



CITY OF GARDEN CITY

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File Number: CUPFY2023 - 0010
Requested Use: Commercial
Use as Defined By GCC Title 8: Industry Flex
Location: 107 E. 40th St.
Applicant: Chris Keith
Planning and Zoning Commission Hearing Date: August 23, 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: Chris Keith
- 2) Owner: TLB INVESTMENTS LLC
- 3) Title 8 Use: Industry Flex
- 4) Definition of Use: "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 has proposed exterior work.
- 6) An attached sidewalk, curb, and gutter are proposed along E. 40th St.

Site Conditions:

- 1) Existing Use: No existing use established on site. Building permit from 1974 for addition.
- 2) Street Address: 107 E. 40th St.
- 3) Parcel Number(s): R2734502460
- 4) Property Description: PAR #2460 LOT 31 EXC SELY 120' BLK 7 FAIRVIEW ACRES SUB 1
- 5) Legal Lot of Record: Unknown
- 6) Property Size: 0.42 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay(s):
 - a) Transit Oriented Development
- 9) Comprehensive Plan Land Use Map Designation:
 - a) Activity Node: Transit Oriented Development
 - b) Mixed Use Commercial
- 10) Floodplain Designation:
 - a) 2003 FIRM outside of the Special Flood Hazard Area
 - b) 2017 Draft FIRM: Small part is in 100 Year
- 11) Surrounding Uses:
 - a) Eating Establishment, Limited Service
 - b) Vehicle Sales and Vehicle Service
 - c) Service Provider/Storage Facility or Yard
- 12) Adjacent Zoning: C-1 and C-2
- 13) Adjacent Comprehensive Plan Designations:
 - a) Activity Node: Transit Oriented Development
 - b) Green Boulevard Corridor
 - c) Mixed Use Commercial

14) Easements on site:

- a) FAIRVIEW ACRES SUB 01 PLAT - UTILITY, DRAINAGE, IRR EASEMENT - ROW
- b) FAIRVIEW ACRES SUB 01 PLAT - UTILITY, DRAINAGE, IRRIGATION EASEMENT

15) Site Access:

- a) Front: E 40th St

16) Sidewalks: no sidewalk

17) Wetlands on site: none identified.

C. Discussion

Potential Decision:

This application does not appear to meet some of the code required improvements. There are however, many conditions drafted within the decision document to require code compliance in the case of approval by the Planning and Zoning Commission. The conditions are drafted in such a way to require coordination with staff, to ensure that code compliance is met, with staff being able to approve the site improvements prior to certificate of occupancy being issued.

After hearing the evidence and considering the application, the Planning and Zoning Commission (as the decision maker) shall make a decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, and 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.

Introduction:

Applicant Chris Keith with Idahoe40, LLC is requesting the use of Industry, Flex located at 107 E. 40th St. located in the C-2 General Zoning District.

In and of itself, a Comprehensive Plan is not legally binding. However, a required Conclusion of Law for conditional use permits in Garden City is that the use is in compliance with the Comprehensive Plan. In this way the Garden City Zoning Code ensures that proposed uses are not only required to be compatible with existing neighborhoods but are also progressing the vision that the community has for those neighborhoods.

The property is located within the Transit Oriented Development Activity Node of the Garden City Comprehensive Plan as well as in the Mixed-Use Commercial designation. Definitions of these Future Land Use Designations are as followed:

MIXED USE COMMERCIAL: The mixed-use commercial designation is for the area south of Adams Street. The intent of this designation is to create an area for mixed uses, including residential, office, retail, and small scale industrial, that are more urban in character than in the mixed-use residential area. Three story buildings and 40%- 60% lot coverage, with aggregated open spaces for pocket parks should guide the development pattern in this area.

ACTIVITY NODE: Activity nodes are identified on the Land Use Map for neighborhood centers, local and regional destinations, and locations in proximity to existing and future transit stations and stops. Activity centers range in size depending on their function and location. Some nodes may be centered around the intersection of major streets or extend down a street to connect major community facilities. The common characteristics of the activity nodes are a mix

of uses, public spaces, compatible transition to the uses surrounding the nodes and non-motorized connections to within a quarter mile walkable area of the node center. Some nodes, especially around transit stations, would have higher density (at least 14-20 units per acre) and multistory development (three or more stories). It is not intended that all nodes could be developed within the twenty-year period of the plan.

Neighborhood and Destination Centers: The centers should be focused on uses that facilitate making the location a destination. Uses may include small scale retail, art, office, and higher density residential.

