

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

In the Matter of:	)	CUPFY2026 - 0004
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
4708 N. Fenton 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 March 18, 2026. 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 construction and use of a private garage over 1,000 square feet, that which exceeds the square footage of the principle dwelling unit.
2. The applicant is Hatch Design Architecture.
3. The property owner of record is KIWI ENTERPRISES LLC.
4. The location of the project is 4708 N. Fenton St.; Ada County Assessor parcel number(s) R7334150751; LOTS 06/07 BLK 04 RANDALL ACRES SUB NO 04.
5. The property is a legal parcel of record.
6. The subject property is 0.538 acres.
7. The scope of the request applies to the entire property.
8. The project is located in the C-2 Mixed-Use Commercial Zoning District.
9. The project is located in the Light Industrial Bradley Technology District; of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the:
  - a) Partially in 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.

11. The existing use on the site is Dwelling unit, single family detached.
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 8-4A Design and Development Regulations- General Provisions
  - e. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - f. Garden City Code 8-4E Transportation and Connectivity Provisions
  - g. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - h. 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
14. The following previous approvals apply to this proposal:
  - a. None identified;
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. Site Plan;
  - b. Floor Plans;
  - c. Landscape Plan;
  - d. Elevations Plan
  - e. 300' Neighborhood List;
  - f. Affidavit of Legal Interest;
  - g. Application;
  - h. Statement of Intent.
  - i. Site Photos.

17. Agency Comments were received from:
  - a. Garden City Engineer, February 14th, 2026.
  - b. Idaho Department of Environmental Quality, February 17th, 2026.
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		1/20/2026
Letter of Acceptance	2/19/2026	2/6/2026
Radius Notice	3/1/2026	2/9/2026
Legal Notice	3/3/2026	3/3/2026
Agency Notice	3/3/2026	2/9/2026
Property Posting Sign	3/8/2026	3/3/2026
Affidavit of Property Posting and Photos	3/11/2026	3/5/2026

20. Additional noticing includes:
  - a. None;
21. On March 18, 2026, a public hearing before the Planning and Zoning Commission was held:
  - a. Vice Chairman L. Kent Brown (acting Chairman) introduced the application.
  - b. Syringa Riley, representing the applicant, presented the application.
  - c. Staff, Jenah Thornborrow, presented the staff report.
    - i. Previous entitlement applications along this section of N. Fenton St. have been required to install a detached sidewalk.
    - ii. For the record, staff clarified that during the Design Review consultation meeting, the suggestion to construct a sidewalk on the adjacent property along N. Fenton Street was raised by the applicant, not by staff. Staff's response at that meeting was that, should the adjacent property owner grant permission, constructing a sidewalk on their property could satisfy the attached sidewalk provision under the Garden City Sidewalk Policy — given that only one of the two properties adjoining the subject site currently has an attached sidewalk. Staff did not recommend or require this approach; they confirmed only that it would be permissible if the necessary permissions were obtained.
  - d. Public testimony was heard from:
    - i. Kayleen Richter, via Zoom, concerns regarding a fence along the Davis Drain property, light trespass, and stated that the existing use of the site as storage is correct. In approval of the application as drafted by staff.

- ii. Sandi O'Shea in person, concerns regarding a fence along the Davis drain property. The previous owner had installed illegally.
- e. Jeff Hatch provided rebuttal:
  - i. Formally presented two alternatives to the code-required detached sidewalk along N. Fenton Street. The first proposed constructing an attached sidewalk on the adjacent property to the west on Fenton Street, contingent on permission from that property owner. The second proposed installing an asphalt path on the adjacent Davis Drain property, paired with a mural on the façade of the new structure. Both alternatives were offered in lieu of compliance with the detached sidewalk requirement.
- f. Public testimony was closed.
- g. Discussion included:
  - i. The Commission noted that they do not have authority to require improvements on property outside the applicant's ownership, including the Davis Drain property, and that the alternative proposals presented by the applicant, while appreciated, did not constitute sufficient grounds to waive a code-required improvement. They further noted that a longstanding failure to enforce sidewalk requirements has contributed to gaps in the pedestrian network throughout older parts of Garden City, and that the Commission has consistently required detached sidewalks from other applicants in this same area of Fenton Street.
  - ii. The sidewalk along N. Fenton shall be installed per code and as drafted in the decision document.
- h. Commissioner Sheppard moved to approve the application as drafted in the draft decision in the affirmative.
- i. Commissioner Bickerton seconded the motion.
- j. The motion carried unanimously.

