

BEFORE THE PLANNING AND ZONING COMMISSION
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)	SGNFY2022-0038
)	
Conditional Use Permit)	FINDINGS OF FACT,
3725 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 15, 2023. The Planning and Zoning Commission reviewed the application, materials submitted, and appeal documents. 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 AND PROCEDURAL HISTORY

1. The requested permit is for the installation of a single face non-illuminated flat cut out Dibond composite aluminum letters wall sign.
2. There has been no denial of any application on this property within one year.
3. The applicant is Dan Conlin of Idaho Electric Signs.
4. The owner of record is March Holdings LLC.
5. The location of the project is 3725 W Chinden Blvd. Garden City, ID 83714. Ada County Parcel # R2734511345.
6. This appears to be a legal lot of record.
7. There is a certificate of occupancy or certificate of compliance for the subject business:
 - a. The business has applied for permits that will render a certificate of occupancy or compliance.
8. There is not a master sign plan on file for the subject property.
9. The following application materials have been provided:
 - a. Site Plan
 - b. Affidavit of Legal Interest – needs a revised form with the owner as March Holdings LLC
 - c. Sign Layout

- d. Application Materials
10. The following files/approvals are associated with this application:
 - a. BLD2006-00160
 - b. DEV2005-00316
 - c. PWU2006-00159EAP2006-00046
 - d. SGN2007-00014
11. The following standards apply to this proposal:
 - a. Garden City Code 8-4F-2: Definitions
 - b. Garden City Code 8-4F-5: Sign Districts Established
 - c. Garden City Code 8-4F-8: Exempt Signs
 - d. Garden City Code 8-4F-9: Prohibited Signs
 - e. Garden City Code 8-4F-10: General Regulations
 - f. Garden City Code 8-4F-11: Regulations for Specific Sign Districts
 - g. Garden City Code 8-4F-12: Regulations for Specific Sign Categories
 - h. Garden City Code 8-4F-14: Abandoned Signs
 - i. Garden City Code 8-4F-15: Nonconforming Signs
12. The application was received on August 19, 2022.
13. The application was reviewed and denied on November 3, 2022. Notice of denial was sent to the applicant via email on November 3, 2022. Notification of the right to appeal was noted at 15 days from the date of decision.
14. The 15 day right to appeal was set for November 18, 2022. The applicant was made aware.
15. The appeal application and affidavit of legal interest was submitted in a timely manner on November 17, 2022.
16. Corrected affidavit of legal interest was submitted on December 14, 2022.
17. Invoice receipt for appeal fee was processed on January 9, 2023.
18. The applicant was notified on January 23, 2023 of the scheduled hearing date, scheduled for February 15, 2023.
19. On February 15, 2023, a public hearing before the Planning and Zoning Commission was held:
 - a. This The Chairman introduced the application and reviewed the procedures of the appeal in its entirety.
 - b. The appellant, Dan Conlin, presented the application.
 - c. Respondent, Hanna Veal, presented the staff report.
 1. Not compliant with Garden City Code 8-4F-12.
 2. No entrance to the parking area, there is an ADA ramp to front of property however.

3. Does not qualify as a directory sign.
- d. The appellant, Dan Conlin and property owner, Wayne March, provided rebuttal:
 1. The parking lot is difficult to see from the W. Chinden right-of-way.
 2. There is an existing ADA accessible ramp or walkway from the parking lot to the primary entrance which faces W. Chinden Blvd.
 3. The side of the building which has the sign on it also has a two-foot gap in grade between the parking lot and the building's walls. The only way to get from the parking lot, up to the existing structural grade, would be to utilize the ADA ramp.
 4. No way to put a door on the side of the building next to the parking lot.
- e. Deliberations included:
 1. Commissioner Montoya: There is parking "associated with" a clear public entrance by utilization of the ADA ramp.
 2. Commissioner Brown: Affirm decision based on grounds for affirmation.
 3. Existing sign location does not help direct traffic from the arterials. It does not impact the knowledge of how to enter the building.
 4. People will see the existing free-standing sign along W. Chinden Blvd.
 5. Commissioner Sheppard 8-4F-12 "associated" with a clear public entrance vs. "having" a clear public entrance.
 6. Enhances public safety by clearly defining the designated parking lot to the business.
 7. Chairman Rasmussen: reverse the decision based on the ramp being a reasonable enough entrance.
 8. Commissioner Wilde: condition the approval to require further design aspects within the sign to help identify the location of the primary entrance.
- f. Committee Member Montoya moved to reverse the Planning Official's decision and affirm the appeal with conditions:
 1. An additional sign element shall be installed to the existing sign to further identify the direction in which patrons would travel to find the primary entrance to the building, for example, an arrow.
 2. There shall be no secondary sign, and the directional indicator shall be smaller and secondary in nature compared to the primary sign.
- g. Committee Member Wilde seconded the motion.
- h. Commissioners in favor: Sheppard, Montoya, Rasmussen, Wilde.
- i. Commissioners opposed: Brown.
- j. The motion passed on a 4/1 vote with Committee Member Brown dissenting.

