

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

In the Matter of:	)	CUPFY2026 - 0009
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
521 E 41st 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 April 15, 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 seeks approval for a range of permitted and conditionally allowed uses.
2. The applicant is Crispy Investments LLC c/o Nathan Talbott.
3. The property owner of record is CRISPY INVESTMENTS LLC.
4. The location of the project is 521 E 41st St.; Ada County Assessor parcel number R2734520791; LOTS 27-30 BLK 15 FAIRVIEW ACRES SUB NO 03 & POR SW4SE4 SEC 32 4N 2E ROS 15031 PAR 1 IN TCA 06 R2734520790-R
5. The property is a legal parcel of record.
6. The subject property is 4.023 acres.
7. The scope of the request applies to the entire property.
8. The project is located in the C-2/DA zoning district.
9. The project is located in the Mixed Use Residential; Activity Node: Neighborhood Destination, Green Boulevard Corridor 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 Dwelling unit, multiple family, several commercial uses
12. The following standards apply to this proposal:
- a. Garden City Code 8-1A-4 Applicability
  - b. Garden City Code 8-2B Base Zoning District Regulations
  - c. Garden City Code 8-2C Land Use Provisions
  - d. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - e. 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. ZONFY2023-0002;
  - b. DSRFY2020-0017,
  - c. DSRFY2019-0025,
  - d. DSRFY2022-0019
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. 300' Neighborhood List;
  - c. Affidavit of Legal Interest;
  - d. Application;
  - e. Statement of Intent.
17. Agency Comments were received from:
- a. Garden City Engineer, March 27th, 2026.

- b. Idaho Transportation Department, March 18th, 2026.
- c. Idaho Department of Environmental Quality, March 24th, 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		2/27/2026
Letter of Acceptance	3/29/2026	3/16/2026
Radius Notice	3/29/2026	3/13/2026
Legal Notice	3/31/2026	3/18/2026
Agency Notice	3/31/2026	3/13/2026
Property Posting Sign	3/31/2026	3/30/2026
Affidavit of Property Posting and Photos	4/6/2026	4/1/2026

20. Additional noticing includes:
- a. None.

21. On April 15, 2026, a public hearing before the Planning and Zoning Commission was held:

- a. Chairman, Ryan Montoya introduced the application.
- b. Julie Miller presented the application.
- c. Jenah Thornborrow provided the staff report.
- d. Public Testimony was provided by:
  - a. Tiffany Hicks in opposition due to former tenancy.
  - b. Chris Herbert in opposition to approval of several uses at once and parking concerns.
  - c. Frank Jordan in opposition.
- e. Julie Miller provided a rebuttal noting that the list of approved uses has been refined.
- f. The Public Hearing was closed.
- g. Commissioner Brown moved to approve the application in accordance with the staff recommendation.
- h. Commissioner Smith seconded the motion.
- i. The Motion passed 4/0.

22. The record contains:
- a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments
  - d. Public Comments
  - e. Staff report

- f. April 15, 2026, Planning and Zoning Commission Hearing Minutes and Audio
  - g. 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 requested Conditional Use Permit provides flexibility to allow a defined range of commercial uses that are permitted or conditionally allowed within the C-2 zoning district for a site that operates as one system with several uses. The approved Development Agreement continues to restrict incompatible uses and remains in full effect, ensuring ongoing compatibility with surrounding residential areas.</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>The site is improved with required infrastructure and public facilities, including sidewalks, bicycle facilities, parking, landscaping, and Greenbelt improvements, which were installed as part of the approved development. Agency reviews did not identify deficiencies related to public facilities or services.</p> <p>Although specific future tenant uses are not identified, conditions of approval require that all applicable building, fire, environmental, public works, utility, and licensing permits be obtained prior to occupancy. In addition, uses subject to the requirements of GCC Section 8-2C will be reviewed for compliance at the building permit stage. These requirements ensure that public services and facilities will adequately support each use and that impacts can be mitigated as needed through permit review and conditions.</p>
	<p><b>3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community.</p>