22. The record contains:
- a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments
  - d. Staff report
  - e. March 18, 2026, Planning and Zoning Commission Hearing Minutes and Audio
  - f. Planning and Zoning Commission Signed Findings of Fact, Conclusions of Law and Decision

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** the standards of approval under **GCC 8-6B-2 Conditional Use**.

Finding	Standard
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>	
Application is compliant with standard	<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 of Finding (Reasoned Statement):</b></p> <p>The surrounding area contains a mix of single-family residential uses and commercial uses. Conditions requiring the site to remain residential and limiting use of the accessory structure to a residential accessory use, with no outdoor equipment storage and no Storage Facility or Yard activity, ensure compatibility with the surrounding neighborhood and prevent the introduction of prohibited commercial uses in the C-2 zoning district. The record shows that, with the required removal of encroachments and the elimination of stored materials, the accessory structure can function as an incidental and subordinate use to the primary dwelling.</p>
Application is compliant with standard	<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 of Finding (Reasoned Statement):</b></p> <p>Agency review indicates public facilities and services are available or can be made adequate through conditions, including ACHD access approvals, fire protection (NACFR), and stormwater design and maintenance requirements. Conditions also require lighting compliance, installation of a detached sidewalk with landscape buffer along Fenton Street.</p>
Application is compliant with standard	<p><b>3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p> <p>With the removal of all encroachments onto the adjacent Davis Drain parcel, the prohibition of outdoor equipment storage, compliance with lighting standards, and completion of required public frontage improvements, the proposal addresses identified safety, access, and nuisance concerns. Required permits and inspections, including building permits, demolition permits if applicable, Public Works approvals, and design review approval, ensure compliance with applicable code and policy standards and help protect community health, safety, and welfare.</p>
Application is compliant with standard	<p><b>4.</b> The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p>

	<p>Conditioned approval advances Comprehensive Plan objectives related to connecting the city and emphasizing the public realm by requiring a detached sidewalk with a planted buffer and street trees along Fenton Street, improving pedestrian access and safety. Open fencing along the Davis Drain and removal of encroachments support city policies recognizing canal corridors as existing or future natural pathways. By prohibiting commercial storage uses and enforcing lighting standards, the decision aligns the project with adopted code provisions and city policies.</p>
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## 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:

### **Application Specific Requirements:**

#### Scope of Permit:

1. The scope of this permit is to allow a residential detached garage over a combined 1,000 square feet of the combined square footage of the principal dwelling unit.
2. The design of the new detached garage, as well as any updates to the existing building, are not approved as part of this decision. Separate approval from the Design Review Consultants is required prior to issuance of a building permit.
3. This is a residential application. This approval is not, under any circumstances or conditions, for any commercial use. If a commercial entity is occupying any space on the subject premises, further permits will be required in accordance with local, state, and federal laws.
4. The conditional use permit does not authorize any conditional uses listed in Garden City Code 8-2B-2. If any commercial use occurs on the site, a separate conditional use permit will be required.
5. Storage Facility or Yard is not permitted on the site.

#### Prior to Building Permit:

1. The applicant shall obtain approval for Design Review application DSRFY2026-0006 associated with this Conditional Use Permit proposal.
2. A building permit shall be applied for and approved by Garden City Development Services Department.
3. Accessory structures shall not be located in any front yard setback and shall be set back a minimum of five feet (5') from any side or rear property line.

4. Single-family residential uses may provide a substitute surface material where it can be demonstrated that the materials do not generate dust.
5. Driveways, aisles and turnaround areas, when required for fire and refuse access, shall meet the following standards:
  - a. Have a minimum vertical clearance of thirteen feet six inches (13'6") for their entire length and width.
  - b. Have a minimum width of twenty feet (20').
  - c. The design of internal circulation should be integrated with the overall site design and adjacent properties, including the location of structures, pedestrian walkways and landscaping.
6. All City Engineer's comments must be addressed.

During Construction:

1. 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.
2. Existing trees that are retained shall be protected from damage to bark, branches, and roots during construction. Any tree damaged during construction shall be replaced in accordance with Garden City Code 8-4I-7 Tree Preservations Provisions.

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. The site and building must be constructed in accordance with the approved design review file DSRFY2026-0006
3. All buildings, structures, and stored materials encroaching onto the adjacent parcel shall be removed prior to issuance of a Certificate of Occupancy.
4. All required permits must be obtained for any existing structures installed without permits to ensure that any remaining structure complies with all applicable code standards, including fire and building regulations.
  - a. If any demolition is proposed, a demolition permit shall be submitted to and approved by the Garden City Development Services Department.
5. A public works and utility permit shall be submitted for review and approval of the site work.

