

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.

BEFORE THE CITY COUNCIL
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:)	ZONFY2023-0002
)	
Rezone to C-2/DA)	FINDINGS OF FACT,
521 E 41 st Street/ 408 E 40 th Street)	CONCLUSIONS OF LAW
508 E 40 th Street, 4044 E Adams Street)	AND RECOMMENDATION
510 E 41 st Street, and 411 E 43 rd Street)	
Garden City, Ada County, Idaho)	
_____)	

THIS MATTER came before the Garden City Council for consideration on November 27, 2023. 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 and C-2 General Commercial District to the C-2 General Commercial District with Development Agreement.
2. The applicant is Chad Weltzin with Erstad.
3. The property owner of record is:
 - a. 6 Point Teaser Investments LLC (R2734520934, 510 E 41st Street)
 - b. Crispy Investments DE LLC (R2734520790 / R2734520795, 521 E 41st Street & 408 E 40th Street)
 - c. Parlay Investments LLC (R2734560160, 508 East 40th Street)
 - d. Smokestack Jack LLC (R2734520741, 4044 North Adams Street)
 - e. Chop It Up Investments LLC (R2734521516, 411 E 43rd Street)
4. The location of the project is:
 - a. Street Addresses: 510 E. 41st Street, 521 E. 41st Street / 408 E. 40th Street, 508 E. 40th Street, 4044 E. Adams Street, and 411 E. 43rd Street
 - b. Ada County Assigned Parcel Number(s):
 - i. 510 E 41st Street: R2734520934
 - ii. 521 E 41st Street: R2734520790

- iii. 408 E 40th Street: R2734520795
- iv. 508 East 40th Street: R2734560160
- v. 4044 North Adams Street: R2734520741
- vi. 411 E 43rd Street: R2734521516

c. Property Description¹:

- i. 510 E 41st Street: PAR #0934 OF SEC 32 4N 2E AND OF LOT 8 BLK 16 FAIRVIEW ACRES SUB NO 03 #0933-B
- ii. 521 E 41st Street & 408 E 40th Street: LOTS 27,28,29,30 BLK 15 FAIRVIEW ACRES SUB NO 03 & POR SW4SE4 SEC 32 4N 2E PAR 2 ROS 13033 IN TCA 06 #0788C #0806C #0810C; and LTS 3&4 BLK 15 FAIRVIEW ACRES SUB NO 03 & POR LT 14 BK 2 Fairview Acres Sub No 07 PAR 2 ROS 13033 IN TCA 06-34 #0762R
- iii. 508 East 40th Street: Lots 17/18 Blk 2 Fairview Acres Sub No 7
- iv. 4044 North Adams Street: NWLY 100' Of Lots ½ Blk 15 Exc R/W Fairview Acres SUB NO 03 #0740-B
- v. 411 E 43rd Street: SWLY 2 OF LOT 29 SWLY 150' OF LOT 30 LOTS 31-32 BLK 17 FAIRVIEW ACRES SUB NO 03

- 5. The subject properties are 10.141 acres.
- 6. The subject properties are located in the R-3 Medium Density Residential and C-2 General Commercial zoning districts.
- 7. The associated Garden City Comprehensive Plan land use designations are the Mixed-Use Residential, Neighborhood Destination Activity Node, and the Main Street Corridor.
- 8. The project is in the 500-year floodplain according to the 2003 FIRM.
- 9. The project is in the AE flood hazard category according to the 2020 FIS.
- 10. 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

¹ The applicant has provided legal meets and bounds descriptions that will be utilized for the ordinance.

- j. Idaho Code 67-6511
 - k. Idaho Code 67-6511A
 - l. Idaho Code 67-6519
11. The following plans and policies apply to this proposal:
- a. Garden City Comprehensive Plan
12. The applicant provided the following application information:

Materials Provided Per GCC Table 8-6A-2 Required Application Information			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

13. 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
14. Agency Comments were received from:
- a. North Ada County Fire and Rescue, October 7, 2023
 - b. Idaho Transportation Department, October 24, 2023
 - c. Idaho Department of Environmental Quality, October 26, 2023
15. Public comments were received from:
- a. Todor Azurtza, October 17, 2023
 - b. James Herbert, November 2, 2023
 - c. Jody Bennet, Blue Star properties LLC & Chris Herbert, November 3, 2023
 - d. Harlod Elg, HCE Trust, November 16, 2023 (dated October 31, 2023)

