

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)	CUPFY2017-10
)	
Extension Request)	FINDINGS OF FACT,
Address: 3775 (3770) Adams Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
<hr/>		

THIS MATTER, came before the Garden City Council for consideration on August 12, 2020. The City Council reviewed the request. The City Council considered a revised request on April 12, 2021, April 26, 2021, May 10, 2021, and May 24, 2021. Based on the evidence presented, pursuant to Garden City Code § 8-6-A. 8, the City Council makes the following Findings of Fact, Conclusions of Law and Decision:

FINDINGS OF FACT

1. The revised request is to extend the approval of CUPFY2017-10 sixty days to a date of August 10, 2021.
2. The requestor is Bruce Wong.
3. The property owner of record is Ada County Highway District (ACHD).
4. The location of the project is 3775 (3770) Adams St., Ada County Parcel S1005141695; PAR #1695 in CTR POR NE4 SEC 5 3N 2E & OF Block 12 Fairview Acres #3.
5. Conditional Use Permit, file, CUPFY2017-10 was approved June 27, 2017 for a temporary sand and salt shed structure. The approval was valid for three years from the date of Certificate of Occupancy. A Certificate of Occupancy was issued June 11, 2018. The permit will expire June 11, 2021.
6. On July 22, 2020 Garden City received a request for an extension in writing noting:
 - a. ACHD is anticipating entitlements later this year in the City of Meridian for another maintenance yard.
7. The City Council considered request on August 12, 2020:
 - a. Mayor Evans introduced the application
 - b. Staff Thornborrow presented a staff report
 - c. Timothy P. Nicholson presented the request
 - d. Council Member Beaumont moved to deny the application.
 - e. Council Member Page seconded the motion.

- f. The motion passed unanimously.
8. The City received a reconsideration request dated August 27, 2020.
9. On September 14, 2020, the City considered the reconsideration.
10. On October 26, 2020, the reconsideration request was considered denied, as per Idaho § 67-6535, the City Council had not granted the reconsideration within sixty days from the reconsideration request.
11. On March 31, 2021 received a secondary, and revised request for extension was received in writing.
12. The City Council considered the new request on April 12, 2020:
 - a. Bruce Wong presented the request.
 - b. Charles Wadams provided a staff report.
 - c. The request was clarified that it is for a 60-day extension to the expiration of the conditional use permit from a date of June 11, 2021 to a date of August 10, 2021.
 - d. The City Council continued the request to a date of April 26, 2020 so that ACHD could provide more information.
13. The City Council considered the request on April 26, 2020:
 - a. The request was continued to a date certain to allow the City Council to review the late exhibit from ACHD, a letter dated April 21, 2021.
14. The City Council considered the request on May 10, 2020:
 - a. Bruce Wong, Jennifer Berringer, Mary York, and Steve Price presented the request.
 - b. City Council:
 - i. Requested confirmation that the ACHD Commission had been apprised of communications with the Garden City Attorney. The ACHD representatives were not able to provide this confirmation.
 - ii. Requested clarification as to what the sixty-day extension is intended to achieve. Bruce Wong indicated that it is intended to provide extra time for discussions.
 - c. All Council Members indicated that they would make time in their schedule within the next two weeks for a special meeting and requested to meet on Wednesday May 12, 2021 during the ACHD meeting at 1:00pm.
 - d. The City Council continued the request to a date of May 24, 2021 to provide time to discuss the matter with the ACHD Commission.
15. The City Council considered the request on May 24, 2020:
 - a. Mayor Evans noted that each Council Member had received a privileged item that cannot be discussed but could be discussed in an executive session after the meeting.

- b. Bruce Wong was available for questions but did not provide a presentation.
- c. Discussion included:
 - i. A history of the request. It was noted in 2018 following the 2017 request the City Council met with the ACHD Commission and indicated that there would not be an extension granted if requested. In August of 2020 ACHD requested an extension noting that they would have the structure moved to Meridian in a timely manner. ACHD then tried to pass legislation preempting the City from having regulatory authority to require that the structure be relocated. Once the proposed legislation was denied, the City started receiving legal threats to allow the structure to remain indefinitely.
 - ii. The City and ACHD have an enforceable contract.
 - iii. Appreciated meeting with Commissioners Goldthorpe and McKinney.
- d. Council Member Souza moved to deny the extension.
- e. Council Member Beaumont seconded the motion.
- f. Then motion passed on a 4/0 vote.

16. The record contains:

- a. Extension request materials reviewed August 12, 2020
- b. Fee agreement
- c. Planning and Zoning Commission Decision document June 21, 2017
- d. Building Permit Certificate of Occupancy June 11, 2018
- e. CUPFY2017-10 Record Documents
- f. Reconsideration request dated August 27, 2020.
- g. Revised request for extension dated March 31, 2021.

17. The following standards in the Garden City Code apply to this proposal:

Standards	Compliant	Conclusions
<p>GCC 8-6A-8 Expiration of Approvals</p>	<p>No</p>	<p>1. Good Cause exists for the request:</p> <p><u>Explanation:</u> Good Cause does not exist for the request. At the time of approval, it was noted that the request was incompatible with Garden City Code and FEMA regulations. A temporary permit was granted only to allow for ACHD to obtain compliance with EPA regulations while actively endeavoring to identify a location outside of the floodplain to relocate the use. There are not extenuating circumstances that ACHD has</p>

		<p>identified that warrant an extension to the temporary permit.</p> <p>2. The application and or applicable city regulations have not changed.</p> <p><u>Explanation:</u> Regulations relevant to this application have changed. Ordinance No. 1002-18 was adopted on January 28, 2019 amending the extension process. Ordinance No. 1016-20 was adopted on June 8, 2020 amending the Flood Hazard Ordinance. Ordinance No. 1002-18 requires City Council approval of extension requests. Previously an extension request could have been considered by staff. Ordinance No. 1016-20 updated flood hazard regulations to be aligned with the State of Idaho’s model ordinance. Under both the previous version of the flood hazard ordinance and the new version, the facility is a critical facility.</p> <p>3. There has not been change in the neighborhood, plans or policies that affect the compatibility of the project:</p> <p><u>Explanation:</u> The neighborhood continues change consistent with the Comprehensive Plan’s vision. There have been significant investments by public and private entities advancing the Comprehensive Plan’s vision, substantially altering the neighborhood. Subsequently, that the structure is further noncompliant with the character of the neighborhood.</p>
--	--	--

	<p>4. The property appears to be compliant with codes and laws:</p> <p><u>Explanation:</u> The property is not compliant with codes and laws. Garden City Code prohibits critical facilities within the floodplain. The timeframe for this temporary allowance far exceeds the six-month timeframe identified by the State Floodplain Administrator as a recommended duration during the conditional use permit review.</p> <p>5. It is in the City's best interest to grant the extension:</p> <p><u>Explanation:</u> It is not in the City's best interest to grant the extension. The City allowed a temporary use in good faith that ACHD would comply with the stipulations as identified in the conditional use permit. ACHD has not shown intent to comply. The use renders the City non-complaint with ordinances, laws, and its Comprehensive Plan. Noncompliance with the City's flood hazard regulations puts the City at physical and severe financial risk.</p>
--	--

CONCLUSIONS OF LAW

The City Council reviewed the application with regard to Garden City Code, Title 8, and concludes the application **does not** meet the standards of approval under G.C.C. § 8-6-A.8.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council does hereby **Deny** this request for an extension of the conditional use permit.

Mayor, John G. Evans

Date