

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:) CUPFY2022-0009
)
Conditional Use Permit)
4209 & 4195 W. Chinden Blvd and) FINDINGS OF FACT
112 W. 42nd Street.) CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho) AND DECISION
_____)

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on February 16, and March 16, 2022. 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 Vehicle Sales defined by Garden City Code 8-7A-1 as “The use of a site for the sale or long-term lease (terms of lease for more than a month) of new and used motor vehicles, including consignment sales and lease, and incidental repairs in preparation for on-premises display and sale.”
2. The applicant is Asmir Alic.
3. The property owner of record are Alic Properties LLC and SLAB Properties LLC.
4. The location of the project is:
 - a. 4209 W. Chinden Blvd.; Ada County Assessor parcel number(s) R2734510291; described as PAR #0291 LOTS 1 & 2 AND SELY 25' LOT 3 BLK D FAIRVIEW ACRES NO 2 #0292-B #99065274 #98046173.
 - b. 4195 W. Chinden Blvd.; Ada County Assessor parcel number(s) R2734510663; described as PAR #0663 OF LOT 32-34 BLK E FAIRVIEW ACRES SUB 02 #0663-B.
 - c. 112 W. 42nd Street; Ada County Assessor parcel number(s) R2734510330; described as LOT 4 BLK D FAIRVIEW ACRES SUB NO 2
5. The property located at 112 W. 42nd Street is a legal parcel of record.

6. It is unknown if the property located at 4195 W. Chinden Blvd. is a legal parcel of record.
7. It is unknown if the property located at 4209 W. Chinden is a legal parcel of record.
8. The subject properties are 0.689, 0.774, and 0.750 acres.
9. The scope of the request applies to the entirety of all properties.
10. The project is located in the C-2 General Commercial and the C-1 Highway Commercial zoning district.
11. The project is located in the Activity Node: Transit Oriented Development, Green Boulevard Corridor, Mixed Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
12. The project is not located in the SFHA according to the 2003 FIRM.
13. The project is located in the SFHA according to the Flood Insurance Model utilized for the 2020 FIRM.
14. The existing uses on the sites are:
 - a. 112 W. 42nd Street: Vacant
 - b. 4209 W. Chinden: Lending Institution with existing vehicle sales use to remain on-site per CUPFY2017-05.
 - c. 4195 W. Chinden: Wireless Communication Facility and Vehicle Sales
15. 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 8-2B Base Zoning District Regulations
 - d. Garden City Code 8-2C Land Use Provisions
 - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - f. Garden City Code 8-4D Parking and Off Street Loading Provisions
 - g. Garden City Code 8-4E Transportation and Connectivity Provisions
 - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - i. Garden City Code 8-6A Administration
16. 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

- 17. The following previous approvals apply to this proposal:
 - a. CUPFY2017-4
 - b. DSRFY2017-9
- 18. 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

- 19. Additional application materials submitted include:
 - a. Site Plan;
 - b. Neighborhood Meeting Letter;
 - c. Neighborhood Meeting Sign-In Sheet;
 - d. Site Photos;
 - e. Fire Flow;
 - f. 300' Neighborhood List;
 - g. Affidavit of Legal Interest;
 - h. Sidewalk Waiver Request;
 - i. Statement of Intent;
 - j. Application.
- 20. Agency Comments were received from:
 - a. Republic Services, January 25, 2022
 - b. North Ada County Fire and Rescue, January 31, 2022
 - c. Garden City Engineer, January 31, 2022
- 21. There were no public comments were received
- 22. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application	02/08/2022	01/06/2022
Letter of Acceptance (30 days after receipt of application)	02/06/2022	01/12/2022
Radius Notice (15 days prior to hearing)	03/01/2022	01/21/2022
Interested Parties	None	None
Legal Notice (19 days)	02/25/2022	01/18/2022
Agency Notice (15 days)	03/01/2022	01/21/2022

Property Posting Sign (10 days)	03/06/2022	03/05/2022
Affidavit of Property Posting and Photos (7 days)	03/09/2022	03/07/2022

23. On February 16, 2022, a public hearing before the Planning and Zoning Commission was held, and the application was moved to the date certain of March 16, 2022, per the applicant's request.

24. On March 16, 2022, a public hearing before the Planning and Zoning Commission was held:

a. This section will be completed after the hearing.

25. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. February 16, 2022 Planning and Zoning Commission Hearing Minutes and Audio
- g. March 16, 2022 Planning and Zoning Commission Hearing Minutes and Audio
- h. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

26. 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 decision makers may select the corresponding conclusions and explanations during their decision or make different conclusions based on their review of the record materials.			
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	Finding 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;

			<p>In Approval: As conditioned, and due to the current adjacent land uses, the use of vehicle sales is appropriate to the location, lot, and the neighborhood, and is compatible with uses within the C-2 General Zoning District and the C-1 Highway Commercial zoning district.</p> <p>In Denial: The application does not meet this finding. The use of vehicle sales is a use that is not compatible with the surrounding residential neighborhood. Additionally, the proposed use plans to maintain the multitude of existing curb-cuts onto W. Chinden Blvd., creating potential conflicts between drivers, pedestrians, and bicyclists utilizing the intersection of W. Chinden Blvd. and N. Curtis Rd.</p>
X			<p>Finding 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;</p> <p>Explanation:</p> <p>In Approval: The ability to serve letter was submitted. There are public services available that can accommodate the proposed development.</p>
X		X	<p>Finding 3. The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>In Approval: As conditioned, the application meets this finding. The conditions require both the installation of detached sidewalk along 42nd Street and increased interconnectivity within and between the associated properties. The conditions also require that code compliant landscaping is installed, such as street trees and landscape buffers, to</p>

			<p>better improve the health, safety, and general welfare of the community.</p> <p>In Denial: The application does not meet this finding. The application does not propose to close the two W. Chinded access points, but rather keep them open for use, which is a clear safety concern. By keeping access points open, the application is keeping the highly hazardous pedestrian and vehicular conflict points intact, and thus, diminishing the health and safety of the community. Additionally, a use that does not engage the community is contrary to the investments in and vision of the neighborhood, especially when considering that the property is located within an activity node as designated by the Comprehensive Plan.</p>
X		X	<p>Finding 4. 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: As conditioned, to install the sidewalk, remove the curb cuts, and install street trees and landscaping, the application is cohesive with the Comprehensive Plan’s designation of the Green Boulevard Corridor, Transit Oriented Development Activity Node and the Mixed-Use Commercial. It also supports the Comprehensive Plan’s Goals of:</p> <p>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 or conditioned with the sections of code applicable to the application.</p> <p>In Denial:</p> <p>The application is not compliant with the Green Boulevard Corridor because it does not propose adequate improvements to establish a safe and comfortable, tree lined boulevard. Additionally, the application is not in compliance with the Transit Oriented Development Node as the use is contrary to fostering a destination that acts as a center for the community, creating a destination for higher density residential and commercial uses. Finally the application is not supported by:</p> <p>Goal 2. Improve the City Image</p> <p>a.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting.</p> <p>Goal 4. Emphasize the “Garden” in Garden City</p> <p>a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</p> <p>Goal 7. Connect the City</p> <p>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> <p>b.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</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/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 expansion of vehicle sales use. This approval does not negate the existing lending institution use located at 4209 W. Chinden.

Prior to Occupancy:

1. A will serve letter shall be submitted prior to the issuance of a Certificate of Occupancy.
2. The proposed building at 112 W. 42nd Street shall apply for a Design Review Application and obtain approval from the Design Review Committee.
 - a. The site and building must be constructed in accordance with the approved design review file.
3. A building permit shall be applied for and approved by Garden City Development Services Department.
4. All conditions as set for in the associated design review application shall be met prior to certificate of occupancy is issued.
5. Occupancy of the 112 W. 42nd Street site shall not commence until after a Certificate of Occupancy has been obtained from 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 along the frontages of W. 42nd Street in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
 - i. The sidewalk shall be installed to the edge of property.
 - ii. The sidewalk shall be installed at a consistent elevation above any curb cut so as to not incline at the curb cut.
 - iii. The sidewalk shall be a minimum of 5' in width.
 - iv. The sidewalk shall be detached by a minimum 6' landscape with root barrier or 8' without root barrier.
 - v. Improvements may be made within the right-of-way provided a landscape license agreement or other approval from Ada County Highway District.
 - b. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
7. All sidewalks shall be installed or otherwise a surety agreement is recorded with the City within two years' time. Business operations taking place at 4195 and 4209 W. Chinden may continue so long as the follow is provided:
 - a. The applicant shall demonstrate that they have contracted with a licensed engineer to install the sidewalks within 6 months of this application's approval.
 - b. A Design Review Application for the property at 112 W. 42nd Street is applied for and approved within one year of this approval.
 - c. A public works and utility permit is submitted for review, approval is granted, and sidewalk is installed on-site exactly two years from this approval date.
8. A 12-foot-wide concrete sidewalk with 5-foot x 8-foot tree wells for Class II or III street trees shall be installed adjacent to W. Chinden Boulevard upon approval of ITD.
9. If ITD cannot approve of the streetscape in condition #8, then a 10-foot-wide detached pedestrian asphalt pathway shall be installed along the entire frontage of W. Chinden Blvd. property line. The pathway shall smoothly transition into the existing sidewalks existing on either side of the properties.
 - a. A 6ft wide landscape buffer shall be provided between W. Chinden and the pathway for the required street trees.
10. If ITD cannot approve of the streetscapes in condition number #8 or #9, then the applicant shall work with staff and ITD to develop a suitable bicycle and pedestrian oriented streetscape in conformance with Garden City Code, Garden City Sidewalk Policy, Idaho Transportation Department, and ADA standards.
11. The site shall be brought into compliance with the Garden City 8-4I landscaping and tree standards of prior to the issuance of a Certificate of Occupancy

