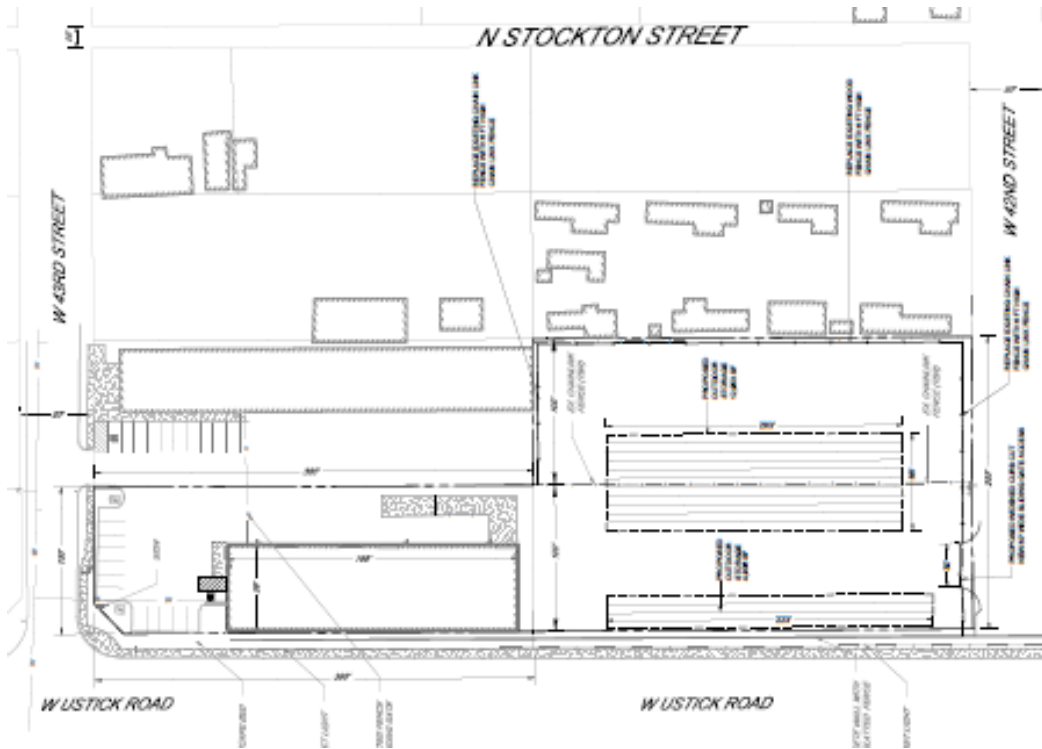




## CITY OF GARDEN CITY

6015 Glenwood Street □ Garden City, Idaho 83714  
Phone (208)472-2921 □ Fax (208)472-2926

**File Number: CUPFY2024 - 0002**  
**Requested Use: Warehouse and Storage, Wholesale**  
**Use as Defined By GCC Title 8: Warehouse and Storage, Wholesale**  
**Location: 203 W 43<sup>rd</sup> St., 200 W 42<sup>nd</sup> St. & N 42<sup>nd</sup> St.**  
**Applicant: Richard Sullivan**  
**Planning and Zoning Commission Hearing Date: January 17, 2024 6:30 p.m.**



### STAFF REPORT

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## A. Project Information

### Proposed Scope of Work:

Request	Review Process
Conditional Use Permit	<a href="#">GCC 8-6B-2</a>

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: Richard Sullivan
- 2) Owner: FLUME STREET LLC
- 3) Title 8 Use: It has been determined that the Garden City defined use that best describes the use is: Warehouse and storage, wholesale
- 4) Definition of Use: Garden City Code 8-7A-1 defines this use as: The use of a site as a major stopping or transferring point for freight, storage, wholesale and distribution of manufactured products, supplies and equipment, excluding retail sales.
- 5) The applicant is requesting a waiver from the sidewalk and streetscape plan.

