



CITY OF GARDEN CITY

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File Number: CUPFY2023 - 0008
Requested Use: Industry, Flex.
Location: 9297-9301, 9251-9287 State St.
Applicant: Jeff Likes
Planning and Zoning Commission Hearing Date: June 21, 2023, 6:30 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: Jeff Likes
- 2) Owner: ROCK CANYON BUSINESS PARK LLC
- 3) Title 8 Use: Industry, Flex
- 4) Definition of Use: Garden City Code 8-7A-1 defines this use as: The use of a multi-tenant structure for the uses of: equipment rental and sales; light industry; motorcycle sale, service, storage rental; service provider; storage yard; vehicle service or other permitted uses within the zoning district which it is in.
- 5) The applicant proposed a new construction.

Site Conditions:

- 1) Existing Use: Vacant
- 2) Street Address: W. State St.
- 3) Parcel Number(s): R8448760010 and R8448760020
- 4) Property Description: POR COMMON AREA IN TCA 06-3 TIARON CONDO & POR COMMON AREA IN 06-17 TIARON CONDO
- 5) Legal Lot of Record: Yes
 - a) Affidavit of Legal Interest incorrect; Accessor owner shows TIARON CONDOMINIUM ASSOC INC
- 6) Property Size: 3.065 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay(s):
 - a) None
- 9) Comprehensive Plan Land Use Map Designation:
 - a) Green Boulevard Corridor
 - b) Residential Low Density
- 10) Floodplain Designation:
 - a) 2003 FIRM: outside of the Special Flood Hazard Area
 - b) 2017 Draft FIRM: 100 Year
- 11) Surrounding Uses:
 - a) Retail Store
 - b) Professional Service
 - c) Health Care and Social service
 - d) Single family detached dwellings.
 - e) Retail Production
- 12) Adjacent Zoning: C-2 and R-2
- 13) Adjacent Comprehensive Plan Designations:

a) Green Boulevard Corridor

b) Residential Low Density

14) Easements on site:

a) Tiaron Condos 7807: Public utility easement

15) Site Access:

a) Front: State St.

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

17) Wetlands on site: none identified

C. Discussion

Jeff Likes is requesting a conditional use permit for the construction of two new structures located at 9297-9301, 9251-9287 State St. Ada County Parcels R8448760010 and R8448760020. The addresses as described are individual condominium parcels, previously platted in 2008 (see in submitted documents). They are the last remaining unbuilt parcels within the Triaron Condo Subdivision.

The proposed application is for an Industry, Flex use. Industry, Flex is described as: "Equipment rental and sales; light industry; motorcycle sale, service, storage rental; service provider; storage yard; vehicle service or other permitted uses within the zoning district which it is in."

The applicant submitted a drafted Development Agreement (DA) identifying uses permitted on-site including those identified under the use of "Industry, Flex", and allowing for the inside storage of Recreational Vehicles/Boats (refer to submitted materials). The Garden City zoning use that best which allows for RV/boat storage would either be:

STORAGE FACILITY OR YARD:	The use of more than twenty percent (20%) of a site where equipment, inventory, supplies, vehicles or other similar items of a nonresidential nature are stored inside or outside.
STORAGE FACILITY, SELF-SERVICE:	A structure or group of structures with a controlled access and fenced compound that contains individual, compartmentalized, or controlled units that are leased or sold to store material (including, but not limited to, goods, wares, merchandise, or vehicles).
STORAGE YARD, COMMERCIAL RECREATIONAL VEHICLE:	The use of a site for the storage of two (2) or more recreational vehicles or trailers where individual, outside or inside storage spaces are utilized, rented, leased or sold to owners of recreational vehicles.

Industry, Flex allows the use of a Storage Facility or Yard. However, based on conversations with the applicant, it would be more likely that the condo spaces be rented or sold to individuals who were to utilize the space as a personal RV/boat storage space; better aligning with the use of Storage facility, self-service. This type of use would not be permitted.

"Storage facility, self-service", "storage yard", "commercial recreational vehicle", and even "storage facility or yard" uses are not permitted within the C-2 zoning district. The exception would be that the industry flex use contains the use of "storage facility or yard" within the definition so long as a conditional use permit is granted. This does not, however, include the use of self-service storage.

The applicant has since decided to dissolve the request for the DA, noting that the potential uses for personal RV/boat storage is no longer within the scope of their project. As such, staff has not reviewed the DA any further. And the analysis found in this staff report focuses on the broader termed use of “industry flex”.

During discussions with the Design Review Committee, the applicant mentioned that there was an intention of adding bathrooms to each tenant space to allow for a more flexible client base. Without bathrooms, it appeared that the tenant spaces were purely for the function of storage, which would not be a permitted use. With access to restrooms the potential for businesses and operations as identified within the industry flex use would be easier to achieve. Floorplans were submitted with the CUP application, however there was no indication of bathrooms being present. Discussion would be recommended; and possible conditions of approval required.

