



CITY OF GARDEN CITY

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File Number: CUPFY2022-0014 & ZONFY2022-0001

Requested Use: Service Provider

Rezone From: R-3 to C-2

Location: 4810 Adams St

Applicant: Michael Miraglio

Planning and Zoning Commission Hearing Date: September 21, 2022

ZONFY2022-0001 City Council Hearing Date: October 10, 2022



STAFF REPORT

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Table of Contents

Record Documents	3
Recommendation Summary	3
Project Information	3
Discussion	5
Decision Process	7
Agency Comment	10
Public Comment	10
Code/Policy Analysis	10

A. Record Documents

Individual links:

1. Application Materials
 - a) [REZONEFY2022-0001 application and materials](#)
 - b) [CUPFY2022-0014 application and materials](#)
2. Staff Reports
 - a) Planning and Zoning Staff Report September 21, 2022
3. Agency Comments: linked in [Section F](#)
4. Public Comments: linked in [Section G](#)
5. Noticing Documents
 - a) City Noticing
 - b) [Property Posting for Planning and Zoning – CUPFY2022-0014](#)
 - c) [Property Posting for Planning and Zoning – ZONFY2022-0001](#)
 - d) Property Posting for City Council
6. Recommendations
 - a) [Planning and Zoning](#) – CUPFY2022-0014
 - b) [Planning and Zoning](#) – ZONFY2022-0001

B. Recommendation Summary:

This summary will be updated to reflect the Planning and Zoning Commission recommendations for the ZONFY2022-0001 application.

C. Project Information

Proposed Scope of Work: This application is for a rezone and a conditional use permit per Garden City Code 8-7A-2 Definition of Terms:

ZONING DISTRICT, BASE: General district in which all properties are divided into residential, commercial, or industrial uses and reflected on the zoning map.

CONDITIONAL USE: A use that because of peculiar characteristics, size, operations, location with reference to surroundings, streets and existing improvements, or demands upon public facilities is allowed in a district subject to approval by the planning and zoning commission and subject to special requirements in accordance with section [8-6B-2](#) of this title and as enabled by Idaho Code section [67-6512](#).

Request	Review Process
Conditional Use Permit	GCC 8-6B-2
Zoning map amendment	GCC 8-6B-10

A conditional use may be found to be appropriate or inappropriate at a given property. In some situations, conditions of approval may be required to assist the proposed use in being

appropriate to a location and in conformance with code. In other situations where the use cannot be conditioned to be appropriate to the location or code, it should not be permitted.

Project Details:

- 1) Applicant: Michael Miraglio
- 2) Owner: Bliss Properties, LLC
- 3) Requested Title 8 Use: It has been determined that the Garden City defined use that best describes the use is: Service Provider
- 4) Definition of Use: Garden City Code 8-7A-1 defines this use 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.
- 5) Proposed Zoning District: C-2 General Commercial
- 6) Proposed Development Agreement: No

Site Conditions:

- 1) Existing Use: Vacant, Mobile Home Park
- 2) Street Address: 4810 N Adams St
- 3) Parcel Number(s): R2734523135
- 4) Property Description: NW 60 SE 200 OF LOTS 01-02 BLK 23 EXC R/W FAIRVIEW ACRES SUB 03 #3170-B
- 5) Legal Lot of Record: Yes
- 6) Property Size: .274 acres
- 7) Zoning District: R-3
- 8) Zoning Overlay(s): None
- 9) Comprehensive Plan Land Use Map Designation:
 - a) Mixed Use Residential
 - b) Main Street Corridor
- 10) Floodplain Designation:
 - a) 2003 FIRM: outside of the Special Flood Hazard Area
 - b) 2017 Draft FIRM: 100 Year
- 11) Surrounding Uses:
 - a) Dwelling, Single-Family Attached – Riverscape Townhomes
 - b) Vehicle Wrecking Yard – Pick A Part Jalopy Jungle
 - c) Manufactured Home/Mobile Home Park
- 12) Adjacent Zoning: R-3 Medium Density Residential
- 13) Adjacent Comprehensive Plan Designations: Mixed-Use Residential, Main Street Corridor
- 14) Easements on site:
 - a) ACHD Easement 200,900,062, Instrument 105,012,438
 - b) Riverview West Sub Utility Easement 200,900,031
- 15) Site Access:
 - a) Front: Adams St
- 16) Sidewalks: Sidewalks are installed and are in good repair.
- 17) Wetlands on site: None identified

D. Discussion

The proposed use is in the Mixed-Use Residential and the Main Street Corridor designations of the Comprehensive Plan Land Use Map.