- a. Trees shall be planted adjacent to 42nd Street within the landscape buffer to meet street tree requirements of Garden City Code 8-4I.
 - b. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
 - c. The site must meet perimeter landscaping provisions as set forth in 8-4I-5. A site plan must be submitted to Garden City for review, and an inspection must be conducted.
12. The existing ingress/egress curb cut along W. Chinden Boulevard for access to/from 4195 W. Chinden shall be permanently closed in accordance with the Idaho Transportation Department Chinden Access Management Plan unless otherwise recommended by ITD or precluded by Ada County Highway District.
 - a. To close the existing ingress/egress curb cut:
 - i. Curb, gutter, and sidewalk improvements shall be installed in the area that is currently designed as an access apron.
 - b. To maintain the curb cut onto Chinden the following shall be provided:
 - i. Documentation from Ada County Highway District that the existing ingress/egress onto W. 42nd Street is precluded.
 - ii. Documentation from Idaho Transportation Department recommending that ingress/egress onto Chinden Boulevard remain.
13. The existing, eastern-most ingress/egress curb cut along W. Chinden Boulevard for access to/from 4209 W. Chinden shall be permanently closed in accordance with the Idaho Transportation Department Chinden Access Management Plan unless otherwise recommended by ITD or precluded by Ada County Highway District.
 - a. To close the existing ingress/egress curb cut:
 - i. Curb, gutter, and sidewalk improvements shall be installed in the area that is currently designed as an access apron.
 - b. To maintain the curb cut onto Chinden the following shall be provided:
 - i. Documentation from Ada County Highway District that the existing ingress/egress onto W. 42nd Street is precluded.
14. The site must meet perimeter landscaping provisions as set forth in 8-4I-5. A site plan must be submitted to Garden City for review, and an inspection must be conducted.
15. Adequate documentation shall be provided to identify and verify that customer and employee parking is provided.
16. Parking shall be restriped in compliance with the parking plan submitted for review; or a site plan including an amended parking plan shall be submitted to the Design Review Committee for review and approval with code standards including but not limited to 8-4D and 8-4I-6.

17. In accordance with Garden City Code 8-4D-5, the minimum amount of parking provided at each property shall be as follows:
 - a. 3 vehicular parking spots located at 4209 W. Chinden
 - b. 5 vehicular parking spaces located at 4195 W. Chinden
 - c. Any required parking shall be determined by the Design Review Committee for the lot at 112 W. 42nd Street.
18. A bike rack shall be provided on-site.
19. Direct, comfortable, and safe pedestrian connection from the public sidewalk system and the parking area to the structure(s) shall be provided through sidewalks or pathways that are:
 - a. A minimum of five feet (5') in width; and
 - b. Americans with Disabilities Act compliant; and
 - c. Uninterrupted by motorized vehicles. If there is no other feasible alternative, the vehicular crossing of the path or sidewalk shall be designed in a way to visibly demonstrate that it is secondary to the pedestrian. This may be achieved by changes in materials or colors, landscaping, or other such treatments.
 - d. Pedestrian amenities shall be provided along sidewalks and pathways to support defensible space, crime prevention, pedestrian comfort and accessibility.
20. All onsite service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property, or shall be screened from view from a public street and adjoining property with a privacy fence.
21. HVAC equipment, trash dumpsters, recycling, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
22. All roof and wall mounted mechanical, electrical, communications, and service equipment should be screened from public view from the adjacent public streets and properties by the use of parapets, walls, fences, enclosures, or by other suitable means.
23. All chain link fencing and barbed wire shall be removed and/or replaced with code compliant fencing materials and be found in compliance with Garden City Code 8-4A-3 Fences and Walls.
24. All outdoor lighting must comply with Garden City Code 8-4A-4.
25. 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.