The neighborhood is currently experiencing a transition. East 40th Street consists of other service providers, vehicle services, storage facilities and manufacture/mobile home parks. However, recently approved Garden City entitlements adjacent to E. 40th Street consist of uses that are more mixed use and residential in nature. These developments tend to follow what the Comprehensive plan has envisioned for this corridor, with higher densities in mind. They consist of a proposed condo tower, multiple restaurants, and numerous multi-family housing developments. Below is a list of a few entitlements that are within the surrounding area:

1. [DSRFY2020-25 Mixed-Use Development – Approved \(Boardwalk Apartments\)](#)
2. [DSRFY2019-19 Mixed-Use Development – Approved \(Parkway\)](#)
3. [DSRFY2020-14 Multi-Family Apartments – Approved \(River at Parkway\)](#)
4. [SUBFY2023-0002 Single Family Townhomes – Approved](#)
5. [DSRFY2022-0019- Multi-Family Apartments – Approved](#)

There are other land uses in the vicinity such as the Boys and Girls Club, Future School, Anser School, and Wildflour bakery that are more in line with the Comprehensive Plan's vision of the area.

While the proposal may not be in ideal alignment with the Comprehensive Plan or the direction of the neighborhood, it should be noted that the immediately surrounding uses are commercial and even industrial in nature, and the property is adjacent to other C-2 and C-1 zoning districts.

Osage Improvements:

Garden City has had dialogue with ITD and ACHD concerning the safety of multiple access points entering Chinden Boulevard. ITD has indicated that for safety purposes they would prefer and endorse limiting access onto Chinden Boulevard utilizing Stockton and Osage streets as access Chinden businesses from the numbered cross streets. Utilizing Osage and Stockton to access the businesses on Chinden will assist in the overall traffic flow of Chinden, allowing for better regional movement of traffic benefitting all the cities in Ada/ Canyon County.

The City has a clear and strong vision that Osage should remain narrow, and function as the access for adjacent businesses while also being utilized to further the pedestrian orientation of the City. An example for the development of Osage that has been cited in the generation of the Comprehensive Plan and land use development codes, is the concept of a living street. Potential improvements that have been discussed with the Commission include:

- Lighting

- Controlled access
- Adjacent landscaping and/or art features and street furniture
- Fencing no greater than 3 ½ feet tall along the property boundary line

The city has not required sidewalks to be installed along Osage due to the vision of this plan, and this application is no exception. Due to the building's encroachment into the side setback, a sidewalk would not likely be feasible without the demolition of a portion of the building. That is not to say that other improvements along Osage cannot be made.

There is currently a 6' tall wood fence along Osage. To meet current code standards a condition has been drafted to remove the non-compliant barbed wire atop the fence. To meet the expectations of the Osage pedestrian pathway enhancements of the Transportation Needs List, this fence would need to be removed, and replaced by a fence no taller than 3 ½ feet, or the 6' tall fence could be shifted 10' back into the property.

Landscaping:

There was not a detailed landscape plan submitted with packet, therefore, there wasn't enough information to perform a thorough review. There are concerns regarding the lack of overall landscaping including parking lot landscaping, street trees, and perimeter landscaping. Perimeter landscaping is not only required between other paved vehicular use areas, including driveways, and vehicle storage areas and all property lines, but it also would be a sufficient method of providing pedestrian oriented features along Osage to better meet the vision of the pathway.

Code requires that every frontage adjacent to a right-of-way requires street frontage trees. Usually this is in the form of street trees within a landscape buffer, however, as Osage does not require a sidewalk, the frontage trees are required within "frontage area" (typically 5-20ft from property line). The existing structure poses issues to the applications code compliance with this section of code, in that it occupies 156' of the Osage frontage, leaving about 15' of open space for the 5 required frontage trees to occupy. Staff has concerns about the vitality of the trees in this area due to overcrowding. Staff has drafted two conditions in the decision document that which contradict each other. One allowing for the deficiency due to existing site conditions, and the other requiring the 5 frontage trees. Discussion is recommended.

The applicant has requested that the property not provide perimeter landscaping between their storage area and the adjacent property to the north when code requires it. The reason for not providing it is due to the sites' turn-around constraints. Perimeter landscaping is required between other paved vehicular use areas, including driveways, and vehicle storage areas and all property lines, and a condition has been drafted to require code compliant perimeter landscaping, including within the storage area.

