



CITY OF GARDEN CITY

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File Number: CUPFY2023 - 0007
Requested Use: Warehouse, Storage and Wholesale
Location: 115 E. 33rd Street
Applicant: William Kearns
Planning and Zoning Commission Hearing Date: May 24, 2023, 5:30 p.m.



STAFF REPORT

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A. Project Information

Proposed Scope of Work:

Request	Review Process
Conditional Use Permit	GCC 8-6B-2

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: William Kearns
- 2) Owner: Wine Barn LLC
- 3) Title 8 Use: It has been determined that the Garden City defined use that best describes the use is: Warehouse, Storage, and Wholesale
- 4) Definition of Use: Garden City Code 8-7A-1 defines this use as: The use of a site as a major stopping or transferring point for freight, storage, wholesale and distribution of manufactured products, supplies and equipment, excluding retail sales.
- 5) The applicant has not proposed exterior work.

Site Conditions:

- 1) Existing Use: Vehicle Service
- 2) Street Address: 115 E. 33rd Street
- 3) Parcel Number(s): R2734541810
- 4) Property Description: Lots 26/27 Block 37 Fairview Acres Sub. No. 5.
- 5) Legal Lot of Record: No
- 6) Property Size: 0.340 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay(s):
 - a) None
- 9) Comprehensive Plan Land Use Map Designation:
 - a) Live-Work-Create
 - b) Neighborhood Destination Node
- 10) Floodplain Designation:
 - a) 2003 FIRM: Outside of the Special Flood Hazard Area
 - b) 2017 Draft FIRM: 100 Year - AE
- 11) Surrounding Uses:
 - a) Lodging – Riverside Hotel
 - b) Food Products Small Scale Processing
 - c) Drinking Establishment Limited Services
 - d) Food Store – Roots Zero Waste Market
 - e) Eating Establishment, Full Services
- 12) Adjacent Zoning: C-2
- 13) Adjacent Comprehensive Plan Designations:
 - a) Live-Work-Create
 - b) Neighborhood Destination Node
- 14) Easements on site: Fairview Acres Lateral Water Association – Acceptance of Responsibility

15) Site Access:

- a) Front: E. 33rd

16) Sidewalks: Sidewalks are installed and are in good repair.

17) Wetlands on site: none identified

B. Discussion

This application appears to be in substantial compliance with Garden City Code standards and the Garden City Comprehensive Plan. Conditions have been drafted in the approval to ensure that all code requirements are met.

C. Decision

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, those with standing may appeal a decision within fifteen days from the date of **action**. Action is the date the Planning and Zoning Commission formalizes their decision. The Planning and Zoning Commission may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. If additional time is needed to review the decision document for accuracy, they may continue the formalization of the decision to a subsequent meeting. The date of action may be a different date than the applicant is provided with a signed copy of the decision in accordance with Idaho Code 67-6535.

An appeal is \$210 plus the costs of transcripts and must be filed on the appeal application form provided by the City. Appeals received after the 15-day appeal period will not be considered timely and will not be accepted.

D. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
North Ada County Fire and Rescue Link to Comment	05/08/2023	<ul style="list-style-type: none">• Specific building construction requirements of the International Building Code, International Fire Code and NACFR Rules will apply. However, these provisions are best addressed by a licensed Architect at time of building permit application.

E. Public Comment

The following public comments were provided: None provided as of the drafting of this document.

F. 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.	The applicant is proposing to occupy an existing building 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.
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		No compliance issues noted	It appears that the property consists of two lots within the Fairview Acres Subdivision. The structure is located on Lot 26. The city has historical files of the chain of deeds and has determined that the parcel, consisting of lots 26 & 27, has been configured in such a way since 1986. Property deeds from 1986 match that of the current deed descriptions.
8-1B-2 Nonconforming Structures		No compliance issues noted	The existing structure does not appear to meet the 5' side setback standard required of the C-2 zoning district. This application does not increase the non-conformity as it does not propose structural alterations.
8-1B-3 Nonconforming Uses		Compliant upon approval	Conditional Use Permit will be required
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose		No compliance issues noted	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. More intense commercial activities are intended to be located along arterial streets in the highway commercial (C-1) district. 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.

8-2B-2 Allowed Uses	PZ		Garden City Code Table 8-2B-1 requires a conditional use permit in this zone for the proposed use.
8-2B-3 Form Standards	PZ	No compliance issues noted	The applicant is not proposing any exterior changes to the building. The existing structure does not appear to be complaint with form standards. The application does not increase the non-conformity.
8-2C	PZ	Compliant as conditioned	A. Limitations: Outside activity areas shall be located a minimum of three hundred feet (300') from any property line adjoining a residence or a residential district. B. Accessory Uses: The use may include accessory office uses not to exceed twenty five percent (25%) and retail sales not to exceed ten percent (10%) of the gross floor area of the use.
Title 8, Chapter 4: Design and Development Regulations			
8-4A-3 Fences and Walls	PZ	Compliant as conditioned	Existing chain-link fencing with slats is installed along the Northern and Eastern property boundary lines. Chain link fencing is not permitted per Garden City Code. Removal of the fence shall be required prior to the issuance of a certificate of occupancy. An affidavit of non-ownership will need to be submitted if the fence is not owned by the applicant nor the property owner (if it is the adjacent property's fence). Upon submittal of the notarized document, removal of the fence will not be required. A condition has been drafted.
8-4A-4 Outdoor Lighting	PZ	Compliant as conditioned	Any future outdoor lighting will be required to be in compliance with code at the time of development.
8-4A-5 Outdoor Service and Equipment Areas	PZ	Compliant as conditioned	Any future outdoor service equipment area will be required to be in compliance with code at the time of development. This proposal does not identify any outdoor service equipment. Any future outdoor service equipment area will be required to be in compliance with code at the time of development. 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. 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.

