

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

In the Matter of:)	CUPFY2024 - 0010
)	
Conditional Use Permit)	FINDINGS OF FACT,
4665 W. Chinden Blvd)	CONCLUSIONS OF LAW
Garden City, Idaho 83714)	AND DECISION
Garden City, Ada County, Idaho)	
_____)	

THIS MATTER, came before the Garden City Planning and Zoning Commission for consideration on November 20, 2024. 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 request is for the use of Equipment rental, sale, and service defined by Garden City Code 8-7A-1 as “The use of a site for the sale, rental or servicing of tools, trucks, tractors, construction equipment, agricultural implements, or similar industrial equipment.”
2. The applicant is EquipmentShare.com Inc /Givens Pursley LLP (Representative).
3. The property owner of record is CHINDEN PROPERTIES TWO LLC.
4. The location of the project is 4665 W. Chinden Blvd.; Ada County Assessor parcel number(s) R7334140005, BLOCK A RANDALL ACRES SUB NO 3.
5. The property is a legal parcel of record.
6. The subject property is 5.195 acres.
7. The scope of the request applies to the entire property.
8. The project is located in the C-1 Highway commercial zoning district.
9. The project is located in the Green Boulevard Corridor and the Mixed Use Commercial Designations of the Garden City Comprehensive Plan Future Land Use Designations.
10. The project is in the:

- a. outside 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. outside of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
- 11. The existing use on the site is Vacant.
- 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 8-2B Base Zoning District Regulations
 - d. Garden City Code 8-2C Specific Land Use Provisions
 - e. Garden City Code 8-4A Design and Development Regulations- General Provisions
 - f. Garden City Code 8-4D Parking and Off Street Loading Provisions
 - g. Garden City Code 8-4E Transportation and Connectivity Provisions
 - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
- 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
 - d. Chinden ITD Access Management
- 14. The following previous approvals apply to this proposal:
 - a. CUPFY2021-0010 (Expired)
- 15. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

Conditional Use Permit			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Will Serve

- 16. Additional application materials submitted include:
 - a. Site Plan;
 - b. Site Photos;
 - c. 300' Neighborhood List;
 - d. Neighborhood Meeting Sign-In Sheet;
 - e. Neighborhood Meeting Letter;
 - f. Affidavit of Legal Interest;

g. Application.

17. Agency Comments were received from:
- ACHD, October 14, 2024
 - City Engineer, October 28, 2024, and November 12, 2024
 - Department of Environmental Quality, October 23, 2024
 - Idaho Transportation Department, October 21, 2024
 - Republic Services, October 9, 2024

18. Public comments were received from:
- None

19. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application		9/26/2024
Letter of Acceptance	10/26/2024	10/9/2024
Radius Notice	11/5/2024	10/9/2024
Interested Parties		
Legal Notice	11/1/2024	10/9/2024
Agency Notice	11/5/2024	10/9/2024
Property Posting Sign	11/10/2024	11/8/2024
Affidavit of Property Posting and Photos	11/13/2024	11/8/2024

20. On November 20, 2024, a public hearing before the Planning and Zoning Commission was held:
- Elizabeth Koeckeritz and Brian Sexton presented the application.
 - Requested a change to the required frontage trees, requested leniency on the height of “booms” storage due to equipment regulations.
 - Staff Hanna Veal presented the staff report.
 - Frontage tree requirement can be reduced, change to condition, pg. 8, 3c of drafted decision document.
 - The business has been illegally occupying and operating on site since 2021 without a certificate of occupancy or active conditional use permit. Previous permits expired in 2023.
 - The use conflicts with Garden City Comprehensive Plan.
 - Public testimony was heard from:
 - Tim Gates, in opposition; industrial use, noise, traffic impacts, constant congestion, has been a nuisance, noticing issues.
 - Grant Walden, in opposition; noticing issues, lights need to point down, fencing for security. In favor of development that is not tall, not in favor of heavy intense use.
 - Betty Reimann, in opposition; noise concerns.

