



BEFORE THE BOARD OF ADA COUNTY COMMISSIONERS

In re:
Application of Glenn Walker
Project No. 201503818 CU-MSP-V

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

FINDINGS OF FACT

If any of these Findings of Fact are deemed Conclusions of Law, they are incorporated into the Conclusions of Law section.

- A. The Board finds that the record is comprised of:
1. Exhibit 1 to the Staff Report.
 2. Exhibit A to the Findings of Fact, Conclusions of Law and Order.
 3. All other information contained in Ada County Development Services File for Project No. 201503818 CU-MSP-V.
- B. As to procedural items, the Board finds the following:
1. In accordance with Section(s) 8-6-3A/8-7-3A2/8-7-4A1 of the Ada County Code, the applicant completed a pre-application conference with the director prior to the submittal of the application on July 28, 2015.
 2. In accordance with Section 8-7A-3 of the Ada County Code, the applicant held a neighborhood meeting October 8, 2015.
 3. On October 26, 2015, Development Services accepted Project #201503818 CU-MSP-V and scheduled it for public hearing before the Board of Ada County Commissioners on January 13, 2016.
 4. On October 30, 2015, 2015, staff notified other agencies of this application and solicited their comments. Any comments received were incorporated into the staff report.
 5. On October 30, 2015, property owners within 300 feet of the site were notified of the hearing by mail. Legal notice of the Board's hearing was published in The Idaho Statesman on December 29, 2015. Notices of the public hearing were posted on the property on or before January 3, 2015 and a certification sign posting was submitted to the director on or before January 6, 2015.
- C. As to the project description, the Board finds based on the application materials found in the file for Project No. 201503818 CU-MSP-V the following:
1. PROPOSED USES: Contractor's yard
 2. PROPOSED STRUCTURES: None
 3. PROPOSED SITE IMPROVEMENTS: Parking.

D. Based on the materials found in the file for Project No. 201503818 CU-MSP-V, the Board finds the following concerning the project description:

1. **PARCEL NUMBER AND LOCATION:** The parcel is #S1216120850 and is located at 5445 W. Franklin Road.
2. **OWNERSHIP:** The property is owned by John McClintick.
3. **SITE CHARACTERISTICS**

Property size: The property contains 6 acres.

Existing structures: There is a 2,673 sq. ft. single-family dwelling with a detached 484 sq. ft. garage, a 2,048 sq. ft., a 373 sq. ft. and a 1,458 sq. ft. ag structures.

Existing vegetation: The property currently has residential landscaping agricultural crops.

Slope: The property is relatively flat.

Irrigation: The property is within Boise Project Board of Control and Nampa & Meridian Irrigation District.

Drainage: Drainage will be retained on site.

Views: The property has open views on all sides.

E. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the current land use and zoning:

The property is single-family residential and is located in the Rural Urban Transition (RUT) District.

F. Based on the officially adopted Ada County land use maps, the Board finds the following concerning the surrounding land use and zoning:

North: The property to the north has single-family residence and is located within the Rural Urban Transition (RUT) District.

South: The property to the south is vacant land and is located within the Rural Urban Transition (RUT) District.

East: The property to the east has single-family residence and is located within the Rural Urban Transition (RUT) District.

West: The property to the west is vacant land and is located within the Rural Urban Transition (RUT) District.

G. Based on the officially adopted Ada County land use maps and materials found in the file for Project No. 201503818 CU-MSP-V, the Board finds the following concerning services:

Access Street and Designation: The property takes access from Franklin Road which is designated as a Principal Arterial road.

Fire Protection: Meridian Fire District

Sewage Disposal: Individual Septic System

Water Service: Individual Well

Irrigation District: Boise Project Board of Control and Nampa & Meridian Irrigation District.

Drainage District: None

H. As to the applicable law, the Board finds the following:

This section details the comp plan goals, objectives and policies; the zoning ordinance regulations; and other applicable standards regarding development of the subject property.

