

GARDEN CITY PLANNING AND ZONING COMMISSION

Warehouse Expansion

116 E. 42nd Street and 107 E. 43rd Street, Garden City
CUP2015-00018

) FINDINGS OF FACT, CONCLUSIONS
) OF LAW, AND DECISION

This application came before the Garden City Planning and Zoning Commission for consideration on January 20, 2016. The Commission reviewed the application and materials submitted and considered public testimony. Based on the evidence presented, the Commission makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. The applicant is United Parcel Service/BT-OH, LLC.
2. The location of the project is 116 E. 42nd Street and 107 E. 43rd Street, Garden City, ID 83714. Assigned Ada County Parcel #s: R2734501316, R2734501312, R2734501331, R2734501325, R2734501090, and R2734501340.
3. The subject property is 6-acres (4.81-acres current site, 1.199-acres proposed addition).
4. The project is located in the Transit Orientated Development Node (Quarter Mile Walkable Area) and Mixed Use Commercial as designated in the Comprehensive Plan.
5. The project is in the C-2 General Commercial Zoning District.
6. The following section of the Garden City Planning and Zoning Codes apply to this proposal:
GCC 8-2B-2 ALLOWED USES
GCC 8-2C-42 VEHICLE SERVICE
GCC 8-4 DESIGN AND DEVELOPMENT REGULATIONS
GCC 8-6B-2 CONDITIONAL USE
7. A copy of the application and plans was transmitted to interested and affected public agencies and written comments were received from:
 - a. Ada County Highway District
 - b. Central District Health Department
 - c. Community Planning Association
 - d. Idaho Transportation Department
 - e. North Ada Fire and Rescue
 - f. Pioneer Irrigation District
 - g. Republic Services
 - h. Settlers Irrigation District
8. The record contains:
 - a. Application Materials
 - b. Agency Referral Notice
 - c. Agency Comments
 - d. Property Owner Notice
 - e. Legal Advertisement in Idaho Statesman
 - f. Staff report
 - g. Planning and Zoning Commission Hearing Sign Up Sheet
 - h. Signed Findings of Fact, Conclusions of Law, and Decision
9. The application was received December 8, 2015. The Commission Public Hearing was held within sixty (60) days of receipt of an application certified as complete.
10. A legal public hearing notice for the proposed conditional use permit application was published on December 31, 2015, and on December 31, 2015, notice was mailed to all property owners within a 300-foot radius of the said property in compliance with the public notice requirements

of Section 8-6A-7 of the Garden City Municipal Code.

11. A staff report was presented by Jeff Lowe at the public hearing on January 20, 2016.
12. XXXX represented the application at the public hearing on January 20, 2016.
13. Testimony from the public was provided by:
14. Application for CUP2015-00018 was Approved/Denied with the Conditions of Approval listed herein.

Option A CONCLUSIONS OF LAW

Approval of the proposed conditional use permit is governed by 8-6B-2 code consideration of Title 8 of the Garden City Code:

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:**

The proposed Warehouse expansion is not compatible to the uses envisioned by the zoning district, neighborhood planning efforts, nor is it compatible with the location in relation to the existing uses that neighbor the proposal.

This application is inconsistent with Garden City Code 8-2B-1 and the mixed use zoning district as proposed. Garden City Code 8-2B-1 C identifies the intent of mixed use is to provide for a mix of commercial and residential uses that are complementary of one another. The district encourages an effort to provide a mix of activities necessary to establish a truly urban character, noting residential, offices, and retail as appropriate. The existing warehouse is not conducive to functioning as an urban use that is compatible with offices, retail, and residential.

Also, The Mixed Use Commercial vision for this area assumes a mix of commercial and residential uses that in form and scale are urban in nature. Some of the small scale industrial uses that Garden City has seen that work well with this vision include breweries and wineries or artists. Other uses such as the school, residences, and the greenbelt generate a concentration of children in the vicinity of the facility, and an increase in bike and pedestrians. UPS is a use that requires an extensive vehicle storage facility and is actively accessed by large trucks.

The proposal is incompatible with the location. UPS is directly adjacent to Anser Public Charter School, and residential dwellings. The front of Anser School is on 42nd Street and is heavily accessed by children on foot and bikes, as well as parents dropping off and picking up. The UPS facility lacks sidewalk on 42nd Street and the interaction between school age children and large trucks on any street is a safety concern.

In addition, Chinden Boulevard, a primary connection for UPS, is in continual change relative to increases in traffic volume (6% increase between 2006 and 2014), and is projected to increase by approximately 22% by 2040. With this increase in traffic, access to the area via 42nd and 43rd Streets, and particularly access from the area, will become more difficult and may need to be controlled differently from that of today (such as medians in Chinden Boulevard).

Further, the City has annually requested (via the Transportation Improvement request list) of the Ada County Highway District that 42nd Street from the River to Chinden be improved to allow for the beautification of the street, bike and pedestrian features, parking, and a formalized greenbelt access. The objective is to allow children to move safely through the area and access uses (such as an ice cream parlor) or activities (such as playing soccer).

