

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 - 0005   |
|                                | ) |                    |
| Conditional Use Permit         | ) | FINDINGS OF FACT,  |
| 199 E. 52nd St. STE. 140       | ) | CONCLUSIONS OF LAW |
|                                | ) | AND DECISION       |
| Garden City, Ada County, Idaho | ) |                    |
| _____                          | ) |                    |

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on March 20, 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 Food products, small scale processing defined by Garden City Code 8-7A-1 as “The use of a site for producing, manufacturing, or processing of food products on a boutique or small scale and limited production. The use often contains a tasting or dining area. The use includes, but is not limited to, catering, smoking and curing, canning and preserving, confectioneries, brewing and winemaking.”
2. The applicant is Patrick McKeegan.
3. The property owner of record is SAHARA GROUP LLC.
4. The location of the project is 199 E. 52nd St. STE. 140.; Ada County Assessor parcel number(s) R1055420180 & R1055420181; POR LOT 01 BLK 03 IN TCA 06-1 BRADLEY PARK SUB NO 01 #96085105 & POR LOT 01 BLK 03 IN TCA 06 BRADLEY PARK SUB NO 01 #96085105
5. Legal Lot of Record: Yes
6. The subject property is 1.8 acres.
7. The scope of the request applies to a portions of the property, limited to Suite 140.

8. The project is located in the C-2 General commercial zoning district.
9. The project is located in the Light Industrial Bradley Technology District; Activity Node: Neighborhood Destination of the Garden City Comprehensive Plan Land Use Designation.
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) outside of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
11. The existing use on the site is Retail production.
12. The following standards apply to this proposal:
  - a. Garden City Code 8-1A-4 Applicability
  - b. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
  - c. Garden City Code 8-2B Base Zoning District Regulations
  - d. Garden City Code 8-2C Land Use Provisions
  - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
  - f. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - g. Garden City Code 8-4E Transportation and Connectivity Provisions
  - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - i. Garden City Code 8-6A Administration
13. 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
14. The following previous approvals apply to this proposal:
  - a. BUSFY2022-0038
  - b. BLDFY2022-0050
  - c. BLDFY2023-0073
15. 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 |
|---|--|------------|

16. Additional application materials submitted include:

- a. Application;
- b. Affidavit of Legal Interest;
- c. Statement of Intent.
- d. 300' Neighborhood List;
- e. Site Plan;
- f. Floor Plans;
- g. Warranty Deed.

17. Agency Comments were received from:

- a. Ada County Highway District, February 15<sup>th</sup>, 2024
- b. Department of Environmental Quality, February 12<sup>th</sup>, 2024
- c. Garden City Engineer, February 17<sup>th</sup>, 2024
- d. Idaho Transportation Department, February 20<sup>th</sup>, 2024
- e. North Ada County Fire and Rescue, February 20<sup>th</sup>, 2024

18. Public comments were received from:

- a. Klamerus Laurie, February 20<sup>th</sup>, 2024.

19. The following noticing was completed in accordance with GCC 8-6A-7:

| Noticing Requirement                     | Required Date | Completion Date |
|--|---------------|-----------------|
| Receipt of application                   |               | 1/16/2024       |
| Letter of Acceptance                     | 2/15/2024     | 2/22/2024       |
| Radius Notice                            | 3/5/2024      | 2/14/2024       |
| Legal Notice                             | 3/1/2024      | 2/16/2024       |
| Agency Notice                            | 3/5/2024      | 2/9/2024        |
| Property Posting Sign                    | 3/10/2024     | 3/8/2024        |
| Affidavit of Property Posting and Photos | 3/13/2024     | 3/8/2024        |

20. On March 20, 2024, a public hearing before the Planning and Zoning Commission was held:

- a. This section will be completed after the hearing.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. March 20, 2024, Planning and Zoning Commission Hearing Minutes and Audio
- g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of

Law and Decision

22. 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><br/>The use Food Products, Small Scale Processing with Accessory Use Coffee Roaster is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p> <p><b>In Denial:</b><br/>The use Food Products, Small Scale Processing with Accessory Use Coffee Toaster establishment is not appropriate to the location, lot, and the neighborhood and is not compatible with the uses found within the C-2 General Zoning District.</p> |
| <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>   |

|   |  |   |   |
|---|--|---|---|
| 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><br/>The new use of Food Products, Small Scale Processing with Accessory Use Coffee Roasting will not be detrimental to the public health, safety, or general welfare of the Community.</p> <p><b>In Denial:</b><br/>The application does not meet code standards, nor are appropriate conditions of approval available to mitigate the deficiency with code compliance.</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><br/>The application is cohesive with the Comprehensive Plan’s designation of the Light Industrial Bradley Technology and Neighborhood Commercial Activity Node 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 7, Connect the City; and Goal 12, Evolve as a Destination.</p> <p>Furthermore, the use has been found to be compliant with the sections of code applicable to the application or conditioned as such.</p> <p><b>In Denial:</b><br/>The application may not be supported by Goal 7, Connect the City, Objective 7.3 Create pedestrian and bicycle friendly connections.</p> |

18. 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:

- 1. This approval is for this application only. Additional permits, licenses and approvals may be necessary. All other applicable permits must be obtained prior to installation and use of the coffee roaster.
- 2. The scope of this permit is to allow for the use of Food Products, Small Scale Processing with the accessory use of a coffee roaster.
- 3. The use is limited to Suite 140 of 199. E 52<sup>nd</sup> Street.
- 4. **Based on proportionality rules, the deficient street tree is not required to be installed per this decision.**

Prior to Occupancy:

- 1. The application shall be compliant with Idaho Department of Environmental Quality requirements regarding emissions.
- 2. Any new or upgraded exterior lighting related to this use shall be in compliance with Garden City lighting standards.
- 3. A 4' **painted** pathway system shall extend through the development site and connect the street sidewalk to the primary business entrance.
- 4. The chain-link fence and the chain-link fence with slats shall be removed or replaced **(at 10% the length)** with code compliant fencing. An alternative is to

provide documentation from both the property owner and the adjacent property that the fence is not owned by the same owner of the subject property.

5. Two bicycle parking spaces shall be provided. The bicycle parking dimensions, and location shall be in conformance with 8-4D-3 C.
6. All vehicular parking spaces shall meet the dimensional standards set forth in Garden City Code 8-4D-3.
  - a. 90-degree parking spaces shall be 9' x 20'.
7. A landscape plan shall provide evidence of at least 14 shrubs being planted on site. If existing site conditions do not provide 14 shrubs, then shrubs shall be planted in accordance with Garden City Code 8-4I-4.
8. 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.

Site Specific Requirements for the Duration of the Use:

1. Outdoor coffee roasting shall be prohibited.
2. Coffee roasting shall have no discernible odor or emission detectable from outside of the property.
3. Coffee roasting equipment shall use emission control equipment to eliminate odors and emission.
4. 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. Property maintenance standards shall be maintained as required by Garden City Code.
  20. The property owner is responsible for the maintenance of all landscaping and screening devices required.



21. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
22. All stormwater systems must comply with Garden City Code 8-4A-7.
23. 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.
24. 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.
25. 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.
26. 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.
27. Any violation of the conditions of this application is a criminal offence.
28. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
29. All previous uses are null and void unless otherwise conditioned.
30. 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.
31. 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.
32. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
33. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code .
34. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
35. 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.
36. A takings analysis pursuant to Idaho Code may be requested on final decisions.
37. 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.

**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) because it is not in compliance with the Garden City Comprehensive Plan Sections [LIST] and Garden City code sections [LIST]. Compliance can be met by [LIST].
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.