The Main Street Corridor aims to create a “Main Street” as a principle street with a mix and concentration of uses along Adams/ Alworth Street with a possible alignment through a redeveloped Idaho Expo site connecting with the Activity Node at Glenwood and Marigold Streets. The corridor should have activity nodes along the street that connect the main street to the arterial roadways and/or the Boise River. The activity nodes should be limited so as to not dilute their function as a center. The focus of development should be on minimum front yard setbacks, parking on the street and behind buildings, and pedestrian amenities. The center of the activity nodes on the Main Street corridor should be integrated vertically with more height at the principle main street intersection of the node.

The mixed-use residential area is north of Adams/ Alworth Street. This designation allows for residential and commercial uses in a form and scale that is residential in character and design.

A mix of residential; small scale office and retail; and public and semi-public uses are appropriate in this district. Regulations for this area should focus on form more than use, with a maximum height of two stories.

Regardless of the later discussions surrounding zoning districts, their permitted uses, and their compatibility with the Comprehensive Plan’s goals or surrounding existing uses, the site, if rezoned, would create spot zoning. Spot zoning as a planning practice is often time controversial and, in some jurisdictions, illegal. Often spot zoning leads to the incompatibility of a parcel with the adjacent parcels, and sometimes, with the city’s master plans and current zoning restrictions. However, spot zoning can be approved in some instances. For example, if those seeking to rezone are rezoning to that of a zoning district which would allow for development to better meet the intent of the Comprehensive Plan’s goals. In fact, the most important criteria in determining approval or denial of spot zoning is the extent to which the zoning is consistent with the Comprehensive Plan.

The stated purpose of the General Commercial (C-2) zoning district conforms with what the comprehensive plan wishes this neighborhood to develop as. The purpose of the Main Street Corridor is to accommodate and encourage expansion of and renewal of commercial and residential uses that are compatible with each other. A variety of residential, office, and commercial uses are encouraged to provide a mix of activities necessary to establish a truly urban character. The primary goal of the C-2 zoning district is to allow for activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood.

However, staff has concerns with the flexibility and incompatibility of the (C-2) zoning district with the adjacent R-3 uses, and its relation to the Comprehensive Plan’s designation goals. Regardless of the purpose statement, the C-2 zoning district contemplates uses that are not compatible with residential uses. Staff’s major concerns lie within the more industrial uses such as vehicle sales, retail and washing facilities, storage and warehouses, and fuel sales, all of which might not be in accordance with Garden City’s comprehensive plan.

The intent of the rezone is to change the existing site from its currently R-3 zoning designation to that of C-2. The reason for the rezone is to allow for the use of a “service provider” which is currently a prohibited use in R-3, but a conditional use within the C-2 zoning district. The associated conditional use permit has been analyzed as part of this staff report (see below analysis). It appears that the conditional use permit is non-compliant due to the standards set forth in Garden City Code 8-2C-36, in which it is stated that “no structure, facility, drive lane, parking area, or loading area shall be located adjacent to a residential district.” As the surrounding uses are residentially zoned (R-3), the use of the site for a service provider would not be permitted.

The conditional use permit application does mention that the long-term plans for the property would be to redevelop as a mixed-use multi-family development. Multi-family developments are a permitted use within the R-3 zoning district, and the district does allow for many commercial uses, just not as many as what would be permitted within the C-2 zoning district. If the applicant wishes to develop a multi-family project, the rezone would not be necessary. The only reason to rezone would be to allow for more commercial uses than what is permitted in R-3. There is a chart comparing all permitted, prohibited, and conditional uses in the R-3 and C-2 zoning districts further below in this report.

Despite the applicant’s future desires, the rezone of the property is intended to allow for the existing service provider use to go from a prohibited use in R-3 to a conditional use in C-2.

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.

It should be noted that this is an application for a rezone, and nothing would compel the applicant or future landowners to develop to the vision as stated by Mr. Miraglio. The only way development restrictions can be put in place would be to require a development agreement. A development agreement that is narrowly focused to only allow for use is not recommended.

Access Easement

Staff has concerns regarding the property’s access. There has been an ongoing discussion between the applicant and the adjacent property owner located at 4800 N. Adams Street (Elle Estates SUBFY2022-0004). It appears that the sites primary access is located on the adjacent property. The legal status of this easement is still in discussion; if the easement is determined to be illegitimate, the site will not have access and be in conflict with Garden City Code 8-4E3.

E. Decision Process

General Provisions

The CUPFY2022-0014 and ZONFY2022-0001 applications are processed per GCC 8-6A-7 Public Hearing.

