

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

| | | | |
|--------------------------------|---|--------------------|---|
| In the Matter of: |) | REZONE2020-08 |) |
| Rezoned to C-2 |) | FINDINGS OF FACT, | |
| 3801 N. Adams St. |) | CONCLUSIONS OF LAW | |
| Garden City, Ada County, Idaho |) | AND RECOMMENDATION | |
| <hr/> | | | |

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on August 19, 2020. 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 application is for a rezoned of a property in the R-3 Medium Density Residential District to the C-2 General Commercial District.
2. The applicant is Robert O'Dell.
3. The property owner of record is Deslyn O'Dell.
4. The location of the project is 3801 n. Adams St.; Ada County Assessor parcel number(s) R2734502637
5. The property is a legal lot of record.
6. The scope of the rezoned is limited to the entire property.
7. The subject property is 0.445 acres.
8. The project is located in the Main Street Corridor and Mixed-Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
9. The project is in the AE flood hazard category according to the 2003 FIRM.
10. The project is in the AE flood hazard category according to the 2017 FIS.
11. 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 8-1C-3 property Maintenance Standards
 - d. Garden City Code 8-2B-1 Purpose
 - e. 8-2B-2 Allowed Uses
 - f. Garden City Code 8-2B-3 Form Standards
 - g. Garden City Code 8-6A-3 General Application Process

- h. Garden City Code 8-6A-4 Required Application Information
- i. Garden City Code 8-6A-7 Public Hearing Process

12. 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. Old Town Circulation network plan

13. The applicant provided the following application information:

| Materials Provided Per GCC Table 8-6A-2 Required Application Information | | | |
|---|----|-------------------------------|---------------------------------------|
| Provided | | | |
| Yes | No | Waived pursuant to GCC 8-6A-4 | |
| X | | | Compliance Statement |
| X | | | Preliminary Title Report |
| X | | | Neighborhood Map |
| | | X | Master Plan |
| | | X | Site Plan |
| X | | | Topographic Survey |
| | | X | Natural Hazard and Resources Analysis |
| | | X | Dedications and Easements |

14. Additional application materials submitted include:

- a. 300' Neighborhood List;
- b. Affidavit of Legal Interest;
- c. Application;
- d. Neighborhood Sign-In Sheet;
- e. Recorded Neighborhood Meeting;
- f. Statement of Intent.
- g. Waiver Request

15. Agency Comments were received from:

- a. Ada County Highway District on August 11, 2020.

16. No Public Comments were received.

17. The following noticing was completed in accordance with GCC 8-6A and GCC 8-6B-3:

| Noticing Requirement | Required Date | Completion Date |
|---|----------------------|------------------------|
| Receipt of application here | July 14, 2020 | June 19, 2020 |
| Letter of Acceptance (30 days after receipt of application) | August 14, 2020 | July 22, 2020 |
| Radius Notice (15 days prior to hearing) | August 4, 2020 | July 23, 2020 |
| Interested Parties | | n/a |

| | | |
|---|-----------------|----------------|
| Legal Notice (19 days) | July 31, 2020 | July 24, 2020 |
| Agency Notice (15 days) | August 4, 2020 | July 23, 2020 |
| Property Posting Sign (10 days) | August 9, 2020 | August 8, 2020 |
| Affidavit of Property Posting and Photos (7 days) | August 12, 2020 | August 4, 2020 |
| Neighborhood Meeting | July 13, 2020 | July 8, 2020 |

18. On August 19, 2020, in accordance with GCC 8-6B-10, a public hearing before the Planning and Zoning Commission was held. The Commission provided the following comments and requests:

- a. **ZONFY2020-08:** Robert O'Dell with Key2 Homes, LLC is requesting approval of a rezone application for 3801 N. Adams St.; Ada County Parcel R2734502637. The 0.445 acre site is proposed to be rezoned from medium density residential (R-3) to General Commercial (C-2).
 - i. Hannah Ball and Robert O'Dell presented the application.
 - ii. Staff, Hanna Veal, presented the staff report.
 - iii. No one from the public wished to provide testimony.
 - iv. Public testimony was closed.
 - v. Discussion:
 1. Add conditions of approval to require the installation of a detached sidewalk as part of any future development application.
 2. Applicant does not believe that this specific site warrants a home daycare, a use permitted in the M zoning district.
 3. A development agreement would help to limit the uses that which are normally permitted in C-2 zoning but would not fit the desired use of the proposed property.
 4. CC&R's could be added to the development to help limit the uses within the parcel.
 5. Commissioner Wilde is supportive of the rezone from R-3 to C-2 with any concerns for uses to be addressed in a development agreement.
 - vi. Commissioner Rasmussen moved to not recommend to City Council the application for rezone from R-3 to C-2. Planning and Zoning does consider approving a future application for this same parcel if the rezone were to be from C-2 to M. Amend the draft conditions of approval for the construction of sidewalks upon submittal of future development.
 - vii. Commissioner Pounds seconded the motion.
- b. The motion carried 2/1 in favor of the motion.

19. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments: ACHD
- d. Written Public Comments: None provided
- e. Staff report
- f. August 19, 2020 Planning and Zoning Hearing Minutes
- g. August 19, 2020 Planning and Zoning Hearing Audio
- h. Planning and Zoning Signed Findings of Fact, Conclusions of Law and Decision

20. In order to approve a rezone application, the Planning and Zoning Commission shall make the following findings:

| GCC 8-6B-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS | | | |
|---|------------------------------------|---------------|--|
| Conclusion | | | Standard |
| Compliant | Not Applicable to this Application | Not Compliant | |
| | | X | <p>Standard: The zoning map amendment complies with the applicable provisions of the comprehensive plan;</p> <p>Explanation:</p> <p>An application to rezone to M, Mixed Use, better aligns with the Garden City Comprehensive Plan's goals for the Main Street Corridor and Mixed-Use Commercial districts.</p> |
| | X | | <p>The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</p> <p>Explanation:</p> <p>This is a proposal to rezone a property. There are no proposed changes to the zoning district regulations.</p> |
| | | X | <p>The zoning map amendment shall not be materially detrimental to, or impacts can be mitigated that affect, the public health, safety, and welfare or impacts;</p> <p>Explanation:</p> <p>In Denial:</p> <p>The rezoning of the property in a manner that is inconsistent with the Comprehensive Plan may negatively impact the City's ability to achieve the desired vision as identified in the Comprehensive Plan.</p> <p>Uses that which are permitted within the C-2 zoning ordinance that may be considered detrimental to the Comprehensive Plan's vision include but are not limited to those involving vehicle uses and/or sales and more industrial uses.</p> |

| | | | |
|---|---|--|---|
| X | | | <p>The zoning map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts;</p> <p>Explanation:</p> <p>In Approval: A rezone of the subject property should not affect the City's ability to provide services to the subject property.</p> |
| | X | | <p>The annexation of land, if proposed, is in the best of interest of the city and complies with the procedures as set forth in Idaho Code section 50-222.</p> <p>Explanation:</p> <p>The application is not for an annexation of land.</p> |

21. 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, and based on the conditions required herein, recommends to City Council that the application **does not meet** the standards of approval under **GCC 8-6B-10 Zoning Map Amendment and Annexation**.

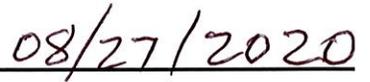
DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Design Review Committee hereby **RECOMMENDS DENIAL** of the application, subject to the following conditions:

1. While the Planning and Zoning Commission has recommended denial of the application to rezone the subject property to C-2 General Commercial, the Commission has noted that a rezone request to M would have resulted in a favorable recommendation.
2. Every final decision is subject to a regulatory taking analysis pursuant to section [67-8003](#), Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section [67-6521\(1\)\(a\)](#), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by [chapter 52, 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. 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