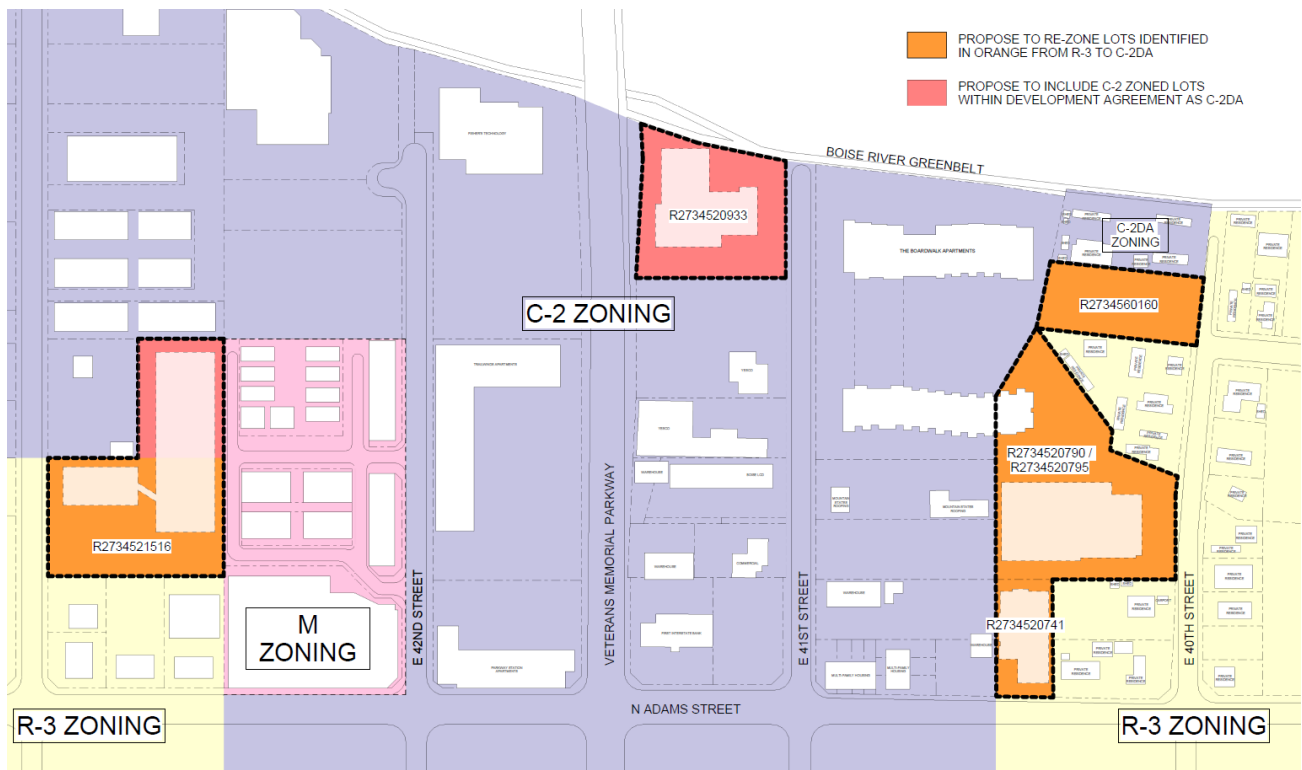




CITY OF GARDEN CITY

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Phone (208)472-2921 □ Fax (208)472-2926

STAFF REPORT
File Number: ZONFY2023-0002
Rezone: Rezone from R-3&C-2 to C-2/ DA
Location: 510 E 41st, 521 E 41st, 408 E 40th, 508 E 40th, 4044 E Adams, 411 E 43rd Street
Applicant: Chad Weltzin with Erstad
Planning and Zoning Commission Hearing Date: November 15, 2023
City Council Hearing Date: November 27, 2023



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A. Record Documents:

Individual links:

1. Application Materials
 - a) [ZONFY2023-0002 Application and Materials](#)
 - b) [ZONFY2023-0002 Application Amendment](#)
2. Staff Reports
 - a) Planning and Zoning Staff Report November 15, 2023
3. Agency Comments: linked in [Section F](#)
4. Public Comments: linked in [Section G](#)
5. Noticing Documents
 - a) [City Noticing](#)
 - b) [Property Posting for Planning and Zoning Hearing](#)
 - c) [Property Posting for City Council Hearing](#)
 - d) [Noticing of Revised Application](#)
6. [Planning and Zoning Recommendation](#)
7. [City Council DRAFT Decision Document](#)
8. [Draft Ordinance](#)
9. [Draft Development Agreement](#)

B. Recommendation:

On November 15, 2023, the Planning and Zoning Commission moved this matter to the consent agenda and recommended approval unanimously.

C. Project Information

Proposed Scope of Work: This application is for a rezone per Garden City Code 8-7A-2 Definition of Terms:

ZONING DISTRICT, BASE: General district in which all properties are divided into residential, commercial, or industrial uses and reflected on the zoning map.

Request	Review Process
Zoning map amendment	GCC 8-6B-10

Project Request Details:

- 1) Applicant: Chad Weltzin with Erstad
- 2) Owner:
 - a) R2734520934, 510 E 41st Street, 6 Point Teaser Investments LLC
 - b) R2734520790 / R2734520795, 521 E 41st Street & 408 E 40th Street, Crispy Investments DE LLC
 - c) R2734560160, 508 East 40th Street; Parlay Investments LLC
 - d) R2734520741, 4044 North Adams Street; Smokestack Jack LLC
 - e) R2734521516, 411 E 43rd Street, Chop It Up Investments LLC

3) Proposed Zoning District: C-2 General Commercial¹

Current Site Conditions:

1) Location

- a) Street Addresses: 510 E. 41st, 521 E. 41st / 408 E. 40th², 508 E. 40th, 4044 E. Adams, 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 Description³:
 - 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
- d) Legal Lot of Record: TBD
 - i) 510 E 41st, 521 E 41st Street & 408 E 40th Street: Parcel # 2 will be legal per Garden City file LLA2021-0005, pending recordation with Ada County Records
 - ii) 508 East 40th Street: Yes
 - iii) 4044 North Adams Street: Unknown
 - iv) 411 E 43rd Street: Unknown

2) Existing Use: Multi-Family/Vacant

- a) 510 E 41st Street is the mixed use, multi-family (the Boardwalk Residences)
- b) 521 E 41st Street is the mixed use, multi-family (the Boardwalk Apartments), 408 E 40th is vacant and currently entitled for multi-family (406 Place), with a portion of the Boardwalk Apartments on the lot.
- c) 508 East 40th Street is vacant.
- d) 4044 North Adams Street is vacant per demolition permit that was issued. Per Garden City file DSRFY2022-0019, the lot is entitled for apartments.

¹ Staff has suggested that a Development Agreement is appropriate. This would result in a designation of C-2/DA.

² Addresses 521 E 41st Street & 408 E 40th Street, Parcels R2734520790 and R2734520795 were consolidated in 2021 via ROS 13033, but the Ada County Assessor's still shows them as separate parcels. For the purpose of this application, the applicant has submitted as parcel R2734520790 / R2734520795. While parcel R2734520790, address of 521 E 41st Street is already zoned C-2, staff has reviewed the application to include this property as well. These addresses may change due to the lot consolidation.

³ The applicant has provided legal meets and bounds descriptions that will be utilized for the ordinance.

