

CITY OF GARDEN CITY

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~ MINUTES ~

Planning & Zoning Commission

6:30 PM

Wednesday, January 21, 2015

City Hall – Council Chambers

6015 Glenwood Street, Garden City, Idaho

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- I. **CALL TO ORDER:** The meeting was called to order at 6:30 pm.
- II. **ROLL CALL:** Commissioners Present: L. Kent Brown, Stephanie Butler; Charles Kennedy; Tom Jensen; James Page
Commissioners Absent: None
Staff Present: Jeff Lowe; Jenah Thornborrow
- III. **CHANGES TO AGENDA:** None
- IV. **CONSENT AGENDA**
- A. **December 17, 2014, minutes**
- B. **ADDED: Item VI. D. SUB2014-00004/PUD2014-00004 Glenwood Apartments Subdivision and Planned Unit Development – CS2 LLC:** Corey Swain with CS2 LLC, represented by Bob Unger with ULC Management, LLC, is requesting preliminary plat and planned unit development approval for Glenwood Apartments. The proposed 96-unit multi-family dwelling development consists of 7-lots (5-buildable, 1-common, 1-irrigation). The parcel (S0536141952) is located on the east side of Glenwood Street approximately 1,600–feet southeast of the intersection of Glenwood Street and Chinden Boulevard, directly south of the Fred Meyer Store at 5425 Chinden Boulevard. The property is zoned Mixed Use (M) and is in the Light Industrial area of the Comprehensive Plan.
- Chairman Kennedy inquired of those of the audience that wished to testify on the application; no one replied. Chairman Kennedy asked if the applicant was in agreement with the conditions of approval and Findings of Fact and Conclusions of law as presented. The applicant stated he was in agreement.
- Butler made a motion to approve the consent agenda as amended; Brown seconded.
Approved 4/0**
- V. **NEW BUSINESS**
- A. **Election of Chair:** Butler nominates Kennedy, Brown seconds the motion. No other nominations were made; Kennedy will serve as Chairman
- B. **Election of Vice Chair:** Butler nominates Brown, Jensen seconds the motion. No other nominations were made; Brown will serve as Vice Chairman
Page made a motion to close the nominations, Jensen seconded. Approved 4/0
- VI. **PUBLIC HEARINGS**

A. **CUP2014-00010 Animal Care Facility – Companions Dog Resort:** Terrance James (TJ) Smith with Companions Dog Resort is requesting Conditional Use Permit approval to modify the site-specific conditions of approval for CUP2007-00014 for an (existing) Animal Care Facility. The .34-acre site is

located at 106 W. 39th Street, and is within the C-2 General Commercial Zoning District and the Mixed Use Commercial areas of the Comprehensive Plan.

Planning Staff Jeff Lowe presented the staff report.

The applicant, TJ Smith represented the application.

Chairman Kennedy opened the Public Hearing.

Testimony was received by:

Paul Shuter – opposed – the facility owner has been operating with the number of dogs in excess of that which was previously approved. He stated that he has witnessed injuries that occurred on the site and feels the site is not capable of safely handling the requested 85 dogs.

Commissioner Brown asked Mr. Shuter if he understands that the facility has been in operation for a few years and has he witnessed any injuries. Mr. Shuter answered yes and that there have been injuries.

Bruce Hedmark – in favor – is a customer of the facility and has never seen any issues. The facility is well-managed, has great staff, and because he travels through Garden City to reach the site he frequents other Garden City businesses.

Faith Cox – in favor – feels the facility is like a resort for dogs. She is not aware of any incidents at the site, there are good amenities and no odor, staff is great at training dogs, is in a good location and she visits other businesses in the area.

Sydni Elliott – in favor – feels it is a clean facility with no odor, has not witnessed any injuries, has knowledgeable staff, and is a good resource for Garden City.

Jill Comahn – in favor – says her dogs love the place, and that the facility is clean.

Ricco Mowla – in favor – feels the service-dog training is great, likes the facility and the dog is happy there, and has never seen any issues with fighting or refuse.

Jereme Mowla – in favor – agrees with previous testimony of those in favor, feels facility is great and has accommodating staff.

LTC (R) Laura Hill – in favor – she credits Companions for improving her health.

Petra Reed – in favor – the facility is very clean and is a great employer.

TJ Smith stood for rebuttal and thanked those in attendance for supporting his application. He stated safety is the utmost concern and he teaches employees to be safe. He stated that the person in opposition to the application has a personal agenda.

Page asks how 85 for the number of dogs to be on site was determined.

Applicant Smith testified that he feels 85 is the “sweet spot” based on his experience, is an appropriate ratio for safety purposes and fits with his business model.

Page asks about the egress plan should there be a fire at the facility.

