

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:)	CUPFY2023-0005
)	
Conditional Use Permit)	FINDINGS OF FACT,
4866 N. Alworth Street)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho)	AND DECISION
_____)		

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on February 15, 2023. 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 a waiver to the minimum density requirements of the Neighborhood Destination Activity Node.
2. The applicant is Clint Hansen.
3. The property owner of record is Pineda Guadalupe.
4. The location of the project is 4866 N Alworth; Taxing Parcel Number: R7334160041; Property is described as LOT 04 BLK 01 EXC R/W RANDALL ACRES SUB NO 05 #0130-B.
5. The subject property is .687 acres.
6. The project is located in the Main Street Corridor, Mixed Use Residential, and Neighborhood Destination Activity Node designations of the Comprehensive Plan Future Land Use Map.
7. The project is in the R-3 Zoning District.
8. The project is not located in the floodplain according to the 2003 FIRM.
9. The project is not located in the floodplain according to FEMA's most recent modeling of the Lower Boise River, adopted by resolution 1083-20.

- 10. There has been no denial of any application in the same form for the same use on the property within one year.
- 11. The existing use on the site is Manufactured Home and Single Family Dwelling Unit.
- 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 8-3D Neighborhood Commercial Node
 - 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 8-4J Manufactured and Mobile Home 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
- 14. The following previous approvals apply to this proposal:
 - a. SUBFY2022-0006.
- 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. Floor Plans;
 - c. 300' Neighborhood List;
 - d. Affidavit of Legal Interest;
 - e. Application;
 - f. Statement of Intent;
 - g. Waiver Request;
 - h. Site Photos.

- 17. Agency Comments were received from:
 - a. Garden City Engineer, dated February 2, 2023
- 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 here		01/20/2023
Letter of Acceptance	02/20/2023	02/02/2023
Radius Notice	01/31/2023	01/30/2023
Interested Parties	None	None
Legal Notice	01/31/2023	01/31/2023
Agency Notice	01/31/2023	01/30/2023
Property Posting Sign	02/05/2023	02/05/2023
Affidavit of Property Posting and Photos	02/08/2023	02/08/2023

- 20. On February 15, 2023, a public hearing before the Planning and Zoning Commission was held:
 - b. This section will be completed after the hearing.

- 21. The record contains:
 - c. Application Documents
 - d. Noticing Documents
 - e. Agency Comments
 - f. Written Public Comments
 - g. Staff report
 - h. February 15, 2023 Planning and Zoning Commission Hearing Minutes and Audio
 - i. 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:

The draft findings are written both in approval and in denial. The decision makers may select the corresponding conclusions and explanations during their decision or make different conclusions based on their review of the record materials.	
GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS	
Conclusion	

Compliant	Not Applicable to this Application	Not Compliant	Standard
X		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>In Approval: The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the R-3 Zoning District. This application is in conformance with the surrounding neighborhood as the surrounding uses are single family detached dwelling units.</p> <p>In Denial: The requested density reduction is not appropriate to the neighborhood as it does not support the Comprehensive Plan's goal for the Neighborhood Destination Activity Node; and the use is incompatible with the density that which the neighborhood is currently developing at.</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:</p> <p>In Approval: The application has provided a waiver for the ability to serve letter and a condition of approval for the submittal of this letter has been made.</p>
X		X	<p>Finding 3. The use will not unreasonably diminish either the health, safety or welfare of the community;</p> <p>Explanation:</p> <p>In Approval:</p>

			<p>The application proposes to maintain the existing attached sidewalk along N. Alworth Street and E. 49th Street.</p> <p>In Denial: The lack of adherence to City Codes and the City’s Comprehensive Plan is detrimental to the welfare of the city.</p>
X		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:</p> <p>In Approval: The application is cohesive with the Comprehensive Plan’s Mixed-Use Residential land use designation as it proposes to maintain the existing single family dwelling unit and manufactured home as they exist while making improvements to better meet the district’s overall vision. By maintaining the residential use of the property, the district is able to maintain its small form and scale as identified in the Comprehensive Plan.</p> <p>In Denial: The application is not cohesive with the Comprehensive Plan’s Neighborhood Destination Activity Node in that it does not achieve the necessary density of 14-20 units per acre to generate a transit focused destination. The designs are one story rather than three-story as noted as desirable within the designation. For the reasons noted above, there is a conflict with the objectives: 10.4 Designate locations in proximity to existing and future transit stops throughout the city that serve as activity centers.</p>

18. 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 a waiver to the minimum density requirement of 14 dwelling units per acre for the current lot at 4866 N. Alworth Street, and the lots associated with SUBFY2022-0006.

Site Specific Requirements for the Duration of the Use:

1. The site and structure(s) must be found in compliance with the approved subdivision file SUBFY2022-0006.

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. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within 15 days after the action of the decision.
34. This approval shall expire 365 days 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.

STANDARD CONDITIONS FOR DENIAL DECISION

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-2. This project is not in compliance with 8-6B-2 standard(s) because it is not in compliance with the Garden City Comprehensive Plan Future Land Use Designation of Neighborhood Commercial Activity Node; and Garden City code sections 8-4J, 8-4D, 8-2B and 8-1B-1. Compliance can be met by providing required vehicular parking; adhering to minimum setbacks; providing a density, scale, and form more align with the existing and planned neighborhood.
2. There is a 15 day right to appeal to City Council. An appeal shall be made on the form provided by the City and filed with the City Clerk within ten (10) days after the action of the decision.
3. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
4. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.
5. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
6. 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.