- iv. Remy Pop, in opposition; quality of life concerns, sight/privacy concerns.
- d. Elizabeth Koeckeritz and Brian Sexton provided rebuttal:
 - i. The lease is for 10 years; the use is a good interim use as the city develops.
 - ii. Use has changed since the original conditional use permit was applied for. The use is now less intense, with smaller equipment. Core Solutions bs. Advanced Solutions.
 - iii. The C-1 zoning district allows for industrial uses.
 - iv. Requests to not install parking lot landscaping due to a Phase II development and code not requiring it.
 - v. Intentions to remove boom lifts and organize them to be away from the adjacent neighbors, no intention of bringing heavy equipment back to Garden City.
- e. Public testimony was closed.
- f. Discussion included:
 - i. Screening landscaping should be considered to shield view of equipment from the right-of-way.
 - ii. Remove the word "Construction" out of site-specific condition #2.
 - iii. Include a condition to work with staff on the parking plan, specifically regarding appropriate locations of taller equipment.
 - iv. 37th Street frontage tree requirement can be based on frontage length improvements, not entire western property boundary line.
- g. Commissioner Wilde moved to approve the application as drafted in the draft decision, in the affirmative, with draft conditions of approval with the following modifications to the conditions of approval:
 - i. Remove the word "Construction" out of site-specific condition #2
 - ii. Allow the reduction of W. 37th Street frontage trees; from 11 trees to 8.
 - iii. Include a condition to work with staff on the parking plan, specifically regarding appropriate locations of taller equipment.
- h. Commissioner Shepard seconded the motion.
- i. The motion carried unanimously.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. November 20, 2024, Planning and Zoning Commission Hearing Minutes and Audio
- g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

22. In order to approve a conditional use permit application, the Planning and Zoning Commission shall make the following findings:

GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			
Compliant	Not Applicable to this Application	Not Compliant	Standard
X			<p>Finding 1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district;</p> <p>Explanation: The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.</p>
X			<p>Finding 2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts;</p> <p>Explanation: There are public services available that can accommodate the proposed development.</p>
X			<p>Finding 3. The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation: The use of equipment rental and sales will not unreasonably diminish either the health, safety, or welfare of the community as it has been adequately conditioned.</p>
X			<p>Finding 4. The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation: The application is cohesive with the Comprehensive Plan's Green Boulevard Corridor and Mixed-Use Commercial Future Land Use Designations as</p>

			<p>conditioned. It also supports the Comprehensive Plan's:</p> <p>Goal 1. Nurture the City</p> <p>a.) 1.4 Objective: Create a premier destination place to live, work, and recreate.</p> <p>Goal 2. Improve the City Image</p> <p>a.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city's urban setting.</p> <p>Goal 4. Emphasize the "Garden" in Garden City</p> <p>a.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</p> <p>Goal 7. Connect the City</p> <p>a.) 7.1 Objective: Create pedestrian and bicycle friendly connections.</p> <p>b.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</p> <p>Goal 12. Evolve as a Destination</p> <p>a.) 12.1 Objective: Support a positive business environment</p> <p>b.) 12.2 Objective: Continue to support commercial and industrial land uses.</p>
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23. 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 Title 8, and based on the conditions required herein, concludes the application **meets** the standards of approval under **GCC 8-6B-2 Conditional Use**.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **APPROVES** of the application subject to the following conditions:

CONDITIONS OF APPROVAL

Application Specific Requirements:

Scope of Permit:

1. The scope of this permit is to allow for the use of Equipment Sales and Rental.
2. Noise that is disruptive to the neighborhood shall be limited to Monday through Saturday from 7:00 am to 8:00 pm unless residents within 300' and the city have been notified in advance of the specific days which it will be necessary to exceed this limitation.

Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. An Occupancy Analysis shall be applied for and approved by Garden City Development Services Department.
3. A public works and utility permit shall be submitted for review and approval of the site work that will be required to bring the site into compliance with:
 - a. A detached sidewalk shall be installed along W. 47th Street in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
 - i. If the sidewalk is to be located on the property, not in the right of way, a public access easement shall be granted for the length and width of the sidewalk.
 - b. The streetscape along W. Chinden Blvd. shall be improved to meet the requirements of the ITD and Garden City Chinden Boulevard Agreement.
 - i. Furniture/ Planting Zone to be 5-7' minimum including 18" curbing.
 - ii. Sidewalk to be minimum 7'. Minor encroachments are acceptable provided that 5' remains clear for pedestrian travel.
 - iii. Trees to be planted at an average of 50' or less
 - iv. Class II/ III trees are required.
 - v. Trees are to be in tree grates, or they may be in a landscape strip if irrigation and maintenance do not encroach into the vehicular travel lane.
 - vi. Trees must be pruned to stay out of vehicular travel lane.
 - c. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.
 - i. At least 8 Class II or III trees shall be installed within the landscape buffer along W. 47th Street.
 - ii. At least 15 Class II or III trees shall be installed along the W. Chinden frontage.

4. At least one vehicular access point along W. Chinden Boulevard shall be removed.
5. Prior to a certificate of occupancy being issued, a parking plan shall be submitted to the Planning Department Staff.
 - a. All vehicles and equipment shall park on the site according to the parking plan submitted.
 - b. The applicant shall work with staff to determine the most appropriate locations of taller parked equipment.
6. The site shall acknowledge the future pathway development along the Thurman Mill canal through pedestrian oriented features such as landscaping.
 - a. Garden city Code 8-4I-5 Perimeter Landscaping Provisions shall act as the guiding standards.
7. A pathway system shall extend through the development site and connect the street sidewalk to all primary building entrances.
8. At least five bicycle parking spots shall be provided on site in accordance with Garden City Code 8-4D-5.
9. All chain-link fencing shall be removed and replaced with code compliant fencing materials per Garden City Code 8-4A-3 Fences and Walls.
 - a. If fencing is installed along the canal, it shall be an open vision fence, privacy fencing is prohibited. All fencing shall be approved by the irrigation/drainage district.
10. All outdoor lighting shall be found in conformance with Garden City Code 8-4A-4 Outdoor Lighting.
11. All outdoor service and equipment areas shall be found in conformance with Garden city Code 8-4A-5.
12. The applicant shall mitigate for removed trees or shall provide a certified arborist's certification demonstrating the trees removed were dead, dying or a hazard in accordance with GCC 8-4I-7 (Tree Preservation Provisions).

Site Specific Requirements for the Duration of the Use:

1. At no point in time shall any equipment including but not limited to boom lifts, scissor lifts, forklifts, or other types of manlifts or aerial lifts extend their arm, bucket, or boom to a height for the purposes of advertisement.
2. All repair activities (including, but not limited to, open pits and lifts) shall occur within an enclosed structure.

3. All equipment repairs shall be limited to between the hours of seven o'clock (7:00) A.M. and seven o'clock (7:00) P.M., Monday through Saturday.
4. Damaged or wrecked equipment shall not be stored on site for purposes other than repair.
5. All equipment shall be parked on site and not in adjoining streets or alleys.
6. All discarded vehicle parts or equipment, or permanently disabled, dismantled, or junked vehicles shall be removed from the premises within thirty (30) days of arrival.
7. All new structures constructed for equipment repair shall be constructed so that the entrances to individual workstation/service bays do not face abutting residential parcels or the public rights of way.
8. All paved and unpaved areas shall be maintained grease and oil free.
9. Maintenance of the clear vision triangle in accordance with garden City Code 8-4E-3 Public Street Connections shall be adhered to.

General Requirements

1. 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 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.
2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. 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.
5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.
6. 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.

7. The property owner is responsible to maintain the site to edge of roadway asphalt.
8. If there are any tree grates, they shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right of way.
9. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead and diseased plant materials shall be replaced.
10. 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.
11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
12. 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.
13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
14. 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.
15. 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. 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.
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. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
24. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications and ordinances.

25. 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.
26. No change in terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his or her authorized representative and an authorized representative of the reviewing agency. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Garden City.
27. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
28. Any violation of the conditions of this application is a criminal offence.
29. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
30. All previous uses are null and void unless otherwise conditioned.
31. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
32. The date of action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
33. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
34. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code.
35. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
36. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
37. A takings analysis pursuant to Idaho Code may be requested on final decisions.
38. 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

November 20, 2024

Date