<p>Application is compliant with standard/</p>	<p><b>Explanation of Finding (Reasoned Statement):</b>  The site remains subject to the terms of the Development Agreement, including enforceable noise restrictions adopted as part of the prior rezone approval. These restrictions apply to all tenants and uses and are intended to protect nearby residential use.</p> <p>Uses that cannot comply with applicable code standards, permit requirements, or noise limitations are not permitted.</p> <p>Parking was noted as a specific concern in testimony. This is addressed by acknowledging that if parking becomes a nuisance, that this permit can be revoked.</p> <p>As conditioned, the proposal does not introduce impacts that would unreasonably diminish public health, safety, or welfare.</p>
<p>Application is compliant with standard/</p>	<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>The property is designated Mixed-Use Residential, Neighborhood Destination Activity Node, and Green Boulevard Corridor in the Garden City Comprehensive Plan. These designations support a mix of residential, commercial, entertainment, and service uses in a pedestrian-oriented environment.</p> <p>The proposed Conditional Use Permit is consistent with these policies by supporting flexible commercial activity within an established mixed-use development while maintaining compatibility through zoning standards, Development Agreement restrictions, and conditions of approval.</p> <p>During the public hearing, former tenants provided testimony expressing frustration about their treatment and other civil matters related to the property. The Planning and Zoning Commission acknowledges these concerns but notes that disputes between tenants and the property owner are civil issues that fall outside its jurisdiction.</p>

## 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 FOR APPROVAL DECISION

#### Application Specific Requirements:

##### Scope of Permit:

1. This Conditional Use Permit is limited to the site located at 521 E. 41st Street and applies only to the development approved as part of The Boardwalk Apartments. This approval shall not be expanded, transferred, or applied to any other parcels, buildings, or future projects, including but not limited to 406 Place or The Boardwalk Condo Tower, unless separately reviewed and approved through an appropriate land use application.
2. This conditional use permit allows for all by right permitted uses as well as the uses:
  - a. Commercial Entertainment Facility
  - b. Daycare, Center Facility
  - c. Drinking Establishment, Full Service
  - d. Tobacco Entertainment Establishment
3. The uses are subject to specific criteria as identified in this decision and as required by Garden City Code 8-2C at the time that the use is established on site.
4. Any uses prohibited or restricted by the approved Development Agreement shall not be permitted on the site.
  - a. This Conditional Use Permit shall not override, modify, or supersede the provisions of the Development Agreement.
    - i. Pursuant to the Development Agreement, prohibited uses include, but are not limited to, the following: equipment rental, sale and service; food products processing (not including food products, small scale processing); fuel sales; industry flex; laundry and dry cleaning, commercial plant; recreational vehicle park; service provider; vehicle rental, vehicle sales, vehicle service; vehicle washing facility; and warehouse.
    - ii. Any use shall not be a dedicated food truck lot.
    - iii. No change in the uses specified in the Development Agreement shall be allowed without modification of the Development Agreement pursuant to the requirements of the Garden City Code.
5. Any uses prohibited by Garden City Code in the C-2 zoning district shall not be allowed on the site.

Prior to Occupancy:

1. Occupancy of the site/tenant space shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. All applicable building permits, Occupancy Analysis, Fire and Environmental Review to complete business compliance verification shall be applied for and approved by Garden City Development Services Department.
3. Public works and utility permits shall be submitted for review and approval of the site work that will be required to bring the site into compliance.
4. Any use requiring additional permits, licenses, or certifications from the City, State, or other agencies shall not be permitted to operate on the site until all required approvals have been obtained.
5. All proposed uses shall be subject to evaluation of noise impacts during the building permit review process.
6. Any use subject to the nonresidential use provisions of Garden City Code Section 8-2C shall be reviewed for compliance with those provisions at the building permit stage.
  - a. If a proposed use does not comply with the applicable requirements of Section 8-2C, the use shall not be permitted on the site.

Site Specific Requirements for the Duration of the Use:

1. The existing parking configuration is approved for future uses that are permitted or otherwise allowed under this conditional use permit.
  - a. Notwithstanding this approval, the property owner shall be responsible for providing adequate parking to serve patrons and for complying with all applicable parking requirements for each phase of development.
  - b. If parking associated with the use is determined to create a nuisance to the surrounding neighborhood, the City may initiate review and take enforcement action, which may include modification or revocation of this conditional use permit.
2. **COMMERCIAL ENTERTAINMENT FACILITIES.**
  - a. **Setbacks:** If the use involves the sale of alcoholic beverages, the use shall not be located within three hundred feet (300') of a property used for a church or school.
  - b. **Limitations:** No outside activity or event shall be allowed in the parking area, except as allowed through a special events permit that takes into account the public health and welfare, the interests of adjoining property owners, noise, traffic and vehicular and pedestrian safety.
  - c. **Other Regulations Apply:**

- i. The use shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages.
- ii. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code.
- iii. Security shall be provided for the entire premises including inside the building and any parking lot or outside usable space. Security shall be provided in the prescribed manner:
  1. Security personnel are required and shall wear identical attire clearly identifiable with the word "Security" on the backside of shirts; and
  2. Security staff should have some means of two-way communication; and
  3. Video surveillance is required; and
  4. Parking areas shall be lighted; and
  5. No loitering outside of the establishment shall be permitted.

