

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.

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|--------------------------------|---|--------------------|
| In the Matter of: |) | CUPFY2025 - 0010 |
| |) | |
| Conditional Use Permit |) | FINDINGS OF FACT, |
| 8247 W State Street |) | CONCLUSIONS OF LAW |
| |) | AND DECISION |
| Garden City, Ada County, Idaho |) | |
| _____ |) | |

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on June 18, 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 Wireless communication facility defined by Garden City Code 8-7A-1 as "A steel monopole, guywire tower, lattice tower or other similar wireless communication structure that is over fifty feet (50') in height, also known as a macro cell facility, designed to support directional antennas, parabolic dishes or antennas, microwave dishes; in addition to associated macro cell facility ground equipment and other similar equipment used in the wireless communications industry; see Federal Communications Commission definition for wireless communication facility.
2. The applicant is Gary Abrahams on behalf of DISH Wireless LLC.
3. The property owner of record is DBII LLC.
4. The location of the project is 8247 W State Street.; Ada County Assessor parcel number(s) R0719420250; LOT 11 BLK 2 AZALEA SUBDIVISION.
5. The property is a legal parcel of record.
6. The subject property is 0.567 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.
 - a) The project is located in the Green Boulevard Corridor; Residential Low Density of the Garden City Comprehensive Plan Land Use Designation.
9. The project is in the:
 - a) Parcel partly 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) outside of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20
10. The existing use on the site is Vehicle service; Professional Service, Wireless Communication Facility
11. 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 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
 - i. Garden City Code 8-6A Administration
12. The following plans and policies apply to this proposal:
 - a. Idaho Code 67-6512 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
13. The following previous approvals apply to this proposal:
 - a. 03-17-CU
 - b. 05-05-CU
 - c. CUPFY2016-5
 - d. DSRFY2016-14
 - e. CUPFY2023-0003
 - f. DSRFY2023-0001
 - g. DSRFY2024-0017
 - h. DSRFY2025-0006

14. 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 |

15. Additional application materials submitted include:

- Application;
- Site Plan;
- Proposed compound plan;
- 300' Neighborhood List;
- Affidavit of Legal Interest;
- Statement of Intent.
- Site Photos.

16. Agency Comments were received from:

- North Ada County Fire and Rescue, May 21st, 2025.
- Idaho Transportation Department, May 27th, 2025.
- DEQ, June 2nd, 2025

17. Public comments were received from:

- None

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

| Noticing Requirement | Required Date | Completion Date |
|--|---------------|-----------------|
| Receipt of application | | 5/12/2025 |
| Letter of Acceptance | 6/11/2025 | 5/22/2025 |
| Radius Notice | 6/3/2025 | 5/22/2025 |
| Legal Notice | 5/30/2025 | 5/27/2025 |
| Agency Notice | 6/3/2025 | 5/22/2025 |
| Property Posting Sign | 6/8/2025 | 6/6/2025 |
| Affidavit of Property Posting and Photos | 6/11/2025 | 6/10/2025 |

19. Additional noticing includes:

- None;

20. On June 18, 2025, a public hearing before the Planning and Zoning Commission was held:

a. This section will be completed after the hearing.

21. The record contains:

- a. Application Documents
- b. Noticing Documents
- c. Agency Comments
- d. Written Public Comments
- e. Staff report
- f. June 18, 2025, 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 makes 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 | | | |
|------------|------------------------------------|---------------|--|
| 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 existing Wireless Communication Facility, located in the C-2 zone, is a legal nonconforming use. It was lawfully established in 2003 under Conditional Use Permit 03-17-CU, prior to the adoption of the current zoning code, which now prohibits such uses in this zone. According to Garden City Code § 8-1B-3(A)(2), a nonconforming use may continue as long as it remains lawful and is not abandoned, expanded, or extended. Any expansion in intensity, enlargement, extension, construction, reconstruction, relocation, or structural alteration of the use requires approval through a new conditional use permit.</p> |

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| | | | <p>An application for a conditional use permit has been submitted.</p> <p>The use expansion's limited scope does not change the nature of the use and appears to comply with this finding.</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. The use expansion does not appear to require additional public facilities or services and appears to comply with this finding.</p> <p>However, the current facility does not comply with the concealment condition no. 14 of the original 03-17-CU approval. On behalf of CCTMO LLC, Crown Castle International Corp. ("Crown Castle") agrees to implement the measures specified herein as an alternative means of compliance with Condition No. 14, as outlined in the conditions of approval in this decision.</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 expansion appears to comply with this finding. No evidence on the record can be found demonstration the use expansion would unreasonably diminish either the health, safety, or welfare of the community. The use of the site will remain the same.</p> <p>Expanding a cell tower may enhance a community's health, safety, and welfare rather than diminish it. The augmentations can be realized via:</p> |

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| | | | <p>Improved Emergency Response: Stronger cell coverage ensures that residents can quickly contact emergency services, reducing response times in critical situations.</p> <p>Better Connectivity for Healthcare: Reliable mobile networks support telemedicine, allowing residents to access medical consultations remotely.</p> <p>Enhanced Public Safety: Stronger signals improve communication for law enforcement, firefighters, and first responders.</p> |
| X | | | <p>Finding 4. The use is not in conflict with the comprehensive plan or other adopted plans, policies or ordinances of the city.</p> <p>Explanation:</p> <p>The application is not in conflict with the Comprehensive Plan's designation of the Green Boulevard Corridor.</p> <p>The Garden City Comprehensive Plan outlines various goals and policies related to infrastructure and development. While it does not explicitly mention cell towers, certain sections may support their expansion:</p> <p>Community Services, Facilities, and Utilities: This section discusses the importance of maintaining and improving essential infrastructure, which could include telecommunications facilities.</p> <p>Plan for the Future: Encourages technological advancements and infrastructure improvements to support growth.</p> <p>Develop a Sustainable City: Focuses on ensuring that infrastructure meets long-</p> |