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:**

This site is improved with adequate public facilities and services to the site.

3. **The use will not unreasonably diminish either the health, safety, or welfare of the community:**

There are evident and inherent safety risks with the intensification of the use. The gas station that acts as a neighborhood market, adjacent school, high density residential, Boys and Girls Club, etc. are all pedestrian uses. Even if the existing lack of sidewalk is remedied, adding additional large vehicles such as semi-trailer trucks is inherently a safety risk on a bike and pedestrian intense road. Of particular concern is the proximity to the school and the age and size of the children at the site.

While the neighborhood includes some uses that are more industrial in nature, including the UPS facility, the neighborhood and zoning provisions have changed as the community and the community's needs have changed. These industrial uses now must share the space with artisans, bike commuters and pedestrians, recreationalists, residents, and school children.

There has been significant public and private investment in the neighborhood in line with the vision established for the neighborhood. New uses moving into the area lend themselves to be pedestrian friendly and speak to the area being developed as a destination. A warehouse/freight facility is counter to these objectives; multiple large trucks and trailers accessing the site have an effect on how pedestrians, bikes, and even autos, use the area and the potential for conflict increases accordingly. These existing neighboring uses may stand to be weakened rather than supplemented by the proposed use. Intensifying the warehouse, terminal yard use at this location would be detrimental to these investments.

4. **The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City:**

*The use is conflict with the Comprehensive Plan and other plans. The current activity contradicts with the desired vibrant urban area and mix of commercial and residential uses that the Comprehensive Plan envisions in the Mixed Use Commercial area. Additionally, the activity on the site conflicts with specific goals and objectives of the **Comprehensive Plan**. **Objective 2.4** 'Improve the street corridors' speaks to bicycle and pedestrian connectivity; **Objective 4.3** "to beautify sidewalks and gateways with landscaping and trees"; and **Objective 10.5** "create a 'Main Street' commercial district along portions of Adams Street and other neighborhood locations.*

The Garden City Comprehensive Plan specifies the area north of Chinden near Bradley Street as Light Industrial, designated as appropriate for a facility such as UPS . The subject site is located adjacent to the subarea identified as a node in the Integrating Land Use and Transportation in Garden City, 42nd and Adams Subarea Study, a planning effort utilizing the objectives found in the Garden City Comprehensive Plan and Garden City Code 8-3D Neighborhood Commercial Node (NCN). The study identifies 42nd Street from the Boise River to Adams as well suited to be a neighborhood center for the City. The plan notes the City is in an "advantageous position to become a dynamic hub of cultural, social, and economic activity on a neighborhood scale." While the UPS site is not technically located within the subarea described in the study (the study incorporates Anser Charter School directly adjacent to the site), development in the subarea or on the UPS site has an effect on other properties. Because the area is in transition and is

redeveloping, it is important that properties are planned and utilized appropriately and cohesively. The proposed Warehouse facility expansion does not meet these criteria.

The proposal is not compliant with Garden City Code 8-2C-45 Warehouse, storage and Wholesale regulations nor 8-2C-40 Trucking Terminal Yard regulations. The site is not compliant with Garden City Code 8-4 landscaping, sidewalk street tree requirements.

Option A DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Planning and Zoning Commission hereby does **DENY** CUP2015-00018 Application for a Warehouse expansion located at 116 E. 42nd Street and 107 E. 43rd Street, Garden City, ID 83714, Parcels: R2734501316, R2734501312, R2734501331, R2734501325, R2734501090, and R2734501340

1. The expansion of the Warehouse facility as proposed on the subject parcel is not consistent with the Garden City Comprehensive Plan and the objectives of Mixed Use Commercial and the C-2 zoning district to provide a mix of compatible commercial and residential uses, and because the vehicle-oriented facility is in conflict with pedestrian friendly uses and facilities.
2. The existing Warehouse facility may continue so as long as it remains a legal nonconforming use as defined by Garden City Code.
3. There is a ten day right to appeal to the 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.

Option B CONCLUSIONS OF LAW

Approval of the proposed conditional use permit is governed by 8-6B-2 code consideration of Title 8 of the Garden City Code:

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:**
The long established UPS facility will continue to operate. Subject to appropriate conditions of approval, the Warehouse expansion may be more beneficial to the existing uses and the neighborhood than if it is not approved. The site will be required to be improved with curb, gutter, and sidewalk as well as landscaping, advancing the intended character, function, and vision of the area.
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:**
This site is improved with adequate public facilities and services to the site.
3. **The use will not unreasonably diminish either the health, safety, or welfare of the community:**
Provided all conditions of approval are satisfied, complied with, and enforced, this use will not unreasonably diminish the health, safety, or welfare of the community.
4. **The use is not in conflict with the Comprehensive Plan or other adopted plans, policies, or ordinances of the City:**

The use is an existing use. The nonconformities with the Comprehensive plan, plans and ordinances will remain regardless of the expansion as the use has grandfather rights to remain. The approval of the expansion does not increase the nonconformities more than they already exist.