### Site Conditions:

- 1) Existing Use: Warehouse and storage, wholesale /Vacant
- 2) Street Address: 203 W 43rd St., 200 W 42nd St. & N 42nd St.
- 3) Parcel Number(s): R2734510421, R2734510350 & R2734510361
- 4) Property Description: LOT 28 BLK D EXC R/W FAIRVIEW ACRES SUB NO 2 #0420-B; LOT 6 BLK D FAIRVIEW ACRES SUB NO 2; LOT 7 BLK D FAIRVIEW ACRES SUB NO 02
- 5) Legal Lot of Record: Yes
- 6) Property Size: 2.047 acres
- 7) Zoning District: C-2
- 8) Zoning Overlay(s): None
- 9) Comprehensive Plan Land Use Map Designation:
  - a) Neighborhood Node: Transit Oriented Development
  - b) Mixed Use Commercial
- 10) The project is in the:
  - a) outside of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study).
  - b) 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
- 11) Surrounding Uses:
  - a) Vehicle service
  - b) Manufactured/mobile home park
- 12) Adjacent Zoning: C-2
- 13) Adjacent Comprehensive Plan Designations:
  - a) Green Boulevard Corridor
  - b) Mixed Use Commercial
  - c) Neighborhood Node: Transit Oriented Development
- 14) Easements on site:

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a) EASEMENTS: FAIRVIEW ACRES SUB 02 PLAT; 200600046; UTILITY, DRAINAGE, IRRIGATION EASEMENT.

b) EASEMENTS: FAIRVIEW ACRES SUB 02 PLAT; 200600046; UTILITY, DRAINAGE, IRRIGATION EASEMENT.

**15) Site Access:**

a) W 42<sup>nd</sup> Street & W 43<sup>rd</sup> Street

**16) Sidewalks:**

a) W 43<sup>rd</sup> St.: Sidewalks are installed and are in good repair

b) W 42<sup>nd</sup> St.: No sidewalk

**17) Wetlands on site: None identified**

## C. Discussion

### Sidewalk

Garden City Code requires that properties adjacent to roadways utilized by motor vehicles provide sidewalks. This is not an impact fee. This is a required on-site improvement for properties in Garden City. Properties without sidewalk contain an existing deficiency that may pose a threat to the health, safety and welfare of pedestrians. Following code, if there is any new construction, addition, expansion, grading, alteration, or any new or more intense use of property Garden City staff will note that sidewalk is required. However, at times, the requirement of curb, gutter, and concrete sidewalk may not be reasonable in relation to the requested project. [The Garden City Sidewalk Policy](#) identifies possible thresholds and options for the construction of sidewalks. The deciding body (Planning and Zoning Commission) will make the determination of the required improvements on a case by case basis. Decisions will consider the unique circumstances of each proposal and therefore they may not strictly adhere to the guidelines as described by the policy.

It is Garden City's preference that curb, gutter, and concrete sidewalk are installed in most instances. However, the applicant may request a waiver of curb, gutter, and concrete sidewalk concurrent with the submittal of their application. The deciding body may require installation of sidewalk improvements for the entire site, a portion of the site, or no sidewalk based on an analysis of the proposal and site specific considerations. If the installation of curb, gutter, and concrete sidewalk, is found to create undue hardship the deciding body may also authorize a pathway as an alternate method for pedestrians to safely transverse the property. Approval of a waiver or alternative to curb, gutter, and concrete sidewalk shall not be considered a binding precedent to grant relief to other properties.

Per the policy, and Garden City Code 8-4E-2 A, sidewalks are required for a new and/or more intense use. A conditional use (and subsequent conditional use permit) is considered a more intense use.

The Commission may not consider lack of sidewalk on adjacent properties, loss of parking, or the desire of the applicant or proper owner to not have sidewalk when making their determination and granting of the sidewalk waiver.

No new sidewalk is required when the property is at a "dead end" where there is no possibility for a future extension of a roadway and is not part of an existing or planned connection to the Greenbelt, a pathway, part of a cul-de-sac, or other amenity that may be utilized by the public.

### 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 requested type of use and the overall purpose of the C-2 zoning district considering the adjacent residential homes.