Purpose and Function

Code states that 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. There may be conflict between the type of uses within these industry flex tenant spaces and the overall purpose of the C-2 zoning district considering the adjacent R-2 residential zoning district and the single-family detached dwellings to the south.

Additionally, Garden City Code 8-2C-24 states that “All mechanical equipment emissions; shipping and/or delivery; or other outdoor activity areas shall be located a minimum of five hundred feet (500') from any abutting residential districts.” There may be potential conflicts between the proposed uses, their functions, and the adjacent residential district, as there is only a 12-foot setback between the proposed structure and the property line adjacent to the residential district to the south. Code does not further define “outdoor activity”, leaving room for discussion and interpretation; and there does not appear to be a designated area for shipping/delivery; and site plans do not identify where mechanical equipment is to be placed. Further deliberations are required. The Commission must determine if the proposed use meets GCC 8-2C-24 standards.

D. 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.

E. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
North Ada County Fire and Rescue Link to Comment	06/12/2023	<ul style="list-style-type: none"> The Boise Fire Department has reviewed this application and can approve of this conditional use with the suggestion that fire sprinklers be installed throughout these buildings for future uses as these condos are large enough and have access for fueled vehicles to be moved inside of each occupancy.
Centurion Engineers, Inc. – City Engineer Link to Comment	5/20/2023	<ul style="list-style-type: none"> General comments provided. As the proposed site is currently platted as ten units with common wall boundaries on the plat of Tiaron Condominiums, how will the two proposed buildings fit the existing plat? The plat currently defines the air space in the units. Will that air space be altered?

F. Public Comment

None provided as of the drafting of this document.

G. 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.	A building permit will be required to be completed prior to occupancy of the structure.
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	Legal parcel of record as described
8-1B-2 Nonconforming Structures		No compliance issues noted	

8-1B-3 Nonconforming Uses		Compliant upon approval of CUP	Conditional Use Permit will be required
8-1C-3 Property Maintenance Standards		No compliance issues noted	
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose	PZ	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. 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	Complaint as upon approval	Conditional Use Permit will be required for the use of industry flex.
8-2B-3 Form Standards	PZ	Compliant as conditioned	<p>The required setbacks are: Front: 5' Interior Side: 5' Rear: 5' Street side: 5'</p> <p>The allowable maximum height is: n/a The minimum lot size is: n/a</p> <p>It is unclear if there are encroachments. The individual properties have been condo platted. Construction of structure will need to stay within the boundaries of the condo plat. The condo plat was submitted as part of the record. Analysis of compliance shall occur at the building permit phase.</p> <p>All improvements are more than 70' from the Boise River.</p>
8-2C-24		May not be complaint	<p>Industry Flex: A. Setback:</p> <ol style="list-style-type: none"> 1. All mechanical equipment emissions; shipping and/or delivery; or other outdoor activity areas shall be located a minimum of five hundred feet (500') from any abutting residential districts. The abutting zoning district to the south is zoned R-2, low density residential. 2. Any use involving explosive manufacturing or storage, flammable substance storage, foundry, freight and truck terminal, manufacture or processing of hazardous chemicals, power plant, food product storage and processing plant shall be located a minimum of one thousand feet (1,000') from a hospital.

			<p>B. Limitations: The following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:</p> <ol style="list-style-type: none"> 1. Noise, odor, or vibrations; or direct or reflected glare; detectable by the human senses without the aid of instruments. 2. Radioactivity and electric or electromagnetic disturbances which unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties. 3. Any other emission or radiation which endangers human health, results in damages to vegetation or property or which exceeds health and safety standards. <p>C. Other Regulations Apply: A use in this category may require approval from the Environmental Protection Agency, the U.S. Department of Agriculture, Central District Health Department, the Ada County air quality board and Idaho Department of Water Resources.</p>
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Title 8, Chapter 4: Design and Development Regulations

8-4A-3 Fences and Walls	PZ	Complaint as Conditioned	<p>Existing 6' tall fence to remain at the rear of the property. This fence separates the commercial from the existing residential district. Appears to be wooden privacy fence.</p> <p>Any future fence or wall will be required to be in compliance with code at the time of development.</p>
8-4A-4 Outdoor Lighting	PZ	Complaint 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 development.</p>
8-4A-5 Outdoor Service and Equipment Areas	PZ	Complaint as Conditioned	<p>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.</p>
8-4A-7 Stormwater Systems	PZ	Complaint as Conditioned	<p>A draft condition of approval will be provided requiring that the stormwater systems be built in compliance with provisions of 8-4A-7.</p>
8-4A-8 Utilities	PZ	Complaint as Conditioned	<p>A draft condition of approval will be provided requiring that all utilities be underground.</p>

