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December 16, 2022

via email: planning@gardencityidaho.org; building@gardencityidaho.org;
hveal@gardencityidaho.org

Hanna Veal, Associate Planner
c/o Garden City Development Services Department
6015 N. Glenwood St.
Garden City, ID 83714

RE: Conditional Use Permit Re-Submittal and Sidewalk Waiver Request for 5226 W. Chinden Boulevard, CUPFY22-0015

Dear Ms. Veal and Garden City Development Services Department:

Givens Pursley LLP writes on behalf of Dekon, LLC (the "Applicant" or "Dekon") in reference to the conditional use permit application referenced above submitted in October, 2022. This narrative adds additional explanation of the conditional use permit sought, requests a waiver from certain application submittal requirements, and seeks your approval of a waiver to the requirement of sidewalk construction under the conditional use permit for the following reasons.

Dekon entered into a two-year lease for 1,680 square feet of space at 5226 W. Chinden Boulevard ("Leased Premises") with landlord Chinden Business Center, LLC ("Landlord") effective June 22, 2022. The Leased Premises are located within a larger 40,000 square foot building owned by Landlord (the "Property"). The Property fronts Chinden Boulevard with approximately 670 feet of road frontage and is zoned C-2 General Commercial. Shortly after entering into the lease, Dekon filed an application for a certificate of occupancy to begin using the Leased Premises. Upon receiving that application, Garden City notified Dekon that a conditional use permit was required in the C-2 zone for service provider use under Garden City Code § 8-2B-2. Dekon submitted the conditional use application in October, but the application was deemed incomplete. Included with this resubmittal are proof of a neighborhood meeting and a revised affidavit of legal interest to reflect the property ownership. The Applicant seeks a waiver of the following application items due to this application's limited scope and the Leased Premises'

situation in an already existing building with connected services and no proposed exterior alterations:

- Ability to Serve Letter – the Leased Premises are already served with all utilities;
- Irrigation / Ditch Company Authorization Letter – no irrigation ditches are adjacent to the Property;
- Landscape Plan – no changes to the exterior landscaping are planned; and
- Structural Documentation – this Application is only an interior fit-out of one unit in a larger building and no structural changes are proposed.

The Property overall provides 133 parking spaces, including four accessible spaces, and includes 9 existing street trees. No bicycle parking is provided on site. None of these numbers are affected by this change in use.

Sidewalk Waiver Request

Garden City requires conditional use permit applicants to comply with Garden City's sidewalk policy, promulgated pursuant to code sidewalk standards at § 8-4E-6. The sidewalk policy requires Dekon LLC to construct a 20-foot sidewalk in front of the Leased Premises on Chinden Boulevard, which is approximately 3% of the Property frontage. This request seeks a waiver of that sidewalk policy.

A waiver is appropriate in this case because the request meets each criteria set forth in the sidewalk policy, as follows.

1. The lack of sidewalk will not constitute a grant of special privilege inconsistent with the requirements on other properties within Garden City.

This is a unique circumstance where constructing a small 20-foot portion of sidewalk along Chinden Boulevard within a larger 670 foot frontage will create a traffic hazard, rather than create a safe pedestrian experience. Granting this waiver does not create a special privilege but, rather, treats lessees of office space who are not undertaking property improvements (like Applicant) similarly. Treating similarly-situated users of property alike is consistent with Garden City code and general law, and does not constitute a special privilege.

2. The requirement of sidewalk creates an undue hardship beyond that of the requirement of sidewalk elsewhere in Garden City.

No building modifications or improvements are required for this use. Although the applicant does engage in the uses defined as "service provider" under Garden City Code, the space will be used only as office and storage. This use is consistent with previous uses on the Property and in the vicinity, and other uses that are principally permitted under Garden City Code. Requiring construction of a sidewalk in this instance will require a significant property improvement at considerable expense for a short-term lessee conducting a business that generates no change in circumstances for the neighborhood. Enforcing this policy will result in no public benefit or

improved pedestrian safety, and will require a disproportionate investment for a small business simply using office space.

