

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:	)	CUPFY2022-0015
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
5226 & 5242 W. Chinden Blvd.	)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho	)	AND DECISION
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THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on January 18, 2023. 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 Joe Rountree.
3. The property owner of record is Crafts Doug.
4. The location of the project is
  - a. 5226 W. Chinden Blvd.; Ada County Assessor parcel number(s) S0631223241; PAR #3240 OF W2NW4 OUT OF FLOOD DIST SEC 31 4N 2E and;
  - b. 5242 W. Chinden Blvd.; Ada County Assessor Parcel Number(s) S0631223240; described as PAR #3240 OF W2NW4 IN FLOOD DIST SEC 31 4N 2E
5. The properties are legal parcels of record.
6. The subject properties are 0.32 and 5.520 acres for a total of 5.84 acres.
7. The scope of the request applies to a portion of the property.

8. The project is located in the C-2 General Commercial zoning district.
9. The project is located in the Green Boulevard Corridor; Light Industrial Bradley Technology, and Neighborhood Destination Activity Node 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 not located in the SFHA according to the Flood Insurance Model utilized for the 2020 FIRM.
12. The existing use on the site is Drinking Establishment; Limited Services.
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
  - d. Chinden ITD Access Management
15. The following previous approvals apply to this proposal:
  - a. None identified
16. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

<b>Conditional Use Permit</b>			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
	X		Will Serve

17. Additional application materials submitted include:
  - a. Site Plan;
  - b. Site Photos;
  - c. Floor Plans;
  - d. 300' Neighborhood List;
  - e. Affidavit of Legal Interest;
  - f. Application;
  - g. Sidewalk Waiver Request Letter;
  - h. Supplemental Narrative.
  
18. Agency Comments were received from:
  - a. Department of Environmental Quality, January 4, 2023
  - b. North Ada County Fire and Rescue, December 30, 2022
  - c. City Engineer, January 7, 2023
  
19. Public comments were received from:
  - a. None
  
20. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of Application	12/07/2022	08/29/2022
Receipt of Complete Application	12/13/2022	12/13/2022
Letter of Acceptance	01/13/2023	12/29/2022
Radius Notice	01/03/2023	12/30/2022
Interested Parties	None	None
Legal Notice	12/30/2022	12/29/2022
Agency Notice	01/03/2023	12/29/2022
Property Posting Sign	01/08/2023	01/06/2023
Affidavit of Property Posting and Photos	01/11/2023	01/06/2023

21. On January 18, 2023, 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. January 18, 2023, 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:

<p><b>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.</b></p>			
<p><b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b></p>			
<p>Conclusion</p>			<p>Standard</p>
<p>Compliant</p>	<p>Not Applicable to this Application</p>	<p>Not Compliant</p>	
<p>X</p>		<p>X</p>	<p><b>Finding 1.</b> 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><b>In Approval:</b> 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><b>In Denial:</b> List what actions, if any, the application could have taken to obtain approval.</p>
<p>X</p>		<p>X</p>	<p><b>Finding 2.</b> 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><b>Explanation:</b></p> <p><b>In Approval:</b> There are public services available that can accommodate the proposed development.</p> <p><b>In Denial:</b> The ability to serve has not been submitted for review and it is unclear if the city will be able to provide services for the use.</p>

X		X	<p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The use will not unreasonably diminish either the health, safety or welfare of the community as conditioned.</p> <p><b>In Denial:</b> The application is not compliant with Garden City Code 8-4E-4 Internal Circulation Standards or 8-4E-6 Sidewalk Standards. These compliance issues directly impact the health, safety and welfare of the community by not providing safe vehicular or pedestrian transportation routes and could cause conflict with users.</p>
X		X	<p><b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application is cohesive with the Comprehensive Plan’s designation of the Green Boulevard Corridor and Light Industrial Bradley Technology. And is supports the Comprehensive Plan’s Goal 1, Nurture the City and Goal 12, Evolve as a Destination.</p> <p><b>In Denial:</b> The application may not be supported by Goal 2, Improve the City Image; Goal 4, Emphasize the “Garden” in Garden City; Goal 7, Connect the City.</p>

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. There is no guarantee that public parking will remain public.
3. A sidewalk waiver is granted specific to this conditional use permit.
  - a. At termination of the use or occupancy the waiver shall also be terminated.
4. Based on proportionality rules, the deficient street trees are not required to be installed per this application.

##### 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. An Occupancy Analysis to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.
3. The chain-link fence, chain-link fence with barbed wire, and the chain-link fence with slats shall be removed or replaced (at 4.3% the length) with code compliant fencing. An alternative is to provide documentation from both the property owner and the adjacent property that the fence is not owned by the same owner of the subject property.
4. Landscaping shall be installed and inspected for compliance with Garden City Code 8-4I. The landscaping plan shall be approved by Garden City Development Services Department prior to the planting.
  - a. If there is less than 5% landscaping on the site, then landscaping at 4.3% of the deficiency shall be planted.

5. 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.
6. Two bicycle parking spaces shall be provided. The bicycle parking dimensions, and location shall be in conformance with 8-4D-3 C.
7. The site shall provide a 10ft wide detached pathway interior to the southern property line, near the existing landscape area for the full length of the site/for 4.3% of the site's frontage.
  - a. Ada County Fire must approve of the width of the internal parking drive isle with the new parking space configuration.
  - b. The sidewalk shall be installed to the property lines of adjacent properties so that adjacent properties may install a connecting sidewalk or pathway at the time that they redevelop.
  - c. 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:
    - i. A detached sidewalk shall be installed in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
  - d. A public pedestrian and bicycle easement shall be granted to the City for the onsite detached sidewalk.
8. If a detached sidewalk cannot be installed on-site. Then the site shall provide for an attached sidewalk within the W. Chinden right-of-way per Garden City Code and in compliance with Idaho Transportation Department's requirements.
  - a. The sidewalk shall extend for the full length of the site/for 4.3% of the site's frontage.
9. A 10ft wide painted pathway shall be constructed as a temporary sidewalk in lieu of curb, gutter, and concrete sidewalk. The pathway shall adhere to the following standards:
  - a. Shall extend for the full length of the site/for 4.3% of the site's frontage.
  - b. Shall be clearly defined.
  - c. Outside of a vehicular travel way.
  - d. The pathway shall be maintained at such a frequency that it is never to appear worn or difficult to see.
  - e. May be identified with paint, pavers or otherwise approved appropriate material.
    - i. If paint is used, the paint design shall be creative in such a way that placemaking is achieved.

Site Specific Requirements for the Duration of the Use:

1. Any new or upgraded exterior lighting related to this use shall be in compliance with Garden City lighting standards.
2. Site Layout: No structure, facility, drive lane, parking area, or loading area shall be located adjacent to a residential district.
3. 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.
4. Limitations: The site shall not be used as vehicle wrecking as herein defined.
5. Site Maintenance:
  - a. 1. All outdoor storage of materials or vehicles shall be maintained in an orderly manner so as not to create a public nuisance.
  - b. 2. Stored items shall not block sidewalks or parking areas and may not impede vehicular or pedestrian traffic.
6. Other Standards Apply: Outdoor storage areas shall comply with section 8-1C-3, Property Maintenance Standards.

### **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.

January 18, 2023

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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) **LIST** because it is not in compliance with the Garden City Comprehensive Plan Sections **LIST** and/ or Garden City code sections **LIST**. Compliance can be met by submitting an application that is code compliant.
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.

January 18, 2023

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Chairman, Planning and Zoning Commission

Date