### 3. DAYCARE FACILITY.

- a. Determining The Type Of Facility: In determining the type of daycare facility, the total number of individuals cared for during the day and not the number of individuals at the facility at one time, is the determining factor. The operator's children are excluded from the number.
- b. Access And Parking: On site vehicle pick up, parking and turnaround areas shall be provided to ensure safe discharge and pick up of clients.
- c. Limitations: In residential districts or uses adjoining an adjacent residence, the hours of operation shall be between six o'clock (6:00) A.M. to eight o'clock (8:00) P.M.
- d. Additional Standards For Daycare Facilities That Serve Children:
  - i. All outdoor play areas shall be completely enclosed by a minimum six foot (6') fence to secure against exit/entry by small children and to screen abutting properties.
  - ii. Outdoor play equipment over six feet (6') high, shall not be located in a front yard setback or within any required setback.
  - iii. Outdoor play areas in residential districts adjacent to an existing residence shall not be used after dusk.
  - iv. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code.

### 4. DRINKING ESTABLISHMENT.

- a. Setbacks: The drinking establishment shall not be located within three hundred feet (300') of a property used for a church or school.
- b. Limitations:
  - i. No outside activity or event shall be allowed in the parking area, except as allowed through a special events permit that takes into account the public health and welfare, the interests of adjoining property owners, noise, traffic and vehicular and pedestrian safety.

- ii. No amplification device shall be used such that the sound is plainly audible within any place of residence, or, is plainly audible on a street at a distance of one hundred feet (100') or more from the amplification device.
    - iii. Establishments shall remain closed between two o'clock (2:00) A.M. and six o'clock (6:00) A.M. Closing times shall be clearly posted on all entrances and exits.
  - c. Other Regulations Apply:
    - i. The use shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages.
    - ii. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code.
    - iii. Security shall be provided for the entire premises including inside the building and any parking lot or outside usable space. Security shall be provided in the prescribed manner:
      - 1. Security personnel are required and shall wear identical attire clearly identifiable with the word "Security" on the backside of shirts; and
      - 2. Security staff should have some means of two-way communication; and
      - 3. Video surveillance is required; and
      - 4. Door security alarms shall be installed so as to prevent patrons from entering and exiting the building from doorways other than the main entrance; and
      - 5. Parking areas shall be lighted; and
      - 6. Mandatory identification checks of all individuals patronizing the establishment shall be conducted and no one under the legal age to drink alcohol shall be allowed to patronize the establishment; and
      - 7. No loitering outside of the establishment shall be permitted.

5. TOBACCO ENTERTAINMENT ESTABLISHMENT.

- a. Setbacks: The tobacco entertainment establishment shall not be located within three hundred feet (300') of a property used for church or school activities.
- b. Limitations:
  - i. No outside activity or event shall be allowed in the parking area, except as allowed through a special events permit that takes into account the public health and welfare, the interests of adjoining property owners, noise, traffic and vehicular and pedestrian safety.
  - ii. No amplification device shall be used such that the sound is plainly audible within any place of residence, or, is plainly audible on a street at a distance of one hundred feet (100') or more from the amplification device.

- iii. Establishments shall remain closed between two o'clock (2:00) A.M. and six o'clock (6:00) A.M. Closing times shall be clearly posted on all entrances and exits.
- c. Other Regulations Apply:
  - i. The use shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of tobacco products.
  - ii. Security shall be provided for the entire premises including inside the building and any parking lot or outside usable space. Security shall be provided in the prescribed manner:
  - iii. Security personnel are required and shall wear identical attire clearly identifiable with the word "Security" on the backside of shirts; and
  - iv. Security staff are required to have some means of two-way communication; and
  - v. Video surveillance is required; and
  - vi. Door security alarms shall be installed so as to prevent patrons from entering and exiting the building from doorways other than the main entrance; and
  - vii. Parking areas shall be lighted; and
  - viii. Mandatory identification checks of all individuals patronizing the establishment shall be conducted and no one under the legal age to smoke tobacco shall be allowed to patronize the establishment; and
  - ix. No loitering outside of the establishment shall be permitted

### **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. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
35. 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.
36. A takings analysis pursuant to Idaho Code may be requested on final decisions.
37. 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.

April 15, 2026<sup>1</sup>




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Ryan Montoya, Chairman, Planning and Zoning Commission

Date

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<sup>1</sup> This application was approved on April 15, 2026. The approval language was subsequently revised on May 20, 2026, to ensure that the intent of the original approval is accurately documented.