Sidewalk:

The applicant has proposed a 6' wide attached sidewalk, without submitting a sidewalk waiver per the [Garden City Sidewalk Policy](#). Code requires that this property install a 5' wide detached sidewalk with a 6' or 8' landscape buffer, with the buffer containing the required street trees.

There are concerns regarding the space and orientation of the sidewalk and landscape buffer if it were to be detached. The sidewalk would likely run parallel and abut the adjacent existing

building, but it would continue the projection of the existing detached sidewalk located just southwest of this property (Taqueria Las Brazas).

ACHD has provided comments based on the proposed attached sidewalk, but most comments appear to be generalized review statements.

The applicant has also submitted a secondary site plan showing a code compliant detached sidewalk and 6' landscape buffer, with street trees, to which ACHD has not reviewed. The two site plans have been submitted to show desired alternatives. The second site plan showing a detached sidewalk has been conditioned as the approved site plan.

Idaho Power will likely have maximum street tree heights, which could conflict with the City's Class II or III tree requirements. It has been conditioned to require a viable tree species that meets both the intent of Garden City code and the maximum height requirements of Idaho Power.

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-3 residential zoning district and the single-family detached dwellings to the north. Although not immediately adjacent to the residential neighborhood, the function of the site might impact the surrounding area.

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 industry flex uses, their functions, and the nearby residential district, as there is only a ~300ft distance between the application's property and the nearby R-3 zoning district to the northeast. 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
Ada County Highway District Link to Comment	07/07/2023	The applicant shall be required to: 1. Pay a traffic impact fee. If applicable, a traffic impact fee may be assessed by ACHD and will be due prior to the issuance of a building permit by the lead agency. This is a separate review process and it is the applicant's responsibility to submit plans directly to ACHD. 2. Comply with all ACHD Policies and ACHD Standard Conditions of Approval for any improvements or work in the right-of-way. 3. Obtain a permit for any work in the right-of-way prior to the construction, repair, or installation of any roadway improvements (curb, gutter, sidewalk, pavement widening, driveways, culverts, etc.).
Centurion Engineer Joseph Canning Link to Comment	07/08/2023	Do not have any site specific comments on this application.

F. Public Comment

The following public comments were provided:

Commenter	Comment Date	Summary
Barry Lesit Link to Comment	07/08/2023	Support the Application

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		Compliant as conditioned	The property is described as PAR #2460 LOT 31 EXC SELY 120' BLK 7 FAIRVIEW ACRES SUB 1. It is unclear if the property is a legal lot of record based on the description alone. A Record of survey showing its current configuration with a City Engineer stamp and signature is required; or legal property deeds prior to August 9, 1988 showing its current configuration will be required prior to certificate of occupancy being issued. If the property is not of legal record. A subdivision permit will be required.
8-1B-2 Nonconforming Structures		No compliance issues noted	The existing structure appears to be on the southern property boundary line, encroaching within the 5' minimum setback allotted in the C-2 zoning district. The structure is currently non-conforming, as it encroaches into the setback. This permit does not increase the non-conformity, as such, it may remain so long as it is not expanded upon. The existing structure shall remain in compliance with 8-1B-2 nonconforming structures.
8-1B-3 Nonconforming Uses		Compliant upon approval of CUP	Conditional Use Permit will be required for the industry flex use.
Title 8, Chapter 2: Base Zoning District Regulations			
8-2B-1 Purpose		No compliance issues noted	Commercial: 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	Complaint as upon approval	Conditional Use Permit will be required for the use of Industry Flex.

8-2B-3 Form Standards	PZ	No Compliance issues noted – Existing legal non-conforming structure	<p>The required setbacks are: Front: 5' Interior Side: 5' Rear: 5' Street side: 5' The allowable maximum height is: n/a The minimum lot size is: n/a</p> <p>All improvements are more than 70' from the Boise River.</p> <p>Refer to 8-1B-2 code analysis regarding existing structure.</p>
8-2C-24	PZ	Complaint as upon approval	<p>Industry Flex:</p> <p>A. Setback:</p> <ol style="list-style-type: none"> 6. 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. 7. 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>
Title 8, Chapter 4: Design and Development Regulations			
8-4A-3 Fences and Walls	PZ	Discussion Warranted - Compliant as conditioned	<p>There is an existing 6' tall wooden fence with barbed wire along the southeastern property corner. And there is an existing chain link with barbed wire fence along the western property boundary line acting as a security fence for the storage area. The northern property boundary line has a sheet metal wood fence.</p>