Applicant Smith states there three separate yards that the dogs would be diverted to.

Chairman Kennedy closed the Public Hearing.

Discussion of the Commissioners:

Jensen states the applicant has been shown to be a good business owner and recommends that no changes be made to the recommended conditions of approval.

Brown stated he was impressed by the number of people that showed up to testify and neighboring businesses indicate he is a good neighbor.

Page stated he was impressed with the number of letters in support from neighbors.

Brown made a motion to approve CUP2014-00010 with the recommended conditions of approval and the Findings Of Fact And Conclusions Of Law as presented. Butler seconded. No discussion. 4/0 to approve.

B. CUP2014-00011 Accessory Structure Robert Abel: Robert Abel is requesting Conditional Use Permit approval to build a 50-foot by 60-foot accessory structure (garage) for personal use located on a parcel consisting of an existing single-family dwelling. The .37-acre site is located at 507 E. 51st Street, and is within the R-3 Medium Density Residential Zoning District and the Mixed Use Residential areas of the Comprehensive Plan.

Planning Staff Jeff Lowe presented the staff report.

The applicant, Robert Abel represented the application.

Chairman Kennedy opened the Public Hearing.

Testimony was received by:

Robert Kresge – opposed - who had concerns with the proposed accessory structure being utilized for commercial uses and long term impacts in the neighborhood.

Jesca Corbett – in favor – who felt that the applicant is a good neighbor, has been cleaning up the site, and his improvements improve the tax base for the neighborhood.

Applicant Abel stood for rebuttal and stated he is just a tinkerer and that the accessory structure will not be used for commercial purposes as long as he owns it.

Chairman Kennedy closed the Public Hearing.

Discussion of the Commissioners:

Brown stated that the approval of the accessory structure is for personal use and there is no permit approved for commercial use.

Butler agreed with Brown and is in favor of the application.

Butler made a motion to approve CUP2014-00011 with the recommended conditions of approval and the Findings Of Fact And Conclusions Of Law as presented. Jensen seconded. No discussion. 4/0 to approve.

C. SUB2014-00003/PUD2014-00003 40th Street Cottages Subdivision and Planned Unit Development – Neighborhood Housing Services: Joe Swenson, with Neighborhood Housing Services, is requesting combined preliminary/final plat and planned unit development approval for 40th Street Cottages Subdivision. The proposed development consists of 29 lots (15-buildable for single-family units, 9-parking, 5-common) and is located on E. 40th Street, approximately 125–feet southwest of Adams Street at 309 & 313 E. 40th Street. The properties are zoned Medium Density Residential (R-3) and are in the Mixed Use Commercial Comprehensive Plan designation.

Chairman Kennedy asked the applicant if he agreed with the recommended conditions of approval and the Findings Of Fact And Conclusions Of Law as presented.

The applicant, Joe Swenson stated that he agreed.

Chairman Kennedy asked if in anyone in the audience wished to testify. No one chose to testify.

Chairman Kennedy asked the Commission if they had any questions. There were none.

Jensen made a motion to approve SUB2014-00003/PUD2014-00003 with the recommended conditions of approval and the Findings Of Fact And Conclusions Of Law as presented. Butler seconded. Butler mentioned that it is an interesting development. 4/0 to approve.

E. CPA2014-00005 Title 8 Proposed Amendments: The City of Garden City is proposing to amend portions of Title 8 of the Garden City Code. Amendments include changes: Additional regulations for non-conforming properties and structures. Additional property maintenance standards. Relocation of penalties section from general regulations to administration section. Density and setback alterations. Permitted and conditional use changes in certain zoning districts to the following uses: artist studio, day care, eating establishments, food processing small scale, Health Care and Social Service, Health Club, Public Facility, Public Uses, Storage Facility, Storage Yard, Vehicle Sales and Rental, Light Industry. Deletion of use Motorcycle Sales and Rental combining with the use Vehicle Sales and Rental. Accessory Use site specific regulations moved to design standards, and providing the allowance for accessory structures up to 1,000 ft. Site Specific standards proposed for Artist Studio. Clarification of residential street elevations and garage design standards. Clarification of parking standards. Reduction and clarification of sustainability standards. Manufactured Homes: parks with two or more dangerous buildings in ten year period will lose nonconforming rights; homes that are not newly manufactured would require an engineer’s analysis; only new or expanding parks will have to adhere to 60,000SF requirements, clarification of outdoor space. Prohibition of the creation of spite strips and flag lots. Clarification that a Minor PUD may utilize the Minor Land Division Process. Additional violation language. Administrative procedure amendments to clarify decision makers, appellant body and to ensure cohesive practices and regulations. Amendments to Table 8-6A-1 Authorities and Processes; 8-6A-2 Required Application Information; Table 8-6A-3 Public Noticing Requirements. Link Design Review Committee authority to uses and intensities rather than zoning districts.