- e) 411 E 43rd Street per Garden City file DSRFY2020-17, the lot is entitled for apartments.
- 3) Property Size: 10.141 acres total
 - a) 510 E 41st Street: 1.189 acres
 - b) 521 E 41st Street and 408 E 40th Street: 5.818 acres
 - c) 508 East 40th Street: 0.64 acres
 - d) 4044 North Adams Street: 0.454 acres
 - e) 411 E 43rd Street: 2.04 acres
- 4) Zoning District: R-3/C-2
- 5) Comprehensive Plan Land Use Map Designation:
 - a) Mixed Use Residential
 - b) Activity Node: Neighborhood Destination
 - c) Main Street Corridor⁴
- 6) The project is in the:
 - a) 500 Year and partly in the 100 Year of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study)
 - b) 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
- 7) Surrounding Uses:
 - a) Dwelling, Single-Family
 - b) Manufactured Home/Mobile Home Park
 - c) Dwelling, Multi-family - The Boardwalk Apartments
 - d) Commercial tenants yet to be identified – The Boardwalk Project
 - e) Dwelling Unit, Single Family Attached
- 8) Adjacent Zoning:
 - a) R-3 Medium Density Residential
 - b) C-2 General Commercial
- 9) Adjacent Comprehensive Plan Designations:
 - a) Mixed-Use Residential,
 - b) Neighborhood Destination Node
 - c) Main Street Corridor⁵
- 10) Easements on site:
 - a) EASFY2021-0012: Water Main Easement
 - b) EASFY2021-0010: Pathway Easement
 - c) EASFY2021-0011: Sanitary Sewer Easement
 - d) Fairview Acres Sub 03: Plat Utility, Drainage, Irrigation Easement
 - e) Fairview Acres Sub 07: Plat Utility, Drainage, Irrigation Easement
 - f) Right-Of-Way

D. Discussion

Spot Zoning

In all rezoning applications a determination if the application constitutes illegal spot zoning is an essential item to address.

⁴ 4044 Adams Street property only.

⁵ 4044 Adams Street property only.

There are two types of spot zoning: type one and type two.

Type two spot zoning is what is generally referred to as “spot zoning” in discussions regarding spot zoning. Type two spot zoning refers to a zone change is not in accord with the comprehensive plan and that singles out a parcel of land for a use inconsistent with the permitted use in the rest of the zoning district for the benefit of the individual property owner. This type of spot zoning is not legal and should be denied.

Type one spot zoning refers to a rezoning of property for a use prohibited by the original zoning classification. This type of spot zoning is valid if the zone change is “in accord” with the comprehensive plan.

Therefore, illegal spot zoning refers to a change in the zoning designation of a property, which is out of character with the surrounding area *and* the comprehensive plan and is done for the benefit of the particular landowner instead of the benefit of the community as a whole.

Pages 53-57 of the linked [November 16, 2022, Givens Pursley Land Use Handbook](#) describes the legal parameters of spot zoning in more detail.

The applicant’s stated intent is: “...to have the flexibility to achieve higher densities than are allowed under R-3 zoning, and to create a more cohesive neighborhood with uniform dimensional standards. The parcels in question are all part of the greater Boardwalk development.

This zoning request is in keeping with the Garden City Comprehensive Plan. This area is designated Mixed-Use Residential, as well as a Neighborhood/Destination Activity Node. If granted, this zoning change will help achieve greater density and a mix of uses which, in turn, will promote greater use of public transit. It will also lead to a more cohesive neighborhood.”

The proposal would not result in a zone that is divergent from contiguous properties nor is it clearly in conflict with the Comprehensive Plan. Therefore, the staff’s analysis, and the subsequent Planning and Zoning Commission’s recommendation of this application is that it does not constitute an illegal spot zoning request.

The subject properties are all adjacent to properties in the C-2 General Commercial zoning district (C-2) as well as properties in the R-3 Medium Density Residential zoning district (R-3). Therefore, the zoning designation of C-2 will not create a uniquely entitled property with regards to other properties in the area.

The Comprehensive Plan land use designations of the subject properties are Mixed-Use Residential, Neighborhood Destination Node, and Main Street Corridor. The Comprehensive Plan land use designation of Mixed-Use Residential calls for residential and commercial uses that are residential in character and design. This can include mix of residential; small scale office and retail; and public and semi-public uses. The Neighborhood Designation Activity Node designation calls for densities and uses that facilitate making the location a destination. The Main Street Corridor designation, applicable to the 4044 Adams Street property, identifies

Adams Street as a Main Street with nodes of activity. For further discussion refer to the hyperlinked [Comprehensive Plan](#) section of this report.

The C-2 Zoning district does not preclude residential uses or uses that are compatible within a residential area and allows for the densities and uses to implement the Neighborhood Destination Activity Node and Main Street Corridor designations.