			<p>Proposed site plans show a new metal fence and gate to replace the existing chain-link fence gate; details of what that fence is to look like was submitted on 08/14/2023.</p> <p>A note indicates that the razor wire along the Osage fence will be removed, but the 6' tall wooden fence will remain, which is in conflict with the Garden City Transportation Needs list. To be compliant with the Transportation Needs list, the wood fence along Osage will either need to be reduced to 3.5' or pushed back 10' to maintain the 6' height.</p> <p>A condition has been drafted for the removal of all chain link fencing and barbed wire. Replacement fencing shall meet current code standards.</p> <p>If the fence does not belong to the property owner associated with this CUP, a notarized affidavit of ownership shall be submitted.</p>
8-4A-4 Outdoor Lighting	PZ	Complaint as Conditioned	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.
8-4A-5 Outdoor Service and Equipment Areas	PZ	Compliant as conditioned	<p>The site plan does not show any on-site service areas for waste, recycling, or trash;</p> <p>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.</p>
8-4A-7 Stormwater Systems	PZ	Compliant as conditioned	A draft condition of approval has been provided requiring that the stormwater systems be built in compliance with provisions of 8-4A-7.
8-4A-8 Utilities	PZ	Compliant as conditioned	Another draft condition of approval is provided requiring that all new utilities be underground.
8-4D Parking and Off Street Loading Provisions			
8-4D-3 Parking Desing and Improvement Standards	PZ	No compliance issues noted	<p>New parking code per Ord. 1034-22 Adopted June 12, 2023</p> <p>The proposed parking lot is 42' away from the corner of Osage and 40th Street, meeting minimum distance requirements.</p> <p>Parking Angle: 90°</p> <p>Compact Stall Requirements: Width: 7'6". Proposed: 8' Depth: 15'0". Proposed: ~17' Length: 7'6". Proposed: 15' Driveway Width: 22'0". Proposed: +22'</p> <p>Standard Stall Requirements:</p>

			<p>Width: 9'. Proposed: 9' Depth: 20'. Proposed: 20' Length: 9'. Proposed: 18'</p> <p>Bicycle parking is shown on site plans and is within 50' of the entrance.</p>
8-4D-4 Parking Use Standards	PZ	No compliance issues noted	<p>New parking code per Ord. 1034-22 Adopted June 12, 2023</p> <p>No use shall provide less than the minimum spaces required per 8-4D-5 below.</p>
8-4D-5 Required Number of Off-Street Parking Spaces	PZ	No compliance issues noted	<p>New parking code per Ord. 1034-22 Adopted June 12, 2023</p> <p>Parking Required: (Medium): 8 Parking Proposed: 8</p> <p>A maximum of 30% of the required parking spaces can be compact. With the 2 proposed compact spaces, 25% of the spaces provided are compact. This is compliant.</p> <p>Bicycle Parking Required: 1 space per 1,000sqft necessitates Required: 8 Provided: 8</p>
8-4D-6 Standards for Equivalent Parking Adjustments	PZ	No compliance issues noted	<p>No equivalent parking adjustments have been provided or requested.</p> <p>Alternatives to providing on-site parking may be achieved by utilizing criteria found in this section of code. For example:</p> <ul style="list-style-type: none"> - Parking off-site no more than ¼ a mile from the use; - ADA compliant sidewalks exist or are proposed between the site and the off-site parking. - Special conditions of the site including but not limited to the nature of the proposed operation of the site, transportation characteristics of the use(s), the use(s) will be adequately served by the proposed parking, parking demand will not have in impact on the supply of public parking, proposed parking does not preclude or diminish the ability for future uses to adequately park the site; <p>To evaluate a proposed project's compliance for equivalent parking requests, a parking demand study shall be submitted.</p>
8-4D-7 Off Street Loading Standards	PZ	No compliance issues noted	<p>New parking code per Ord. 1034-22 Adopted June 12, 2023</p> <p>It is not clear if the site proposes a loading zone or space. Site plan shows a 20 feet wide ingress/egress.</p> <p>On-site drive aisles, on-site parking may be designed to have a dual purpose to accommodate the required loading zones/spaces.</p> <p>Loading zones/spaces are not required for commercial properties. Review would be necessary if the proposal included a loading zone.</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 <u>more intense use of property</u> .
8-4E-3 Public Street Connections	PZ	Compliant as conditioned	<p>The area of the clear vision triangle at the intersection of private streets or driveways with a public street is dependent on the volume of traffic and existing safety conditions at the intersection as determined by the transportation authority. The clear vision triangle shall not be less than seven feet (7').</p> <p>There is a general condition of approval requiring that all streets and driveways shall adhere to the standards of a clear vision triangle at all times.</p>
8-4E-4 Internal Circulation Standards	PZ	No compliance issues noted	There is an internal drive that is 20' or greater in width.
8-4E-6 Sidewalk Standards	PZ	May not be compliant	<p>Code requires that a 5' detached sidewalk with a 6' or 8' landscape buffer be provided dependent on ACHD's comments.</p> <p>The site plan proposes a 6' wide attached sidewalk along E. 40th St. which is not code compliant. Additional site plans show an alternative streetscape design, proposing a 5' wide detached sidewalk with a 6' landscape buffer. The sidewalk encroaches into the property, with less parking lot screening.</p> <p>Only one of the adjacent properties has an attached sidewalk, all other adjacent properties do not have a sidewalk. In order to permit an attached sidewalk, properties on both sides of subject property would need attached sidewalks, or a sidewalk waiver be submitted. A sidewalk waiver has not been submitted.</p> <p>Osage is not required to have sidewalks due to the ROW width.</p> <p>A drafted condition requires a 5' wide detached sidewalk with 6' or 8' landscape buffer.</p>
8-4E-7 Pedestrian and Bicycle Accessibility Standards	PZ	No compliance issues noted	There is a proposed pedestrian pathway from the proposed sidewalk to the main 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	Not Compliant	Not enough information to review
8-4I-4 Landscaping Provisions for Specific Uses	PZ	Not compliant	<p>A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.</p> <p>Neither of the landscape plans submitted on July 31st identify the proposed landscaping square footage. What</p>