6. Fencing requirements:
  - a. All chain-link fencing, including any fencing with slats or barbed wire that is visible from the right-of-way, shall be removed or replaced with code-compliant fencing materials.
  - b. A 6-foot fence along 47th Street and Fenton Street shall be set back at a minimum of 10 feet from the back of sidewalk and shall be screened with Type A or Type B landscaping.
    - i. The selected plant materials must include a mix of deciduous and evergreen species to ensure visual interest during the winter months.
  - c. Fencing material shall be approved through the design review application file DSRFY2026-0006.
  - d. Fencing along the north boundary line shall be open fencing.
7. Any outdoor lighting shall be in compliance with code at the time of development
  - a. Lighting shall be located and directed to limit light trespass onto adjacent residential properties and into the Davis Drain along the north side of the property.
    - i. Ways to mitigate light trespass include, but are not limited to:
      1. Lights may be on a timer or sensor activated lights.
      2. Lights should be minimum 85-degree full cutoff type luminaires.
      3. The maximum lumen output should be 260 lumens.
      4. The height of a freestanding light fixture in a residential district should not exceed nine (9') feet in height.
  - b. Prohibitions:
    - i. Mercury vapor lamp fixture and/or lamp.
    - ii. Laser source light or any similar high intensity light when projected above the horizontal.
    - iii. Strobe lights, except for emergency uses.
    - iv. Searchlights, except where approved for temporary uses.
    - v. Lighting, including holiday lighting, on commercial or private tower structures that exceed the district height limit except as required by regulations of the Federal Aviation Administration (FAA).
8. All stormwater systems must comply with Garden City Code 8-4A-7.
  - a. The standards for stormwater integration shall apply to all site improvements and ACHD stormwater facilities. Stormwater swales incorporated into required landscape areas shall be vegetated with grass or other appropriate plant materials. Such swales shall also be designed to accommodate the required number of street trees.
9. A direct and convenient internal pathway shall be provided between the proposed two-car garage and the single-family home.
10. A direct and convenient pathway from the Fenton Street sidewalk to the main entrance of the single-family home shall be provided.

11. A detached sidewalk shall be installed along Fenton Street.
  - a. The minimum detached sidewalk width may be reduced to four feet (4').
  - b. Required street trees shall be incorporated into a green buffer along Fenton Street
    - i. A minimum of five (5) Class II or III trees shall be installed along Fenton Street.
  - c. A private driveway with two curb cuts along Fenton Street shall be approved by ACHD.
12. An existing attached sidewalk may remain along 47<sup>th</sup> St.
  - a. A minimum of three (3) Class II or Class III trees shall be installed along 47th Street.
13. Class I trees may be provided if utility constraints prevent the installation of Class II or Class III trees.
14. Plant materials shall be a species that are able to withstand the anticipated changes in soil wetness and moisture levels.
15. All parking areas shall provide proper drainage of surface water to prevent the flow of water onto adjacent properties, walkways, or streets.
16. All utilities on the site, including telephone, cable television, and electrical shall be underground and in compliance with Garden City Code 8-4A-8.
17. The driveway shall adhere to the standards of a clear vision triangle.
18. HVAC equipment, trash dumpsters, recycling, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.
19. All onsite service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property or shall be screened from view from a public street and adjoining property with a privacy fence.

Site Specific Requirements for the Duration of the Use:

1. A conditional use permit revocation hearing shall be held if a use not authorized by Garden City Code is engaged in within the detached accessory structure. If the conditional use permit is revoked, the detached accessory structure shall be demolished.

2. In all districts, no garage, tent, trailer, fifth wheel, motor coach, recreational vehicle, travel trailer or other accessory structure shall be erected or used for living quarters or sleeping quarters outside of an approved recreational vehicle park for more than fourteen (14) consecutive days.
  - a. The quarters may not be utilized more than two (2) times per calendar year from January 1 through December 31 for living or sleeping quarters outside of an approved recreational vehicle park.
  - b. No recreational vehicle shall be allowed to connect to Garden City utilities outside of an approved recreational vehicle park.

### **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 service and equipment areas shall comply with Garden City Cod 8-4A-5 Outdoor Service and Equipment Areas.
23. All stormwater systems must comply with Garden City Code 8-4A-7.
24. 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.
25. 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.
26. 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.

27. 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.
28. Any violation of the conditions of this application is a criminal offence.
29. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
30. All previous uses are null and void unless otherwise conditioned.
31. 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.
32. 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.
33. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
34. This approval shall expire one (1) year 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.

  
Chairman, Planning and Zoning Commission

03/18/2026

Date