Additionally, Garden City Code 8-2C-45 states "Outside activity areas shall be located a minimum of three hundred feet (300') from any property line adjoining a residence or a residential district." There may be potential conflicts between the proposed use, its functions, and the adjacent residential homes, as there is an undefined yet assumed less than 300'

setback between the proposed outdoor storage area and the property line adjacent to the residence to the north. Code does not further define “outdoor activity”, leaving room for discussion and interpretation. Further deliberations are required. The Commission must determine if the proposed use meets GCC 8-2C-45 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
City Engineer <a href="#">Link to Comment</a>	12/23/2023	<ul style="list-style-type: none"> <li>• Prior to performing any grading on the site, the applicant must prepare and have approved by the city an erosion and sediment control plan.</li> <li>• Approval of the project by the Ada County Highway District will be required. The project plans to widen/change street approaches.</li> <li>• Approval of the project by the North Ada County Fire and Rescue District will be required. Should fire flow requirements exceed those available, the land use, improvement of off-site city water lines or other efforts may be necessary to obtain approval of plans.</li> <li>• Any new water and sewer services must be reviewed and approved by the city's Public Works Department.</li> <li>• The applicant is responsible to verify that adequate water system supply is available to provide any fire suppression water needs.</li> <li>• The applicant is responsible to confirm/verify that adequate sewer capacity is available and that the existing system depth is adequate to serve the site.</li> <li>• A site grading and drainage plan may be required. This will depend on an analysis of the net change to ground surfaces (native material, gravel, pavement)</li> </ul>

		<p>to determine how the project fits with redevelopment standards of the city. Should the plan be necessary, it must be reviewed and approved by the city.</p> <ul style="list-style-type: none"> <li>The applicant should review the original FEMA work maps (not the current adopted maps) as the city has been placed in seclusion. The current maps (June 2020) do not display the possible future risk of the flooding potential of the Boise River. If the lowest floor building elevation is below the draft map BFE, a Flood Risk Acknowledgement form will be required from the landowner/developer.</li> </ul>
<p>Flood Control District 10 <a href="#">Link to Comment</a></p>	12/28/2023	FCD10 has no objection or comments related to this project.
<p>North Ada County Fire and Rescue <a href="#">Link to Comment</a></p>	12/22/2023	<p>The Boise Fire Department has reviewed this application and can approve of this conditional use with the condition that the required fire sprinklers system upgrade to be installed throughout these buildings for future and predicted uses. Additionally, the storage of hazardous materials must conform to the International Fire Codes for quantities, placarding, signage, and reporting. A Hazardous Materials Management Plan (HMMP) and Hazardous Materials Inventory Statement (HMIS) based on the classification and quantities of materials that would be found on-site, in storage or in use will be required.</p> <p>An operational permit is required to store, transport on site, dispense, use, or handle hazardous materials in excess of the amounts listed in Table 105.6.20 of the 2018 IFC.</p> <p>Specific building construction requirements of the International Building Code, International Fire Code and NACFR Rules will apply. However, these provisions are best addressed by a licensed Architect at time of building permit application.</p>
<p>Idaho Department of Environmental Quality <a href="#">Link to Comment</a></p>	01/10/2024	General comments provided

## 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.

<b>Garden City Title 8 Code Sections</b>			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
<b>Title 7 Building Regulations</b>			



<a href="#">7-2-1 Building Code</a>	N/A	No compliance issues as conditioned.	The applicant is proposing to occupy an existing building without altering the structure. GCC 7-2-1 requires a building permit to be reviewed and approved prior to change in occupancy, as defined by the International Building Code. The applicant must either provide documentation that the building was built to the requested occupancy or apply for a change of occupancy through the City's Occupancy Analysis process prior to occupancy of the building. A change in occupancy may require that improvements be made to the building prior to occupancy.
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**Title 8, Chapter 1: General Regulations**

<a href="#">8-1A-4 Applicability</a>			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.
<a href="#">8-1B-2 Nonconforming Structures</a>		No compliance issues noted	<p>The existing building does not appear to meet the minimum 5' side setback standard required of the C-2 zoning district. Site plans do not show setbacks, but the building appears to be located on the property boundary line.</p> <p>Existing nonconforming structures may continue to occupied, enlarge, repaired, or modified so long as any new additions/modifications meet the current Garden City Code standards. Ordinary repair work may be done so long as the work does not increase the nonconformity. Any structural alteration that would reduce the degree of nonconformity is permitted, subject to approval of building permits.</p> <p>The requested change of use does not increase the non-conformity of the existing structure.</p>
<a href="#">8-1B-3 Nonconforming Uses</a>		Compliant upon approval	Conditional Use Permit will be required.
<a href="#">8-1C-3 Property Maintenance Standards</a>		Not Compliant	<p>Per 8-1C-2, this article applies to all existing residential and non-residential buildings, structures, and lands.</p> <p>For nonresidential uses, outdoor storage areas shall be screened from the view of adjacent property by a solid masonry wall or privacy fence or approved landscape buffer. The height of the wall or fence shall be the maximum of eight feet (8'). <b>The application does not propose perimeter landscaping, nor does it propose a privacy fence. The proposal is to install a 6' high chain-link fence along the northern property boundary line, which is not compliant.</b></p> <p>Outdoor storage areas shall not exceed fifty percent (50%) of the total area of the site except where landscaping is provided in addition to the required setbacks as follows:</p> <ul style="list-style-type: none"> <li>The additional landscaping shall be equal to at least ten percent (10%) of the area of storage that is over the fifty percent (50%) of total site area; <b>the outdoor storage is 17,859sqft of the 89,298sqft site area equaling ~20% of the total site area. No additional landscaping needed.</b></li> </ul>

