

**STAFF SUGGESTED DECISION**

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

**THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE  
CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE  
FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.**

In the Matter of: ) CUPFY2025 - 0006

Conditional Use Permit )  
4410 N. Osage Street )  
Garden City, Ada County, Idaho )  
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)  
)

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND DECISION**

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on March 26, 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 Industry, flex defined by Garden City Code 8-7A-1 as "The use of a multi-tenant structure for the uses of: equipment rental and sales; light industry; motorcycle sale, service, storage rental; service provider; storage yard; vehicle service or other permitted uses within the zoning district which it is in."
2. The applicant is Erik Hagen.
3. The property owner of record is SECREST 2021 FAMILY REVOCABLE LIVING TRUST.
4. The location of the project is 4410 N. Osage Street.; Ada County Assessor parcel number(s) R2734500395; PAR #0395 OF LOTS 4-6 BLK 2 FAIRVIEW ACRES SUB NO 1 & LOTS 1-3 EL CAMPO SUB.
5. The property is a legal parcel of record.
6. The subject property is 1.960 acres or 85,378 SF.
7. The scope of the request applies to the entire property.

8. The project is located in the C-2 General commercial zoning district.
9. The project is located in the Mixed Use Commercial of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the:
  - a) 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) 100 Year 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 Vehicle service.
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
  - 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. Local Land Use Planning Special Use Permits, Conditions, and Procedures
  - b. Garden City Comprehensive Plan
  - c. Garden City Sidewalk Policy
  - d. Garden City Street Light Policy
  - e. Garden City Transportation Needs List
14. The following previous approvals apply to this proposal:
  - a. CUP2015-0003.
  - b. DSRFY2016-4.
  - c. PWUFY2017-0006.
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:

- Application.
- Affidavit of Legal Interest.
- Site Plan.
- Neighborhood meeting Notice and Sign-In Sheet
- Ability to Serve Request.
- Statement of Intent.
- Site Photos.
- Floor Plans.
- Waiver Request of Application Materials.

17. Agency Comments were received from:

- North Ada County Fire and Rescue, January 30<sup>th</sup>, 2025
- Garden City Engineer, January 30<sup>th</sup>, 2025
- Idaho Transportation Department, January 30<sup>th</sup>, 2025
- DEQ, February 4<sup>th</sup>, 2025
- Ada County Highway District, February 10<sup>th</sup>, 2025

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		1/29/2025
Letter of Acceptance	2/28/2025	2/14/2025
Radius Notice	3/11/2025	2/18/2025
Legal Notice	3/7/2025	2/18/2025
Agency Notice	3/11/2025	1/30/2025
Property Posting Sign <sup>1</sup>	3/16/2025	3/17/2025
Affidavit of Property Posting and Photos	3/19/2025	3/19/2025

20. Additional noticing includes:

- Notice to applicant of postponement of hearing from March 19, 2025, to March 26, 2025

21. On March 26, 2025, a public hearing before the Planning and Zoning Commission was held:

- This section will be completed after the hearing.

<sup>1</sup> The applicant placed the posters after the required deadline.

22. The record contains:

- Application Documents
- Noticing Documents
- Agency Comments
- Written Public Comments
- Staff report
- March 26, 2025, Planning and Zoning Commission Hearing Minutes and Audio
- Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

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

The below are staff suggested reasoned statements. The Planning and Zoning Commission may select the explanations that correspond to their conclusions or amend the explanations based on the record that they have reviewed. Potential explanations have been provided.

GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS			
Conclusion			Standard
Compliant	Not Applicable to this Application	Not Compliant	
X		X	<p><b>Finding 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><b>In Approval:</b> There may be a conflict between the type of uses within these industry flex tenant spaces and the overall purpose of the C-2 zoning district considering the adjacent R-3 residential zoning district and the manufactured homes to the north and northeast.</p> <p>[List what actions, if any, the application could have taken to obtain approval.]</p> <p><b>In Denial:</b> The use of "Industry, Flex" is a more intense use than what should be</p>

			permitted at this location due to the adjacent residential zoning district.
X		X	<p><b>Finding 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><b>In Approval:</b> The condition is established to require a connection from 44th Street to the site, ultimately providing access to each tenant's unit entrance.</p>
X		X	<p><b>Finding 3.</b> The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p><b>Explanation:</b></p> <p><b>In Approval:</b> 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>
X		X	<p><b>Finding 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><b>In Approval:</b> The application is cohesive with the Comprehensive Plan's designation of the Mixed-Use Commercial. It supports the Comprehensive Plan's Goal 2, Improve the City Image; Goal 6, Diversity in Housing, and Goal 12, Evolve as a Destination.</p> <p>Furthermore, the use has been found to be compliant with or otherwise conditioned to be compliant with the sections of code applicable to the application.</p>

24. 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/does not meet** 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/ DENIES** of the application subject to the following conditions:

### POTENTIAL CONDITIONS FOR APPROVAL DECISION

#### Application Specific Requirements:

##### Scope of Permit:

1. The scope of this permit is to allow for the use of an Industry Flex at 4410 N. Osage Street.
2. The building permits must be in conformance with the approved plans. Staff may approve minor changes to the approvals so if they are compliant with Garden City Code including:
  - a. Substitutions of plant species, if there is no reduction in landscaping and the species are comparable in height and width. Substitutions of trees must be of the same or larger tree classification and be comparable or larger in tree canopy and height.
  - b. Less than 5% of rearrangement of elevations or building façade materials if there is no reduction in building modulation, fenestration, or glazing.
  - c. Less than 5% of rearrangement of site.
3. 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. A corrected Affidavit of Legal Interest shall be provided.
2. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
  - a. Certificate of Occupancy shall be obtained for each tenant.
3. Occupancy Analysis to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.

4. A public works permit shall be submitted for review and approval of the site work that will be required to bring the site into compliance with the code.
5. All chain linked fencing, barbed wire and sheet metal fencing shall be removed and/or replaced with code compliant fencing
  - a. Fencing along Osage Street shall be no greater than 3 ½ feet tall.
  - b. Chain- linked fencing visible from 44th Street shall be removed or replaced with code- compliant fencing.
6. All HVAC systems and outdoor service and equipment areas shall be identified in building plans for permit review and screened to be compliant with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
  - a. Trash bins, if visible from the view from the right-of-way, shall be screened with a privacy fence
7. The stormwater systems shall be maintained in accordance with the approved plans. If changes occur on the site related to the drainage system, the applicant shall submit updated stormwater plans for the City approval.
8. Vehicular parking stall dimensions shall be in compliance with Garden City Code 8-4D-3, Ord. 1034-22
  - a. Compact parking spaces shall be no less than 7'6" in width and 15' in length
9. At least 25 vehicular parking spaces shall be provided on-site.
  - a. Compact parking spaces shall not exceed 30% of the required parking spaces.
10. At least 25 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.
11. Provide dimensions for the off-street loading zone, if proposed.
12. Provide a railroad tie and boulders to prevent vehicles from parking on the drainage system.

13. A direct and convenient pathway from the main entrance of the tenant space(s) to the public sidewalk on 44<sup>th</sup> Street shall be provided.
14. Pedestrian routes shall facilitate passage from parking spaces to the principal entrance and meet standards set forth in sections 8-4E-6 and 8-4E-7 of the GCC.
15. A minimum of one class II or class III tree shall be planted in the frontage of every adjacent streetside. An additional Class II or III tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
  - a. The frontage of Osage St. shall have a total of 8 Class II or III trees.
  - b. The frontage of 44<sup>th</sup> St. shall have a total of 7 Class II or III tree.
16. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants.
  - a. Use of mulch, organic or rock, as the only ground cover in required planting areas is prohibited.
17. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
  - a. A minimum of 4,296 SF of landscaping is required.
18. Then five (5) or more trees are to be planted to meet the requirements of any portion of this article (including street trees, perimeter landscaping, parking lot landscaping and other landscape guidelines) a mix of species shall be provided.
  - a. Three species of Class II or Class III trees are required on the site
19. A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.
  - a. Provide 5 Class II or III trees on the site, excluding streetside trees.
  - b. Provide 30 shrubs on the site.
20. Provide a 10' wide perimeter landscape along the northeast boundary, closer to 44th Street.
21. Landscaping and street trees shall be installed and inspected for compliance with Garden City Code 8-4I.

Site Specific Requirements for the Duration of the Use:

1. Setback:
  - a. All mechanical equipment emissions; shipping and/or delivery; or other outdoor activity areas shall be located a minimum of five hundred feet (500') from any abutting residential districts.

- b. Any use involving explosive manufacturing or storage, flammable substance storage, foundry, freight and truck terminal, manufacture or processing of hazardous chemicals, power plant, food product storage and processing plant shall be located a minimum of one thousand feet (1,000') from a hospital.
- 2. Limitations: The following adverse effects shall be mitigated through setbacks, buffers, sound attenuation and/or hours of operation:
  - a. Noise, odor, or vibrations; or direct or reflected glare; detectable by the human senses without the aid of instruments.
  - b. Radioactivity and electric or electromagnetic disturbances which unduly interfere with the normal operation of equipment, instruments, or appliances on abutting properties.
  - c. Any other emission or radiation which endangers human health, results in damages to vegetation or property or which exceeds health and safety standards.
- 3. Other Regulations Apply: A use in this category may require approval from the Environmental Protection Agency, the U.S. Department of Agriculture, Central District Health Department, the Ada County air quality board and Idaho Department of Water Resources.

### **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.

03/26/2025

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Chairman, Planning and Zoning Commission

Date