

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

In the Matter of:	)	CUPFY2023-0012
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
6826 N. Glenwood St.	)	CONCLUSIONS OF LAW;
Garden City, Ada County, Idaho	)	AND DECISION
_____	)	

THIS MATTER, came before the Garden City Planning And Zoning Commission for consideration on October 18, 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 the use of Church or Place of Religious Worship defined by Garden City Code 8-7A-1 as "The use of a site that by design and construction is primarily intended for conducting organized religious services, meetings, and associated activities and that is recognized as a religious corporation or society of the state of Idaho with a state tax exempt status in accord with Idaho Code section 63-602B."
2. The applicant is Paula Tonkin.
3. The property owner of the record is SPIEGELMAN LIVING TRUST.
4. The location of the project is 6826 N. Glenwood St., Suits 6846, 6858 & 6864; Ada County Assessor parcel number(s) R7100510641; LOTS 5B & 5C EXC R/W PLANTATION SHOPPING CENTER #0640-B #98060810 #98060811
5. The property is a legal parcel of record.
6. The subject property is 1.836acres.
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 Residential Low Density, Transit Oriented Development Node, and the Green Boulevard Corridor future land use designations of the Garden City Comprehensive Plan.

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 Standards
  - 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
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
  - e. Garden City State Street Transit Oriented Development
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:
  - a. Floor Plans;
  - b. 300' Neighborhood List;
  - c. Affidavit of Legal Interest;
  - d. Application;
  - e. Statement of Intent;

- f. Tenant Demolition Plan.
- g. Site Photos.

16. Agency Comments were received from:

- a. Idaho Transportation Department, August 28<sup>th</sup>, 2023
- b. Ada County Highway District, August 30<sup>th</sup>, 2023.
- c. Idaho Department of Environmental Quality, September 5<sup>th</sup>, 2023

17. Public comments were received from:

- a. None

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

Noticing Requirement	Required Date	Completion Date
Receipt of application	08/21/2023	08/21/2023
Letter of Acceptance	09/20/2023	08/25/2023
Radius Notice	10/03/2023	08/28/2023
Interested Parties	None	None
Legal Notice	09/29/2023	08/29/2023
Agency Notice	10/03/2023	08/28/2023
Property Posting Sign	10/08/2023	10/05/2023
Affidavit of Property Posting and Photos	10/11/2023	10/05/2023

19. On October 18, 2023, a public hearing before the Planning and Zoning Commission was held:

- a. Paula Tonkin and Brett Dodd presented the application.
- b. Staff Hanna Veal presented the staff report.
  - i. Condition item #6 can be eliminated based on the late exhibit of landscape plans.
- c. There was no public testimony.
- d. Paula Tonkin provided rebuttal:
  - i. Found bike parking location.
  - ii. Tree location conflict with overhead utilities.
  - iii. Pedestrian pathway conflict with grounding wire of overhead utilities.
  - iv. Would prefer painted pathway to connect public sidewalk to internal pathways.
- e. Public testimony was closed.
- f. Discussion included:
  - i. 1 Class II or III tree shall be planted in the landscape buffer between the Glenwood sidewalk and right-of-way.
  - ii. The applicant, staff, and the utility company may negotiate and staff has approval authority.

- iii. Modify condition item #3 to require a painted pathway as opposed to a concrete pathway to the public sidewalk on Glenwood. The pathway may be located in the common drive entry area.
    - iv. Eliminate condition item #6.
  - g. Commissioner Brown 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. 1 Class II or III tree shall be planted in the landscape buffer between the Glenwood sidewalk and right-of-way.
    - ii. The applicant, staff, and the utility company may negotiate and staff has approval authority.
    - iii. Modify condition item #3 to require a painted pathway as opposed to a concrete pathway to the public sidewalk on Glenwood.
    - iv. Eliminate condition item #6.
  - h. Commissioner Wilde seconded the motion.
  - i. The motion carried unanimously.
- 20. The record contains:
  - a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments
  - d. Staff report
  - e. October 18, 2023, Planning and Zoning Commission Hearing Minutes and Audio
  - f. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision
- 21. 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			<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; <b>Explanation:</b> The use is appropriate to the location, lot, and the neighborhood and is compatible with uses within the C-2 General Zoning District.

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> There are public services available that can accommodate the proposed development.</p>
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> This proposal will not unreasonably diminish the health, safety, or welfare of the community as conditioned.</p>
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> The application is cohesive with the Comprehensive Plan's Green Boulevard Corridor, Transit Oriented Development Activity Node, and Low-Density Residential future land use designations. The application supports the Comprehensive Plan's Goal 1, Nurture the City; Goal 4, Emphasize the "Garden" in Garden City; Goal 7, Connect the City; Goal 11 Serve the City 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>

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** 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 DECISION**

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

##### Scope of Permit:

1. The scope of this permit is to allow for the use of a Church or Place of Religious Worship.
2. Based on the rules of proportionality, the applicant is only required to install 37% of the required landscaping.

##### 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. 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. A direct and convenient painted pathway from the main entrance of the tenant space(s) to the public sidewalk on Glenwood shall be provided.
  - a. The pathway may utilize the common drive entry on Glenwood.
4. Vehicular parking stall dimensions shall be in compliance with Garden City Code 8-4D-3, Ord. 1034-22.
5. At least 1 Class II or III street tree per the Treasure Valley Tree Selection Guide shall be planted within the landscape buffer area along N. Glenwood Street.
  - a. The applicant shall work with Garden City Development Services staff and the utility company.
  - b. Garden City Development Services staff has approval authority.
6. At least 12 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.

**Site Specific Requirements for the Duration of the Use:**

- 1. Schools, child daycare services, meeting facilities for clubs and organizations, and other similar uses not operated primarily for the purpose of religious instruction, worship, government of the church, or the fellowship of its congregation may be permitted to the extent the use is otherwise permitted in the district.
- 2. Any future fence or wall shall be in compliance with code at the time of development.
- 3. Any new or upgraded outdoor lighting related to this use shall be in compliance with Garden City lighting standards.
- 4. All utilities shall be found in compliance with Garden City Code 8-4A.
- 5. All streets and driveways shall adhere to the standards of a clear vision triangle.

**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 Code 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

October 18, 2023

Date