			<ul style="list-style-type: none"> <li>The additional landscaping shall be located on the outside of the required solid masonry wall or privacy fence. <b>Not compliant.</b></li> </ul>
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**Title 8, Chapter 2: Base Zoning District Regulations**

8-2B-1 Purpose		No compliance issues noted	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. More intense commercial activities are intended to be located along arterial streets in the highway commercial (C-1) district. Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.
<a href="#">8-2B-2 Allowed Uses</a>	PZ		Garden City Code Table 8-2B-1 requires a conditional use permit in this zone for the requested use.
<a href="#">8-2B-3 Form Standards</a>	PZ	May not be complaint	<p>Setbacks requirement in the C-2 zoning district:</p> <p>Front: 5' Rear: 5' Interior Side: 5' Street Side: 5'</p> <p>The existing structure does not appear to meet form standards. See above review section 8-1B-2.</p> <p>It appears that the proposed outdoor storage areas do not meet the required setbacks. <b>Dimensions required.</b></p>
<a href="#">8-2C-45</a>	PZ	May not be complaint	<p>Warehouse, Storage and Wholesale:</p> <p>Limitations: Outside activity areas shall be located a minimum of three hundred feet (300') from any property line adjoining a residence or a residential district.</p> <p><b>There are residential dwelling units adjacent to the property, with a manufactured home/mobile home park sharing the northern property boundary line. Code does not define "Outside Activity", leaving room for discussion and interpretation, however, the residential dwelling units are within the 300' buffer required. It is necessary that the applicant not only provide measurements of the distance between the activity areas from these residential homes, but also to define where outside activity is to occur.</b></p> <p>Accessory Uses: The use may include accessory office uses not to exceed twenty five percent (25%) and retail sales not to exceed ten percent (10%) of the gross floor area of the use. Office space proposed: 640 sqft = 5% Showroom space proposed: 680 sqft = 6%</p>

**Title 8, Chapter 4: Design and Development Regulations**

<a href="#">8-4A-3 Fences and Walls</a>	PZ	Not Complaint	The existing wooden fencing along the northern and eastern property boundaries is proposed to be removed and replaced
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			<p>with non-compliant 6' tall chain-link fencing. The fencing along W. 42<sup>nd</sup> Street is proposed to be 6' tall which is also not compliant with code.</p> <p>The maximum height for fences along the street frontage is 3.5'. Fences exceeding this size shall be set back minimally 10' from the back of sidewalk to allow for street trees and landscaping between the fence and the sidewalk. The fence is only setback 5' from W. 42<sup>nd</sup> Street.</p> <p>The requirement for fences bordering residential buildings is 6' tall, however, there is an option to be 8' tall, so long as the design review consultants approve it, as well as the applicant getting a building permit and a floodplain permit (if in the floodplain).</p> <p>Chain link fencing is not permitted per Garden City Code.</p> <p>Conditions have been drafted to ensure code compliance has been met, not only just for heights, but also setbacks, landscaping, and fence material.</p>
<a href="#">8-4A-4 Outdoor Lighting</a>	PZ	Complaint as Conditioned	Any future outdoor lighting will be required to be in compliance with code at the time of development.
<a href="#">8-4A-5 Outdoor Service and Equipment Areas</a>	PZ	Complaint as Conditioned	<p>This proposal does not identify any outdoor service equipment. The applicant does not anticipate additional needs for outdoor trash enclosure or dumpster. Standard size trash and recycling cans will be housed inside the warehouse and rolled to curb for trash collection.</p> <p>There does appear to be a screened trash area between the subject property and adjacent 113 W. 43<sup>rd</sup> St. property, but it is unclear who is utilizing the trash dumpsters as shown or if they are shared.</p> <p>Any future outdoor service equipment area will be required to be in compliance with code at the time of development.</p> <p>All on site service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property, or shall be screened from view from a public street and adjoining property with a privacy fence.</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>
<a href="#">8-4A-7 Stormwater Systems</a>	PZ	Complaint as Conditioned	<p>Referring to the City Engineer's comment: A site grading and drainage plan may be required.</p> <p>A draft condition of approval has been provided requiring that the stormwater systems be built in compliance with provisions of 8-4A-7.</p>

