

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:	)	REZONE2022-0001
	)	
Rezone to C-2	)	FINDINGS OF FACT,
4810 N Adams St.	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND RECOMMENDATION
_____	)	

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on September 21, 2022 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 rezone of a property in the R-3 Medium Density Residential District to the C-2 General Commercial District.
2. The applicant is Michael Miraglio.
3. The property owner of record is Bliss Properties, LLC.
4. The location of the project is 4810 N. Adams St.; Ada County Assessor parcel number(s) R2734523135.
5. The property is a legal lot of record.
6. The scope of the rezone is limited to the entire property.
7. The subject property is .274 acres.
8. The project is located in the R-3 Medium Density Residential
9. The project is located in the Mixed-Use Residential Area of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the not located in the SFHA according to the 2003 FIRM.
11. The project is in the AE flood hazard category according to the 2017 FIS.

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 8-1C-3 Property Maintenance Standards
  - d. Garden City Code 8-2B-1 Purpose
  - e. Garden City Code 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
  
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
  
14. 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

15. 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. Site Photos; and
  - g. Statement of Intent.
  - h. Waiver Request

16. Agency Comments were received from:  
 a. Department of Environmental Quality 8/12/2022

17. No Public Comments were received

18. 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	8/16/2022	7/27/2022
Letter of Acceptance (30 days after receipt of application)	9/15/2022	8/17/2022
Radius Notice (15 days prior to hearing)	9/6/2022	9/1/2022
Interested Parties	None	None
Legal Notice (19 days)	9/2/2022	8/31/2022
Agency Notice (15 days)	9/6/2022	8/11/2022
Property Posting Sign (10 days)	9/11/2022	09/11/2022
Affidavit of Property Posting and Photos (7 days)	9/14/2022	09/12/2022
Neighborhood Meeting	8/15/2022	6/17/2022

19. On September 21, 2022, a public hearing before the Planning and Zoning Commission was held:

- a. **This section will be completed after the hearing**

20. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. September 21, 2022 Planning and Zoning Hearing Minutes
- g. September 21, 2022 Planning and Zoning Hearing Audio
- h. Planning and Zoning Signed Findings of Fact, Conclusions of Law and Decision

21. In order to approve a rezone 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-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X	X	X	<p><b>Finding 1:</b> The zoning map amendment complies with the applicable provisions of the comprehensive plan;</p> <p><b>Explanation:</b>  <b>In Approval:</b>            The application to rezone to C-2, General Commercial, achieves Garden City's Comprehensive Plan's goals for the Main Street Corridor and Mixed-Use Residential Districts.</p> <p><b>In Denial:</b>            An application to rezone to C-2, General Commercial, does not achieve Garden City's Plan's goals for the Main Street Corridor and Mixed-Use Residential districts.</p>
X			<p><b>Finding 2.</b> The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</p> <p><b>Explanation:</b>  <b>In Approval:</b> This is a proposal to rezone a property. There are no proposed changes to the zoning district regulations.</p>
X	X	X	<p><b>Finding 3.</b> 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><b>Explanation:</b>  <b>In Approval:</b>            The rezoning of the property to C-2 general commercial is consistent with the Comprehensive Plan's Main Street</p>

		<p>Corridor vision. The rezoning of the property consistent with the Comprehensive Plan may assist in the City's ability to achieve the desired vision as identified in the Comprehensive Plan.</p> <p><b>In Denial:</b> 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><b>Finding 4.</b> 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><b>Explanation:</b> <b>In Approval:</b> A rezone of the subject property should not affect the City's ability to provide services to the subject property. Any future development on this property will need to demonstrate adequate ability to serve. The associate conditional use is conditioned to provide an ability to serve document.</p>
	X	<p><b>Finding 5.</b> 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 <a href="#">50-222</a>.</p> <p><b>Explanation:</b> <b>Not Applicable:</b> The application is not for an annexation of land.</p>

22. 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 **meets/ 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 APPROVAL/DENIAL** of the application, subject to the following conditions:

### POTENTIAL CONDITIONS FOR APPROVAL DECISION

#### Site Specific Requirements:

##### Prior to Occupancy:

1. The applicant shall submit a Record of Survey to the City depicting the scope of the zoning map amendment for review and approval. The approved Record of Survey shall be recorded prior to the City adopting the ordinance to rezone the property from R-3 Medium Density Residential to C-2 General Commercial.
2. This rezone decision document is not granting the approval of any specific use.
3. Evidence that the property is of legal lots of record is required at least two weeks prior to the scheduled City Council hearing date of October 10, 2022.

#### General Requirements:

1. If this rezone is a result of a request by a property owner based upon a valid, existing comprehensive plan and zoning ordinance, the governing board shall not subsequently reverse its action or otherwise change the zoning classification of said property without the consent in writing of the current property owner for a period of four (4) years from the date the governing board adopted said individual property owner's request for a zoning classification change. If the governing body does reverse its action or otherwise change the zoning classification of said property during the above four (4) year period without the current property owner's consent in writing, the current property owner shall have standing in a court of competent jurisdiction to enforce the provisions of this section.

2. This review and approval is specific to the design of the project. Final approval is subject to the approval of other reviewing agencies. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail. This approval shall not annul any portion of Garden City Code or other applicable regulation unless specifically noted.
3. 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.
4. 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; 8-4I-3 and Landscape Maintenance Provisions 8-4I-9; and Standards for Transportation and Connectivity Provisions identified in 8-4E.
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. Driveway openings in curbs shall comply with the requirements of the Transportation Authority. The driveway shall be straight or provide a 28-foot inside and 48-foot outside turning radius.
7. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
8. 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.
9. A three-foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
10. 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.
11. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants. Use of mulch, organic or rock as the only ground cover in required planting areas is prohibited.
12. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
13. 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.
14. 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.
15. 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. All other applicable permits must be obtained prior to a Certificate of Occupancy.
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. 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.
23. 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 modification to approved plans shall require submittal and approval of these modifications prior to construction. Final approval is based on substantial conformance with the plans reviewed and approved.
24. Any substantial changes to the design shall be reviewed by the Design Review Committee for compliance with Garden City Code 8-4. Any other changes that are not in substantial conformance with the approval shall be remanded to the decision-making body.
25. Occupying the site prior to Certificate of Occupancy is a criminal offense.
26. There is a 15 day right to appeal to City Council. The applicant or any interested parties may appeal the decision or a part of the decision. 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.
27. 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.

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Chairman, Planning and Zoning Commission

Date



## STANDARD CONDITIONS FOR DENIAL DECISION

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 or a Development Agreement to limit the permitted uses 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.

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Chairman, Planning and Zoning Commission

Date