Required Decisions: The following decision processes are required for the project as governed by GCC Table 8-6A-1:

Decision	Recommendation Authority/ Hearing Date	Decision Authority
Rezone	Planning and Zoning Commission: Hearing September 21, 2022	City Council: October 10, 2022
Conditional Use Permit	Planning and Zoning Commission: Hearing September 21, 2022	

CUPFY2022-0014:

The Planning and Zoning Commission has been provided a draft document that includes findings of fact, conclusions of law, and a decision in the affirmative and in denial. This is done to provide potential options based on the staff's review of the project. This is not intended to be a predetermined decision. All evidence will be considered, and the document may be updated based on the Planning and Zoning Commission's review of the application.

Required Decisions:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is the final decision maker for a Conditional Use Permit. There is no recommending authority to the Planning and Zoning Commission. Pursuant to [GCC 8-6A-2A](#), The City Council shall have the authority to review any action taken by the Planning and Zoning Commission regarding Conditional Use Permits, which would be final unless appealed.

Required Findings:

To approve a conditional use permit, the Planning and Zoning Commission must find the application meets the following findings found in [GCC 8-6B-2](#):

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;
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;
3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is :

1. Granted,
2. Granted with conditions, or
3. Denied.

The decision maker may find that there is inadequate information to render a decision and may also continue the hearing for additional materials to be supplied. It is recommended that they continue the hearing to a date certain for noticing purposes.

The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

If there is a denial, state code requires that the decision maker identify what could be done to obtain approval.

Appeal of Decision:

Pursuant to [8-6A-9 Appeals](#), there is a 15-day appeal period to appeal the decision to the City Council. This period starts from the signed decision date and runs concurrently with the 15-day objection period noted above. An appeal is \$210 and must be filed on the appeal application form provided by the City. Appeals received after the 15-day appeal period will not be accepted.

ZONFY2022-0001

Required Findings:

For the approval of a ZONING MAP AMENDMENT AND ANNEXATION, the decision making body must find the application meets the following findings, found in [GCC 8-6B-10](#):

1. The zoning map amendment complies with the applicable provisions of the comprehensive plan;
2. The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;
3. The zoning map amendment shall not be materially detrimental to, or impacts can be mitigated that affect, the public health, safety, and welfare or impacts;
4. The zoning map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts; and
5. The annexation of land, if proposed, is in the best of interest of the city and complies with the procedures as set forth in Idaho Code section [50-222](#).
6. There has been no denial of any application on this property within one year.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied. The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

The Planning and Zoning Commission is the recommending body for this application.

Recommendation

The Recommending Authority may take one of the following actions:

1. Recommend the City Council grant/ approve the application as applied;
2. Recommend the City Council grant/ approve the application with conditions as drafted or as amended to the City Council;
3. Recommend the City Council deny the application; or
4. Request the applicant return with revised materials for additional review.

The City Council is the final decision maker for this application.

Decision

The City Council may take one of the following actions:

1. Sustain the recommendation as presented to the City Council;
2. Modify the recommendation with conditions;
3. Reject the recommendations; or
4. Remand the application to a recommending body for additional proceedings and findings.

If there is a denial, state code requires that the decision maker identify what could be done to obtain approval.

Appeal of Decision:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is a recommending authority and the City Council is the final decision maker for the requested application. The recommendations of the Design Committee and the Planning and Zoning Commission does not constitute a final decision on the application.

The applicant or someone with standing may request City Council to reconsider their decision. A reconsideration request may be made within 14 days of the formal decision being rendered. Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section [67-8003](#), Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section [67-6521\(1\)\(a\)](#), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by [chapter 52, title 67](#), Idaho Code.

F. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
Department of Environmental Quality	8/12/2022	DEQ encourages agencies to review and utilize the Idaho Environmental Guide to assist in addressing project-specific conditions that may apply.

G. Public Comment

The following public comments were provided:

Commenter	Comment Date	Summary
Lindsey High	09/14/2022	Opposed to the CUPFY2022-0014 "Service Provider" use. Opposed to the rezone from R-3 to C-2.

H. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 7 Building Regulations			
7-2-1 Building Code	N/A	No compliance issues as conditioned.	<p>The applicant is proposing to occupy an existing building (shop) without altering the structure. GCC 7-2-1 requires a building permit to be reviewed and approved prior to change in occupancy, as defined by the International Building Code. The applicant must either provide documentation that the building was built to the requested occupancy or apply for a change of occupancy through the City's Occupancy Analysis process prior to occupancy of the building. A change in occupancy may require that improvements be made to the building prior to occupancy.</p> <p>The applicant is proposing to occupy the rear of the property as is, for a service provider use. The use would specifically be that of a landscaping company, for the storage of their landscaping equipment. The existing shop and home will remain.</p>
Title 8, Chapter 1: General Regulations			
8-1A-4 Applicability			The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
8-1B-1 Nonconforming Properties		Compliant as conditioned	Legal Lot of Record is of concern. The property is described as NW 60 SE 200 OF LOTS 01-02 BLK 23 EXC R/W FAIRVIEW ACRES SUB 03. Legal Deeds and property descriptions will be required to use of the site.

