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January 17, 2023

City of Garden City  
c/o Hanna Veal, Planner  
6015 N. Glenwood Street  
Garden City, ID 83714  
via email to: [hveal@gardencityidaho.org](mailto:hveal@gardencityidaho.org)

RE: Response to Staff Report CUPFY2022-0015

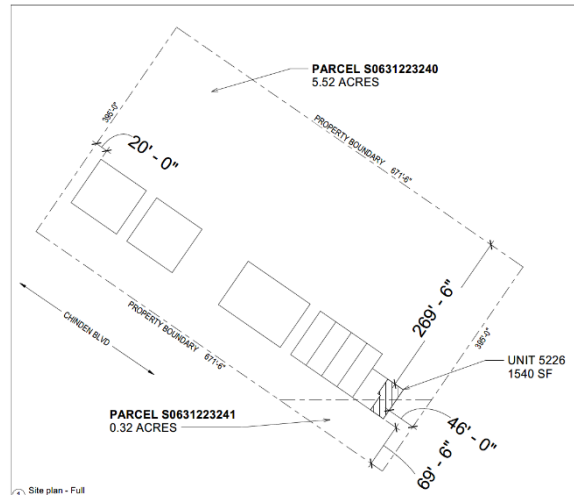
Dear Planning and Zoning Commissioners:

Givens Pursley, LLP represents Dekon LLC (“**Applicant**”) in their Application for a Conditional Use Permit (“**CUP**”) for service provider use in the C-2 General Commercial district for their 1,680 square foot leased space (“**Site**” or “**Leased Premises**”) located within the larger Chinden Business Center at 5226 W. Chinden Boulevard in Garden City (“**Property**”). We write to provide a response to the staff report and draft decision document provided to the Applicant on Friday, January 13 via email (“**Staff Report**”).

The Staff Report identifies certain conditions of the Property as non-compliant. However, the Staff Report’s conditions of approval would require that the Applicant modify property that it does not own and over which it has no influence. Many of these conditions of approval are not feasible, and as such, we ask that the proposed conditions relating to fencing, bicycle parking, pedestrian access, and landscaping be removed in granting the underlying Conditional Use Permit.

**Fencing.**

The Staff Report identifies that chain link fences on the Property are not compliant with Garden City Code §8-4A-3, which requires vinyl, wood or wrought iron fencing. However, this fencing is not within the Site. Garden City Code § 8-4A-3 provides that “Legal nonconforming fences may remain so as long as there are no significant improvements to the site or specifically conditioned in a conditional use permit.” Here, there are no significant improvements proposed to the Site. In fact, there are no exterior improvements proposed whatsoever. As the Applicant has no control over the larger Property, we request that fence removal not be “specifically conditioned in the conditional use permit”, and that this condition be deleted from the final decision.



**Bicycle Parking.**

The Staff Report requests that the Applicant provide two bicycle parking spaces. But Garden City Code § 8-4D-5(D)(1) provides that bicycle parking facilities “be provided for any new structure, or an addition to any existing structure, that exceeds fifteen thousand square feet in gross floor area, or any multi-family development of three or more units.” There is no new structure or addition to any structure at issue in this Application. Therefore, the Applicant does not meet the threshold for required bicycle parking, and we request that this condition be removed.

**Pedestrian access.**

The Staff Report identifies the Property as non-compliant with certain pedestrian circulation and sidewalk standards. However, the Leased Premises are located within the larger Property where there are few, if any, pedestrian visitors. The Applicant is a service provider, where no customers are expected to visit at all. The majority of the tenants within the Property are also service providers. Regardless, the Site’s pedestrian access is adequate based on the office use serving only Dekon LLC employees. Again, as no improvements are required for the Applicant’s

use, there is no opportunity to alter the pedestrian circulation system of the larger Property. Improved internal pedestrian circulation should be pursued on a Property-wide basis to create a coherent circulation system, rather than on a leased-space by leased-space basis.

The sidewalk waiver requested will likely constitute the bulk of the discussion at the January 18 meeting. In anticipation of that discussion, we reiterate our request for a waiver: that constructing a seven-foot sidewalk is impractical and would create an unusable strip of sidewalk that could create problems in the future upon the Property's redevelopment. We continue to seek a waiver to this requirement.

**Landscaping.**

Finally, the Staff Report includes a condition that landscaping be proportional to the use. However, landscaping is neither a part of the Site nor under the control of the Applicant who is leasing only internal office and storage space. Further, while the condition requires that 547 square feet be provided by the Applicant as 4.3% of the Property, the area directly in front of the Site along Chinden Boulevard contains approximately 640 square feet of grass and tree space, fulfilling this requirement. As the Applicant cannot control the landscaping and irrigation of the Property, and the open space available exceeds what would be required, we ask that this condition be removed.



Figure 1 Landscaping in Front of Site

**Conclusion**

Thank you for the opportunity to respond to the Staff Report. As discussed above, we ask that the proposed conditions relating to fencing, bicycle parking, pedestrian access, and landscaping be removed in granting this Conditional Use Permit. We look forward to your support and approval of the CUP application and sidewalk waiver.

Sincerely,



Elizabeth A. Koeckeritz