

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

In the Matter of:)	CUPFY2022-0014
)	
Conditional Use Permit)	FINDINGS OF FACT,
4810 N Adams 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 September 21, 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 Service Provider defined by Garden City Code 8-7A-1 as "The use of a site for an employee or employees of a company or person that provides materials or labor to perform a service or job not located on site. This may include, but is not limited to, building or trades contractor, damage restoration services or cleaning services. This is not the same as a "storage yard" as herein defined nor does this definition include construction or manufacturing on site."
2. The applicant is Mike Miraglio.
3. The property owner of record is Bliss Properties, LLC.
4. The location of the project is 4810 N Adams St.; Ada County Assessor parcel number(s) R2734523135; NW 60 SE 200 OF LOTS 01-02 BLK 23 EXC R/W FAIRVIEW ACRES SUB 03 #3170-B
5. The property is a legal parcel of record.
6. The subject property is .274 acres.
7. The scope of the request applies to the entire property.
8. The project is located in the R-3 Medium Density Residential zoning district.
9. The project is located in the Mixed-Use Residential 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 Vacant, Manufactured Home/Mobile Home Park
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
 - i. 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
15. The following approvals apply to this proposal:
 - a. ZONFY2022-0001
16. 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

17. Additional application materials submitted include:
 - a. Site Plan;
 - b. 300' Neighborhood List;
 - c. Affidavit of Legal Interest;
 - d. Application;
 - e. Waiver Request;
 - f. Site Photos;
 - g. Statement of Intent.

18. Agency Comments were received from:
 - a. Department of Environmental Quality; August 12, 2022
 - b. ACHD; September 20, 2022
19. Public comments were received from:
 - a. Lindsey High and Paul Martinet; September 14, 2022
 - b. Cindy Pettit; September 19, 2022
20. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application	8/16/2022	8/5/2022
Letter of Acceptance (30 days after receipt of application)	9/15/2022	8/17/2022
Radius Notice (15 days prior to hearing)	9/6/2022	9/1/2022
Interested Parties	None	None
Legal Notice (19 days)	9/2/2022	8/11/2022
Agency Notice (15 days)	9/6/2022	8/11/2022
Property Posting Sign (10 days)	9/11/2022	09/11/2022
Affidavit of Property Posting and Photos (7 days)	9/14/2022	09/12/2022

21. On September 21, 2022, a public hearing before the Planning and Zoning Commission was held. Application CUPFY2022-0014 and ZONFY2022-0001 were held simultaneously:
 - a. Chairman Rasmussen introduced the application.
 - b. Michael Miraglio and Justin Cranny with Harley Troxel presented the application.
 - i. Service provider tenant has occupied the premises for about a year. Previous service provider use occupied the property for years prior to that.
 - c. Staff Hanna Veal presented the staff report.
 - i. Zoning districts that allow for service provider include C-1 and Light Industrial.
 - ii. The use is more akin to a Service Provider than a Storage Yard.
 - iii. Garden City Code 8-2C-36.5.A. will not permit a Service Provider adjacent to residential zoned properties.
 - d. Public testimony was heard from:
 - i. Anthony Jobe; in favor.
 - ii. David Jones; in favor.
 - iii. Jason Jones; in opposition.
 - e. Michael Miraglio provided a rebuttal:

- i. Open to a Development Agreement.
- f. Public testimony was closed.
- g. Discussion included:
 - i. In favor of business operating in Garden City.
 - ii. Request to rezone constitutes as spot zoning.
 - iii. Considering CUPFY2022-0014 and ZONFY2022-0001 together is necessary.
 - iv. If the ZONFY2022-0001 application is not approved, the current use of the site as a service provider will not be permitted and must terminate immediately. If the ZONFY2022-0001 application is approved, the use of a service provider is not permitted per Garden City Code 8-2C-36 standards.
- h. Commissioner Brown moved to recommend denial of the rezone application and the conditional use permit as drafted in the draft decision in the denial.
- i. Commissioner Montoya seconded the motion.
- j. The motion carried unanimously.

22. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. September 21, 2022, Planning and Zoning Commission Hearing Minutes and Audio
- g. 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:

GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
		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>Explanation:</p> <p>The application does not meet this finding. The service provider use is not compatible with the adjacent residential neighborhood that which is zoned R-3. The existing structure, drive lane, parking and loading areas are adjacent to a residential district.</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>The ability to serve letter was not submitted as a part of this application.</p>
		X	<p>Finding 3. The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>The proposal will be detrimental to and unreasonably diminish the health, and safety of the community. The lack of adherence to City Codes and the City's Comprehensive Plan is detrimental to the welfare of the city and its community members. The proposal is not in compliance with the code section 8-2C-36 because the proposed service provider use proposes a structure, a drive lane, a parking area, and loading area adjacent to a residential district. Additionally, the existing shed as identified on site plans does not possess an approved building permit.</p>
		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>The application is not supported by the Mixed-Use Residential future land use</p>

			<p>designation of the Comprehensive Plan in that the proposed use is more intensive than what the neighborhood plan's aim strive for. It does not support the Comprehensive Plan's:</p> <p>Goal 2. Improve the City Image</p> <p>a.) 2.3 Objective: Promote quality design and architecturally interesting buildings.</p> <p>b.) 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 10.</p> <p>a.) 10.5 Objective: Create a "Main Street" corridor with commercial nodes as designated on the Land Use Map and described in the Land Use Designation.</p> <p>Furthermore, the use has not been found to be compliant with the sections of code applicable to the application.</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 **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 **DENIES** of the application subject to the following conditions:

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 Future Land Use Designations of the Mixed-Use Residential and Main Street Corridor nor is it compliant Garden City code section 8-2C-36.
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