

BEFORE THE PLANNING AND ZONING COMMISSION  
GARDEN CITY, ADA COUNTY, IDAHO

THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.

In the Matter of:	)	CUPFY2024-0001
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
4855 N. Fenton St.	)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho	)	AND DECISION
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THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on January 17, 2024. The Planning and Zoning Commission reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The request is for the use of Single Family Detached Dwelling Unit defined by Garden City Code 8-7A-1 as “A structure consisting only of one dwelling unit on a property.”
2. The request is also for the construction and use of a private garage over 1,000 square feet, that which exceeds the square footage of the principle dwelling unit.
3. The applicant is Kevin Vincent.
4. The property owner of record is JOHNSON JASON & TARYN FAMILY TRUST 11/16/2017.
5. The location of the project is 4855 N. Fenton St.; Ada County Assessor parcel number(s) R7334150586; described as LOT 28 BLK 02 RANDALL ACRES SUB NO 04.
6. The property is a legal parcel of record.
7. The subject property is 0.17 acres.
8. The scope of the request applies to the entire property.
9. The project is located in the C-1 Highway Commercial zoning district.

10. The project is located in the Light Industrial Bradley Technology of the Garden City Comprehensive Plan Land Use Designation.
11. The project is not located in the SFHA according to the 2003 FIRM.
12. The project is not located in the SFHA according to the Flood Insurance Model utilized for the 2020 FIRM.
13. The existing use on the site is Single Family Detached Dwelling Unit.
14. The following standards apply to this proposal:
  - a. Garden City Code 7-2-1 Building Code
  - b. Garden City Code 8-1A-4 Applicability
  - c. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
  - d. Garden City Code 8-2B Base Zoning District Regulations
  - e. Garden City Code 8-1C Property Maintenance Standards
  - f. Garden City Code 8-4A Design and Development Regulations- General Provisions
  - g. Garden City Code 8-4B Single Family and Two-Family Attached and Detached Dwellings
  - h. Garden City Code 8-4C Design Provisions for Nonresidential Structures
  - i. Garden City Code 8-4D Parking and Off-Street Loading Provisions
  - j. Garden City Code 8-4E Transportation and Connectivity Provisions
  - k. Garden City Code 8-4G Sustainable Development Provisions
  - l. Garden City Code 8-4H Flood Hazard
  - m. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - n. Garden City Code 8-6A Administration
15. The following plans and policies apply to this proposal:
  - a. Garden City Comprehensive Plan
  - b. Garden City Sidewalk Policy
  - c. Garden City Street Light Policy
16. The following previous approvals apply to this proposal:
  - a. DSRFY2024-0001
17. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

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

18. Additional application materials submitted include:
  - a. Site Plan;
  - b. Floor Plans;
  - c. 300' Neighborhood List;
  - d. Fire Flow;
  - e. Affidavit of Legal Interest;
  - f. Application;
  - g. Garden City Engineer Comments DSRFY2024-0001;
  - h. ITD Comments DSRFY2024-0001;
  - i. Republic Services Comments DSRFY2024-0001;
  - j. North Ada County Fire & Rescue Comments DSRFY2024-0001;
  - k. Sign-in sheet;
  - l. Affidavit of Property Posting;
  - m. Affidavit of Neighborhood Meeting;
  - n. Statement of Intent.
  
19. Agency Comments were received from:
  - a. Garden City Engineer, December 23, 2023
  - b. North Ada County Fire and Rescue, December 22, 2023
  - c. Flood Control District 10, December 28, 2023
  
20. No public comments were received.
  
21. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application	12/12/2023	12/13/2023
Letter of Acceptance	01/20/2023	12/20/2023
Radius Notice	01/02/2024	12/28/2023
Interested Parties	None	None
Legal Notice	12/29/2023	12/20/2023
Agency Notice	01/02/2024	12/20/2023
Property Posting Sign	01/07/2024	01/07/2024
Affidavit of Property Posting and Photos	01/10/2024	01/08/2024

22. On January 17, 2024, a public hearing before the Planning and Zoning Commission was held:
  - a. This section will be completed after the hearing.
  
23. The record contains:
  - a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments

- d. Written Public Comments
- e. Staff report
- f. January 17, 2024, Planning and Zoning Commission Hearing Minutes and Audio
- g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

24. In order to approve a conditional use permit application, the Planning and Zoning Commission shall make the following findings:

<b>The draft findings are written both in approval and in denial. The decision makers may select the corresponding conclusions and explanations during their decision or make different conclusions based on their review of the record materials.</b>			
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
<b>X</b>		<b>X</b>	<p><b>Finding 1.</b> The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p><b>In Approval:</b> The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-1 Highway Commercial Zoning District. The requested use is compatible with the surrounding neighborhood as the adjacent uses are single family detached dwelling units.</p> <p><b>In Denial:</b> The requested use is not appropriate to the neighborhood as it does not support the Comprehensive Plan’s vision of the Light Industrial Bradley Technology designation, nor is it compatible with the uses within the C-1 Highway Commercial zoning district.</p>
<b>X</b>		<b>X</b>	<p><b>Finding 2.</b> The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p>