<a href="#">8-4A-8 Utilities</a>	PZ	Not Applicable	<p>All utilities for a new structure shall be installed underground. For the purposes of this section, the term "utilities" shall include, but not be limited to, electric, natural gas, water, wastewater collection, storm drainage, telephone, and cable services.</p> <p>According to the image from Google Maps, there are overhead wires in all three parcels. However, there is no new structure being proposed. Therefore, this section of code is not applicable.</p>
<a href="#">8-4A-9 Waterways</a>	PZ	Not Applicable	<p>There does not appear to be Boise River irrigation facilities at the site.</p> <p>The properties located at 203 W. 43rd Street, 200 W. 42nd Street and N. 42nd Street do not contain areas identified as irrigation canals or ditches, a waiver was requested for the Irrigation/Ditch Company Authorization Letter.</p> <p><b>There is however a Fairview Acres lateral piped irrigation line running parallel to 42nd Street. Permission/coordination with Fairview Acres for streetscape will be required.</b></p>

**8-4D Parking and Off Street Loading Provisions**

<a href="#">8-4D-3 Parking Design and Improvement Standards</a>	PZ	May not be complaint	<p>The design standards as set forth in section 8-4D-3 of this chapter, Parking Design And Improvement Standards, shall apply to any new construction, significant improvement, or moving of a structure, and as required by a conditional use permit.</p> <p><b>Vehicle parking:</b></p> <table border="1" data-bbox="769 1180 1443 1392"> <thead> <tr> <th colspan="5">Table 8-4D-1: MINIMAL DIMENSIONAL STANDARDS FOR MOTOR VEHICLE STALLS</th> </tr> <tr> <th>Parking Angle</th> <th>Stall Width</th> <th>Stall Depth</th> <th>Length Per Car</th> <th>Driveway Width* Must also meet fire requirements</th> </tr> </thead> <tbody> <tr> <td colspan="5" style="text-align: center;">Standard</td> </tr> <tr> <td>90°</td> <td>9'0"</td> <td>20'0"</td> <td>9'0"</td> <td>22'0"</td> </tr> </tbody> </table> <p><b>Parking Provided:</b> 12 regular parking spaces 1 ADA parking spaces</p> <p><b>Dimensions are not provided. A condition has been drafted to confirm parking space sizes.</b></p> <p>Parking areas shall not be located closer than four feet (4') to any established public street other than a road designated as an alley. <b>Dimensions are not provided, the parking lot is pre-existing.</b></p> <p>The design of the parking area shall minimize the trespass of lights from motor vehicles on adjacent properties and rights-of-way. <b>Existing landscape is sufficient enough to protect nearby neighbors trespassing light from cars.</b></p>	Table 8-4D-1: MINIMAL DIMENSIONAL STANDARDS FOR MOTOR VEHICLE STALLS					Parking Angle	Stall Width	Stall Depth	Length Per Car	Driveway Width* Must also meet fire requirements	Standard					90°	9'0"	20'0"	9'0"	22'0"
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			<p>Pedestrian routes shall facilitate passage from parking spaces to the principal entrance and meet standards set forth in sections 8-4E-6 and 8-4E-7 of code. <b>A condition has been drafted to require a pathway from the public sidewalk, through the parking lot to the main entrance of the building.</b></p> <p>Bicycle parking is not provided. <b>Conditions have been drafted to ensure bicycle parking is provided at the minimum of 6' long by 2' wide, not further than 50' from the building entrance.</b></p>
<a href="#">8-4D-4 Parking Use Standards</a>	PZ	No compliance issues noted	No required parking area or space provided, as required by this article, shall later be eliminated, reduced, or converted in any manner unless other equivalent facilities approved by the city are provided.
<a href="#">8-4D-5 Required Number of Off-Street Parking Spaces</a>	PZ	Not Compliant	<p>If more than one (1) use is located on a site, the number of required parking spaces shall be equal to the sum of each use.</p> <p><u>Vehicular Parking:</u></p> <p>A Warehouse and storage, wholesale (when utilized for the principal purpose of storage) is considered a low use, which requires 1 space per every 2,000 gross square feet.</p> <p><b>Required:</b> 11,137 SF/2,000SF= 6 parking spaces * * Includes square feet of warehouse and showroom</p> <p>The office was identified as a Professional Service, which corresponds to high usage. A Professional Service requires 1 space per every 500 gross square feet. 640 SF/500 SF= 1 parking space</p> <p><b>Total parking spaces required: 7</b> <b>Provided:</b>13 parking spaces</p> <p><u>Bicycle Parking:</u></p> <p>A Warehouse and storage, wholesale &amp; showroom: 1 space per 4,000 square feet 11,137 SF /4,000 SF= 3 bicycle spaces. A Professional Service (office): 1 space per 1,000 square feet 640 SF/1,000 SF= 1 bicycle spaces</p> <p><b>Total bicycle spaces required: 4</b> <b>Provided: none</b> <b>A condition has been drafted to ensure at least 4 bicycle parking spaces are provided on-site.</b></p>
<a href="#">8-4D-6 Standards for Equivalent Parking Adjustments</a>	PZ	No compliance issues noted	Equivalent parking was not requested.