Further, ITD plans to construct a sidewalk along the south side of Chinden Boulevard from Maple Grove to Glenwood Avenue about a half-mile west of the Property. It seems likely that ITD will require the continuation of sidewalk improvements along the south side of Chinden Boulevard in the future, rendering north side sidewalk improvements obsolete.

3. The waiver will not unreasonably diminish the health, safety or welfare of the community neighborhood.

This waiver maintains the status quo of the north side Chinden Boulevard, where currently there are no sidewalks within a thousand feet of the Property. This segment of sidewalk is so short that its presence, rather than its absence, will create a road hazard. If pedestrians were to attempt to use the short, 20-foot sidewalk, they would wind up darting into and out of traffic, decreasing visibility and increasing confusion to drivers. At such time as the building owner re-develops the Property, the entire 670-foot sidewalk could be constructed. Until that time, the shorter sidewalk does not benefit the community and, rather, creates a safety hazard.

4. The waiver or alternative of a sidewalk is the only reasonable manner to overcome an undue hardship to the subject property.

The size of the Leased Premises coupled with the expense of constructing a sidewalk creates a hardship; it is simply too small to practicably build a useful sidewalk. Consequently, the construction of a sidewalk on the Leased Premises should be done in conjunction with the future redevelopment of the Property as a whole in order to create a safe and useful space. Requiring the Applicant to undertake a significant construction expense amounts to an undue hardship without public benefit.

5. The waiver or alternative treatment is the minimum relief necessary to allow reasonable use of the subject property.

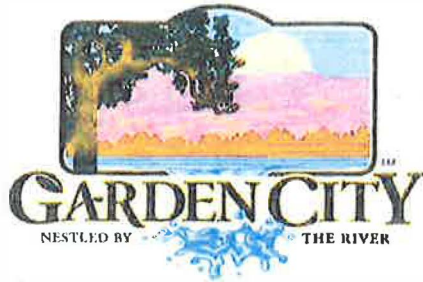
This waiver will facilitate the reasonable use of the Leased Premises, as this is the only obstacle to the issuance of a certificate of occupancy and conditional use permit. No other waivers are being sought with this application.

We ask that you approve this waiver request for the conditional use permit application referenced above. Thank you for your consideration.

Sincerely,



Danielle M. Strollo



6015 Glenwood Street Garden City, Idaho 83714
Phone 208 - 472-2921 Fax 208 - 472-2926
www.gardencityidaho.org

Affidavit of Legal Interest

State of Idaho)
)SS
County of Ada)

I, Douglas E. Crafts and Sue S. Crafts, 250 S. 5th St. 2nd Fl.
Name (must be primary owner as noted in Ada County Assessor's records) Address

Boise ID 83702
City State and Zip

Being first duly sworn upon oath, depose and say:

1. That I am the record owner of the property described on the attached, and I grant my permission

to Dekon, 5226 Chinden Blvd
Name (applicant) Project Address
to submit the accompanying application pertaining to that property.

2. I agree to indemnify, defend and hold the City of Garden City and its employees harmless from any claim or liability resulting from any dispute as to the statements contained herein or as to the ownership of the property which is the subject of the application.

3. I hereby grant permission to City of Garden City staff to enter the subject property for the purpose of site inspections related to processing said applications.

Dated this 12th day of DECEMBER, 2022

Doug Crafts SUECRAFTS SU Doug Crafts DOUG CRAFTS
Signature (must be primary owner, registered agent, or otherwise have legal authority to sign on behalf of primary owner)

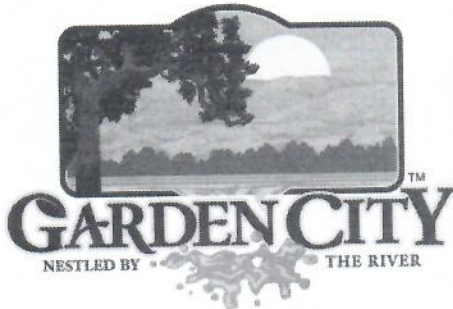
Subscribed and sworn to before me the day and year first above written