1. The Board finds **Section 8-4E** is applicable because the applicant has submitted a Master Site Plan. The Board finds the application complies with **Section 8-4E-5: Required Findings** because:

- A. The master site plan complies with this title and the applicable comprehensive plan;

The Board finds that the conditional use and master site plan comply with the Ada County Zoning Ordinance as outlined in the required findings herein and the conditions of approval attached as Exhibit A.

The Board finds that the site is located in the Meridian City Area of Impact. According to the applicable Meridian City Comprehensive Plan, the property is designated as Mixed Employment which is suitable for office and light industrial uses. The Board finds that this project complies with the Meridian Comprehensive Plan as the land contains a contractor's yard with an office.

Though the property is designated as residential; contractor's yards/shops are conditional uses in the Rural Urban Transition (RUT) District, which is a residential district. A contractor's yard/shop in the RUT District can be authorized for up to five (5) year increments or up until annexation as limited by the standards identified in Subsection 8-5-3-30B2 of the Ada County Code.

- B. The applicant has submitted a natural features analysis (subsection 8-4E-4D of this article) identifying constraints presented by such natural features, and the proposed development sufficiently addresses such features;

The Commission finds that the natural features analysis and the proposed development sufficiently address such features. The natural features analysis submitted with the application depicts the hydrology, soils, topography, and vegetation on the property. The letter from the Idaho Department of Fish and Game shows that there is no record of any federally listed threatened or endangered species or critical habitat within or immediately adjacent to the proposed project area.

- C. The proposed landscaping meets the requirements of article F of this chapter;

The Board finds that the applicant has submitted a landscape plan stamped by a licensed Landscape Architect. A 6' vinyl fence is proposed on the eastern portion of the contractor's yard with 414 landscape points. The northern property has provided 259 points, southern property 145 points and the western property 184 points. The landscaping is in compliance with the point requirements.

- D. The proposed parking and loading spaces meet the requirements of article G of this chapter;

The Board finds that the applicant submitted a parking, loading plan which will meet the requirements of article G of Chapter 4. The required number of parking spaces for a contractor's yard/shop is one (1) per 1,000 square feet of gross floor area plus one (1) per employee. The gross floor area of the contractor's yard/shop and accessory office space is 2,165 square feet. There will be approximately 7 employees. Thus, according to the number of employees and the gross floor area of the structures on the property, 10 parking spaces are required to be provided to the site. The applicant is proposing twelve (12) parking spaces including an ADA space.

The Board also finds that as conditioned, one (1) ADA accessible parking spaces will be provided as required under the International Building Code.

- E. The proposed lighting plan meets the requirements of article H of this chapter;

The Board finds that the applicant is not proposing any new outdoor lighting. If there is any new outdoor lighting installed on the property then a lighting plan will be required to comply with Article 8-4H.

F. The proposed master site plan complies with the applicable design and dimensional standards of chapters 2 and 3 of this title;

The Board finds that the property is located in the Rural Urban Transition (RUT) District. The Board finds that the master site plan along with an approval of the variance to allow for the parking lot and structures to be closer than 100 feet from a property line complies with the Rural Urban Transition (RUT) District standards as well as the specific use standards for a Contractor's Yard/Shop. The property complies with the minimum property size of 5.0 acres and minimum frontage of 250 feet for the RUT District.

G. The proposed master site plan is consistent with the APA ridge-to-rivers pathways plan; and

The Board finds that the property is not located within the APA ridge-to-rivers pathway plan; therefore this finding is not applicable.

H. Adequate utilities and public services are available or provided for the proposed development, and the development would not be premature by reason of lack of utilities, transportation, schools, fire protection, or other essential services.

The Board finds that adequate utilities and public services are available for the project and that the development would not be premature by reason of lack of utilities, transportation, schools, fire protection, or other essential services.

The application was transmitted to applicable agencies and political subdivisions on October 30, 2015. The site is currently served by an existing individual septic system and private well. Central District Health Department stated that if on an individual septic system, a septic permit is required. The Ada County Building Division responded that the existing agriculture structure must be permitted and converted for the use intended. A building permit is required for the change in occupancy and plans prepared by a licensed Architect.