20. The record contains:
 - a. Application documents
 - b. Staff level review

- c. Appeal application and affidavit of legal interest
- d. Appeal memorandum from staff
- e. Appeal procedures
- f. February 15, 2023 Planning and Zoning Commission Hearing Minutes and Audio
- g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

21. The record was reviewed by the Planning and Zoning Commission to render the decision.

CONCLUSIONS REGARDING ISSUES RAISED ON APPEAL

Per Garden City Code 8-6A-9, the Planning and Zoning Commission shall determine whether the application should be: granted, granted with conditions, remanded to the Planning Official for additional review and findings, or be denied. In conjunction with code, the Garden City administrative rules indicate the Planning and Zoning Commission may: affirm, vacate, remand, and/or reverse the Planning Official's decision.

The Planning and Zoning Commission is tasked with determining whether or not the Planning Official made the decision in accordance with applicable laws and regulations. The Commission makes its decision on the record presented in front of the Planning Official and supplemental evidence provided by the appellant and respondent.

Planning and Zoning Commission decisions shall: determine whether the application or petition should be, in part or in the entirety, granted, granted with conditions, remanded to the decision maker (Planning Official) for additional proceedings and findings, or denied. The Planning and Zoning Commission's actions shall mean the following:

1. Affirm: to agree with and confirm the Planning Official's decision (whether the Planning Official's decision was to grant, grant with conditions, or deny the application or petition).
2. Vacate: to cancel or render the Planning Official's decision null and void (whether the Planning Official's decision was to grant, grant with conditions, or deny the application or petition).
3. Remand: to send back to the Planning Official for additional proceedings and findings. A remand shall include either specific issues to be considered alone or direction that the Planning Official opens the entire application for de novo review.
4. Reverse: to change the Planning Official's decision so that the decision of the Planning Official is overturned (whether the Planning Official's decision was to grant, grant with conditions, or deny the application or petition).

Grounds for affirming the decision by the Planning Official (whether the Planning Official's decision was to grant, grant with conditions, or deny the application or petition): the following may serve as grounds for affirming the Planning Official's decision:

1. If the Planning Official's findings, inferences, conclusions, or decisions are not in violation of constitutional or statutory provisions;

2. If the Planning Official's findings, inferences, conclusions, or decisions are not in excess of the statutory authority of the agency;
3. If the Planning Official's findings, inferences, conclusions, or decisions are not made upon unlawful procedure;
4. If the Planning Official's findings, inferences, conclusions, or decisions are supported by substantial evidence on the record as a whole;
5. If the Planning Official's findings, inferences, conclusions, or decisions are not arbitrary, capricious, or an abuse of discretion.

Grounds for vacating, remanding, or reversing the decision by the Planning Official (whether the Planning Official's decision was to grant with conditions, or deny the application or petition): the following may serve as grounds for vacating, remanding, or reversing all or part of a Planning Commission decision:

1. If the true intent of Title 8 of the Garden City Code or the codes adopted thereunder have been incorrectly interpreted by the Planning Official;
2. If the provisions of Title 8 of the Garden City Code or the codes adopted thereunder do not apply or an equally good or better form of construction should have been applied by the Planning Official;
3. If findings made by the Planning Official as a basis for its action are not supported by the weight of the evidence;
4. If there is a significant error in the application of the provisions of Title 8 or other provisions of the City Code that is important to sustaining the action by the Planning Official;
5. If it is determined that there is a significant violation of the notice provisions of the codes enumerated in Title 8 of the Garden City Code;
6. If significant errors are discovered that were committed by the Planning Official or in the materials provided to the Planning Official;
7. If there is a significant error in the application of approved City policies that is important to sustaining the action taken by the Planning Official.

DECISION

WHEREFORE, based upon the foregoing opinion, the Planning and Zoning Commission reverses the Planning Official's decision. As such, the Commission approves the sign permit for a wall sign located at 3725 W. Chinden Blvd., Ada County Parcel: R2734511345; Garden City, Idaho 83714 with the following conditions:

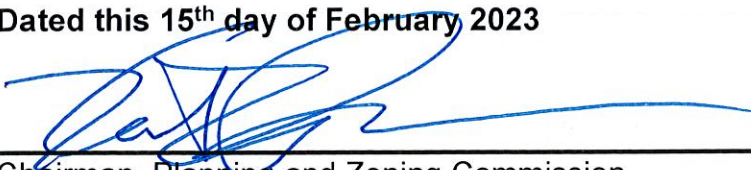
1. An additional sign element shall be installed to the existing sign to further identify the direction in which patrons would travel to find the primary entrance to the building, for example, an arrow.
 - a. There shall be no secondary sign, and the directional indicator shall be smaller and secondary in nature compared to the primary sign.

The decision of the Commission shall be final. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Title 67, Chapter 65 of Idaho Code. Any applicant or affected person seeking judicial review of compliance

must first seek reconsideration of the final decision within fourteen (14) days. A takings analysis pursuant to Idaho Code may be requested on final decisions.

Commission Members to Concur: Sheppard, Montoya, Rasmussen, Wilde
Commission Members to Dissent: Brown

Dated this 15th day of February 2023



Chairman, Planning and Zoning Commission

February 15, 2023

Date