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

Initial notices		
Noticing Requirement	Required Date	Completion Date
Receipt of application	09/20/2023	09/20/2023
Letter of Acceptance	10/20/2023	09/27/2023
Radius Notice	10/03/2023	09/29/2023
Legal Notice	09/29/2023	09/25/2023 & 10/02/2023
Agency Notice	10/03/2023	09/29/2023
Property Posting Sign	10/08/2023	10/07/2023
Affidavit of Property Posting and Photos	10/11/2023	10/11/2023
Neighborhood Meeting	09/11/2023	09/06/2023

After adding a parcel at 521 E. 41st Street		
Noticing Requirement	Required Date	Completion Date
Radius Notice	10/31/2023	10/23/2023
Legal Notice	10/27/2023	10/25/2023
Agency Notice	10/31/2023	10/23/2023

After adding a parcel at 411 E. 43rd Street		
Noticing Requirement	Required Date	Completion Date
Radius Notice	10/31/2023	10/27/2023
Legal Notice	10/27/2023	10/27/2023
Agency Notice	10/31/2023	10/25/2023
Property Posting Sign	11/05/2023	11/03/2023
Affidavit of Property Posting and Photos	11/08/2023	11/06/2023
Neighborhood Meeting		11/06/2023

Noticing for the City Council		
Noticing Requirement	Required Date	Completion Date
Property Posting Sign	11/17/2023	11/17/2023
Affidavit of Property Posting and Photos	11/20/2023	11/20/2023

17. On October 18, 2023, the Planning and Zoning Commission continued the application to the date certain of November 15, 2023, per the request of the applicant. This was to address an amendment to the application.
18. On November 15, 2023, 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, Chad Weltzin, 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 why this item needed to be heard.
 - i. Staff, Jenah Thornborrow, mentioned that there was written public comment as part of the record.
 - e. The application was moved to the consent agenda and approved.
19. On November 27, 2023, a public hearing before the City Council was held:
- a. This section will be completed to reflect the hearing proceedings.
20. The record contains:
- a. Application Documents
 - b. Noticing Documents
 - c. Agency Comments
 - d. Staff report
 - e. November 15, 2023, Planning and Zoning Hearing Minutes & Audio
 - f. Planning and Zoning Signed Findings of Fact, Conclusions of Law, and Recommendation
 - g. November 27, 2023, City Council Hearing Minutes & Audio
21. In order to approve a rezone application, the decision maker shall make the following findings:

The findings have been drafted as recommended by the Planning and Zoning Commission. As this is not a predetermined decision the City Council could ammend these findings.			
GCC 8-6B-10 Zoning Map Amendment and Annexation Required Findings			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			Finding 1: The zoning map amendment complies with the applicable provisions of the comprehensive plan; Explanation: The application to rezone to C-2/DA, General Commercial with a Development

			Agreement, achieves the Garden City’s Comprehensive Plans vision identified for the Neighborhood Destination Activity Node, Main Street Corridor, and Mixed-Use Residential.
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 with a Development Agreement (DA) is consistent with the Comprehensive Plan’s land use designations Neighborhood Destination Activity Node, Main Street Corridor, and Mixed-Use Residential. Rezoning of the property to C-2/DA will assist in the City’s ability to achieve the desired neighborhood vision as identified in the Garden City Comprehensive Plan.</p>
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		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 <u>50-222</u> .

			Explanation: The application is not for an annexation of land.
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22. The record was reviewed by the Planning and Zoning Commission 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/REJECTS** the Planning and Zoning Commission recommendation and **APPROVES/ DENIES** of the application, subject to the following conditions:

1. A Development Agreement shall be recorded on the subject property that identifies:
 - a. Permissible uses.
 - b. Fee collection details, including:
 - i. The timing of the collection of impact and related permit fees.
 - ii. The impact fee schedules that will be utilized are those which are in effect at the time the agreement is executed.
 - c. Allowances for the expiration of the current entitlements file numbers, DSRFY2020-0017, DSRFY2019-0025, and DSRFY2022-0019 to be five years from the signing of the agreement.
 - d. Noise restrictions.
2. Prior to the formalization of this rezone the property consolidation survey as approved in Garden City file LLA FY2021-0005 must be recorded with Ada County.
3. Prior to the formalization of this rezone evidence that the property addressed as 4044 Adams Street is a legal lot shall be provided, or the property shall otherwise be remedied to become a legal lot.
4. 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.

5. 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.

6. 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.

November 27, 2023

Mayor, John G. Evans

Date