However, the C-2 General Commercial Zoning designation also permits uses that are more industrial in nature or purely auto oriented which could conflict with the Comprehensive Plan designations as well as the adjacent R-3 zoned properties. With that being said, there is not a zoning designation that would better facilitate the Comprehensive Plan's designation while limiting the uses that could conflict. To address the potential conflicts, as well as noise, the use of a Development Agreement has been proposed.

The applicant has requested that the Development Agreement also address the collection of fees and provide additional time for the current entitlements that are approved for the subject properties. There has been public comment noting concerns of the amount of time that could be dedicated to construction within the neighborhood should the extension be granted.

It should also be noted that neither the R-3 Residential nor the C-2 General Commercial zoning districts contain height restrictions. The current neighborhood includes structures that are predominantly single-story structures. Notwithstanding, per Garden City file DSRFY2019-0025 there are approvals at 521 E 41st Street for an eight-story apartment structure (in construction) and at 510 E 41st Street property for an 18-story residential structure.

E. Decision Process

General Garden City Code Provisions

The ZONFY2023-0002 application is to be processed per GCC 8-6A-7 Public Hearing.

Required Actions: The following decision processes are required for the project as governed by GCC Table 8-6A-1:

Decision	Recommendation Date	Authority/ Hearing	Decision Authority
Rezone	Planning and Zoning Commission: Hearing November 15, 2023		City Council: November 27, 2023

Required Findings:

For the approval of a ZONING MAP AMENDMENT, the decision-making body must find the application meets the following findings, found in [GCC 8-6B-10](#):

1. The zoning map amendment complies with the applicable provisions of the comprehensive plan;
2. The zoning map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;

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;
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; and
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](#).
6. There has been no denial of any application for this property within one year.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied. The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

Recommendation

The Planning and Zoning Commission is the recommending body for this application. Therefore their decision includes a recommendation to the City Council.

The Recommending Authority may take one of the following actions:

1. Recommend the City Council grant/ approve the application as applied;
2. Recommend the City Council grant/ approve the application with conditions as drafted or as amended to the City Council;
3. Recommend the City Council deny the application; or
4. Request the applicant return with revised materials for additional review.

The City Council is the final decision maker for this application.

Decision

The City Council may take one of the following actions:

1. Sustain the recommendation as presented to the City Council;
2. Modify the recommendation with conditions;
3. Reject the recommendations; or
4. Remand the application to a recommending body for additional proceedings and findings.

If there is a denial, state code requires that the decision maker identify what could be done to obtain approval.

Appeal of Decision:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is the recommending authority and the City Council is the final decision maker for the requested application. The recommendation of the Planning and Zoning Commission does not constitute a final decision on the application.

The applicant or someone with standing may request City Council to reconsider their decision. A reconsideration request may be made within 14 days of the formal decision being rendered. Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request 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.

F. Agency Comments

The following agency comments were provided:

Agency	Comment Date	Summary
North Ada County Fire and Rescue Link to Comment	10/07/2023	North Ada County Fire & Rescue District has reviewed and does not object to the proposed zoning change. General requirements are provided.
Idaho transportation Department Link to Comment	10/24/2023	Based on the size of the proposed area and its proximity to US-20/26, future development of these parcel will require submittals of trip generation to ITD, and also may require a Traffic Impact Study (TIS)
Idaho Department of Environmental Quality Link to Comment	10/26/2023	General comments provided.

G. Public Comment

The following public comment was provided:

Name	Date	Summary
Todor Azurtza	10/17/2023	Increasing the density by rezoning the applicant's properties from R-3 to C-2 will impact the neighborhood. Concerns about transport infrastructure, road traffic, and planned parking. The application does not reflect enough analysis into the benefits of the rezoning for the community and does not consider the projects under construction in the area.
James Herbert	10/2/2003	The entire block should be rezoned to avoid confusion. An extension is not appropriate as the neighbors will have to continue to endure construction.
Jody Bennet, Blue Star properties LLC & Chris Herbert	11/03/2023	It was proposed to include 3 parcels (404 E 40th St-R2734520750, owner Christopher Herbert; 400 E 40th St-R2734520731, owner Jody Bennet; and 500 E 40th St, R2734560140, owner Blue Star Properties LLC) in the rezoning from R-3 to C-2. This will create a more cohesive zoning map and create a clear path for future development.

