

GARDEN CITY PLANNING AND ZONING COMMISSION

Vehicle Sales Vehicle Service
8633 W. State Street, Garden City
CUPFY2016-1

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

This application came before the Garden City Planning and Zoning Commission for consideration on February 17, 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 BR Rule LLC, represented by Mark L. Butler.
2. The location of the project is 8633 W. State Street, Garden City, ID 83714. Assigned Ada County Parcel #: R8123251770.
3. The subject property is .91-acres.
4. The project is located in the Green Boulevard Corridor and Transit Oriented Development node 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-43 VEHICLE SALES AND RENTAL
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. Central District Health
 - b. COMPASS
 - c. Garden City Engineer
 - d. Garden City Environmental Division
 - e. Idaho Transportation Department
 - f. North Ada County Fire & Rescue
 - g. Pioneer 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 January 8, 2016. 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 January 29, 2016, and on January 29, 2016, 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 February 17, 2016.

12. Brent Rule represented the application at the public hearing on February 17, 2016.
13. Testimony from the public was provided by:
14. Letters from the following people were submitted at the public hearing on February 17, 2016:
15. On February 17, 2016, the application for CUPFY2016-1 was **Approved/Denied 4/0** with Conditions of Approval.

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 Vehicles Sales within the existing Vehicle Service facility may be considered an interim use for the neighborhood as the area developments toward the planned vision to provide a variety of complementary commercial and residential uses. Subject to appropriate mitigation protocols and conditions of approval, Vehicle Sales may be compatible in close proximity to residential uses. By prohibiting paint booths and equipment that causes loud noise, requiring all repair work and storage to be done within an enclosed building, and limiting the number of vehicles parked on the site, concerns typically generated by neighbors can be diminished before they can commence.
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 use is located in an area that has adequate public facilities and services.
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 Comprehensive Plan states that Transit Oriented Development is to accommodate a mix of uses including higher density residential, retail, office, research, and public uses. The Plan further states that it is not intended that all nodes could be developed within the twenty year period of the plan. It may be considered important to remain flexible in moving incrementally toward the vision presented in the Comprehensive Plan, and to adjust to market conditions by considering interim uses that may not completely fit the vision, but maintain an opportunity to move closer to the vision.

DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law, the Planning and Zoning Commission hereby does **APPROVE/DENY** CUPFY2016-1 Application for a Vehicle Sales located within an existing Vehicle Service facility located at 8633 W. State Street, Garden City, ID 83714, Parcel: R8123251770 and subject to the following conditions:

1. Vehicle Service is permissible at this subject location provided that the applicable conditions are satisfied pursuant to GCC 8-2C-42. Vehicle Sales shall also be permitted as an ancillary use at this location with the express condition that all vehicle sales and display shall be inside the showroom of the existing building only. No outdoor display is permitted. All other

conditions listed herein shall apply. The site shall not be used as VEHICLE WRECKING OR JUNK YARD as defined in Garden City Code.

The following conditions approved through CUP2015-00009 remain in effect.

2. The use of the Vehicle Service shall not commence until after a successful Certificate of Occupancy has been obtained from Garden City Development Services Department.
3. The revving of engines or the use of tools, and similar noise emitting devices, outside of the enclosed structure, which is being conducted as part of the Vehicle Service use, is not permitted.
4. Noise from this use shall not be clearly audible inside any building on another property with its exterior windows and doors closed.
5. The current condition of the existing building located on the site may not be suitable (constructed) for all uses. The applicant may have to perform upgrades to said building prior to occupancy. All necessary permits will be required prior to issuance of a Certificate of Occupancy.
6. The applicant shall install an at grade 5-foot wide concrete sidewalk extending from the edge of pavement of the approach to the eastern property line to facilitate the transition of the sidewalk upon the time that the property to the east is required to install sidewalk. The sidewalk shall be installed prior to the issuance of a Certificate of Occupancy.
7. The applicant shall install striping (paint) across the driveway approaches along State Street abutting the property to delineate the pedestrian walkway. The striping shall be installed prior to the issuance of a Certificate of Occupancy.
8. The applicant shall install the additional landscaping located near the southwesterly corner of the building and around the trash enclosure as shown on the plan submitted to the City on May 12, 2015. The landscaping shall be installed prior to the issuance of a Certificate of Occupancy. It is recommended that the applicant install two (2) Class II or III trees along the frontage of State Street in accordance with Garden City Code 8-4I-4 (B) which states that one tree shall be planted for every 50-feet of linear frontage along a street. The type and location of trees are subject to the review and acceptance of Idaho Power and approval by Garden City Staff.
9. Prior to the issuance of a Certificate of Occupancy, any barb wire located atop any perimeter fence shall be removed.
10. 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.
11. All hydraulic hoists and pits, and all equipment for greasing, lubrication, and allowed repairs shall be enclosed entirely within a structure.
12. A paint spray booth is not approved with this application.
13. All parts and inventory shall be kept inside an entirely enclosed building or hidden behind a privacy fence or other visual barrier as set forth in Garden City Code Section 8-2C-35 STORAGE YARD.
14. All new structures constructed for vehicle/equipment repair shall be constructed so that the entrances to individual workstation/service bays do not face abutting residential parcels or the public rights-of-way.
15. Tires shall be stored in a solid wall enclosure.
16. No servicing of trucks in excess of one and one-half ton capacity or industrial equipment of any type or character shall be allowed in the Commercial district without a conditional use permit.
17. All vehicle/equipment repair uses and related activities shall be limited to between the hours of 7:00 a.m. and 7:00 p.m. Monday through Friday and 8:00 a.m. and 5:00 p.m. Saturdays.

18. Damaged or wrecked vehicles shall not be stored on-site for purposes other than repair.
19. All vehicles that are repaired and are waiting to be picked up by the owner of the vehicle shall be parked on-site and not in adjoining streets or alleys. No more than two vehicles per repair bay/work station may be parked outside. In no instance shall the number of vehicles parked outside exceed the number of available on-site parking spaces.
20. All discarded vehicle parts or equipment, permanently disabled, dismantled, or junked vehicles, or tires shall be removed from the premises within thirty (30) days of arrival.
21. All paved and unpaved areas shall be maintained grease and oil free.
22. Comply with all requirements of the North Ada County Fire Rescue as noted in the letter dated June 10, 2015, prior to the issuance of a Certificate of Occupancy.
23. Comply with the conditions of the Garden City Environmental Division as provided in the email dated May 20, 2015. Certificate of Occupancy will not be issued until the conditions have been satisfied.
24. 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.
25. 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.
26. Any violation of the conditions of this application is a criminal offence.
27. 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.
28. Occupancy or an application for a building permit shall be considered commencement of use of this permit.
29. There is a ten (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.

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 offense.
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

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