26. Adequate documentation shall be provided demonstrating that the parcels located at 4209 W. Chinden and 4195 W. Chinden are of legal record.
 - a. Submit property deeds and legal descriptions demonstrating that the lot(s) were created legally, or in their present configuration prior to August 8, 1988.

Site Specific Requirements for the Duration of the Use:

1. Vegetation adjacent to the ingress/ egresses to the site shall be pruned in such a way to ensure clear vision for the safe ingress and egress to the site.
2. Minimum Site Area: The use shall have a minimum site area of thirty thousand (30,000) square feet.
3. Accessory Use:
 - a. Vehicle repair may be allowed as an accessory use, subject to the standards as set forth in section 8-2C-41 of this article, Vehicle Service.
 - b. Vehicle washing may be allowed as an accessory use, subject to the standards as set forth in section 8-2C-44 of this article, Vehicle Washing Facility.
 - c. The accessory uses of vehicle service and vehicle washing facility shall be limited to a combined forty percent (40%) of the gross floor area of enclosed space.
 - d. Vehicle service shall not be conducted in areas visible from the right-of-way.
4. Location Standards: Vehicle sales may be appropriate on Chinden, Glenwood or State Street, which are arterial roadways; however, the use is generally not appropriate on local or collector streets unless on property designated as light industrial (LI) zoning.
5. Building and Site Design:
 - a. The site shall be designed in accord with chapter 4, article D of this title, Parking And Off-Street Loading Provisions, chapter 4, article E of this title, Transportation And Connectivity Provisions, chapter 4, sections 8-4I-4, Landscaping Provisions For Specific Uses, 8-4I-5, Perimeter Landscaping Provisions, and 8-4I-6, Parking Lot Landscaping Provisions.
 - b. There shall be no barbed wire visible from the right-of-way or adjacent properties.
 - c. Chained-link fencing is not permitted adjacent to rights-of-way.
 - d. Safe pedestrian and vehicle access and circulation on the site and between adjacent properties shall be demonstrated as follows:
 - i. Vehicular lanes shall be sited to minimize additional vehicular traffic on site, within the surrounding uses, and on adjacent rights-of-way.
 - ii. A bike rack shall be provided.

- iii. Direct, comfortable, and safe pedestrian connection from the public sidewalk system and the parking area to the structure shall be provided through sidewalks or pathways that are:
 1. A minimum of five feet (5') in width; and
 2. Americans with Disabilities Act compliant; and
 3. Uninterrupted by motorized vehicles. If there is no other feasible alternative, the vehicular crossing of the path or sidewalk shall be designed in a way to visibly demonstrate that it is secondary to the pedestrian. This may be achieved by changes in materials or colors, landscaping, or other such treatments.
 - e. All site and vehicular lighting shall be down-shielded, screened or oriented not to encroach on any adjacent property.
 - f. The design and construction of the site shall minimize the number of driveway cuts.
6. Limitations:
 - a. No on-street parking associated with the use is permitted.
 - b. This use is not the same as storage facility or yard, storage facility, self-serve, vehicle service, vehicle washing facility, or vehicle wrecking yard. Activities on site that are a part of these uses shall require separate approvals.

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.

Chairman, Planning and Zoning Commission

Date

STANDARD CONDITIONS FOR DENIAL DECISION

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-2. This project is not in compliance with 8-6B-2 standard(s) because it is not in compliance with the Garden City Comprehensive Plan Goal 2 improve the City Image and Goal 4 Emphasize the "Garden" in Garden City. Nor is it in compliance with Garden City Code sections 8-4D, 8-4E, and 8-4I. Compliance can be met by providing adequate parking; adhering to perimeter landscape provisions, submitting a landscape plan demonstrating compliance, and providing adequate sidewalk and pedestrian connections through and around the sites.
2. 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.
3. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
4. 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.
5. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
6. 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