

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:)	CUPFY2021-0002
)	
Conditional Use Permit)	FINDINGS OF FACT,
113 E. 45 th Street.)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho)	AND DECISION
<hr/>		

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on December 16, 2020 and was moved to the date certain of January 20, 2021 due to noticing errors. 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 scope of this application is for the three unit expansion of a Manufactured/Mobile Home Park defined by Garden City Code 8-7A-1 as “Any parcel of ground upon which three (3) or more manufactured homes, mobile homes or combination of one (1) or more manufactured home, mobile home and/or other dwelling units occupied for dwelling or sleeping purposes, are located regardless of whether or not a charge is made for such accommodation; but shall not include a plot of ground used for mobile home dealers exclusively for the display, storage or sale of manufactured/mobile homes.”
2. The applicant is Charles Brown.
3. The property owner of record is Maple Woodlawn LLC.
4. The location of the project is 113 E. 45th Street.; Ada County Assessor parcel number(s):
 - a. R2734500642 defined as LOT 29 BLK 2 FAIRVIEW ACRES SUB NO 01 R/S 9483 #0641-S, and;
 - b. R2734500652 defined as LOT 30 BLK 2 FAIRVIEW ACRES SUB NO 01 R/S 9483 #0641-B.
5. The property is a legal lot of record.

6. The scope of the request applies to the entire property.
7. The subject properties are both 0.689 acres.
8. The project is located in the C-2 General Commercial zoning district.
9. The project is located in the Mixed Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
10. The project is not located in the SFHA according to the 2003 FIRM.
11. The project is not located in the SFHA according to the 2017 FIS.
12. The existing use on the site is Manufactured/Mobile Home Park.
13. 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 8-4D Parking and Off Street Loading Provisions
 - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - f. Garden City Code 8-4E Transportation and Connectivity Provisions
 - g. Garden City Code 8-4I Landscaping and Tree Protection Provisions
 - h. Garden City Code 8-4J Manufactured and Mobile Home Provisions
 - i. Garden City Code 8-6A-3 General Application Process
14. No substantially similar application has been denied by the planning official, the commission, or the council within one year of this application.
15. The following plans and policies apply to this proposal:
 - a. Garden City Comprehensive Plan
 - b. Garden City Sidewalk Policy
 - c. Garden City Street Light Policy
16. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

Conditional Use Permit			
Provided			
Yes	No	Waiver pursuant to GCC 8-6A	

X			Compliance Statement
X			Neighborhood Map
		X	Will Serve

17. Additional application materials submitted include:
- Site Plans submitted 12/23/2020, 01/07/2021, 01/11/2021 and 02/01/2021;
 - 3-Year phasing plan;
 - 300' Neighborhood List;
 - Affidavit of Legal Interest;
 - Application;
 - Statement of Intent.
 - Agency Comment:
 - Fairview Acres
18. Agency Comments were received from:
- City Engineer, November 22, 2020
 - Department of Environmental Quality, November 27, 2020
 - Fairview Acres, September 7, 2020
19. No public comments were received.
20. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application here	12/15/2020	09/16/2020- Incomplete Application 11/02/2020- Confirmation of acceptance
Letter of Acceptance (30 days after receipt of application)	12/02/2020	11/02/2020
Radius Notice (15 days prior to hearing)	01/05/2021	11/17/2020
Interested Parties	None	None
Legal Notice (19 days)	01/01/2021	11/18/2020
Agency Notice (15 days)	01/05/2020	11/17/2020
Property Posting Sign	01/10/2021	01/08/2021
Affidavit of Property Posting and Photos	01/10/2021	01/08/2021

21. On December 16, 2020 a public hearing before the Planning and Zoning Commission was held. The application was continued to the date certain of January 20, 2021 due to noticing errors.

22. On January 20, 2021 a public hearing before the Planning and Zoning Commission was held and continued to the date certain of February 17, 2021.

23. On February 17, 2021 a public hearing before the Planning and Zoning Commission was held

a. This section will be completed after the hearing.

24. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments: Garden City Engineer, Department of Environmental Quality and Fairview Acres.
- d. Written Public Comments: None provided
- e. Staff report
- f. December 16, 2020 Planning and Zoning Commission Hearing Minutes
- g. December 16, 2020 Planning and Zoning Commission Hearing Audio
- h. January 20, 2021 Planning and Zoning Commission Hearing Minutes
- i. January 20, 2021 Planning and Zoning Commission Hearing Audio
- j. February 17, 2021 Planning and Zoning Commission Hearing Minutes
- k. February 17, 2021 Planning and Zoning Commission Hearing Audio
- l. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

25. 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 Planning and Zoning Commission will select the corresponding conclusions and explanations during their decision. Potential explanations have been provided.			
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X		X	<p>Finding: 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 use Manufactured Mobile Home Park is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p>

			<p>In Denial: The use Manufacture/Mobile Home Park 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>
X		X	<p>Finding: 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: There are public services available that can accommodate the proposed development.</p> <p>In Denial: The use might not be supported by adequate public facilities or services to the surrounding area due to the Fire Flow and Will Serve Letters not being submitted and reviewed in a timely manner.</p>
X		X	<p>Finding: The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>In Approval: The use of Manufactured/Mobile Home Park will not be detrimental to the public health, safety, or general welfare of the Community.</p> <p>In Denial: Allowance of the expansion of this park without a review finding that the park can be compliant with code could create an administrative burden and cause undue hardship if compliance cannot be met.</p>
X		X	<p>Finding: 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 Mixed Use Commercial. And is supports the Comprehensive Plan's:</p> <p>Goal 1. Nurture the City</p> <p>a.) 1.4 Objective: Create a premier destination place to live, work, and recreate</p> <p>Goal 2. Improve the City Image</p> <p>a.) 2.1 Objective: Encourage new and distinctive neighborhoods</p> <p>b.) 2.3 Objective: Promote quality design and architecturally interesting buildings</p> <p>c.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city's urban setting</p> <p>Goal 4. Emphasize the "Garden" in Garden City</p> <p>a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art</p> <p>Goal 6. Diversity in Housing</p> <p>a.) Maintain the diversity of housing</p> <p>b.) 6.2.2 Partner with private developers and other agencies in maintaining a supply of affordable housing. Use the city's positive experiences as examples for other communities to follow</p> <p>Goal 7. Connect the City</p> <p>a.) 7.1 Objective: Create pedestrian and bicycle friendly connections</p> <p>b.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</p> <p>In Denial:</p> <p>The application is not cohesive with the Comprehensive Plan's designation of the Mixed Use Commercial as it does not support the Comprehensive Plan's:</p> <p>Goal 2 Improve the City Image</p> <p>a.) 2.2.2 Work with private property owners, and neighborhood and</p>
--	--	--	--

			<p>business associations to ensure compliance with property maintenance standards.</p> <p>Goal 4 Emphasize the "Garden" in Garden City</p> <p>a.) 4.3.1 Continue to require sidewalks and landscaping in all new development, and in major alterations and re-use of existing commercial sites</p> <p>Goal 6 Diversity in Housing</p> <p>a.) 6.1.2 Create disincentives for the continuance of substandard housing units by continue the aggressive enforcement of health and safety violations of the building and fire code.</p> <p>Goal 7 Connect the City</p> <p>a.) 7.4.4 Develop alternative design and development standards to create safer and neighborly internal streets appropriate for the use.</p> <p>Goal 8 Maintain a Safe City</p> <p>a.) 8.1.1 Continue to reduce crime in the city by enforcing nuisance codes and standards for safe and healthy housing.</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:

Prior to Occupancy:

1. Occupancy of any new unit shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. This approval does not constitute approval of the site plan. For approval of the landscaping and site plan, a Design Review Application shall be applied for and approved by staff prior to occupancy of any new unit.
3. Prior to the occupancy of any of the new units:
 - a. Park plans shall be reviewed and approved showing compliance with all of 8-4J including but not limited to:
 - i. Common open space location and dimensions;
 - ii. Landscaping;
 - iii. Space dimensions, parking, storage, patios, etc.;
 - iv. Unit number identification of each space.
 - b. The park identification sign shall be installed and in compliance with GCC 8-4J.
 - c. A public works and utility permit shall be submitted for review and approval and associated site work shall be completed in accordance with the approved plans that:
 - i. The interior road shall be surfaced in accordance with standards identified in GCC 8-4J.
 - ii. A detached sidewalk shall be installed adjacent to E. 45th Street in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
 - iii. Landscaping and street trees adjacent to E. 45th Street shall be installed and inspected for compliance with Garden City Code 8-4I.
 - iv. New water and sewer lines shall be installed to the new units in accordance with Garden City Code and permit standards.
 - v. New homes and associated spaces shall be reviewed and inspected and found to be complaint with applicable regulations.
 - vi. A 4' wide pedestrian pathway system shall be installed to connect the detached sidewalk to all primary entrances of all manufacture/mobile homes in the park in accordance with GCC 8-4E-7 Pedestrian and Bicycle Accessibility Standards.
 - d. Individual units shall provide a manufactured home install permit to ensure compliance with space specific requirements.
 - e. Any units that are not depicted in their designated spaces on the approved plan shall be removed.
 - f. A surety that is complaint with Garden City regulations and procedures with a duration of up to three years may be submitted for the installation of the required:

- i. Perimeter landscaping.
- ii. Common open space.
- iii. Interior pedestrian pathways to all units.
- iv. Upgraded water and sewer lines to each units, common area, and landscaping areas.

Site Specific Requirements for the Duration of the Use:

1. The park shall adhere to all Garden City Code 8-4J Manufactured and Mobile Home Provision standards. The individual spaces that are currently not code compliant may remain as is units are removed and replaced.
2. All existing and proposed fencing shall comply with Garden City Code 8-4A-3 Fences and Walls.
3. Two vehicular parking spaces, 9' x 21', shall be provided on each mobile home space and surfaced accordance with GCC 8-4D, "Parking And Off Street Loading Provisions".
4. Each manufactured/mobile home park space shall be no less than four thousand (4,000) square feet of land area, not including common area, for each mobile home space.
5. Each new or expanded manufactured/mobile home park shall provide a minimum of one hundred fifty (150) square feet of area for each mobile home space for the common use of the occupants of said spaces. The common area shall not include the minimum setbacks or the manufactured/mobile home space, nor shall it include parking or garbage areas.
6. Clear vision triangles shall be maintained in accordance with GCC 8-4E-4.
7. All new homes installed in the park, and all existing homes that which request alterations, shall meet all of Garden City Code standards, specifically that of GCC 8-4J.

General Requirements

1. Any changes in the design, construction, operation, or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.

3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.
6. All improvements and operations shall comply with applicable local, state and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations.
7. The property owner is responsible to maintain the site to edge of roadway asphalt.
8. If there are any tree grates, they shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right of way.
9. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead and diseased plant materials shall be replaced.
10. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
14. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
15. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species. All other plant material, except sod or ground cover, shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
16. The landscape installation shall stabilize all soil and slopes.
17. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.

18. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
19. This approval is for this application only. Additional permits, licenses and approvals may be necessary.
20. Property maintenance standards shall be maintained as required by Garden City Code.
21. The property owner is responsible for the maintenance of all landscaping and screening devices required.
22. All outdoor living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
23. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
24. All stormwater systems must comply with Garden City Code 8-4A-7.
25. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.
26. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision-making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
27. No change in terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his or her authorized representative and an authorized representative of the reviewing agency. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Garden City.
28. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
29. Any violation of the conditions of this application is a criminal offence.
30. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
31. All previous uses are null and void unless otherwise conditioned.
32. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
33. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
34. This approval shall expire 365 days from its approval if the application specific conditions of approval have not been met, 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.

Chairman, Planning and Zoning Commission

Date

STANDARD CONDITIONS FOR DENIAL DECISION

1. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within ten (10) days after the action of the decision.
2. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
3. 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.
4. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
5. 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.

Chairman, Planning and Zoning Commission

Date