			<p>is shown appears to be within the setbacks, with minimal outside of those setbacks. Updated landscape plans submitted on August 14th show that 493sqft (2.7%) of the site is dedicated to landscaping, which is not compliant with code requirements. The applicant has requested to not provide code compliant landscaping. A condition has been drafted to require code compliance at 5%.</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.</p> <p>E. 40th Street (~100LF): 1 Street tree + 2 Frontage trees = 3 trees Provided: 3 Trees, Class I Crabapple Trees proposed <i>*Trees might conflict with existing overhead utilities. Coordination with the utility company may be necessary. Code requires that street trees are Class II or III, high-and-wide branching canopied species. Treasure Valley Tree Selection Guide.</i></p> <p>Osage Street (~180LF): 1 Street tree + 4 Frontage trees = 5 trees Provided: 0, See discussion section of staff report</p> <p>Class II or III trees can be substituted at the ratio of two class I trees for every Class II or III tree. No substitution proposed.</p>
8-4I-5 Perimeter Landscaping Provisions	PZ	Not compliant	<p>Perimeter landscaping is required between other paved vehicular use areas, including driveways, and vehicle storage areas and all property lines.</p> <p>A perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot. It has been interpreted that the perimeter landscaping can be 5' on one site, while the other 5' is on the adjacent site.</p> <p>A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity.</p> <p>At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.</p> <p>Additional standards for parking lots and carports are set forth in section 8-4I-6, "Parking Lot Landscaping Provisions", of this article.</p> <p>The site proposes perimeter landscaping between the new parking lot and the adjacent property to the north. The site plan does not show enough landscape details to review, and the site appears to lack perimeter landscaping.</p>

			It has been conditioned within the decision document to require code compliant perimeter landscaping with the cooperation with staff.
8-4I-6 Parking Lot Landscaping Provisions	PZ	Compliant as conditioned	<p>The provisions of this section shall apply to all new or substantially altered parking lots of five (5) spaces or more. The site proposes a parking lot of 8 spaces.</p> <p>Edge treatments along streets and other public spaces shall visually screen parked vehicles, but not completely obstruct views into and out of the parking lot for the purpose of supporting pedestrian safety and security. Updated landscape plans show compliance with this section of code.</p> <p>Internal shade trees shall be provided at a minimum ratio of one tree planted for every five (5) parking spaces supplied. One tree shall be provided based on how many parking spaces are required of the site. This tree is required to be high-branching, deciduous shade tree that can quickly provide canopy coverage. The eastern redbud tree proposed does not meet the intent of this code.</p>
8-4I-7 Tree Preservation Provisions	PZ	No compliance issues noted	No existing trees on site to be removed.
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>