			<p><b>Explanation:</b></p> <p><b>In Approval:</b> There are public services available that can accommodate the proposed development.</p> <p><b>In Denial:</b> List what actions, if any, the application could have taken to obtain approval.</p>
X		X	<p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> As conditioned, the proposal will not unreasonably diminish the health, safety, or welfare of the community.</p> <p><b>In Denial:</b> The proposal will be detrimental to and unreasonably diminish the health, safety, or welfare of the community due to its lack of adherence to City codes and city's Comprehensive Plan.</p>
X		X	<p><b>Finding 4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> The application is cohesive with the Comprehensive Plan's designation of the Light Industrial Bradley Technology. And is supports the Comprehensive Plan's Goal 1, Nurture the City; Goal 2, Improve the City Image; Goal 4, Emphasize the "Garden" in Garden City; Goal 6 Diversity in Housing.</p> <p>While the use of a single family detached dwelling unit is conditional in the C-1 zoning district, the existing adjacent uses are residential. The comprehensive plan</p>

			<p>doesn't prohibit residential uses within the Light Industrial Bradley Technology district, it does however mention setbacks between residential and commercial uses.</p> <p><b>In Denial:</b>  The application is in conflict with the Comprehensive Plan's Light Industrial Bradley Technology designation in that the proposal is for a single-family detached residential dwelling unit. The goal for this neighborhood as set forth in the Comprehensive Plan is to maintain the area of existing industrial uses.</p>
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- The record was reviewed by the Planning and Zoning Commission to render the decision.

### CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, concludes the application **meets/does not meet** the standards of approval under **GCC 8-6B-2 Conditional Use**.

### DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **APPROVES/ DENIES** of the application subject to the following conditions:

### POTENTIAL CONDITIONS FOR APPROVAL DECISION

#### Application Specific Requirements:

##### Scope of Permit:

- The scope of this permit is to allow for the use of a "Single Family Detached Dwelling Unit".
- The scope of this permit is to allow a residential attached garage and shop over a combined 1,000 square feet the combined square footage of the principal dwelling unit.

3. The date of this permit's approval shall also act as the date of approval for the associated DSRFY2024-0001.
4. This approval is not, under any circumstances or conditions, for any commercial use. If a commercial entity is occupying any space on the subject premises, further permits will be required in accordance with local, state, and federal laws.
5. The existing 6'-5" wooden fence along the western property boundary line as identified in the submitted site photos is permitted to remain except for the portion of the fence line that which projects beyond the frontage of the building within the front yard setback.
6. This approval does not include a fence greater than 6' tall along the southern property boundary line, as it was not included in the application's scope of work.

Prior to Construction:

1. A building permit shall be applied for and approved by Garden City Development Services Department.
2. Additional documents shall be provided to verify that setbacks are properly identified, marked, and shown on plans.
3. Any outdoor lighting shall be in compliance with code at the time of development.
4. The standards for stormwater integration shall apply to all site improvements and ACHD stormwater facilities. Stormwater swales incorporated into required landscape areas shall be vegetated with grass or other appropriate plant materials. Such swales shall also be designed to accommodate the required number of street trees.
5. Plant materials shall be a species that are able to withstand the anticipated changes in soil wetness and moisture levels.
6. All parking areas shall provide proper drainage of surface water to prevent the flow of water onto adjacent properties, walkways, or streets.
7. The driveway shall adhere to the standards of a clear vision triangle.
8. Existing trees that are retained shall be protected from damage to bark, branches, and roots during construction. Any tree damaged during construction shall be replaced in accordance with Garden City Code 8-4I-7 Tree Preservations Provisions.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. The site and building must be constructed in accordance with the approved design review file DSRFY2024-0001.
3. Removal or relocation of the shed identified in the staff report shall occur prior to the issuance of an occupancy permit.
  - a. If the shed is to be relocated, it shall follow current Garden City setback standards.
4. A direct and permanent pathway that connects the front entrance of the residential structure to the public sidewalk shall be installed.
5. Prior to occupancy, a public works and utility permit shall be submitted for review and approval of the site work that will be required to bring the site into compliance with:
  - a. A detached sidewalk and landscape buffer that meets the requirements of Garden City Code 8-4E-6 and the Garden City Sidewalk Policy shall be installed along N. Fenton Street.
    - i. A 5' detached sidewalk shall be installed along the Fenton right-of-way extending between side lot lines across the whole frontage of the lot.
    - ii. Sidewalks shall be designed to flare around mailboxes, utility boxes and other impediments to pedestrian circulation to maintain a minimum of five feet (5') of travel width.
    - iii. The sidewalk shall be installed at a consistent elevation above any curb cut so as to not incline at the curb cut.
    - iv. The sidewalk shall be detached by a minimum of 6' back of curb landscaped
    - v. Improvements may be made within the right-of-way provided approval of Ada County Highway District.
      1. A landscape maintenance agreement between the property owner and Ada County Highway District may be required.
6. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I:
  - a. Two class II or III trees shall be installed adjacent to the N. Fenton right-of-way with one tree being planted in the front yard setback.
  - b. If the existing tiled irrigation canal conflicts with this provision, then the required tree in the front yard setback may be relocated to the landscape buffer between back of curb and front of sidewalk.
7. Fences and Walls:
  - a. Any fence within the front yard setback shall be a maximum height of 3.5' tall.