8-1B-2 Nonconforming Structures		<p>Not Complaint</p>	<p>There appears to be a non-conforming structure located on the property associated with BLDFY2017-0056. This building underwent a building permit review, to which expired due to inactivity on June 7, 2017. The last staff review required a deed or record of survey to prove that the building was not land locked. The city does not have record that the existing access easement is legal. If the existing access easement is not of legal record, then the property is landlocked and the application cannot be approved.</p> <p>Pursuant to Garden City Code 8-1B-1(A), "any property that does not meet the minimum lot size requirements for the district in which the property is located shall be considered a nonconforming property and no entitlement under the provisions of this Title shall be granted." However, under 8-1B-1(C) "a lot or tract of land as recorded on any plat of record created prior to August 9, 1988, which does not meet the minimum lot size required by this title shall be considered a conforming property." Therefore, please verify by either ROS or Deed lot was created prior to 1988.</p> <p>This application proposes a garage/shop in area which is landlocked. There is no approved access to the carport from Adams and this in violation of Garden City Code 8-4E3.</p>
8-1B-3 Nonconforming Uses		<p>Compliant upon approval</p>	<p>Conditional Use Permit approval will be required for the proposed "Service Provider" use of CUPFY2022-0014.</p>
<p>Title 8, Chapter 2: Base Zoning District Regulations</p>			
<p>8-2B-1 Purpose</p>		<p>No compliance issues noted</p>	<p>Pursuant to Garden City Code 8-2B-1D, the purpose statement of the R-3 zoning district is:</p> <p><i>The purpose of the four (4) residential districts is to provide a full range of housing products within the city in areas that are exclusively for residential uses. The four (4) districts are contrasted by the density and housing products that are allowed within each district.</i></p> <p>Pursuant to Garden City Code 8-2B-1D, the purpose statement of the C-2 zoning district is:</p> <p><i>C-2 general commercial: Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.</i></p> <p>The intent of the proposed zoning map amendment is to allow for the current use of the site (Service provider) to be a legal, conditional use. As currently zoned R-3, the use of a service provider is not permitted. Under the C-2 zoning district the use of a service provider would be a conditional use. The intent of the proposed zoning map amendment is in line with the C-2 zoning district purpose statement.</p>

			<p>The applicant has also mentioned their intent to redevelop the site for a mixed-use multi-family development in the future. This intended, but future use, would be in alignment with the purpose statement of the C-2 zoning district.</p> <p>The applicant has stated that they intend for the site to be a mixed-use development, and expressed desire to develop to what the Garden City Comprehensive plan envisions Adams Street to be. The applicant described their vision of what kind of businesses would be in their development; with the possibility of future bike sales/rentals, paddleboard sales/rentals, small offices, and daycare services.</p> <p>Despite the applicant's future desires, the rezone of the property is intended to allow for the existing service provider use to go from a prohibited use in R-3 to a conditional use in C-2.</p> <p>If the ZONFY2022-0001 application is not approved, the current use of the site will not be permitted and must end immediately.</p> <p>It should be noted that this is an application for a rezone, and nothing would compel the applicant or future landowners to develop to the vision as stated by Mr. Miraglio. The only way development restrictions can be put in place would be to require a development agreement. A development agreement that is narrowly focused to only allow for use is not recommended.</p>
<p>8-2B-2 Allowed Uses</p>	<p>PZ</p>	<p>The rezone of the site to C-2 may be assisted by a development agreement limiting certain uses.</p>	<p>Garden City Code Table 8-2B-1 does not permit the use of a service provider within the R-3 zoning district.</p> <p>Garden City Code Table 8-2B-1 requires a conditional use permit in the C-2 zoning district.</p> <p>Garden City Code Table 8-2B-1 allows for the proposed use of a multi-family dwelling unit. It also allows and conditionally allows for many commercial uses. Any proposed commercial use will be required to go through the proper permitting process in place at the time of occupancy.</p> <p>However, as noted above, the rezone in and of itself, cannot compel a particular use.</p> <p>The uses of commercial entertainment facility, full scale drinking establishments, drive-throughs, equipment rental and service, fuel sales, flex industry, laundry and dry cleaning commercial plant, RV park, Service Provider, vehicle rental, vehicle sales, and warehouse would be conditionally allowed in the C-2 zoning district whereas all these uses are prohibited in R-3.</p> <p>Neighborhood and personal daycares would be allowed in the M district but are prohibited in the C-2 district but permitted in the R-3 zoning district.</p>

he uses of commercial entertainment facility, full scale drinking establishments, drive-throughs, equipment rental and service, fuel sales, flex industry, laundry and dry cleaning commercial plant, service provider, vehicle rental, vehicle sales, and warehouse are potentially not cohesive uses with a Main Street, nor with the residential component of the mixed-use as designated in the Garden City Comprehensive Plan. A development agreement could potentially restrict these uses.