	<p>(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> <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> <ul style="list-style-type: none"> a) Activity Node: Transit Oriented Development b) Mixed Use Commercial <p>The application may be supported by:</p> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> a.) 2.3 Objective: Promote quality design and architecturally interesting buildings. <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. <p>The application may not be supported by:</p> <p>Goal 2. Improve the City Image</p>

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

	<p>a.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting.</p> <p>Goal 4. Emphasize the “Garden” in Garden City</p> <p>a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</p> <p>Goal 9. Develop a Sustainable City</p> <p>a.) 9.3 Objective: Promote and recognize green building construction.</p>
Garden City Sidewalk Policy	<p>No waiver was requested.</p>
Garden City Street Light Policy	<p>A streetlight is installed along E. 40th Street and N. Osage St. in accordance with the policy.</p>
Garden City Transportation Needs List	<p>The existing site does not face orient itself toward Osage, the improvements also do not orient itself towards Osage but the proposed landscaping makes improvements.</p> <p>Garden City understands that Chinden will always carry a high volume of traffic and supports the utilization of Chinden as a significant regional vehicular corridor but would like to ensure that the roadway improvements are done so as to reduce detrimental impacts to adjacent businesses and mobility within Garden City. Improvements to Stockton incorporate three principal objectives: safety enhancement on Chinden; congestion mitigation on Chinden, and facilitation of economic development within the western part of Garden City (south of Chinden) through safety, comfort, the replacement of water infrastructure and increased traffic on local roads (increased business presence).</p> <p>Garden City has had dialogue with ITD and ACHD concerning the safety of multiple access points entering Chinden Boulevard. ITD has indicated that that for safety purposes they would prefer and endorse limiting access onto Chinden Boulevard utilizing Stockton and Osage streets as to access Chinden businesses from the numbered cross streets. Utilizing Osage and Stockton to access the businesses on Chinden will assist in the overall traffic flow of Chinden, allowing for better regional movement of traffic benefitting all the cities in Ada/ Canyon County.</p> <p>Tied to access management is the City’s desire to redevelop Chinden as a tree lined boulevard with tree landscaped medians. Many studies have demonstrated that vertically framing in a corridor increases driver attention and reduces speeds thus reducing accidents. Studies have also demonstrated that property values and retail spending tend to dramatically increase while expenditures on energy and potential drainage needs decrease with the installation of trees.</p> <p>Additionally, Garden City has 4” waterlines in Stockton Street, severely limiting water delivery. Replacement of these lines is a top priority in Garden City’s capital improvement plans to insure adequate fire flow for current and future development. Increasing the line size within Stockton would allow for the potential of increased property values in the areas serviced by this line. The City has a clear and strong vision that Stockton and Osage should remain narrow and function as the access for adjacent businesses while also being utilized to further the pedestrian orientation of the City. Right-of-way acquisition would be too costly to increase the width of the streets. An example for the development of Stockton and Osage that has been cited in the generation of the Comprehensive Plan and land use development codes is the concept of a living street.</p>

Garden City understands bringing the streets to ACHD local street standards is cost prohibitive due to right-of-way acquisition needs. Garden City is suggesting that due to these constraints that treatments are done within current right-of-way widths. The City believes that the narrow roadways will be advantageous as they will enhance vehicular and non-vehicular mobility and safety while also negating the need for extremely expensive right-of-way costs. It is anticipated that improvements will require considerable coordination between ACHD, ITD and Garden City, but will require very little actual funding from the transportation agencies. Potential improvements to execute vision:

- Garden City has requested a feasibility study to be conducted to identify if these roads would be appropriate for drainage for the roadway system to reduce on site drainage needs and assist in flood protection.
- Roadway improvements should include decorative paving or painting ideally that is varied in width and material. Provided that varied paving is too expensive roadway paint that is varied in color could be utilized. This treatment is required to be approved by ACHD prior to implementation.
- Signage that indicates that the pedestrians have the right of way. This treatment is required to be approved by ACHD prior to implementation.
- A maximum speed limit of 10-15 miles an hour. This treatment is required to be approved by ACHD prior to implementation.
- No curb, gutter or sidewalk within the right-of-way is required and limited or no parking is desirable. Sidewalk and connections may still be required on site. This treatment is considered adopted by Garden City for the purposes of redevelopment requirements through the adoption of this plan.
- Lighting
- Controlled access
- Adjacent landscaping and or art and street furniture
- Fencing > 3.5 not allowed on property line