8-4A-7 Stormwater Systems	PZ	No compliance issues noted	Existing stormwater facilities proposed to remain. If site drainage patterns are altered, the landowner may have to enter into an agreement with the city that will be recorded addressing mandatory maintenance of the site's storm the drainage system. The agreement must be fully executed, have conditionally approved plans attached and be recorded by the city with final plan approval.
8-4A-8 Utilities	PZ	No compliance issues noted	No comment
8-4A-9 Waterways	PZ	No compliance issues noted	Existing Fairview Acres Lateral Canal on site with easement. Canal has been tiled.
8-4D Parking and Off Street Loading Provisions			
8-4D-3 Parking Design and Improvement Standards	PZ	No compliance issues noted	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>
8-4D-4 Parking Use Standards	PZ	No compliance issues noted	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.
8-4D-5 Required Number of Off-Street Parking Spaces	PZ	Compliant as conditioned	<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>The applicant has provided information regarding the on-site operations, hours of operation, employee count, and parking information within their statement of intent.</p> <p>Garden City has historically required a standardized parking requirement of 1 parking space per 300sqft of gross floor area.</p> <p>The existing building is 2,330sqft in size. The site does not offer any striped parking stalls on site. There is about 8,000sqft of paved asphalt area surrounding the building that could provide parking spaces.</p> <p>As of the drafting of this report, current parking code standards would require 8 vehicular parking spaces. However, the new parking code ordinance is anticipated to be adopted at the May 22nd City Council hearing in which the use of Warehouse and Storage, wholesale (when used for the principal purpose of</p>

			<p>storage) requires 1 vehicular parking space per 2,000sqft. The application is required to provide 1 vehicular parking space.</p> <p>It has been conditioned to require at least one striped vehicular parking space on site.</p> <p>Bicycle Parking: 1 bicycle parking space is required per tenant, and 1 bicycle parking space is required per every 20 vehicle parking spaces. As this conditional use permit contains only 1 tenant space and 1 required vehicle parking space, the site requires 1 bicycle parking space. It has been conditioned in the decision document to require 1 bicycle parking space.</p>
8-4D-6 Standards for Alternatives to On Site Parking	PZ	No compliance issues noted	None requested.
8-4D-7 Off Street Loading Standards	PZ	Compliant as conditioned	<p>Plans do not identify an off-street loading area on-site.</p> <p>Based on the structure's square footage, 1 type B off-street loading area. Type B spaces shall be no less than fifteen feet (15') in width and sixty five feet (65') in length. All spaces shall have fourteen feet (14') of vertical clearance.</p> <p>It has been conditioned to require 1 type B loading area as shown via a site plan update.</p>
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	No compliance issues noted	No comment
8-4E-4 Internal Circulation Standards	PZ	No compliance issues noted	<p>Comments have not been received by Republic Services.</p> <p>There is 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 5' sidewalk on the subject property.
8-4E-7 Pedestrian and Bicycle Accessibility Standards	PZ	No compliance issues noted	There is an existing stripped pathway from the sidewalk to the primary entrance of the building.
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	No compliance issues noted	No comment

8-4I-4 Landscaping Provisions for Specific Uses	PZ	No compliance issues noted	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. Trees Required: 3 Trees Provided: 3 <u>Landscape accounts for 597sqft = 5% of the site.</u>
8-4I-5 Perimeter Landscaping Provisions	PZ	No compliance issues noted	Perimeter landscaping is required between a loading or utility service area, vehicle repair bay, or vehicle fueling area and all property lines; and Between other paved vehicular use areas, including driveways, and vehicle storage areas and all properties. 10' perimeter landscaping has been provided along the southern, and eastern property boundary lines; 5' perimeter landscaping is provided along the northern property boundary line.
8-4I-6 Parking Lot Landscaping Provisions	PZ	No compliance issues noted	Not applicable.
8-4I-7 Tree Preservation Provisions	PZ	No compliance issues noted	The application does not propose the removal of 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			No application waivers requested pursuant to 8-6A-4A.
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 67-6512 Local Land Use Planning Special Use Permits, Conditions, and Procedures	Garden City Code noticing requirements are compliant with this Statute.

	<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 <u>21-501(2)</u>, 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 special use permit is not transferable from one (1) parcel of land to another.</p>
<p>Garden City Comprehensive Plan</p>	<p>Idaho Code § 67-6512(a), requires that special or conditional use permits shall be issued only when “not in conflict with the [comprehensive] plan.” The reason for the special treatment of conditional use permits, presumably, is that by their nature, they allow uses not in accordance with the normal zoning for an area. Thus, conditional use permits are, in essence, mini-zones. Conditional use permits are not required to be “in accordance with” the comprehensive plan. Instead, it is sufficient that they not be “in conflict” with the comprehensive plan.¹</p> <p>This application is in future land use designations of the Comprehensive Plan:</p> <ol style="list-style-type: none"> a) Activity Node: Neighborhood Destination b) Live-Work-Create <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ol 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> <ol 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 4. Emphasize the “Garden” in Garden City</p> <ol style="list-style-type: none"> a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art. <p>Goal 7. Connect the City</p> <ol 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> <ol style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment.

¹ [2022 Givens Pursley Land Use Handbook](#)

	<p>b.) 12.2 Objective: Continue to support commercial and industrial land uses.</p> <p>c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture, and commerce.</p> <p>The application may not be supported by: Goal 2. Improve the City Image</p> <p>a.) 2.3 Objective: Promote quality design and architecturally interesting buildings.</p>
Garden City Sidewalk Policy	Existing sidewalk to remain.
Garden City Street Light Policy	A streetlight is installed along E. 33 rd Street in accordance with the policy.