Staff has highlighted the existing use, and the intended use in the chart given, as well as allowed uses that seem to differentiate between the C-2 zoning ordinance and R-3 zoning ordinance. A highlight of green is indicative of a use that is less restrictive than in the R-3 Zoning District, and a highlight of red is indicative of a use that is more restrictive than the R-3 Zoning District.

	R-3	C-2
Accessory Use*	P	P
Agriculture*	P	P
Amusement Center*		C
Animal Care Facility*		C
Artist Studio*	P	P
Bed And Breakfast*	C	P
Bicycle Sales Service, Storage, Rental		P
Building Material, Garden And Equipment*		C
Church Or Place Of Religious Worship*	C	C
Club*		C
Commercial Entertainment Facility*		C
Day Care, Center*		C
Day Care, Neighborhood*	P	
Day Care, Personal*	P	
Drinking Establishment, full service*		C
Drinking Establishment, limited service*		P
Drive Through Establishment*		C
Dwelling Unit, Accessory*	P	P
Dwelling Unit, Group	C	P

Dwelling Unit, Multiple Family*	P	P
Dwelling Unit, Single Family Attached (Stated Desired Use)	P	P
Dwelling Unit, Single Family Detached	P	P
Dwelling Unit, Two-Family	P	P
Eating Establishment, full service	C	P
Eating Establishments, limited service	C	P
Equipment rental, sale and service*		C
Financial Institution*		P
Food Products, processing*		
Food Products, small-scale processing*	C	P
Food Store*	C	P
Fuel Sales *		C
Fuel Yard		
Health Care And Social Service	C	P
Health Club*	C	P
Home Occupation*	P	P
Hospital*		C
Industry, Flex*		C
Industry, Information		P
Industry, Light*		
Kennel, Hobby*	P	P
Laboratory - Medical, Dental, Optical		P
Laundromat, Self-Service Cleaner*		P
Laundry and Dry Cleaning, Commercial Plant		C
Laundry and Dry Cleaning Establishment		C
Lending Institution		
Lodging*		C

			Manufactured/Mobile Home Park	C	C
			Mortuary		C
			Nursery*		P
			Nursing And Residential Care*	C	C
			Parking Facility		C
			Personal Service*		P
			Professional Service*		P
			Public Service Facility	C	C
			Public Uses	C	P
			Recreational Vehicle Park*		C
			Research and Development		P
			Retail Production*	C	P
			Retail Store		P
			School*	C	C
			Service Provider*		C
			Sexually Oriented Businesses*		
			Storage Facility, self-service		
			Storage Facility or Yard*		
			Storage Yard, Commercial Recreational Vehicle*		
			Temporary Use*	P	P
			Tobacco Entertainment Facility*		C
			Tobacco Retail Store		P
			Vehicle Rental *		C
			Vehicle Sales *		C
			Vehicle Service *		C
			Vehicle Washing Facility *		
			Vehicle Wrecking Yard *		
			Warehouse And Storage, Wholesale *		C
			Wireless Communication Facility *		

While the proposal expands the intensity of uses onsite, there does not appear to be evidence on the record that a development agreement is necessary to restrict them.

			<p>However, a condition of approval might be that some uses are restricted within the CC&R's. With any new structure or use, there are administrative and public hearing processes necessary that would protect the health, safety, and welfare of the community.</p>						
8-2B-3 Form Standards		<p>Should the lack of restriction on height in the C-2 zoning district designation be of concern, this could be remedied through a Development Agreement. It has been conditioned in the drafted decision document to require compliance with the minimum setback standards of the C-2 zoning district.</p>	<p>The C-2 zoning district allows for reduced setbacks and increase lot coverage compared to the R-3 zoning.</p> <p>The principle differences between the C-2 District and the M District is that in the C-2 zoning district there is no maximum height. The R-3 zoning district allows for 0' interior side setbacks (for townhome developments) whereas C-2 does not.</p> <p>The applicant's current use of the site is required to comply with R-3 zoning setbacks. If rezoned, the site would require to comply with C-2 zoning setbacks. It is unclear based on the submitted site plans if the site meets any setback standards.</p> <table border="1"> <thead> <tr> <th>District</th> <th>Zoning Standards</th> </tr> </thead> <tbody> <tr> <td>R-3</td> <td> Setbacks: Front: 5'/20', Rear: 15', Interior side: 0/5', Street Side: 5'. Maximum Height: n/a Maximum Lot Coverage: 70% </td> </tr> <tr> <td>C-2</td> <td> Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a </td> </tr> </tbody> </table>	District	Zoning Standards	R-3	Setbacks: Front: 5'/20', Rear: 15', Interior side: 0/5', Street Side: 5'. Maximum Height: n/a Maximum Lot Coverage: 70%	C-2	Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a
District	Zoning Standards								
R-3	Setbacks: Front: 5'/20', Rear: 15', Interior side: 0/5', Street Side: 5'. Maximum Height: n/a Maximum Lot Coverage: 70%								
C-2	Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a								
8-2C	PZ	Not compliant	<p>Service Provider Provisions – Not Compliant</p> <p>A. Site Layout: No structure, facility, drive lane, parking area, or loading area shall be located adjacent to a residential district.</p> <p>B. Parking and Access:</p> <ol style="list-style-type: none"> The entrance and exit drives shall be designed to prevent traffic hazards and nuisances. All surfaces used for parking shall be constructed with paving, vegetative cover or of dustless material. <p>C. Limitations: The site shall not be used as vehicle wrecking as herein defined.</p>						