<a href="#">8-4D-7 Off Street Loading Standards</a>	PZ	May not be complaint	<p>Off Street Loading was not proposed.</p> <p>Since the use of these areas is warehousing, the shipment of stored objects will be carried out at a specific loading zone. <b>The location of the loading zone(s) is not specifically identified on plans though it does appear that there is an existing loading/docking area along the northeastern portion property of 203 W. 43<sup>rd</sup>. A discussion is required regarding the planned location of Loading zone. A condition has been drafted to ensure that the loading zone(s) meet code compliance.</b></p> <p><b>It is unclear if there will be loading zones in the outdoor storage areas on the properties of W. 42<sup>nd</sup>.</b></p>
<b>8-4E Transportation and Connectivity Provisions</b>			
<a href="#">8-4E-2 Applicability</a>		No compliance issues noted	Provisions apply to any new construction, addition, expansion, grading, alteration, or any new or <u>more intense use of property.</u>
<a href="#">8-4E-3 Public Street Connections</a>	PZ	Compliant as Conditioned	<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> <p>The driveway ingress/egress access located at 113 W 43<sup>rd</sup> street will be used by 203 W 43<sup>rd</sup> street as a shared access. <b>A Cross-access agreements will be required if one does not currently exist between the two properties.</b></p>
<a href="#">8-4E-4 Internal Circulation Standards</a>	PZ	Compliant as Conditioned	<p>Driveways, aisles and turnaround areas, when required for fire and refuse access, shall meet the following standards:</p> <ul style="list-style-type: none"> <li>• Have a minimum vertical clearance of thirteen feet six inches (13'6") for their entire length and width.</li> <li>• Have a minimum width of twenty feet (20'). <b>The driveway on 43<sup>rd</sup> street – dimensions are not provided. The driveway on 42<sup>nd</sup> street is 30' wide.</b></li> <li>• The design of internal circulation should be integrated with the overall site design and adjacent properties, including the location of structures, pedestrian walkways and landscaping.</li> </ul>
<a href="#">8-4E-6 Sidewalk Standards</a>	PZ	Not Complaint	<p>There is an existing detached sidewalk on W 43<sup>rd</sup> Street.</p> <p>There are no plans to install new sidewalks along W. 42<sup>nd</sup> Street.</p> <p>Code requires that the applicant install a detached sidewalk with a 6' or 8' wide landscape buffer for street trees. There is a condition of approval drafted that this is installed prior to Certificate of Occupancy. The applicant will be required to install the sidewalk per the ITD/ACHD's requirements. The application will also be required to submit a Public Works and Utility application to the City for review and approval. ACHD has not provided comments as of the drafting of this report.</p>