Staff Jenah Thornborrow provided an overview of the proposed revisions to Title 8.

Chairman Kennedy opened the Public Hearing.

Testimony was received by:

David Martin: opposed- He indicated that the 1997 Uniform Abatement of Dangerous Building Code’s definition of ‘unsafe’ is too broad; someone else’s actions (tenant) could affect the non conforming rights of

the park; he did not wish to disclose the location of his park. He further feels that 8-1B-3 nonconforming uses is too onerous.

Harry Haun: opposed- Requiring an engineer's analysis for safety is too burdensome.

Reina Gabbard: opposed- Does not feel that the manufactured home park land lord has control over tenants, abandonment of spaces should not equate to abandonment of the park; engineer's analysis does not have definable criteria; does not believe that the 4,000 sq. ft. space requirement has been in code; referred to Steven Lee Eddins V. City of Lewiston and feels the City is similarly removing due process.

Wayne Barber: would like more time to review the proposal.

Penelope Riley- opposed- Penelope represented a number of park owners who stood but did not give names. Indicated that legally park owners are required to give 180 days to evict; would like a work session and a grace period; does not feel that code offers a remedy; is concerned about homelessness for those who are evicted due to dangerous conditions.

Steve Cunningham- did not feel that there was adequate time to review the code.

Discussion of the Commissioners:

Commissioner Butler:

- One week to review the most contentious portions of the code is enough. [There were non-substantive changes to the Title 8 code proposal one day prior to the hearing; however, the changes that were made the day previous were not discussed as part of the 8-4J concerns. The 8-4J proposals as reviewed by the Commission were on the web one week prior to the hearing]
- Noted that 8-4J-2 doesn't penalize if abated, and she feels that a time frame of 5 years is tenable.

Commissioner Brown:

- There has been adequate time to consider this issue.
- Clear that the building official is who determines that the building is dangerous.
- Questioned the circumstance where the dangerous building is not the park owner's.
- Is in support of the engineer's analysis; otherwise the City will have to identify if the structure is dangerous after it is placed.

Commissioner Page:

- Commissioner Page does not consider the engineer's certificate to be a 'stick'. In any investment where a person is making a significant it makes sense to do homework on that investment. Prior to buying a stick built home, a potential buyer has an inspection, escrow, and appraisal prior to a bank lending money. He is not aware of any business that does not contain some level of risk. It is important for the park owners to recognize that their tenants affect their pecuniary interest. A mobile home park is similar to a stick building rental in that the tenants can cause a building to be considered dangerous and need to be remedied.
- Based on the testimony that there is a 180 day period prior to the eviction process; there should be 180 days plus time to be fair.
- Careful reading of the referenced case *Steven Lee Eddins v. City of Lewiston* clears up testimony of violation of due process. The case notes that concern of homelessness is real and allows for a nonconforming structure to be replaced with another nonconforming structure. The difference is that the person in the case exhausted agency remedies and then appealed to the court. There is no case before the Commission.

Commissioner Jensen:

- Does not have a problem allowing code to evolve with the changes included in the proposal. He does not feel that there is a catch 22.

Chairperson Kennedy:

- Noted that if the code only pertains to park owned homes, a loop hole would be created to not fix the dangerous structure exists. Would like the people of Garden City to have assurance that they are working and living in a safe place. He noted disappointment that someone would be opposed to fixing a dangerous situation through employment of grandfather rights.
- He suggested a creation of a database of homes including what is owner occupied.
- If the tenant is otherwise doing something illegal, the park owner is responsible.
- Noted that some revisions or editorial could be a part of the recommendation to City Council, but did not believe that delaying a recommendation would result in significant changes to the proposal.

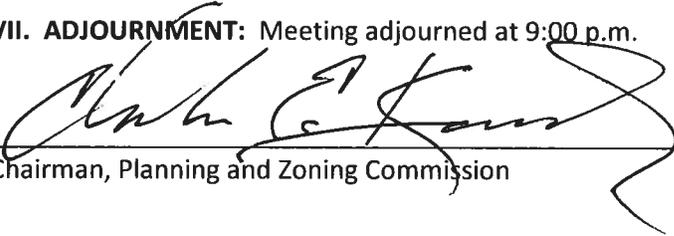
Chairman Kennedy closed the Public Hearing.

Decision:

Commissioner Butler recommended approval as prepared with the draft FOFCOL
Commissioner Brown Seconded
The motion passed 3/1 with Commissioner Page dissenting

VII. DISCUSSION: NONE

VII. ADJOURNMENT: Meeting adjourned at 9:00 p.m.


Chairman, Planning and Zoning Commission

18 FEB 2015
Date