		All R-3 parcel owners agree and have given their approval for such a change.
Harold Elg HCE Trust	11/16/2023	In favor

H. Code and Policy Analysis

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections		
Code Section	Compliance Issues	Analysis/ Discussion
Title 8, Chapter 1: General Regulations		
8-1A-4 Applicability		The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
8-1B-1 Nonconforming Properties	Compliant as Conditioned	<p>The lot line adjustment application, file LLLAFY2021-0005, will render the 408 E 40th Street property as legal once the county recognizes that it is recorded. There is a condition of approval requiring proof of recordation.</p> <p>There is not enough evidence to conclude if 4044 Adams Street is a legal lot. There is a draft condition of approval to provide such evidence or otherwise remedy the property as a legal lot.</p>
Title 8, Chapter 2: Base Zoning District Regulations		
8-2B-1 Purpose		<p>Pursuant to Garden City Code 8-2B-1D, the purpose statement of the R-3 zoning district is:</p> <p><i>The purpose of the four (4) residential districts is to provide a full range of housing products within the city in areas that are exclusively for residential uses. The four (4) districts are contrasted by the density and housing products that are allowed within each district.</i></p> <p>Pursuant to Garden City Code 8-2B-1D, the purpose statement of the C-2 zoning district is:</p> <p><i>C-2 general commercial: Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.</i></p> <p>The purpose of this request is to have the flexibility to achieve higher densities that are allowed under R-3 zoning, and to create a more cohesive neighborhood. The intent of the proposed zoning map amendment is in line with the C-2 zoning district purpose statement.</p>
8-2B-2 Allowed Uses	The rezone of the site to C-2 may be assisted by a development agreement.	The uses of commercial entertainment facility, full scale drinking establishments, drive-throughs, equipment rental and service, fuel sales, flex industry, laundry and dry-cleaning

commercial plant, RV park, Service Provider, vehicle rental, vehicle sales, and warehouse would be conditionally allowed in the C-2 zoning district whereas all these uses are prohibited in R-3.

Neighborhood and personal daycares would be allowed in the M district but are prohibited in the C-2 district but permitted in the R-3 zoning district.

The uses of commercial entertainment facility, full scale drinking establishments, drive-throughs, equipment rental and service, fuel sales, flex industry, laundry and dry-cleaning commercial plant, service provider, vehicle rental, vehicle sales, and warehouse are potentially not cohesive uses with a neighborhood destination, nor with the residential component of the mixed-use as designated in the Garden City Comprehensive Plan. A development agreement could potentially restrict these uses.

In the below chart a highlight of green is indicative of a use that is less restrictive than in the R-3 Zoning District, and a highlight of red is indicative of a use that is more restrictive than the R-3 Zoning District.

	R-3	C-2
Accessory Use*	P	P
Agriculture*	P	P
Amusement Center*		C
Animal Care Facility*		C
Artist Studio*	P	P
Bed And Breakfast*	C	P
Bicycle Sales Service, Storage, Rental		P
Building Material, Garden and Equipment*		C
Church Or Place of Religious Worship*	C	C
Club*		C
Commercial Entertainment Facility*		C
Day Care, Center*		C
Day Care, Neighborhood*	P	
Day Care, Personal*	P	
Drinking Establishment, full service*		C
Drinking Establishment, limited service*		P

Drive Through Establishment*		C
Dwelling Unit, Accessory*	P	P
Dwelling Unit, Group	C	P
Dwelling Unit, Multiple Family*	P	P
Dwelling Unit, Single Family Attached (Stated Desired Use)	P	P
Dwelling Unit, Single Family Detached	P	P
Dwelling Unit, Two-Family	P	P
Eating Establishment, full service	C	P
Eating Establishments, limited service	C	P
Equipment rental, sale, and service*		C
Financial Institution*		P
Food Products, processing*		
Food Products, small-scale processing*	C	P
Food Store*	C	P
Fuel Sales *		C
Fuel Yard		
Health Care and Social Service	C	P
Health Club*	C	P
Home Occupation*	P	P
Hospital*		C
Industry, Flex*		C
Industry, Information		P
Industry, Light*		
Kennel, Hobby*	P	P
Laboratory - Medical, Dental, Optical		P
Laundromat, Self-Service Cleaner*		P
Laundry and Dry Cleaning, Commercial Plant		C