Option B DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Planning and Zoning Commission hereby does **APPROVE** CUP2015-00018 Application for a Vehicle Service located at 116 E. 42nd Street and 107 E. 43rd Street, Garden City, ID 83714, Parcels: R2734501316, R2734501312, R2734501331, R2734501325, R2734501090, and R2734501340 and subject to the following conditions:

1. Warehouse is permissible to continue at the subject location and the 43rd Street expansion parcel (parking area) provided that the applicable conditions are satisfied pursuant to GCC 8-2C-45. The site shall not be used as a Storage Yard as defined in Garden City Code.
2. The approval of the use does not constitute approval of all reviewing bodies or agencies. Prior to occupancy, approval must be gained from applicable reviewing bodies and agencies.
3. The applicant shall apply for and receive approval of the site design, including but not limited to sidewalk, parking setbacks, landscaping, and street trees by the Design Review Committee prior to submitting construction plans.
4. The parking areas along 42nd Street shall be redesigned such that the parking is removed, or altered to be parallel with 42nd Street. Parking is prohibited from backing directly into the 42nd Street right-of-way. The applicant shall apply for and receive approval by the Design Review Committee prior to submitting construction plans.
5. The applicant shall install a minimum of eight (8) Class II or III trees (2-inch caliper minimum) in the front setback area along 42nd Street. The applicant shall apply for and receive approval by the Design Review Committee prior to submitting construction plans.
6. The applicant shall comply with all requirements of the Ada County Highway District as noted within the letter dated January 8, 2015.
7. The applicant shall construct a minimum five-foot wide detached concrete sidewalk with adequate landscaping buffer to plant class II or III trees per ACHD's planning policies from the existing sidewalk on 42nd Street at the northern property line to the southern property line.
8. Comply with all requirements of the Garden City Engineer. Compliance is required prior to commencing construction.
9. The 43rd Street parking area shall be designed such that no fences, parking, or other obstacles conflict with the 40-foot vision triangle at the intersection of 43rd Street and Osage.
10. The applicant shall repair or replace damaged curb, gutter, and sidewalk on 43rd Street abutting the property.
11. The proposed gate for the 43rd Street parking area shall remain open at all times during business hours.
12. All paved and unpaved areas shall be maintained grease and oil free.
13. Comply with all requirements of the Garden City Environmental Division. Verification of compliance shall be provided prior to the issuance of a Certificate of Occupancy.
14. The applicant shall remove all barb wire from the top of any fence located along the frontage of 42nd Street. No barb wire is permitted on the expansion parking area.
15. 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.

16. 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.
17. Any violation of the conditions of this application is a criminal offence.
18. Should there be a change in use, the use is discontinued for more than one year without following the procedures set forth in Idaho State Code and Garden City Code declaring intent to continue the nonconforming use, or clear intent to cease the use, this approval shall become void.
19. Occupancy or an application for a building permit shall be considered commencement of use of this permit.
20. There is a 10 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.
21. Final decisions are subject to judicial review pursuant to The Idaho Administrative Procedures Act, Chapter 65 Title 67 Idaho Code. A takings analysis pursuant to Idaho Code may be requested on final decisions.

General Requirements

1. This approval is only approval of the conditional use permit. All other applicable permits must be obtained prior to a certificate of compliance or occupancy.
2. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance.
3. 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.
4. 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; 8-4I-3 and Landscape maintenance provisions 8-4I-9; and standards for transportation and connectivity provisions identified in 8-4E.
5. Any tree grates 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.
6. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.
7. 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.
8. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
9. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan.
10. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
11. 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.
12. 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.
13. 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.
14. The landscape installation shall stabilize all soil and slopes.

15. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
16. Demonstrate compliance with 8-4G-1 prior to certificate of occupancies.
17. This approval is for this application only. Additional permits, licenses and approvals may be necessary.
18. Property maintenance standards shall be maintained as required by Garden City Code 8-4K.
19. The property owner is responsible for the maintenance of all landscaping and screening devices required.
20. 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.
21. Utility easements that are unobstructed by permanent structures shall be provided along front lot lines, rear lot lines, and side lot lines when deemed necessary by the City Engineer. Total easement width shall not be less than ten feet (10'), with twelve feet (12') recommended, front and rear, with at least twenty feet (20') required for water and sewer easements for main lines.
22. Unobstructed easements, including but not limited to, drainage, water, and sewer easements shall be provided as required by the City Public Works or Planning Official.
23. 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.
24. 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.
25. 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.
26. 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.
27. Any violation of the conditions of this application is a criminal offence.
28. Should there be a change in use, the use is discontinued for more than one year without written documentation submitted to the City indicating intent to continue the use, or clear intent to cease the use, this approval shall become void.
29. An application for a building permit shall be considered commencement of use of this permit.
30. An extension may be granted by the Commission upon findings that the application and or the applicable City regulations have not changed. Such extension shall be applied for sixty (60) days prior to the expiration date for the original approval; only one extension of not more than three hundred sixty five (365) days shall be granted.
31. There is a 10 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.

Chairman, Planning and Zoning Commission

Date