** 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 multi-tenant structure located at 219 E. 50<sup>th</sup> Street to be classified as two uses; the use of industry flex and the use of warehouse.
  - a. Permitted uses within the C-2 zoning district shall continue to be permitted.

#### Prior to Occupancy:

1. The affidavit we received in the submittal information was not signed or notarized. Please provide an executed affidavit.
2. An ability to serve shall be applied for and approved prior to occupancy of the site.
3. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
4. A building permit shall be applied for and approved by Garden City Development Services Department.
5. Other Regulations Apply: A use in this category may require approval from the Environmental Protection Agency, the U.S. Department of Agriculture, Central District Health Department, the Ada County air quality board and Idaho Department of Water Resources.
6. All existing chain-link fencing shall be removed and/or replaced with code complaint fencing materials in accordance with Garden City Code 8-4A-3 Fences and Walls.
7. A 4' wide painted pedestrian pathway shall be provided from the public sidewalk on 50<sup>th</sup> street to the primary entrances of all three tenant spaces.
8. The site shall have at least 3 bicycle parking spaces as the structure contains three tenant spaces. One additional bike parking space shall be provided for every 20-vehicle parking spot provided. The applicant shall provide the exact number of vehicular parking spaces prior to Certificate of Occupancy being issued.
9. Installation of a streetlight on 50<sup>th</sup> Street in accordance with this the Garden City Streetlight Policy shall commence prior to a certificate of occupancy being issued. The applicant shall work with Garden City Public Works to install the required streetlight.

10. If the site were to expand or add any off-street loading spaces, the spaces shall be reviewed and found in compliance with Garden City Code 8-4D-7.
11. The site shall be compliant with all provisions in Garden City Code 8-4A-5 Outdoor service and Equipment Areas.
12. The site shall be compliant with all provision in Garden City code 8-4A-7 Stormwater Systems.
13. The site shall be compliant with all provision in Garden City Code 8-4A-8 Utilities.
14. All outdoor lighting shall be compliant with all provisions in Garden City Code 8-4A-4 Outdoor Lighting.

**Site Specific Requirements for the Duration of the Use:**

1. The following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:
  - a. Noise, odor, or vibrations; or direct or reflected glare; detectable by the human senses without the aid of instruments.
  - b. Radioactivity and electric or electromagnetic disturbances which unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties.
  - c. Any other emission or radiation which endangers human health, results in damages to vegetation or property or which exceeds health and safety standards.
2. Maintenance of the clear vision triangle shall be maintained in accordance with Garden City Code 8-4E-3.
3. Maintenance of the painted pathway shall commence at such a frequency that the pathway does not appear faded or worn.

**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 outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
23. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
24. All stormwater systems must comply with Garden City Code 8-4A-7.
25. 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.
26. 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.
27. 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.
28. 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.
29. Any violation of the conditions of this application is a criminal offence.
30. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
31. All previous uses are null and void unless otherwise conditioned.
32. 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.
33. 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.
34. This approval shall expire 365 days from its approval, unless otherwise extended as allowed by Garden City Code .

35. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
36. 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.
37. A takings analysis pursuant to Idaho Code may be requested on final decisions.
38. 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*

*08/20/2021*

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Chairman, Planning and Zoning Commission

Date