Laundry and Dry-Cleaning Establishment		C
Lending Institution		
Lodging*		C
Manufactured/Mobile Home Park	C	C
Mortuary		C
Nursery*		P
Nursing And Residential Care*	C	C
Parking Facility	C	C
Personal Service*		P
Professional Service*		P
Public Service Facility	C	C
Public Uses	C	P
Recreational Vehicle Park*		C
Research and Development		P
Retail Production*	C	P
Retail Store		P
School*	C	C
Service Provider*		C
Sexually Oriented Businesses*		
Storage Facility, self-service		
Storage Facility or Yard*		
Storage Yard, Commercial Recreational Vehicle*		
Temporary Use*	P	P
Tobacco Entertainment Facility*		C
Tobacco Retail Store		P
Vehicle Rental *		C
Vehicle Sales *		C
Vehicle Service *		C
Vehicle Washing Facility *		
Vehicle Wrecking Yard *		
Warehouse And Storage, Wholesale *		C

		Wireless Communication Facility * <input type="checkbox"/> <input type="checkbox"/>						
8-2B-3 Form Standards	No compliance issues noted	<p>The C-2 zoning district allows for reduced setbacks, increased density, and increased lot coverage compared to the R-3 zoning.</p> <table border="1"> <thead> <tr> <th>District</th> <th>Zoning Standards</th> </tr> </thead> <tbody> <tr> <td>R-3</td> <td> Setbacks: Front: 5'/20', Rear: 15', Interior side: 0/5', Street Side: 5'. Maximum Height: n/a Maximum Lot Coverage: 70% </td> </tr> <tr> <td>C-2</td> <td> Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a </td> </tr> </tbody> </table>	District	Zoning Standards	R-3	Setbacks: Front: 5'/20', Rear: 15', Interior side: 0/5', Street Side: 5'. Maximum Height: n/a Maximum Lot Coverage: 70%	C-2	Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a
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C-2	Setbacks: Front: 5', Rear: 5' Interior Side: 5', Street Side: 5' Maximum Height: n/a Maximum Lot Coverage: n/a							
Title 8, Chapter 6, Article A: Administration								
8-6A-3 General Application Process	No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.						
8-6A-4 Required Application Information		Application waivers requested pursuant to 8-6A-4A: - Natural Hazard and Resources Analysis						
8-6A-7 Public Hearing Process	No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided a radius notice, notifications to agencies with jurisdiction, and ran a legal notice in the Idaho Statesman, at least 15 days prior to the first hearing. The applicant provided an affidavit of property posting more than 7 days in advance of the hearing validating that the property was posted more than 10 days prior to the hearing.						

Other Items Reviewed	
Plan/Policy	Discussion/ Analysis
Idaho Code 67-6511	The Local Land Use Planning Act requires that zoning ordinance including zoning districts: Establish procedures that regulate development. Provide clear and objective standards.

	<p>Be evaluated by the Planning and Zoning Commission. The Commission must consider the delivery of services and provide for a regulatory takings analysis⁶. Be compliant with the Comprehensive Plan.</p> <p>I.C. § 67-6511(d), prohibits a governing board from changing zoning for a period of four years following a property-owner requested zone change because of vested rights. If the board violates this requirement, the statute grants standing to the property owner to challenge the action, and the rule prohibiting rezoning within four years may be judicially enforced. Property owners whose zoning status is changed within four years following a zoning determination shall have standing to enforce the provisions of I.C. § 67-6511.</p>
<p>Idaho Code 67-6511A</p>	<p>A development agreement has not been proposed as a part of this application. Staff has suggested that a development agreement that aligns with the adjacent recently rezoned property to the north is appropriate.</p>
<p>Idaho Code 67-6519</p>	<p>Garden City Code and procedures for the application granting process are consistent with The Local Land Use Planning Act Application Granting Process.</p> <p>Whenever a governing board or zoning or planning and zoning commission grants or denies an application, it shall specify:</p> <ul style="list-style-type: none"> (a) The ordinance and standards used in evaluating the application; (b) The reasons for approval or denial; and (c) The actions, if any, that the applicant could take to obtain approval. <p>Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request 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.</p>

⁶ A regulatory takings analysis will be done if requested.

