

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

In the Matter of:	)	CUPFY2025 - 0003
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
8707 W State Street	)	CONCLUSIONS OF LAW
	)	AND RECOMMENDATION
Garden City, Ada County, Idaho	)	
_____	)	

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on July 16, 2025. 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 Daycare center defined by Garden City Code 8-7A-1 as “The use of a site where nonmedical care, protection or supervision is regularly provided to children under twelve (12) years of age, or disabled persons of any age, for periods less than twenty-four (24) hours per day, while the parents or guardians are not on the premises. There are three (3) types of childcare facilities distinguished by the number of individuals served:
  - Daycare center: More than twelve (12).
  - Daycare, neighborhood: More than six (6) but no greater than twelve (12).
  - Daycare, personal: Four (4) or fewer.
2. The applicant is Stephen Pendl.
3. The property owner of record is 8707 W STATE LLC.
4. The location of the project is 8707 W. State Street, Suite D; Ada County Assessor parcel number(s) R8123251931; PAR #1930 N'LY POR OF LOT 12 STEINS SUB #1930-B.
5. The property is a legal parcel of record.
6. The subject property is 2.121 acres.
7. The scope of the request applies to a portion of the property.
8. The project is located in the C-2 General commercial zoning district.

9. The project is located in the Green Boulevard Corridor; Residential Low Density of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the:
  - a) The southern part of the site, not including the building, is partially in the 500 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) The southern part of the site, not including the building, is partially in the 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
11. Existing Use: Suite D is vacant
12. The following standards apply to this proposal:
  - a. Garden City Code 7-2-1 Building Code
  - b. Garden City Code 8-1A-4 Applicability
  - c. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
  - d. Garden City Code 8-2B Base Zoning District Regulations
  - e. Garden City Code 8-2C Land Use Provisions
  - f. Garden City Code 8-4A Design and Development Regulations- General Provisions
  - g. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - h. Garden City Code 8-4E Transportation and Connectivity Provisions
  - i. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - j. Garden City Code 8-6A Administration
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. Garden City Transportation Needs List
14. The following previous approvals apply to this proposal:
  - a. CUP99-09-20
  - b. CUPFY2017-11
15. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

<b>Conditional Use Permit</b>			
Provided			
Yes	No	NA	
	X		Compliance Statement

X		Neighborhood Map
	X	Will Serve

16. Additional application materials submitted include:

- a. Application;
- b. Site Plan;
- c. Floor Plans;
- d. 300' Neighborhood List;
- e. Affidavit of Legal Interest;
- f. Statement of Intent.
- g. Waiver Request

17. Agency Comments were received from:

- a. North Ada County Fire and Rescue, January 13<sup>th</sup>, 2025
- b. Ada County Highway District, January 21<sup>st</sup>, 2025
- c. Garden City Engineer, January 11<sup>th</sup>, 2025
- d. Idaho Transportation Department, January 7<sup>th</sup>, 2025
- e. DEQ, January 16<sup>th</sup>, 2025

18. Public comments were received from:

- a. None

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

Noticing Requirement	Required Date	Completion Date
Receipt of application		1/3/2025
Letter of Acceptance	2/6/2025	1/7/2025
Radius Notice	2/4/2025	1/7/2025
Legal Notice	1/31/2025	1/10/2025
Agency Notice	2/4/2025	1/7/2025
Property Posting Sign	2/9/2025	6/9/2025
Affidavit of Property Posting and Photos	2/12/2025	6/10/2025

20. Additional noticing includes:

- a. None;

21. This initial hearing was scheduled for February 19, 2025, per the applicant's request, the application was continued to the date certain of March 19, 2025.

22. The scheduled Planning and Zoning hearing on March 19, 2025, was cancelled. All hearing action items were continued to the date certain of April 16, 2025.

23. At the April 16, 2025, Planning and Zoning hearing, per the applicant's request, the application was continued to the date certain of June 18, 2025.