			A waiver has been requested pursuant to the sidewalk policy based on the rest of 42 <sup>nd</sup> street not having sidewalk and that the road is a dead end. See discussion section of staff report for further information.
<a href="#">8-4E-7 Pedestrian and Bicycle Accessibility Standards</a>	PZ	Not Complaint	<p>There is no proposed pedestrian connection on the property.</p> <p>A pathway system shall extend through the development site and connect the street sidewalk to all primary building entrances. The pathway shall be designed to connect all portions of a development in a direct manner and not involve a significant amount of out of direction travel for likely users.</p> <p>The pathway shall be free from hazards, has appropriate lighting levels, and meets the standards for ADA accessibility and be a minimum width of four feet (4'). <b>Condition drafted.</b></p>
<a href="#">8-4E-8 Transit Facilities</a>	PZ	No compliance issues noted	<p>The nearest transit stop is located at:</p> <ul style="list-style-type: none"> <li>W Chinden Blvd &amp; E 45th St NEC and W Chinden Blvd &amp; W 45th St SWC ~0.4 mi</li> <li>W Chinden Blvd &amp; W 39th St SWC and W Chinden Blvd &amp; E 39th St NEC ~ 0.5 mi</li> </ul>
<b>8-4I Landscaping and Tree Protection Provisions</b>			
<a href="#">8-4I-2 Applicability</a>			For all new residential and nonresidential uses, all landscaping standards of this article shall be met.
<a href="#">8-4I-3 General Landscaping Standards and Irrigation Provisions</a>	PZ	No compliance issues noted	Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock, as the only ground cover in required planting areas is prohibited. <b>Condition drafted.</b>
<a href="#">8-4I-4 Landscaping Provisions for Specific Uses</a>	PZ	Not Complaint	<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>Site acres: 2.05 (89,298 SF) 89,298 SF*0.05=4,465 SF</p> <p><b>Provided: Not enough information to review. No new landscape is proposed.</b></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><u>W. 43<sup>rd</sup> St. (100 LF):</u> Trees Required: 3 Class II or III trees. Provided: 4 Class II</p> <p><u>W. 42<sup>nd</sup> St. (200 LF):</u> Trees Required: 5 Class II or III trees <b>Trees Provided: none</b></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.</p>

			<b>Not enough information to review.</b>
<a href="#">8-4I-5 Perimeter Landscaping Provisions</a>	PZ	Not Complaint	<p>Required:</p> <ol style="list-style-type: none"> <li>1. 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;</li> <li>2. Along the common property line between an adjacent nonresidential use and a residential use or vacant residentially zoned property;</li> </ol> <p>Standards:</p> <ol style="list-style-type: none"> <li>1. A perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot;</li> <li>2. A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity;</li> <li>3. 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.</li> <li>4. Additional standards for parking lots and carports are set forth in section <a href="#">8-4I-6, "Parking Lot Landscaping Provisions"</a>, of this article.</li> <li>5. Structures less than one hundred twenty (120) square feet, including, but not limited to, trash enclosures and storage sheds may encroach into the perimeter landscape area.</li> <li>6. Perimeter landscape areas shall provide for pedestrian access from residential development to abutting commercial districts and vice versa.</li> </ol> <p><b>Perimeter landscape is not provided. To meet code, the northern property boundary line of the parcel off 42<sup>nd</sup> St. will need perimeter landscaping adjacent to the residential dwelling units.</b></p>
<a href="#">8-4I-6 Parking Lot Landscaping Provisions</a>	PZ	No compliance issues noted	Existing parking has been approved by staff on application DSRFY2022-0006.
<a href="#">8-4I-7 Tree Preservation Provisions</a>	PZ	Compliant as conditioned	<p>Mitigation shall be required for all existing trees four inch (4") caliper or greater that are removed or damaged from the site.</p> <ol style="list-style-type: none"> <li>a. 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.</li> <li>b. Mitigation shall be replacement of the total calipers lost on site up to an amount of one hundred percent (100%) replacement.</li> </ol> <p><b>Google maps images show that in 2021 200 West 42<sup>nd</sup> Street had many trees/vegetation on site. Imagery in 2022 shows the trees being removed. Current imagery shows some vegetation, but it is unclear if what is on site</b></p>