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| | | | term needs, which may align with expanding cell tower coverage. |
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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/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

Wireless facility Specific Requirements:

This condition is outside the scope of the current application but amends the current wireless communication facility approvals at 8247 W State Street:

1. Based on the CCTMO LLC., Crown Castle International Corp.'s ("Crown Castle") tower operator affiliate submitted a report on June 11, 2025, detailing the location of the missing landscaping, the current condition of the site, and detailed constraints as to why replanting the previously required landscaping in the same location is impractical. This condition amends Condition No. 14 of the original Conditional Use Permit 03-17-CU for the existing wireless communications site located at 8247 W. State Street, Garden City, Idaho 83714 which states: *"Clarify landscaping that there will be evergreens with a minimum height of the taller landscaping to be 6 feet. Seventy-five percent of the landscaping is to be evergreens. There can be some interspersed lower evergreens."* In lieu of Condition No. 14 of the original 03-17-CU approval, Crown Castle agrees to implement the following measures as a permanent alternative to fully satisfy this condition for current and future eligible facilities requests:
 - a. Installation and maintenance of a code compliant fence around the entire perimeter of the existing wireless communication facility to provide appropriate screening.
 - b. A one-time contribution of \$10,000 to the City's Tree Mitigation Fund.

- c. Failure to comply with this condition by October 1, 2025, will nullify the amendment set forth in this condition and may result in the city initiating proceedings for the revocation of the original Conditional Use Permit 03-17-CU.
- d. This condition only applies to the area of the portion of the subject property that is designated for the use of the wireless facility. This condition does not remove the requirement for on-site landscaping, which is not specifically associated with the wireless facility.

Application Specific Requirements:

Scope of Permit:

1. The scope of this permit is to allow for the expansion of the use of a wireless communication facility for DISH Wireless LLC.
2. The expansion consists of the addition of:
 - a. TOWER SCOPE OF WORK:
 - i. INSTALL (3) PROPOSED PANEL ANTENNAS (1 PER SECTOR)
 - ii. INSTALL (3) PROPOSED SECTOR MOUNTS (1 PER SECTOR)
 - iii. INSTALL (6) PROPOSED RRUs (2 PER SECTOR)
 - iv. INSTALL (1) PROPOSED OVER VOLTAGE PROTECTION DEVICE (OVP)
 - v. INSTALL (1) PROPOSED HYBRID CABLE
 - vi. INSTALL (1) PROPOSED JUMPER
 - b. GROUND SCOPE OF WORK:
 - i. INSTALL WOODEN FENCED COMPOUND
 - ii. INSTALL (1) PROPOSED EQUIPMENT PAD
 - iii. INSTALL (1) PROPOSED ICE BRIDGE
 - iv. INSTALL (1) PROPOSED PPC
 - v. INSTALL (1) PROPOSED EQUIPMENT CABINET
 - vi. INSTALL (1) PROPOSED POWER CONDUIT
 - vii. INSTALL (1) PROPOSED TELCO CONDUIT
 - viii. INSTALL (1) PROPOSED TELCO-FIBER BOX
 - ix. INSTALL (1) PROPOSED GPS UNIT
 - x. INSTALL (1) PROPOSED TECH LIGHT
 - xi. INSTALL (1) PROPOSED FIBER NID (IF REQUIRED)
 - xii. INSTALL (1) PROPOSED 200A METER

During Construction

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 Building Permit:

1. The structural elevations shall be in conformance with this approval as reviewed and approved or otherwise conditioned.

- a. All equipment shelters, cabinets or other on-ground ancillary structures shall meet the setback requirements of the zone.
2. All new fences and gates shall be required to be in conformance with Garden City Code 8-4A-3 Fences and Walls.
 - a. The use of barbed wire, razor wire, boxes, sheet metal, old or decayed wood, broken masonry blocks, chain link, chain link with slats, or other like unsightly materials for fencing shall be prohibited.
 - b. The height of the fence must comply with the Maximum Height Requirements outlined in Garden City Code 8-4A-3 Fences and Walls.

Prior to Occupancy:

1. A building permit shall be applied for and approved by the Garden City Development Services Department.
2. Commencement of the use/expansion shall not commence until after a Certificate of Occupancy or Compliance has been obtained from Garden City Development Services Department.
3. The site and building must be constructed in accordance with the approved design review file DSRFY2025-0006.
4. Materials, colors, textures, and screening shall be used that blend the tower facility to the natural and built environment. Supporting electrical and mechanical equipment installed on the tower shall use colors that are similar to the tower.

Site Specific Requirements for the Duration of the Use:

1. A wireless communication facility that is no longer in use shall be completely removed and the site restored to its preexisting condition within six (6) months of the cessation of operation.
2. Except as required by the federal aviation administration (FAA) or the federal communication commission (FCC), transmission structures shall not be artificially lighted. Equipment shelters may use lighting consistent with the lighting standards set forth in section 8-4A-4, "Outdoor Lighting" or otherwise approved by the Design Review Consultants and Planning Official.

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.

Chairman, Planning and Zoning Commission

06/18/2025

Date