

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:)	CUPFY2025 - 0004
)	
Conditional Use Permit)	FINDINGS OF FACT,
5200 W. Chinden Blvd.)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on February 19, 2025. 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 Drive-through establishment defined by Garden City Code 8-7A-1 as “Any use that permits service to take place directly with customers located in a motor vehicle. The term "drive-through establishment" shall include, but not be limited to, providing food or beverage service, bank service, prescription drugs, and/or film processing. The term "drive-up window service" shall not include fuel sales facility or vehicle washing facility as herein defined.”
2. The applicant is Lauryn Aleen and Jeff Hatch.
3. The property owner of record is CHINDEN BUSINESS CENTER LLC.
4. The location of the project is 5200 W. Chinden Blvd.; Ada County Assessor parcel number(s) S0631233601 and S0631233600; Described as PAR #3600 OF SW4NW4 OUT OF FLOOD DIST SEC 31 4N 2E #212451-S; and PAR #3601 OF NW4NW4 IN FLOOD DIST SEC 31 4N 2E #212455-S.
5. The property is a legal parcel of record.
6. The subject property is 0.7 acres.
7. The scope of the request applies to the entire property.

8. The project is located in the C-2 General commercial zoning district.
9. The project is located in the Activity Node: Neighborhood Destination; Green Boulevard Corridor and the Light Industrial Bradley Technology District of the Garden City Comprehensive Plan Land Use Designation.
10. The project is:
 - 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 Vacant.
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
 - d. Chinden ITD Access Management
14. The following previous approvals apply to this proposal:
 - a. DSRFY2024-0014
15. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

Conditional Use Permit			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Will Serve

16. Additional application materials submitted include:
 - a. Site Plan;
 - b. Floor Plans;
 - c. Lighting and Electrical Plans;
 - d. Parking Study;
 - e. Landscape Plan;
 - f. 300' Neighborhood List;
 - g. Neighborhood Meeting Letter;
 - h. Application;
 - i. Statement of Intent;
 - j. Site Photos.

17. Agency Comments were received from:
 - a. North Ada County Fire and Rescue, January 13, 2025.
 - b. Ada County Highway District, January 13, 2025.
 - c. Garden City Engineer, January 18, 2025.
 - d. Idaho Transportation Department, January 10, 2025.
 - e. Republic Services, January 13, 2025.
 - f. Department of Environmental Quality, February 3, 2025

18. Public comments were received from:
 - a. Paul Babichenko, January 14, 2025
 - b. Brian Wight, January 20, 2025
 - c. Julie Lowe, January 12, 2025

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

Noticing Requirement	Required Date	Completion Date
Receipt of application		1/8/2025
Letter of Acceptance	2/8/2025	1/13/2025 – Non-Acceptance Letter Delivered ¹ 02/03/2025 – Acceptance Letter Delivered
Radius Notice	2/4/2025	1/10/2025
Interested Parties	N/A	N/A
Legal Notice	1/31/2025	1/15/2025
Agency Notice	2/4/2025	1/10/2025
Property Posting Sign	2/9/2025	2/7/2025
Affidavit of Property Posting and Photos	2/12/2025	2/7/2025

¹ The neighborhood meeting was hosted outside of the allowed timeframe per Garden City Code 8-6A-7.

20. On February 19, 2025, 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. February 19, 2025 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:

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.			
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	<p>Finding 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;</p> <p>In Approval: The application meets this finding. The use of a drive-through establishment is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p> <p>The application is located off W. Chinden Blvd., in the C-2 Zoning District, with the project site being 0.7 acres.</p> <p>The drive-through is located along W. Chinden Blvd., but offers limited, exit-only access onto the arterial, with the primary</p>

			<p>entry and exit being on 52nd Street. With this ingress/egress design, the new drive-through establishment is located outside of the 500' minimum distance between drive-throughs as required by code, and as measured by the shortest vehicular driving route.</p> <p>Garden City Code does not specify criteria for stacking that would result in a specific number of spaces required, just that the stacking does not create impact off site. The provided stacking study demonstrates that during peak hours stacking will not overflow off-site.</p> <p>In Denial: The application does not meet this finding. The proposed drive-through is located too close to an existing drive-through establishment, thus not meeting Garden City Code section 8-2C-13.A.3 location standards.</p>
X		X	<p>Finding 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;</p> <p>Explanation:</p> <p>In Approval: The application meets this finding as conditioned, an ability to serve request must be submitted prior to building permit issuances to ensure that there are public services available that can accommodate the proposed development.</p> <p>In Denial: The ability to serve request was not submitted as part of the record packet, nor was a review performed by the city engineer. It is unknown if there are public services available that can accommodate the proposed development.</p>

