

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:)	CUPFY2022-0012
)	
Conditional Use Permit)	FINDINGS OF FACT,
8529 W State St.)	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 April 20, 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 Equipment Rental, Sale, and Service 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 Chase Hiday.
3. The property owner of record is Gunner, LLC
4. The location of the project is 8529 W State St.; Ada County Assessor parcel number(s) R8123251888; PAR #1888 NEAR CTR OF LOT 11 STEINS SUB R/S 5363
5. It is undetermined if the property is a legal parcel of record.
6. The subject property is 1.085 acres.
7. The scope of the request applies to the entire property.
8. The project is located in the C-2 General Commercial zoning district.
9. The project is located in the Green Boulevard Corridor and the Residential Low Density zone 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 located in the SFHA according to the Flood Insurance Model utilized for the 2020 FIRM.
- 12. The existing use on the site is Equipment Rentals.
- 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 8-2B 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
 - a. 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. Garden City Transportation Needs List
- 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. Building Dimensions;
 - c. Landscape Plan;
 - d. 300' Neighborhood List;
 - e. Sign-In Sheet;
 - f. Irrigation and Ditch Letter;
 - g. Affidavit of Legal Interest;
 - h. Application;
 - i. Statement of Intent.

- 17. Agency Comments were received from:
 - a. Ada County Highway District, March 29, 2022
 - b. North Ada County Fire and Rescue, March 20, 2022

18. There were no public comments received.

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

Noticing Requirement	Required Date	Completion Date
Receipt of application	03/15/2022	03/19/2022
Letter of Acceptance (30 days after receipt of application)	04/19/2022	03/14/2022
Radius Notice (15 days prior to hearing)	04/05/2022	03/18/2022
Interested Parties	None	None
Legal Notice (19 days)	04/01/2022	03/18/2022
Agency Notice (15 days)	04/05/2022	03/18/2022
Property Posting Sign (10 days)	04/10/2022	04/10/2022
Affidavit of Property Posting and Photos (7 days)	04/13/2022	04/10/2022

20. On April 20, 2022, a public hearing before the Planning and Zoning Commission was held:

- a. This section will be completed after the hearing.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. April 20, 2022 Planning and Zoning Commission Hearing Minutes and Audio
- g. 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 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			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X		X	<p>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> <p>In Approval: As conditioned, 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 application does not meet this finding. The use of equipment rental, sales, and services is a use that is not compatible with the adjacent residential neighborhood that which is zoned R-3. As proposed, the site does not meet the minimum screening code standards as set forth in Garden City Code to help mitigate for the heavy commercial use that which is to occur.</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 W. State Street and increased interconnectivity within the site. The conditions also require that code complaint landscaping be installed, such as street trees and landscape buffers. Additionally, the site will require a parking lot plan, which will in turn create less asphalt and limit the curb cut expanse along State Street. All conditions have been made to increase the health, safety and welfare of the community.</p> <p>In Denial: The application does not meet this finding. The application does not propose to close the access along W. State Street, but rather maintain the large expanse of asphalt. By keeping the access as it currently exists, the property is keeping the highly hazardous pedestrian and vehicular conflict area intact, and thus, diminishing the health and safety of the community. The lack of pedestrian-oriented features, such as sidewalks and landscaping also contributes to the concern of the community's overall wellbeing.</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: 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:</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>As conditioned, the application is cohesive with the Comprehensive Plan’s Goal 2 Improve the City Image, Goal 4 Emphasize the “Garden” in Garden City, and Goal 7 Connect the City.</p> <p>Furthermore, the use has been conditioned to be compliant 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 use itself is not compatible with the overall vision of the Residential Low Density designation as it is a heavy commercial use located next to a residential zoning district. 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>
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			<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 use of an Equipment Rental, Sale, and Service use.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Compliance 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. Adequate documentation shall be provided demonstrating that the parcel is 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 9, 1988.
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.
 - a. Adjacent to W. State Street:
 - i. The sidewalk shall be installed to the edges 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. Americans with Disabilities Act compliant.
 - v. The sidewalk shall be detached by a minimum 6' landscape buffer.
 - vi. Improvements may be made within the right-of-way provided a landscape license agreement or other approval from Idaho Transportation Department.
 - vii. The curb cut on W. State Street may be modified provided approval of the Idaho Transportation District.
5. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
 - a. Five Class II or Class III trees shall be installed adjacent to W. State Street Boulevard at an average of 50 lineal feet.
 - b. Linear root barriers are to be installed when planting a street tree 8' or less from hardscape. The root barrier will be designed such that the major root structure will be restrained from extending into utility corridors, but still allow for the normal growth of the tree.
6. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
7. 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.
 - a. Southern property boundary line:
 - i. A perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot.

- ii. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity;
 - iii. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
 - iv. Compliant with Garden City Code 8-4I-6 "Parking Lot Provisions".
 - b. Western property boundary line:
 - i. A perimeter landscaping area shall be at least five feet (5') wide measured from the property line to the interior of the lot.
 - ii. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity;
 - iii. At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.
 - iv. Trees shall only be required starting from the existing Maverik building frontage to the rear of the property (about 100ft in length).
8. Prior to a certificate of occupancy being issued, a parking plan shall be submitted to the Planning Department Staff.
 - a. The parking lot shall be found in conformance with all applicable Garden City Cod 8-4D Parking and Off-Street Loading Provision.
 - i. Parking areas shall be designed in such a manner that any vehicle leaving or entering the parking area from, or onto, a public or private street shall be traveling in a forward motion.
 - ii. Parking areas shall be designed so that all vehicles are able to turn around within the site boundaries.
 - b. All vehicles and equipment shall park on the site according to the parking plan submitted.
 - c. Location of where employees and customers shall be identified.
9. 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.
10. The minimum and maximum number of required off street vehicle parking for nonresidential uses and mixed use shall be determined by the planning official based on the following criteria:
 - a. The specific use(s) proposed and/or on the property;
 - b. Uses in the vicinity of the property;
 - c. A traffic study, if prepared, forecasting the expected traffic and parking needs expected from the use(s);
 - d. The availability of on street, shared, and/or public parking within the vicinity of the use; and

- e. The availability of public transit, vanpooling or other alternative transportation to serve the use
11. One type B parking space shall be required on-site
 - a. Type B spaces shall be not less than fifteen feet (15') in width and sixty-five feet (65') in length. All spaces shall have fourteen feet (14') of vertical clearance.
 12. 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.
 - b. The pathway shall be 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.
 13. At least one bicycle parking spot shall be provided on site in accordance with Garden City Code 8-4D-5.
 14. All chain-link fencing shall be removed. If replacement occurs, fencing shall be replaced with code compliant fencing materials per Garden City Code 8-4A-3 Fences and Walls.
 - a. There shall be no barbed wire visible from the right-of-way or adjacent properties.
 15. All outdoor lighting shall be found in conformance with Garden City Code 8-4A-4 Outdoor Lighting.
 - a. A photometric plan and light fixture cut sheets shall be submitted for administrative review
 - b. All site and vehicular lighting shall be down shielded, screened or oriented not to encroach on any adjacent property
 16. A streetlight shall be installed on the property in accordance with the Garden City Streetlight Policy.
 17. All utilities, including telephone, cable television, and electrical systems shall be underground and in compliance with Garden City Code 8-4A-8.
 18. All on site 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.

19. 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.

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.
 - a. 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.
10. All site and vehicular lighting shall be down shielded, screened or oriented not to encroach on any adjacent property.

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, and parking 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

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