

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
FIRST INTERSTATE BANK CONDITIONAL USE PERMIT
FILE NO. CU-22-08**

The above-entitled Conditional Use Permit application came before the Star City Council for their action on December 20, 2022, at which time public testimony was taken and the public hearing was closed. The Star City Council, having requested and taken oral and written testimony, and having duly considered the matter, does hereby make the following Findings of Fact and Conclusions of Law;

Procedural History:

A. Project Summary:

The Applicant is seeking approval of a Conditional Use Permit to construct a drive through within a new bank facility. The property is located at 10615 W. State Street in Star, Idaho. The property is currently zoned Commercial (C-1-DA). The subject property is generally located on the southwest corner of W. State Street and S. Cosmo Ave. Ada County Parcel No. S0417212585.

B. Application Submittal:

A neighborhood meeting was held on November 2, 2022 in compliance with the application submittal requirement of the Star Unified Development Code (Section 8-1 A-6 C). The land use application was deemed complete on November 28, 2022.

C. Notice of Public Hearing:

Notice of Public Hearing on the application for the City of Star Council was published in accordance with the requirements of Title 67, Chapter 65, Idaho Code and the Star Unified Development Code on December 2, 2022. Notice of this public hearing was mailed to property owners within three-hundred feet (300') of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Star Unified Development Code on November 29, 2022. Notice was sent to agencies having jurisdiction in the City of Star on November 28, 2022. The property was posted in accordance with the Star Unified Development Code on December 12, 2022.

D. History of Previous Actions:

On February 9, 2006, a Development Agreement was signed and recorded by the City of Star as part of a Comprehensive Plan Amendment and Rezone approval for the property (CPA-RZ-06-02).

LAND USE:

CONDITIONAL USE PERMIT:

The applicant is requesting approval of a Conditional Use Permit for a drive through within a bank facility. The property has an existing Development Agreement that has specific uses already approved, one of which is a bank or financial institution. The Unified Development Code, Section 8-3A-3 requires all drive-throughs to be approved through a Conditional Use Permit.

Section 3.1.2 of the Development Agreement states that the "*developer agrees to go through a staff level Design Review for all building(s) and landscaping.*" This will be reviewed through a Certificate of Zoning Compliance and presentation before the Design Review Committee.

This Conditional Use Permit is for approval of the drive through only.

Section 8-4B-3 requires banks and financial institutions to provide a queue for (4) four cars per drive-up window. The applicant is proposing three drive up service lanes. It does appear that the proposed queue area will accommodate 4 average sized cars without an extensive redesign of the site, and possible reduction in square footage of the bank.

Access will be taken from Hwy 44 using the currently established ingress and egress. Applicant will need to work with the owner of the property to the west to provide paved access to this parcel. Applicant will also need to secure a cross access agreement for the northern and southern access points for this parcel. This will need to be in place before occupancy will be given.

The two-way drive aisles also need to be 25 feet wide; the site plan appears to call out 25 feet widths on the north and south of the building. **The drive aisle on the west of the building is only showing as 12.5 feet wide. The applicant is relying on the lot next door to provide an additional 12.5 feet, creating a shared drive.**
Applicant will need to work with the landowner to the west on constructing the remaining width needed for the drive aisle. This can be an all-weather surface but must be approved by the Fire District prior to occupancy.

All signage, including building, drive through and monuments will need separate permit and approval from Staff.

E. Agencies Responding:

ITD	December 9, 2022
DEQ	December 5, 2022
ACHD	December 2, 2022

F. *Letters/Emails from the Public:*

None

G. *Comprehensive Plan and Unified Development Code Provisions and Conformance:*

Comprehensive Plan

8.2.3 Land Use Map Designations:

Commercial

Suitable primarily for the development of a wide range of commercial activities including offices, retail, and service establishments. Rezoning to this designation should not be allowed unless adequate ingress/egress to major transportation corridors are assured. Light industrial uses may be considered at the discretion of the City Council without amending this plan.

8.3 Goal:

Encourage the development of a diverse community that provides a mix of land uses, housing types, and a variety of employment options, social and recreational opportunities, and where possible, an assortment of amenities within walking distance of residential development.