24. On June 18, 2025, 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, Stephen Pendl, was absent from the hearing.
  - c. Justine Muralt wished to testify.
  - d. Staff, Jenah Thornborrow, presented the application.
  - e. The application was continued to the date certain of July 16, 2025, to allow the applicant to be present.
  
25. On July 16, 2025, a public hearing before the Planning and Zoning Commission was held. A summary of the hearing is as follows:
  - a. At the beginning of the meeting the Chairman asked if the applicant was in attendance and if he 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. Stephen Pendl 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.
  - e. The application was moved to the consent agenda and approved.
  
26. The record contains:
  - a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments
  - d. Staff report
  - e. June 18, 2025, Planning and Zoning Commission Hearing Minutes and Audio
  - f. July 16, 2025, Planning and Zoning Commission Hearing Minutes and Audio
  - g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision
  
27. In order to approve a conditional use permit application, the Planning and Zoning Commission shall make the following findings:

<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X			<p><b>1.</b> 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><b>Explanation:</b></p> <p>The use, was previously established in Suite D, but lost its entitlements due to a new and different use being established in Suite D. Suite A is currently used as a daycare facility. As conditioned, the exiting nonconformities will be remedied proportional to the request, subsequently, the expansion of the use into Suite D will be appropriate to the location and the neighborhood.</p>
X			<p><b>2.</b> 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><b>Explanation:</b></p> <p>This application was distributed to relevant agencies for review in accordance with Idaho Code § 67-6519 and Garden City Code § 8-6A-7. No agency indicated that the proposed use would impair their ability to provide services.</p> <p>As a condition of approval, the project must include:</p> <ul style="list-style-type: none"> <li>• A connection from State Street and Bogart Lane to the primary tenant entrance,</li> <li>• Adequately sized parking spaces,</li> <li>• Installation of street trees, and</li> <li>• Provision of bicycle parking.</li> </ul>

			These improvements are intended to ensure that the proposed use is adequately served and does not negatively impact the surrounding area.
X			<p><b>3.</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p>This proposal will not unreasonably diminish the health, safety, or welfare of the community as defined in the purpose of the Local Land Use Planning Act, Idaho Code 67-6502.</p> <p>A daycare may enhance a community's health, safety, and welfare in several ways:</p> <ul style="list-style-type: none"> <li>• <b>Supports Working Families:</b> Provides reliable childcare, allowing parents to work and contribute to the local economy.</li> <li>• <b>Promotes Early Childhood Development:</b> A daycare, if operated correctly may provide structured learning environments that foster cognitive, social, and emotional growth.</li> <li>• <b>Ensures Child Safety:</b> If operated correctly a daycare can reduce risks associated with unsupervised care.</li> </ul>
X			<p><b>4.</b> The use is no in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p><b>Explanation:</b></p> <p>The application is cohesive with the Comprehensive Plan's designation of the Green Boulevard Corridor and Residential Low Density. And is supports the Comprehensive Plan's Goal 1, Nurture the</p>

			<p>City; Goal 2, Improve the City Image; Goal 11, Serve the City; and Goal 12, Evolve as a Destination.</p> <p>The property was only posted along State Street, and not Bogart Street. As Suite D does not have frontage on Bogart, it has been determined that a secondary sign is not required.</p> <p>While the property contains non-conformities with Garden City Code, Title 8, these nonconformities have been conditioned to be remedied proportional to the requested expansion.</p>
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28. 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 FOR APPROVAL DECISION

