

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:)	CUPFY2022-0014
)	
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 8/12/2022

19. Public comments were received from:
 a. Lindsey High; September 14, 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:

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

22. The record contains:

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

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: 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 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		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: As conditioned, the application meets this finding. The will serve letter will be required prior to occupancy.</p> <p>In Denial: The ability to serve letter was not submitted as a part of this application.</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 increased interconnectivity within the site from the public sidewalk along N. Adams Street. 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 identify where vehicles can park within the site. All conditions have been made to increase the health, safety and welfare of the community.</p> <p>In Denial: 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>In Approval: The application is cohesive with the Comprehensive Plan's designation of the Main Street Corridor. And is supports the Comprehensive Plan's Goal 1, Nurture the City; Goal 2, Improve the City Image; Goal 7, Connect the City; and Goal 12, Evolve as a Destination.</p> <p>In Denial:</p>

			<p>The application is not supported by the Mixed-Use Residential future land use 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 **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 a Service Provider.
2. The use of the site for a service provider may not commence until the associated rezone (ZONFY2022-0001) has been approved by City council and the ordinance has been approved.
3. The use of the site for a service provider may not commence until the legal status of the access easement has been resolved.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. 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.
3. 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. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
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 - a. One Class II or II street tree shall be installed adjacent to N. Adams Street for a total of two street frontage trees.
5. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
6. 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. A perimeter landscaping area shall be at least five feet (5') wide measured from the property line to the interior of the lot.

- b. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity;
 - c. 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.
- 7. 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.
- 8. 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.
- 9. 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.
- 10. 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.

11. At least one bicycle parking spot shall be provided on site in accordance with Garden City Code 8-4D-5.
12. 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.
13. All outdoor lighting shall be found in conformance with Garden City Code 8-4A-4 Outdoor Lighting.
14. 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.
15. 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. Site Layout: No structure, facility, drive lane, parking area, or loading area shall be located adjacent to a residential district.
2. Parking and Access:
 - a. The entrance and exit drives shall be designed to prevent traffic hazards and nuisances.
 - b. All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material.
3. Limitations: The site shall not be used as vehicle wrecking as herein defined.
4. Site Maintenance:
 - a. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.
 - b. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
5. Outdoor storage areas shall comply with section 8-1C-3, Property Maintenance Standards.
6. Maintenance of the clear vision triangle in accordance with garden City Code 84E-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.

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 Future Land Use Designations of the Mixed-Use Residential and Main Street Corridor nor is it compliant Garden City code section 8-2C-36. Compliance can be met by [STATE REASONS].
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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