

BEFORE THE CITY COUNCIL
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:)	REZONE2022-0002
)	
Rezone to C-2)	FINDINGS OF FACT,
520 E. 40 th Street)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho)	AND DECISION
_____)	

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on November 28, 2022. The Garden City Council reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the City Council 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 Francis Fallon.
3. The property owner of record is Brooklyn Park, LLC.
4. The location of the project is 520 E. 40th St.; Ada County Assessor parcel number(s) R2734560180.
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 0.650 acres.
8. The project is located in the R-3 Medium Density Residential
9. The project is located in the Mixed-Use Residential and the Neighborhood Destination activity Node of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the SFHA according to the 2003 FIRM.
11. The project is in the AE flood hazard category according to the 2020 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. Republic Services, October 19, 2022

b. City Engineer, November 6, 2022

17. Public comments were received from:
- a. There were no public comments received as of the drafting of this document.
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		09/27/2022
Letter of Acceptance	10/27/2022	
Radius Notice	11/01/2022	10/20/22
Interested Parties	None	None
Legal Notice	10/29/2022	10/25/2022
Agency Notice	11/01/2022	10/19/2022
Property Posting Sign	11/16/2022	11/07/2022
Affidavit of Property Posting and Photos	11/09/2022	11/07/2022
Neighborhood Meeting	11/06/2022	5/25/2022

19. On November 16, 2022, a public hearing before the Planning and Zoning Commission was held:
- a. At the beginning of the meeting the Chairman asked if the applicant was in attendance and if they agreed with the draft findings of fact conclusion of law and recommended decision in the affirmative, if there was any member of the public who wished to testify in opposition to the application, or if the staff or any member of the Commission have any reason that the application should be heard.
 - b. The applicant, Francis Fallon noted that he was in attendance and that he agreed with the decision and conditions as drafted in the affirmative.
 - c. There was no one from the public who wished to testify.
 - d. The staff nor any member of the Commission noted a reason this item needed to be heard.
 - e. The application was moved to the consent agenda and approved.
20. On November 28, 2022, a public hearing before the City Council was held:
- a. **This section will be completed to reflect the hearing proceedings.**
21. The record contains:
- a. Application Documents
 - b. Noticing Documents
 - c. Agency Comments
 - d. Written Public Comments
 - e. Staff report

- f. November 16, 2022, Planning and Zoning Hearing Minutes & Audio
- g. November 28, 2022, City Council Hearing Minutes & Audio
- h. Planning and Zoning Signed Findings of Fact, Conclusions of Law and Decision

22. In order to approve a rezone application, the Garden City Council shall make the following findings:

The draft findings are drafted as recommended by the Planning and Zoning Commission.			
GCC 8-6B-10 Zoning Map Amendment and Annexation: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p>Finding 1: The zoning map amendment complies with the applicable provisions of the comprehensive plan;</p> <p>Explanation: The application to rezone to C-2, General Commercial, achieves the Garden City's Comprehensive Plans Goals for the Neighborhood Destination Activity Node.</p>
X			<p>Finding 2. The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;</p> <p>Explanation: This is a proposal to rezone a property. There are no proposed changes to the zoning district regulations.</p>
X			<p>Finding 3. 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: The rezoning of the property to C-2 General Commercial is consistent with the Comprehensive Plan's Neighborhood Destination Activity Node vision.</p>

			Rezoning of the property will assist in the City's ability to achieve the desired neighborhood vision as identified in the Garden City Comprehensive Plan.
X			<p>Finding 4. 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: This is only a rezone application. Any future development on this property will need to demonstrate adequate ability to serve.</p>
	X		<p>Finding 5. 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: The application is not for an annexation of land.</p>

23. The record was reviewed by the City Council to render the decision.

CONCLUSIONS OF LAW

The City Council reviewed the application with regard to Garden City Code, and based on the conditions required herein, the City Council concludes that the application **meets/ does not meet** the standards of approval under **GCC 8-6B-10 Zoning Map Amendment**.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council hereby does **SUSTAIN/MODIFY/REJECT** the Planning and Zoning Commission recommendation and **APPROVES/ DENIES** of the application, subject to the following conditions:

1. 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.
2. 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) daytime 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.

3. 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.

Mayor, John Evans

Date

DRAFT