			<p>D. Site Maintenance:</p> <ol style="list-style-type: none"> 1. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance. 2. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic. <p>E. Other Standards Apply: Outdoor storage areas shall comply with section <u>8-1C-3</u>, Property Maintenance Standards.</p>
8-2C	PZ	Compliant as conditioned	<p>Multi-Family Provisions – Not enough information to review. Development would be subject to code standards at time of entitlements and review.</p> <p>A. Setbacks: Setbacks within the site between buildings shall be a minimum of ten feet (10').</p> <p>B. Site Layout: All multi-family developments shall provide for quality of life, open space and recreation amenities to meet the particular needs of the residents as follows:</p> <ol style="list-style-type: none"> 1. Quality of life amenities: a) clubhouse; b) fitness facilities; c) enclosed bike storage; or d) public art. 2. Open space: a) open grassy area of at least fifty feet by one hundred feet (50' x 100') in size; b) community garden; c) ponds or water features; or d) plaza. 3. Recreation amenities: a) pool; b) walking trails; c) children's play structures; or d) sports courts. 4. The number of amenities shall depend on the size of multi-family development as follows: <ol style="list-style-type: none"> a. For multi-family developments with less than twenty (20) units, two (2) amenities shall be provided from two (2) separate categories. b. For multi-family developments between twenty (20) and seventy five (75) units, three (3) amenities shall be provided, with one from each category. c. For multi-family developments with seventy five (75) units or more, four (4) amenities shall be provided, with at least one from each category. <p>C. Site Maintenance: All multi-family developments shall record legally binding documents that state the maintenance and ownership responsibilities for the management of the development, including, but not limited to, structures, parking, common areas, and other development features.</p>

			<p>D. Additional Standards For Developments With Twenty Units Or More: Developments with twenty (20) units or more shall provide the following:</p> <ol style="list-style-type: none"> 1. A property management office. 2. A maintenance storage area. 3. A central mailbox location, including provisions for parcel mail that provide safe pedestrian and/or vehicular access. 4. A directory and map of the development at an entrance or convenient location for those entering the development.
Title 8, Chapter 4: Design and Development Regulations			
8-4A-3 Fences and Walls	PZ	Compliant as conditioned.	<p>Existing chain-link fencing as shown in submitted site photos is not a permitted fencing material. Replacement of chain-link fencing with code compliant fencing materials is drafted in the decision document.</p> <p>Any future fence placed on site shall comply with Garden City Code at the time of construction.</p>
8-4A-4 Outdoor Lighting	PZ	Compliant as conditioned.	<p>This proposal does not identify any outdoor lighting. Any future outdoor lighting will be required to be in compliance with code at the time of occupancy.</p>
8-4A-5 Outdoor Service and Equipment Areas	PZ	Compliant as conditioned.	<p>This proposal does not identify any outdoor service equipment. Not enough information to review. Any future outdoor service equipment area will be required to be in compliance with code at the time of occupancy.</p>
8-4A-7 Stormwater Systems	PZ	Compliant as conditioned.	<p>A general draft condition of approval has been provided requiring that the stormwater systems be built in compliance with provisions of 8-4A-7. All stormwater shall be handled onsite. A Public works/environmental review and approval will be required to the Certificate of Occupancy being issued.</p>
8-4A-8 Utilities	PZ	No compliance issues noted	<p>This section of code is not applicable to the rezone or conditional use permit. If the site to redevelop, utilities would be required to be placed underground.</p>
8-4D Parking and Off Street Loading Provisions			
8-4D-3 Parking Design and Improvement Standards	PZ	Compliant as conditioned	<p>The design standards as set forth in section 8-4D-3, "Parking Design And Improvement Standards", shall apply to any new construction, alteration, or moving of a structure or <u>any new or more intense use of property</u>.</p> <p>A parking plan was not submitted. A parking plan will be required for review prior to occupancy.</p>
8-4D-4 Parking Use Standards	PZ	Compliant as conditioned	<p>Upon any change of use, the number of vehicle parking spaces to be provided shall be calculated according to the requirements for the new use.</p>