			consists of trees or shrubs or weeds. Clarification needed in the form of an arborist report. If any trees are to be removed from the site, and if those trees are deemed healthy and 4 in calipers or greater, mitigation at a 1:1 ratio is required.
Title 8, Chapter 6, Article A: Administration			
<a href="#">8-6A-3 General Application Process</a>		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.
<a href="#">8-6A-4 Required Application Information</a>			Application waivers requested pursuant to 8-6A-4A: <ul style="list-style-type: none"> <li>• Sidewalk and streetscape plan</li> <li>• Fencing material</li> <li>• Irrigation/Ditch Company Authorization Letter</li> </ul>
<a href="#">8-6A-7 Public Hearing Process</a>		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.

<b>Other Items Reviewed</b>	
Plan/Policy	Discussion/ Analysis
<a href="#">Idaho Code 67-6512</a> 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"> <li>(1) Minimizing adverse impact on other development;</li> <li>(2) Controlling the sequence and timing of development;</li> <li>(3) Controlling the duration of development;</li> <li>(4) Assuring that development is maintained properly;</li> <li>(5) Designating the exact location and nature of development;</li> <li>(6) Requiring the provision for on-site or off-site public facilities or services;</li> <li>(7) Requiring more restrictive standards than those generally required in an ordinance;</li> <li>(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.</li> </ol> <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</p>

	special use permit is not transferable from one (1) parcel of land to another.
Previous entitlement that might affect this project	DSRFY2022-0006 – Previous Entitlement located at 113 W. 43 <sup>rd</sup> is associated with this CUP request because the DSR included the streetscape approval. Additionally, it shares drive isle and ingress/egress access.
<a href="#">Garden City Comprehensive Plan</a>	<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.<sup>1</sup></p> <p>This application is in future land use designations of the Comprehensive Plan:</p> <ul style="list-style-type: none"> <li><b>b)</b> Activity Node: Transit Oriented Development</li> <li><b>c)</b> Mixed Use Commercial</li> </ul> <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> <li><b>a.)</b> 1.4 Objective: Create a premier destination place to live, work, and recreate.</li> </ul> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> <li><b>a.)</b> 2.2 Objective: Uphold standards for private property maintenance with a focus on nonresidential properties.</li> </ul> <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> <li><b>a.)</b> 12.1 Objective: Support a positive business environment</li> <li><b>b.)</b> 12.2 Objective: Continue to support commercial and industrial land uses.</li> <li><b>c.)</b> 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce.</li> </ul> <p>The application may not be supported by:</p> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> <li><b>a.)</b> 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting.</li> </ul> <p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> <li><b>a.)</b> 7.1 Objective: Create pedestrian and bicycle friendly connections.</li> <li><b>b.)</b> 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</li> </ul>
<a href="#">Garden City Sidewalk Policy</a>	Sidewalk waiver was requested.
<a href="#">Garden City Street Light Policy</a>	A streetlight is installed along W. 43rd Street in accordance with the policy. On W. 42nd Street the streetlights are approximately 370 feet from the property line at the corner of Chinden and 42nd Streets. Also, streetlights are installed along the border of the property on the side of Ustick Street, but as stated earlier, the property and the road have a difference in grade.
<a href="#">Garden City Transportation Needs List</a>	<b>Ustick Road/43rd Street</b> Multiple traffic fatalities have occurred in proximity of this intersections. Due to multiple lanes of traffic, downhill slope, and both speed and volumes

<sup>1</sup> [2022 Givens Pursley Land Use Handbook](#)

necessitate a more visible crossing. Install Pedestrian Hybrid Beacon and overhead lighting at marked crosswalk. Per Looking Glass Academy Garden City February 2019 recommendations.

**Pathway Connection: 43rd and Ustick**

Formalize and improve a pathway that is being utilized as a bike/ ped connection at 43rd and Ustick.



**Safety Crossing on Chinden at 43rd Street**

This request is currently anticipated to be funded for design in 2021. The request is to provide a safe and comfortable crossing at Chinden to facilitate the bike and pedestrian traffic crossing from the Boise bench to the amenities and regional connections at 42nd Street. This is a connection to the requested bike/ pedestrian connection at 43rd and will serve the ability to connect to the node at 42nd and provide a safe route to school. This light is programed in ACHD's IFYWP for 2021 design and 2023 construction.