8-4D Parking and Off Street Loading Provisions

8-4D-3 Parking Design and Improvement Standards	PZ	Compliant as conditioned	<p>It is unclear if the provided bike parking spaces are the required 6' x 2'.</p>
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			<p>The existing bike parking is not located within the new development site, rather it is located adjacent to the existing building to the east. (As indicated by landscape note #23).</p> <p>A condition has been drafted so that the application shall be compliant with 8-4D-3 standards.</p>
8-4D-4 Parking Use Standards	PZ	No compliance issues noted	
8-4D-5 Required Number of Off-Street Parking Spaces	PZ	Compliant as conditioned	<p>Staff has consistently calculated parking requirements based off a square footage ratio. For every 300sqft of commercial space 1 parking space is required. Based on square footages proposed, 60 parking spaces are required.</p> <p>Site plans indicate there are 132 existing parking space. 127 parking spaces are proposed after parking lot renovations.</p> <p>There is one bicycle space required for every 20 vehicle spaces and 1 space per commercial tenant necessitating 23 bicycle spaces. The associated Design Review application (DSRFY2022-0020) required the installation of all 23 required spaces. This has been conditioned in the decision document.</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 proposed structure(s) square footage, one type B space is required. Type B spaces shall be not 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.</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	Compliant as conditioned	<p>Existing ingress/egress to remain onto State Street.</p> <p>All streets and driveways shall adhere to the standards of a clear vision triangle. Submitted plans do not show the vision triangle. It has been conditioned to required maintenance of the clear vision triangle for the duration of the property's use.</p>
8-4E-4 Internal Circulation Standards	PZ	No compliance issues noted	Drive isles appear to be at least 20' wide.
8-4E-6 Sidewalk Standards	PZ	No compliance issues noted	Existing compliant detached sidewalk.

8-4E-7 Pedestrian and Bicycle Accessibility Standards	PZ	No compliance issues noted	Landscape plans show a proposed pedestrian pathway to the existing and new structures on-site via a new internal sidewalk system and striped crossings.
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	
8-4I-4 Landscaping Provisions for Specific Uses	PZ	Compliant as conditioned	<p>A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping. 23,613sqft is provided = 17%.</p> <p>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. State Street (~248LF) Required Trees: 1 Frontage + 5 Street Trees = 6 trees Trees provided: 1 Frontage + 4 Street Trees = 5 trees (Deficient 1 tree) Existing street frontage trees are to remain.</p> <p>A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted. At least 23 trees are required, there are more than 23 trees proposed. Some existing trees are to remain.</p> <p>157 shrubs/grasses are required, landscape plans appear to not show compliance. Additional shrubbery or substitution is required per code.</p>
8-4I-5 Perimeter Landscaping Provisions	PZ	No compliance issues noted	<p>Perimeter landscaping is required when:</p> <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; <p>The application provides perimeter landscaping compliant with this section of code.</p>
8-4I-6 Parking Lot Landscaping Provisions	PZ	No compliance issues noted	
8-4I-7 Tree Preservation Provisions	PZ	Compliant as conditioned	<p>Trees are proposed to be removed. A certified arborist report for full tree caliper mitigation will be required.</p> <p>37 caliper inches are to be removed. 37" will require full mitigation (dependent on the arborist report).</p>

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	<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 <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>
Previous entitlement that might affect this project	Previously approved DSRFY2022-0020.
Garden City Comprehensive Plan	Idaho Code § 67-6512(a), requires that special or conditional use permits shall be issued only when “not in conflict with the [comprehensive] plan.”

	<p>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> <ul style="list-style-type: none"> a) Green Boulevard Corridor b) Residential Low Density <p>The 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.) 2.2 Objective: Uphold standards for private property maintenance with a focus on nonresidential properties. b.) 2.3 Objective: Promote quality design and architecturally interesting buildings. 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> <ul 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> <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 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce. <p>The application may not be supported by:</p> <p>Goal 9. Develop a Sustainable City</p> <ul style="list-style-type: none"> a.) 9.3 Objective: Promote and recognize green building construction.
<p>Garden City Street Light Policy</p>	<p>A streetlight is installed along State Street in accordance with the policy.</p>
<p>State Street</p>	<p>The project is not identified within a TOD node per this plan.</p>
<p>Garden City Transportation Needs List</p>	<p>State Street Transit Corridor Supportive Local Roadway Network Plan:</p> <p>As part of the State Street corridor project there should be a coordinated plan that aligns the infrastructure, connections, and classifications of the local network and State Street. The intent is to have a coordinated approach to redevelopment, roadway classification and infrastructure, access management, and safety concerns.</p>

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