8-4D-5 Required Number of Off- Street Parking Spaces	PZ	Compliant as conditioned	<p>Not enough information to review. Parking has not been identified on the site plans. It has been conditioned to require a full parking plan, identifying where parking will be for both employees and customers. These parking spaces shall be required to be striped and meet GCC 8-4D Parking and Off Street Loading Provisions.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>There is one bicycle space required for every 20 vehicle spaces and 1 space per commercial tenant necessitating at least 1 bicycle parking space. There are no bicycle parking spaces provided.</p>
8-4D-6 Standards for Alternatives to On Site Parking	PZ	No compliance issues noted	None requested
8-4E Transportation and Connectivity Provisions			
8-4E-2 Applicability			Provisions apply to any new construction, addition, expansion, grading, alteration, or any new or more intense use of property.
8-4E-3 Public Street Connections	PZ	Compliant as conditioned	Not enough information to review. Updated site plan will be required to show new parking plan, landscaping, etc.
8-4E-4 Internal Circulation Standards	DC	Compliant as conditioned	<p>Not enough information to review. Republic Services has not commented on this application. Fire has provided a review, to which they have no comment on the current site plans. However, with the conditions as drafted, the applicant will be required to update their site plans and obtain fire review approval prior to the certificate of occupancy being issued.</p> <p>Driveways, aisles and turnaround areas, when required for fire and refuse access, shall meet the following standards:</p> <ul style="list-style-type: none"> a) Have a minimum vertical clearance of thirteen feet six inches (13'6") for their entire length and width. b) Have a minimum width of twenty feet (20'). c) The design of internal circulation should be integrated with the overall site design and adjacent properties, including the location of structures, pedestrian walkways and landscaping. <p>There is not clear pedestrian access from the public sidewalk to the entrance.</p>

8-4E-6 Sidewalk Standards	PZ	No compliance issues noted	There is an existing attached 7' sidewalk on the subject property and on both adjacent properties.
8-4E-7 Pedestrian and Bicycle Accessibility Standards	PZ	Compliant as conditioned	There is no obvious pedestrian connection through the site. Nor is there an obvious connection to where the public sidewalk will be. All new nonresidential development shall provide for pedestrian accessibility. Accessibility shall be from a direct, convenient and attractive pathway system.
8-4I Landscaping and Tree Protection Provisions			
8-4I-2 Applicability			For all new residential and nonresidential uses, all landscaping standards of this article shall be met.
8-4I-3 General Landscaping Standards and Irrigation Provisions	PZ	Compliant as conditioned	Not enough information to review. The applicant will be required to submit a landscape plan showing code compliance prior to the certificate of occupancy being issued. Compliance with all of GCC 8-4I standards will be required.
8-4I-4 Landscaping Provisions for Specific Uses	PZ	Compliant as conditioned	A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional class I tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage. <u>N. Adams Street (60LF)</u> Trees Required: 2 Trees Provided: 1 (based on site photos)(Deficient 1 tree)
8-4I-5 Perimeter Landscaping Provisions	PZ	Not Compliant	Required when: <ol style="list-style-type: none"> Between a new or substantially altered nonresidential use and a residential use or vacant residentially zoned property where such uses are not separated by an arterial street; Along the common property line between an adjacent nonresidential use and a residential use or vacant residentially zoned property; Along the common property line between a multi-family residential use and a single-family or two-family residential use or vacant single-family or two-family zoned property; Perimeter landscaping is required along the common property line between the adjacent residential uses to the north, east, and west. The adjacent property, located at 4800 N. Adams is currently going through the entitlement process as a subdivision which will also be required to provide perimeter landscaping.
8-4I-6 Parking Lot Landscaping Provisions	PZ	Compliant as conditioned	Not enough information to review.
8-4I-7 Tree Preservation Provisions	PZ	No compliance issues noted	Plans do not show intent to remove trees.

Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process		No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information			Application waivers requested pursuant to 8-6A-4A: <ul style="list-style-type: none"> - Irrigation ditch company authorizations letter - Structural documentation for existing structures on site - Ability to serve - Fire flow - Master Plan - Natural Hazard and Resources Analysis
8-6A-7 Public Hearing Process		No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided a radius notice, notifications to agencies with jurisdiction, and ran a legal notice in the Idaho Statesman, at least 15 days prior to the first hearing. The applicant provided an affidavit of property posting more than 7 days in advance of the hearing validating that the property was posted more than 10 days prior to the hearing.