2. The Board finds Section **8-5-3-30 of the Ada County Code** is applicable because the applicant has applied for a conditional use and master site plan to operate a contractor's yard/shop. The Board finds that the application complies with Section **8-5-3-30 of the Ada County Code**. Regarding **Section 8-5-3-30** the Board finds the following:

A. General Standards:

1. If the structure is located in a residential or rural base district, all structures or outdoor storage areas shall be located a minimum of one hundred feet (100') from any property line abutting other property. The one hundred foot (100') buffer from the property line shall have a vegetative ground cover and shall be regularly maintained to prevent weed growth. All structures and outdoor storage areas shall be depicted on the master site plan.

The Board finds that the contractor's yard/shop is located in the Rural-Urban Transition District, which is a residential base district.

The Board finds that the application will comply with the code if the variance is approved for the reduction of the 100 foot setback for a contractor's yard.

The Board finds that the applicant has applied for a variance to grant relief from this development standard, which requires all structures and storage areas to be located a minimum of 100 feet from any property line because there are existing structures to be used for the contractor's yard are located approximately 47 feet from the property line.

2. Outdoor storage areas shall be screened year round and comply with section 8-5-3-78 of this chapter.

The Board finds as conditioned that outdoor storage areas shall be screened year round and comply with Section 8-5-3-78 of this chapter. The applicant is proposing a six (6) foot vinyl fence for the contractor's yard and landscaping.

3. The site shall not be used as a “junkyard” or “automobile wrecking yard” as herein defined.

The Board finds as evidenced in the applicant’s detailed letter that the contractor’s yard/shop is for the operation of a landscape company. As conditioned, the site shall not be used as a “junkyard” or “automobile wrecking yard”.

4. For the purposes of this title, a contractor’s yard/shop is not a home occupation.

The Board finds as evidenced in the record that the contractor’s yard/shop is a conditional use in the Rural-Urban Transition (RUT) District and that the applicant has applied for a conditional use and master site plan to operate and construct a contractor’s yard/shop.

5. The property shall have approved access from an improved public roadway for the use.

The Board finds as evidenced in the record that the property has frontage and access to W. Franklin Road, which is an improved public roadway. ACHD has not site specific conditions of approval.

6. Maintenance of vehicles or machinery shall be incidental to the contractor’s yard/shop and the incidental use shall only include minor repair.

The Board finds as conditioned that the maintenance of vehicles or machinery shall be incidental to the contractor’s yard/shop and that the incidental use shall only include minor repair.

7. Accessory office space shall comply with section 8-5-3-75 of this chapter and shall be identified on the master site plan.

The Board finds as evidenced in the record that the applicant is proposing an accessory office in an existing structure. Section 8-5-3-75 of the Ada County Code states that an accessory office shall be allowed for an approved use and the office shall not occupy more than twenty five percent (25%) of the gross floor area of the approved use. If the approved primary use is not located in a structure, the office structure shall not occupy more than five percent (5%) of the property area on which the primary use is located or five thousand (5,000) square feet, whichever is less. The Board finds that the accessory office space will occupy less than 5% of the property area on which the primary use is located. The applicant is proposing a 544.5 sq. ft. office within the 2,673 sq. ft. structure.

8. Parking area improvements shall comply with the standards found in chapter 4, article G of this title and shall be delineated on the master site plan or parking plan. No on street parking of vehicles or equipment associated with the use is allowed.

The Board finds that the applicant shall submit a revised parking plan to address the stall length which requires twenty (20) feet. The applicant is proposing eleven (11) parking spaces and one (1) ADA parking space. The applicant is proposing to asphalt the front area and parking areas on the property.

As conditioned, no on street parking associated with the use will be allowed.

9. Use of the property shall comply with title 5, chapter 13, “Noise”, of this code.

The Board finds that the use of the property will comply with Title 5, Chapter 13 of the Ada County Code.

10. Hours of operation shall be limited between the hours of seven o’clock (7:00) A.M. and ten o’clock (10:00) P.M. unless otherwise approved or restricted with a conditional use permit.