- b. Fences greater than 3.5' tall shall be set back to be flush or behind the building frontage.
  - c. The existing wooden fence along the western property boundary line shall be either removed or reduced in size so that the fence is no taller than 3.5' between the front lot line to the front of the principal building.
  - d. The existing 6'-5" fence shall submit a building permit for review and approval.
  - e. Any wall or fence over 6' in height shall obtain a building permit prior to construction.
  - f. The use of barbed wire, razor wire, boxes, sheet metal, old or decayed wood, broken masonry blocks, chain link, chain link with slats, or other like unsightly materials for fencing shall be removed or replaced with code compliant fencing material.
  - g. If a non-compliant fence does not belong to the subject property owner, a notarized affidavit of non-ownership identifying which fence(s) will remain shall be submitted to the Development Services Department.
  - h. If a future fence along the southern property boundary line, adjacent to the commercial use, is to be taller than 6', then the application shall return to the design review consultants for approval.
8. The applicant and/or property owner shall consult with Idaho Power regarding their existing utility easement at the rear (south) of the property to gain permission to plant perimeter landscaping in accordance with Garden City Code 8-41-5.
- a. Only class I trees may be planted under or within ten feet of any overhead utilities.
  - b. If Idaho Power does not grant permission for perimeter landscaping within their easement, then other screening provisions shall be installed that meet the intent of code.

Site Specific Requirements for the Duration of the Use:

1. No garage, tent, trailer, fifth wheel, motor coach, recreational vehicle, travel trailer or other accessory structure shall be erected or used for living quarters or sleeping quarters outside of an approved recreational vehicle park for more than fourteen (14) consecutive days.
2. Nonconforming structures may continue to be occupied, enlarged, repaired, or modified so long as work is done in accordance with Garden City Code 8-1B-2.
3. A certified arborist report is required to identify all trees on site, their caliper inches, and their health status (dead, dying, diseased, or healthy) prior to the removal of any trees on site.
4. Mitigation shall be required for all existing trees four-inch (4") caliper or greater that are removed or damaged from the site. Mitigation shall be replacement of the total calipers lost on site up to an amount of one hundred percent (100%) replacement.

5. Mitigation is required for all such trees removed within eighteen (18) months prior to issuance of the building permit for construction on the site or damaged during construction.
6. Parking within the front yard shall not be permitted per Garden City Code 8-4D-3.
7. All streets and driveways shall adhere to the standards of a clear vision triangle.

### **General Requirements**

1. Any changes in the design, construction, operation, or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.
6. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations.
7. The property owner is responsible to maintain the site to edge of roadway asphalt.
8. If there are any tree grates, they shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right of way.
9. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead and diseased plant materials shall be replaced.
10. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.

11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
14. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
15. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
16. The landscape installation shall stabilize all soil and slopes.
17. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
18. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
19. This approval is for this application only. Additional permits, licenses and approvals may be necessary.
20. Property maintenance standards shall be maintained as required by Garden City Code.
21. The property owner is responsible for the maintenance of all landscaping and screening devices required.
22. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions-Living Space Requirements.
23. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
24. All stormwater systems must comply with Garden City Code 8-4A-7.
25. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
26. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision-making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
27. No change in terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his or her authorized representative and an authorized representative of the reviewing agency. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Garden City.
28. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any

- conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
29. Any violation of the conditions of this application is a criminal offence.
  30. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
  31. All previous uses are null and void unless otherwise conditioned.
  32. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
  33. The date of action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
  34. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
  35. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code .
  36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
  37. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
  38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
  39. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

January 17, 2024

Chairman, Planning and Zoning Commission

Date

### **STANDARD CONDITIONS FOR DENIAL DECISION**

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-2. This project is not in compliance with 8-6B-2 standard(s) 1, and 4 because the use is not appropriate to the neighborhood, it is not compatible with the uses permitted in the C-1 zoning district, and it is in conflict with the comprehensive plan. Compliance can be met by [State How].
2. The date of action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.

3. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
4. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
5. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
6. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
7. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

January 17, 2024

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Chairman, Planning and Zoning Commission

Date