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
Idaho Code 67-6511	The Local Land Use Planning Act requires that a rezone be compliant with the Comprehensive Plan.
Idaho Code 67-6511A	A development agreement has not been proposed as a part of this application.
Idaho Code 67-6512 Local Land Use Planning Special Use Permits, Conditions, and Procedures	<p>Garden City Code noticing requirements are compliant with this Statute.</p> <p>The statute notes that upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:</p> <ol style="list-style-type: none"> (1) Minimizing adverse impact on other development; (2) Controlling the sequence and timing of development; (3) Controlling the duration of development; (4) Assuring that development is maintained properly; (5) Designating the exact location and nature of development; (6) Requiring the provision for on-site or off-site public facilities or services; (7) Requiring more restrictive standards than those generally required in an ordinance; (8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction. <p>Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section 21-501(2), Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A</p>

	<p>special use permit is not transferable from one (1) parcel of land to another.</p>
<p>Entitlement that might affect this project</p>	<p>ZONFY2022-0001 and CUPFY2022-0014 are directly related to the SUBFY2022-0004 Elle Estates application in that the easement allowing the property located at 4810 access to the property is on the property located at 4800 N. Adams Street. Without this access easement being legitimized and legal, the property at 4810 N Adams does not have access, and thus, no entitlements can be granted.</p> <p>There is ongoing discussion regarding this easement between both property owners and applicants.</p>
<p>Garden City Comprehensive Plan</p>	<p>This application is in future land use designations of the Comprehensive Plan:</p> <ul style="list-style-type: none"> a) Mixed Use Residential b) Main Street Corridor <p>In and of itself, a Comprehensive Plan is not legally binding. However, a required Conclusion of Law for zoning map amendments in Garden City is that the amendment is in conformance with the Comprehensive Plan. In this way the Garden City Zoning Code ensures that proposed zoning map amendments are not only required to be compatible with existing neighborhoods but are also progressing the vision that the community has for those neighborhoods.</p> <p>The proposed use is in the Mixed-Use Commercial and the Main Street Corridor designations of the Comprehensive Plan Land Use Map.</p> <p><i>The Main Street Corridor aims to create a “Main Street” as a principle street with a mix and concentration of uses along Adams/ Alworth Street with a possible alignment through a redeveloped Idaho Expo site connecting with the Activity Node at Glenwood and Marigold Streets. The corridor should have activity nodes along the street that connect the main street to the arterial roadways and/or the Boise River. The activity nodes should be limited so as to not dilute their function as a center. The focus of development should be on minimum front yard setbacks, parking on the street and behind buildings, and pedestrian amenities. The center of the activity nodes on the Main Street corridor should be integrated vertically with more height at the principle main street intersection of the node.</i></p> <p><i>The mixed-use residential area is north of Adams/ Alworth Street. This designation allows for residential and commercial uses in a form and scale that is residential in character and design. A mix of residential; small scale office and retail; and public and semi-public uses are appropriate in this district. Regulations for this area should focus on form more than use, with a maximum height of two stories.</i></p> <p>The Conditional Use Permit application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> a.) 1.4 Objective: Create a premier destination place to live, work, and recreate. <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting. <p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> a.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.

	<p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment b.) 12.2 Objective: Continue to support commercial and industrial land uses. c.) 12.3.5 Objective: Market the city to smaller businesses and support a positive environment for entrepreneurial businesses. <p>The Rezone application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> a.) Objective 1.4: Create a premier destination place to live, work, and recreate <p>Goal 2: Improve the City Image</p> <ul style="list-style-type: none"> a.) Objective 2.1: Encourage new and distinctive neighborhoods. <p>Goal 10: Plan for the Future</p> <ul style="list-style-type: none"> a.) Objective 10.6: Continue to support commercial and industrial land uses b.) 10.3.2 Objective: Recognize the stability of many areas within the city and focus future planning efforts on neighborhoods of rapid change and regeneration, especially east of Glenwood Street on both sides of Chinden Boulevard. <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment b.) 12.2 Objective: Continue to support commercial and industrial land uses. <p>The Conditional Use Permit application may not be supported by:</p> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.3 Objective: Promote quality design and architecturally interesting buildings. b.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting. <p>Goal 4. Emphasize the “Garden” in Garden City</p> <ul style="list-style-type: none"> a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art. <p>Goal 10.</p> <ul style="list-style-type: none"> 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>The Rezone application may not be supported by:</p> <p>Goal 10. Plan for the Future</p> <ul style="list-style-type: none"> a.) 10.4.3 Objective: Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods.
<p>Garden City Sidewalk Policy</p>	<p>Existing sidewalk to remain.</p>
<p>Garden City Street Light Policy</p>	<p>A streetlight is installed along N. Adams Street in accordance with the policy.</p>