Andrea Yanik
Notary Public for Idaho

Residing at Boise, Id

My Commission expires April 3, 2026



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Phone 208 - 472-2921 • Fax 208 - 472-2926 •
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Affidavit of Neighborhood Meeting

State of Idaho)
)SS
County of Ada)

I, Joseph Michael Rountree, 962 E. Valencia St
Name (be full legal name) Address
Boise ID 83706
City State and Zip

Being first duly sworn upon oath, depose and say:

1. That I provided the attached notice to all individuals owning property within 300' of 5226 W. Chinden Blvd (project address) Garden City, Idaho.
2. The list of individuals that I sent the notice to include all entities that were on the 300' radius list provided by the city of Garden City.
3. I posted the site in accordance with the requirements found in Garden City Code 8-6A-7. B.1, affidavit thereof attached.
4. The location of the meeting was 5226 W. Chinden Blvd.
5. The date of the meeting was: Nov 4th, 2022, a Monday, Tuesday, Wednesday, Thursday, or Friday (please circle the day of the week). (must be a weekday not less than 10 days ahead of this submittal and not more than three months ahead of this submittal).
6. The time of the meeting was: 5³⁰ pm pm. (must be between 5:30pm - 8:00pm)
7. I remained on site from 5³⁰ pm to 6³⁰ pm (must be on site a minimum of 30 minutes even if no one is in attendance).
8. The attached sign-in sheet includes all attendees.

Dated this 15th day of November, 2022.

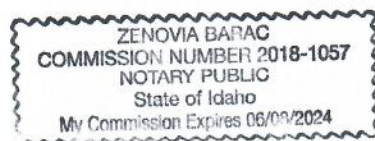
[Signature]
Signature

Subscribed and sworn to before me the day and year first above written

Zanwia Borec
Notary Public for Idaho

Residing at: Boise, ID

My Commission expires 06/08/2024



REQUIRED ATTACHEMENTS

1. Neighborhood meeting notice
2. Affidavit of posting
3. Sign in sheet

PARCEL	PRIMARY	ADDRESS	CITY, STATE, ZIP	
R1055420040	IRON MOUNTAIN HOLDINGS LLC	5265 N SAWYER AVE	GARDEN CITY, ID 83714-0000	x
R1055420050	STIGILE BRETT M	200 E 52ND ST	GARDEN CITY, ID 83714-0000	x
R1055420060	MLP INVESTMENT PROPERTIES LLC	4562 N BURT PL	EAGLE, ID 83616-0000	x
R1055420220	BERENSTEIN BURTON & SHERRY TRUST	PO BOX 671	BURLINGAME, CA 94011-0671	x
R7334170005	ERSTAD RODGER LIVING TRUST 01/31/2018	PO BOX 9343	BOISE, ID 83707-0000	x
R7334170075	NWDC CHINDEN LLC	1980 S MERIDIAN RD STE 140	MERIDIAN, ID 83642-0000	x
R7334170076	PARK HAMPTON LLC	8700 W CHAPARRAL RD	EAGLE, ID 83616-1414	x
R7334170090	RUSSELL AL JR	1350 S WILLOW WOOD WAY	EAGLE, ID 83616-0000	x
R7334170105	WIGHT CAPITAL LLC	5177 W CHINDEN BLVD	GARDEN CITY, ID 83714-0000	x
R7334170110	RUSSELL AL FAMILY LIMITED PARTNERSHIP	722 W FRANKLIN RD	MERIDIAN, ID 83642-2829	x
S0631223240	CRAFTS DOUG	250 S 5TH ST # 200	BOISE, ID 83702-0000	
S0631233600	CHINDEN BUSINESS CENTER LLC	250 S 5TH ST FL 2ND	BOISE, ID 83702-0000	