The Board finds that, as conditioned, the hours of operation will be limited to between the hours of seven-thirty (7:30) A.M. and five-thirty (5:30) P.M.

11. No retail sales associated with a contractor’s yard/shop may occur on the property unless retail sales are approved with a different use that allows retail sales.

The Board finds as conditioned that no retail sales associated with a contractor's yard/shop shall occur on the property.

12. A building permit may be required for the change in use or occupancy of any existing structure, or portion thereof, used in association with a contractor's yard/shop.

The Board finds that building permits will be required for any structures associated with the Contractor's Yard.

13. For the duration of the approval, the use shall be subject to zoning inspection upon advanced notice and request by the Ada County development services department. If a permit holder refuses to allow inspection of the premises by the development services department, the approved zoning certificate or conditional use permit may be revoked.

The Board finds that the use of the property as a contractor's yard/shop is subject to zoning inspection upon advanced notice and request by the Ada County Development Services Department. If the permit holder refuses to allow inspection of the premises by the development services department then the approved zoning certificate may be revoked.

- B. Additional Standards: Additional standards for a contractor's yard/shop permitted as a conditional use:

1. The following shall be considered as part of the review of an application for a conditional use permit for a contractor's yard/shop:

- a. The proximity of existing dwellings;
- b. The number of employees;
- c. The hours and days of operation;
- d. Dust;
- e. Noise;
- f. Outdoor loading;
- g. Traffic;
- h. Landscaping and screening;
- i. Other.

The Board finds that the proximity of existing dwellings, number of employees, hours and days of operation, dust, noise, outdoor loading, traffic, landscaping and screening have been considered in the review of the conditional use application.

2. The duration of a conditional use permit for a contractor's yard/shop shall be limited. The conditional use permit shall expire five (5) years following the approval date, or upon annexation of the subject property into a city, whichever occurs first. Upon expiration of the conditional use permit, all equipment and materials stored outdoors shall be removed within thirty (30) days from the subject property.

The Board finds as conditioned that the conditional use permit for the contractor's yard/shop is limited and shall expire five (5) years following the approval date, or upon annexation of the subject property into a city. Also, upon expiration of the conditional use permit, all equipment and materials stored outdoors shall be removed within thirty (30) days from the subject property.

4. The Board finds **Section 8-5B** is applicable because the applicant is proposing a Contractor's Yard/Shop, which requires a conditional use permit in the RUT District. The Board finds the application complies with **Section 8-5B-5: Required Findings** because:

A. The proposed use is not detrimental to the public health, safety, or welfare;

The Board finds that the proposed use is not detrimental to the public health, safety or welfare because it is in conformance with the specific use standards for a contractor's yard or shop. In addition, the applicant and/or owner will need to obtain building permits and required agency approvals.

B. The propose use shall not create undue adverse impacts on surrounding properties;

The Board finds that the proposed use shall not create undue adverse impacts to the surrounding properties.

C. The proposed use is consistent with the applicable comprehensive plan;

The Board finds that the proposed use is consistent with the Meridian City Comprehensive Plan as discussed in Finding H.1.

D. The proposed use complies with the purpose statement of the applicable base district and with the specific use standards as set forth in this chapter;

The Board finds that the contractor's yard/shop complies with the purpose statement of the Rural Urban Transition (RUT) District because a contractor's yard or shop is a conditional use in the RUT District. The Board finds as evidenced in Finding H2 that the contractor's yard/shop complies with the specific use standards for a Contractor's Yard or Shop.

E. The proposed use complies with all applicable county ordinances;

The Board finds that the contractor's yard/shop along with the approval of the variance allowing the contractor's yard buildings and parking lot to be within 100 feet of any property line complies with all applicable county ordinances.

F. The proposed use complies with all applicable state and federal regulations;

The Board finds that as conditioned, the use will comply with all applicable state and federal regulations.

G. The proposed use and facilities shall not impede the normal development of surrounding property; and

The Board finds that the proposed use does not impede the normal development of surrounding property because there is approved access from a public road and as conditioned the contractor's yard/shop will need to be screened. Based on the five (5) year increment approval in Subsection 8-5-3-30B2 the contractor's yard/shop is envisioned to be temporary in nature and will cease to be valid if the subject property is annexed into the City of Meridian.

H. Adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are, or shall be, provided for the proposed use.

The Board finds that as conditioned adequate public and private facilities such as utilities, landscaping, parking spaces, and traffic circulation measures are provided for the proposed use. The application was transmitted to applicable agencies and political subdivisions on October 30, 2015. The site is currently served by an existing individual septic system and private well. Central District Health Department stated that if on an individual septic system, a septic permit is required. The Ada County Building Division responded that they have no objection to the proposed use; however, the applicant should be aware that building permits will be required for the change of occupancy of the buildings and that plans prepared by a licensed architect will be required. ACHD has no objections to the application and no Impact fees are due.

I. Political subdivisions, including school districts, will be able to provide services for the proposed use.

The Board finds that the proposed contractor's yard will not impact the school district. The application was transmitted to political subdivisions on October 30, 2015 and there has not been any evidence submitted into the record to indicate that political subdivisions would not be able to provide services for the contractor's yard/shop.

5. The Board finds **Section 8-7-4 of the Ada County Code** is applicable because the applicant is applying for a variance to seek relief from development standards requiring all structures and storage areas to be located a minimum of 100 feet from any property line because the subject property is located in a residential district. The Board finds that the application complies with **Section 8-7-4 of the Ada County Code**. Regarding **Section 8-7-4** the Board finds the following in regard to the variances.

1. The variance shall not grant a right or special privilege that is not otherwise allowed in the base district.

The Board finds that the variance does not grant a right or special privilege that is not otherwise allowed in the Rural Urban Transition (RUT) District. A contractor's yard/shop is an allowed use through the approval of a conditional use application in the RUT District and there have been a number of contractor's yards/shops that have been approved in the RUT District and some have included setback variances (File 201201460-CU-MSP-V, 201400074-CU-MSP-V).

2. The variance relieves an undue hardship due to characteristics of the site; and

The Board finds that the variance relieves an undue hardship due to physical characteristics of the site. The existing structures, in which office space associated with the contractor's yard is located approximately 50' from the eastern property line, which abuts a residential property.

The Board finds that the proposed variance for the parking lot also relieves an undue hardship due to characteristics of the site. The office for the contractor's yard is an existing structure and the location of the employee parking is the shortest distance to the office.

3. The variance shall not be detrimental to the public health, safety, and welfare.

The Board finds that the variance would not be detrimental to the public health, safety, and welfare because the applicant/owner will be required to secure the necessary building permits and agency approvals to operate the contractor's yard. In addition, information regarding the variance was transmitted to affected public agencies charged with the protection of the health, safety, and welfare of the public. Central District Health Department stated that if on an individual septic system, a septic permit is required. The Ada County Building Division responded that the existing agriculture structure must be permitted and converted for the use intended. A building permit is required for the change in occupancy and plans prepared by a licensed Architect. ACHD has no objections to the application and no impact fees are due.

CONCLUSIONS OF LAW

If any of these Conclusions of Law are deemed to be Findings of Fact they are incorporated into the Findings of Fact section.

1. The Board concludes that File #201503818 CU-MSP-V complies with Section 8-4E of the Ada County Code.

2. The Board concludes that File #201503818 CU-MSP-V complies with Section 8-5-3-30 of the Ada County Code.

3. The Board concludes that File #201503818 CU-MSP-V complies with Section 8-5B of the Ada County Code.

4. The Board concludes that File # 201503818 CU-MSP-V complies with Section 8-7-4 of the Ada County Code.

ORDER

Based upon the Findings of Fact and Conclusions of Law contained herein, the Board approves Project #201503818 CU-MSP-V, subject to the Conditions of Approval attached as Exhibit A.

DATED this _____ day of _____, 2016.