<p style="text-align: center;">X</p>		<p style="text-align: center;">X</p>	<p>Finding 3. The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>In Approval: This proposal will not unreasonably diminish the health, safety, or welfare of the community. The installation of sidewalks and landscaping along 52nd and W. Chinden Blvd. will enhance the overall wellbeing and safety of the community. The enhanced connectivity between the existing adjacent businesses provides a safe pathway for the community to use.</p> <p>The stacking lane provides adequate efficiencies to not exceed the on-site capabilities of drive-through patrons and thus does not create an impact off site.</p> <p>In Denial: The proposal will be detrimental to and unreasonably diminish the health, safety, or welfare of the community for the following reasons:</p> <p>The proposed drive-through is located too close to an existing drive-through establishment, thus not meeting Garden City Code section 8-2C-13.A.3 location standards.</p> <p>The access point to the west is very close to the Chinden right-of-way. Without a traffic engineer review and recommendation, and without the approval from the Idaho Transportation Department, this access could cause conflict between vehicular and pedestrian users along W. Chinden Blvd.</p> <p>The gabion screening walls along the frontage of the property will cause visibility issues, and clear vision triangle issues to and from the site along W. Chinden.</p>
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X		X	<p>Finding 4. The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation:</p> <p>In Approval: The application is cohesive with the Comprehensive Plan’s designation of the Green Boulevard Corridor and Light Industrial Bradley Technology. And is supports the Comprehensive Plan’s 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, or conditioned to be within compliance with the sections of code applicable to the application.</p> <p>In Denial: The application may not be supported by Goal 7, Connect the City, Objective 7.3 Protect neighborhoods from through traffic.</p>
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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. The scope of this permit is to allow for the use of a drive-through establishment.
2. Construction noise that is disruptive to the neighborhood shall be limited to Monday through Saturday from 7:00 am to 8:00 pm unless residents within 300' and the city have been notified in advance of the specific days which it will be necessary to exceed this limitation.
3. Site plans submitted on January 15, 2025, slightly differ from the previously approved Design Review plans. These new plans reflect the changes as required by Republic Services; in which case these plans can be used so long as all conditions of approval associated with DSRFY2024-0014 are still met.

Prior to Building Permit Issuance:

1. An affidavit of legal interest shall be submitted.
2. The ability to serve shall be provided.
3. All conditions of approval set forth in the associated DSRFY2024-0014 decision document shall be adhered to.

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. A building permit shall be applied for and approved by the Garden City Development Services Department.
3. The site and building must be constructed in accordance with the approved design review file DSRFY2024-0014.
4. 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 shall be installed in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
 - b. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
5. All utilities on the site, including telephone, cable television, and electrical systems, shall be underground and in compliance with Garden City Code 8-4A-8.

6. A public access easement shall be required for the sidewalk(s) that are located on site, and not within the transportation agency rights-of-way(s).

Site Specific Requirements for the Duration of the Use:

1. The plaza shall have weatherproof site furniture, and at least one (1) distributed trash container(s) around the plaza.
2. Service shall be provided to those who elect to walk or bike throughout the entire year. Service shall be available in an area that is protected from the weather and separate from vehicle stacking lanes.
3. All site and vehicular lane lighting shall be down shielded, screened or oriented to prevent spillage of light on any residence, residential zone, or public roadway.
4. Directional signs shall be provided that indicate the entrance, exit and one-way path of drive-through lanes.
5. A seating area, either indoor or outdoor with temporary or permanent shelter, sufficient for a minimum of ten (10) people shall be provided throughout the duration of the use.
6. A restroom shall be provided for patrons.
7. To reduce vehicle emissions, signage shall be provided advising drivers to reduce vehicle idling.
8. Employees shall collect on-site and off-site litter generated by customers at least once per business day.
9. Service shall be provided to those who elect to walk or bike at all hours that the drive-through is in operation.

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 service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
 23. All stormwater systems must comply with Garden City Code 8-4A-7.

24. 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.
25. 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.
26. 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.
27. 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.
28. Any violation of the conditions of this application is a criminal offence.
29. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
30. All previous uses are null and void unless otherwise conditioned.
31. 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.
32. 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.
33. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
34. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code .
35. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
36. 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.
37. A takings analysis pursuant to Idaho Code may be requested on final decisions.
38. 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) 1, 2, and 3 because it is not in compliance with the Garden City Comprehensive Plan Sections [LIST] and Garden City code sections 8-2C, 8-4A, 8-4E. Compliance can be met by providing a use more aligned with the intent of the zoning district and meeting code standards.
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.