[Garden City Comprehensive Plan](#)

Idaho Code 67-6511 notes that after considering the comprehensive plan and other evidence gathered through the public hearing process, ordinance amendments may be adopted or rejected, so as not in conflict with the Comprehensive Plan. Subsequently, an application need not satisfy every aspirational goal of the comprehensive plan, so long as it is not in direct conflict with specific provisions of the comprehensive plan.⁷

Additionally, a required Conclusion of Law for zoning map amendments in Garden City is that the amendment is in conformance with the Comprehensive Plan. In this way the Garden City Zoning Code ensures that proposed zoning map amendments are not only required to be compatible with existing neighborhoods but are also progressing the vision that the community has for those neighborhoods.

This application is in future land use designations of the Comprehensive Plan:

- a) Mixed Use Residential
- b) Activity Node: Neighborhood Destination
- c) Main Street Corridor

The definitions are below.

Activity Nodes are identified on the Land Use Map for neighborhood centers, local and regional destinations, and locations in proximity to existing and future transit stations and stops. Activity centers range in size depending on their function and location. Some nodes may be centered around the intersection of major streets or extend down a street to connect major community facilities. The common characteristics of the activity nodes are a mix of uses, public spaces, compatible transition to the uses surrounding the nodes and non-motorized connections to within a quarter mile walkable area of the node center. Some nodes, especially around transit stations, would have higher density (at least 14-20 units per acre) and multi-story development (three or more stories). It is not intended that all nodes could be developed within the twenty-year period of the plan. **Neighborhood and Destination Centers:** The centers should be focused on uses that facilitate making the location a destination. Uses may include small scale retail, art, office, and higher density residential.

The Mixed-Use Residential area is north of Adams/ Alworth Street. This designation allows for residential and commercial uses in a form and scale that is residential in character and design. A mix of residential; small scale office and retail; and public and semi-public uses are appropriate in this district. Regulations for this area should focus on form more than use, with a maximum height of two stories.

Main Street Corridor: Create a "Main Street" corridor as a principal street with a mix and concentration of uses along Adams/ Alworth Street with a possible alignment through a redeveloped Idaho Expo site connecting with the Activity Node at Glenwood and Marigold Streets. The corridor should have activity nodes along the street that connect the main street to the arterial roadways and/or the Boise River. The activity nodes should be limited so as to not dilute their function as a center. The focus of development should be on minimum front yard setbacks, parking on the street and behind buildings, and pedestrian amenities. The center of the activity nodes on the Main Street corridor should be integrated vertically with more height at the principle main street intersection of the node.

	<p>The Rezone application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> a.) Objective 1.4: Create a premier destination place to live, work, and recreate. <p>Goal 2: Improve the City Image</p> <ul style="list-style-type: none"> a.) Objective 2.1: Encourage new and distinctive neighborhoods. <p>Goal 10: Plan for the Future</p> <ul style="list-style-type: none"> a.) 10.4.3 Objective: Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods. b.) Objective 10.6: Continue to support commercial and industrial land uses. c.) 10.3.2 Objective: Recognize the stability of many areas within the city and focus future planning efforts on neighborhoods of rapid change and regeneration, especially east of Glenwood Street on both sides of Chinden Boulevard. <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> a.) 12.1 Objective: Support a positive business environment. b.) 12.2 Objective: Continue to support commercial and industrial land uses. <p>The Rezone application may not be supported by:</p> <p>Goal 10. Plan for the Future</p> <ul style="list-style-type: none"> a.) 10.4.3 Objective: Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods.
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⁷ See [2023 Givens Pursley Land Use Handbook; page 41, with specifics beginning on page 46](#) for further discussion.
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