#### **Application Specific Requirements:**

#### Scope of Permit:

1. The scope of this permit is to expand the use of a Daycare facility at 8707 W. State Street. The day care facility will occupy suites A and D.
2. Construction 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 Temporary Certificate of Compliance has been obtained from Garden City Development Services Department.
2. Occupancy Analysis to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.
  - a. Should the occupancy analysis determine that improvements are required, then a non-residential building permit shall be applied for and approved by the Garden City Development Services Department.
3. Vehicular parking stall dimensions shall be in compliance with Garden City Code 8-4D-3.
4. At least 7 bicycle parking spaces shall be provided on-site.
  - a. Bicycle parking shall be a minimum of 6' long x 2' wide;
  - b. On-site spaces shall be located within fifty feet (50') of to the building entrance(s);
  - c. Be separated by a physical barrier to protect the bicycle from damage by motor vehicles if located within a motor vehicle parking area. The physical barrier can be curbs, poles, wheel stops, or other similar features;
  - d. Not impede pedestrian or vehicular circulation, or loading zones. The facilities shall be incorporated, whenever possible, into the structure's design or street furniture; and
  - e. Be properly illuminated to increase security and avoid accidents and adhere to 8-4A-4 Outdoor Lighting.
5. A direct and convenient pathway from the main entrance of the tenant space(s) to the public sidewalk on State Street and Bogart Lane shall be provided.
  - a. The pathway may be painted on asphalt; or be made of another material. The pathway shall be clearly for pedestrians. Suggested styles include crosswalk styles of either solid, continental, ladder, or zebra. Standard or dashed styles shall not be used.

Conditions that shall be achieved within one year of this approval:

1. The landscaping shall be in conformance with this approval as reviewed and approved or otherwise conditioned.
  - a. A minimum of one class II or class III tree shall be planted in the frontage of every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
    - i. The applicant is required to install a total of 2 class II or III trees, or equivalent within the street frontage.
      1. The trees shall not be located in the clear vision triangle.

2. If trees are planned to be planted under or near power lines, Class I trees may be planted according to Idaho Power requirements.
  3. There shall be a minimum of three species on site.
  4. Temporary occupancy is permissible prior to the completion of this condition. This improvement must be implemented within a one-year period from the date of this approval and is required for formal occupancy.
2. Any chain-link fences and gates, with or without slats, that are visible from the right-of-way must either be removed, replaced with a fence that meets code requirements, screened with landscaping, or otherwise appropriately concealed.
  - a. Temporary occupancy is permissible prior to the completion of this condition. This improvement must be implemented within a one-year period from the date of this approval and is required for formal occupancy.
3. All conditions of approval that allow for occupancy prior to completion of the conditions must be completed within a one-year from the date of this approval. It is incumbent upon the applicant to ensure that the conditions are completed and inspected by the city for compliance within the allowed one-year timeframe. Garden City will not provide reminders, monitor progress, or enforce interim compliance. Failure to comply with this condition within one year of occupancy will result in the nullification of this conditional use permit.

Site Specific Requirements for the Duration of the Use:

1. **Determining The Type of Facility:** In determining the type of daycare facility, the total number of individuals cared for during the day and not the number of individuals at the facility at one time, is the determining factor. The operator's children are excluded from the number.
2. **Access And Parking:** On-site vehicle pick up, parking and turnaround areas shall be provided to ensure safe discharge and pick up of clients.
3. **Limitations:** In residential districts or uses adjoining an adjacent residence, the hours of operation shall be between six o'clock (6:00) A.M. to eight o'clock (8:00) P.M.
4. **Additional Standards For Daycare Facilities That Serve Children:**
  - a. All outdoor play areas shall be completely enclosed by a minimum six foot (6') fence to secure against exit/entry by small children and to screen abutting properties.
  - b. Outdoor play equipment over six feet (6') high, shall not be located in a front yard setback or within any required setback.

- c. Outdoor play areas in residential districts adjacent to an existing residence shall not be used after dusk.
- d. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code.

### **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 living spaces must comply with Garden City Cod 8-3C General Provisions- Living Space Requirements.
23. All outdoor service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
24. All stormwater systems must comply with Garden City Code 8-4A-7.
25. 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.
26. 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.
27. 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.
28. 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.
29. Any violation of the conditions of this application is a criminal offence.
  30. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
  31. All previous uses are null and void unless otherwise conditioned.
  32. 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.
  33. 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.
  34. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
  35. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code .
  36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
  37. 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.
  38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
  39. 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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Ryan Montoya, Chairman, Planning and Zoning Commission

07/16/2025

Date