Board of Ada County Commissioners

By: _____
Jim Tibbs, Commissioner

By: _____
Rick Yzaguirre, Commissioner

By: _____
David L. Case, Commissioner

ATTEST:

Christopher D. Rich, Ada County Clerk

EXHIBIT A

CONDITIONS OF APPROVAL

REQUIRED ACTIONS. THE FOLLOWING LIST DETAILS THE TASKS THAT MUST BE COMPLETED BEFORE THE APPROVAL OF FILE #201503818 CU-MSP-V WILL BE CONSIDERED FINAL. THE APPLICANT AND/OR OWNER HAVE TWO YEARS FROM THE WRITTEN DECISION TO COMPLETE THE REQUIRED ACTIONS AND TO OBTAIN A ZONING CERTIFICATE UNLESS A TIME EXTENSION IS GRANTED. SEE SECTION 8-7-6 OF THE ADA COUNTY CODE FOR INFORMATION ON TIME EXTENSIONS. IF A BUILDING PERMIT IS REQUIRED, THE ZONING CERTIFICATE SHALL BE ISSUED WITH THE BUILDING PERMIT. THIS APPROVAL SHALL BECOME VOID IF A VALID ZONING CERTIFICATE HAS NOT BEEN ISSUED BY THAT DATE. SITE IMPROVEMENTS ARE NOT ALLOWED UNTIL THE ZONING CERTIFICATE HAS BEEN ISSUED.

1. The applicant and/or owner shall obtain written approval of the development (site plan and/or use) from the agencies noted below. All site improvements are prohibited prior to approval of these agencies.
 - a) The applicant/owner shall receive approval from Central District Health Department concerning the septic system.
 - b) The applicant/owner shall submit a revised master site plan showing the parking in compliance with 8-4G.
2. If required by the Ada County Building Code as set forth in Title 7, Chapter 2, of the Ada County Code, the applicant and/or owner shall obtain a building permit prior to commencing any development. Please contact the County Building Official at 287-7900 for fee and application information. The design and construction of the development shall comply with the approved and stamped master site plan and the Ada County Code.
3. Once construction is complete, the applicant shall request a zoning compliance inspection from the Development Services Department. Staff will check for compliance with the approved master site plan. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
4. A Certificate of Occupancy will be issued when all of the above conditions have been met. In the event conditions cannot be met by the desired date of occupancy, the owner and/or applicant may request a surety agreement in lieu of completing the improvements. See Title 8, Chapter 4, Article K of the Ada County Code for the terms and regulations of surety agreements.

TERMS OF APPROVAL. THE FOLLOWING TERMS MUST BE COMPLIED WITH AT ALL TIMES OR YOUR APPROVAL MAY BE REVOKED.

5. The Director must approve any modification and/or expansion to the master site plan. See Section 8-4E-3 of the Ada County Code.
6. The use must comply with the specific use standards for a Contractor's Yard of Shop in Section 8-5-3 of the Ada County Code.
7. The property must be managed and maintained consistent with the standard regulations in Title 8, Chapter 4, Article A of the Ada County Code. Please note that this Article contains specific regulations regarding the accumulation of junk, atmospheric emissions, construction sites, hazardous material storage, outdoor public address systems, outdoor storage of chemicals and fertilizers, transmission line corridors, and utilities.

CONDITIONS OF APPROVAL

Project number 201503818 CU-MSP-V
GLENN WALKER

EXHIBIT A

8. Any lighting on the site shall comply with the lighting regulations in Title 8, Chapter 4, Article H, of the Ada County Code.
9. The use must comply with the noise regulations in Ada County Code, Title 5, Chapter 13.
10. Outdoor storage areas shall be screened year round and comply with Section 8-5-3-78 of the Ada County Code.
11. The site shall not be used as a “junkyard” or “automobile wrecking yard.”
12. The maintenance of vehicles or machinery shall be incidental to the contractor’s yard/shop and shall only include minor repair.
13. No retail sales associated with a contractor’s yard or shop shall occur on the property.
14. The hours of operation shall be limited to between the hours of seven o’clock (7:00) A.M. and ten o’clock (10:00) P.M. Monday-Friday.
15. No on street parking of vehicles or equipment associated with the use is allowed.
16. The use shall comply with all County, State and Federal requirements.