8.4 Objectives:

- Implement the Land Use Map and associated policies as the official guide for development.
- Manage urban sprawl in order to minimize costs of urban services and to protect rural areas.
- Encourage land uses that are in harmony with existing resources, scenic areas, natural wildlife areas, and surrounding land uses.
- Encourage commercial development that is consistent with a family friendly feel, not overburdening the community with big box and franchise uses and discourage the development of strip commercial areas.

8.5.5 Policies Related Mostly to The Central Business District Planning Areas:

- The CBD zoning district should allow for a mix of commercial, office, institutional, and civic type uses with specific provisions for residential use in appropriate locations with compatible densities.
- The city should develop a street improvement plan for the CBD identifying drainage and street improvements with a functional grid system and use public

private partnerships to assure the system is built and that “ad hoc” development of parcels within the CBD do not block good planning.

- The city should develop a downtown grid system, in part, planning for the easterly extension of Tempe Lane and easterly extension of West First Street to help provide better downtown access and parking facilities.
- The east west public road from the Heron River Development, south of the LDS Church on Main Street, should be extended to Star Road.
- Implement, review, and update the 2011 Star Downtown Revitalization Plan for development strategies within the plan intended to stimulate development within the CBD.
- As recommended in the 2011 Star Downtown Revitalization Plan, the city should create an Urban Renewal District to stimulate development within the CBD.
- The city should encourage assemblage of the smaller properties where appropriate.

8.5.6 Policies Related Mostly to the Commercial Planning Areas:

- Assist in the provision of coordinated, efficient, and cost-effective public facilities and utility services, carefully managing both residential and non-residential development and design, and proactively reinforcing downtown Star’s role as the urban core while protecting existing property rights. B. Encourage commercial facilities to locate on transportation corridors. C. Locate neighborhood services within walking distance to residential development. D. Discourage the development of strip commercial areas. E. Maintain and develop convenient access and opportunities for shopping and employment activities. F. Commercial areas of five acres or less should be encouraged in residential land use designations with appropriate zoning to allow for commercial services for residential neighborhoods and to limit trip lengths. Such commercial areas should be submitted for approvals with a Conditional Use Permit or Development Agreement to assure that conditions are placed on the use to provide for compatibility with existing or planned residential uses. These areas should be oriented with the front on a collector or arterial street.
- #### 8.5.9 Additional Land Use Component Policies:
- Encourage flexibility in site design and innovative land uses.
 - Work with Ada County Highway District (ACHD), Canyon Highway District #4 (CHD4), and Idaho Department of Transportation (ITD) for better coordination of roadway and access needs.
 - Support well-planned, pedestrian-friendly developments.
 - Dark sky provision should be adopted within the code to assure down style lighting in all developments and Star should consider joining the International Dark Sky Association.

Unified Development Code

8-3A-1: ZONING DISTRICTS AND PURPOSE ESTABLISHED:

The following zoning districts are hereby established for the interpretation of this title, the zoning districts have been formulated to realize the general purposes as set forth in this title. In addition, the specific purpose of each zoning district shall be as follows:

C-1 NEIGHBORHOOD BUSINESS DISTRICT: To provide for the establishment of convenience business uses which tend to meet the daily needs of the residents of an immediate neighborhood while establishing development standards that prevent adverse effects on residential uses adjoining a C-1 district. Such districts are typically appropriate for small shopping clusters or integrated shopping centers located within residential neighborhoods, where compatible.

8-3A-3: USES WITHIN ZONING DISTRICTS

The following table lists principal permitted (P), accessory uses (A), conditional (C), or prohibited (N) uses.

ZONING DISTRICT USES	C-1
Drive-through establishment/drive-up service window	C

8-3A-4: ZONING DISTRICT DIMENSIONAL STANDARDS:

Zoning District	Maximum Height Note Conditions	Minimum Yard Setbacks Note Conditions			
		Front (1)	Rear	Interior Side	Street Side
C-1	35'	20'	5'	0' ⁴	20'

Notes:

1. Front yard setback shall be measured from the face of the garage to the face of the sidewalk, allowing for 20' of parking on the driveway without overhang onto the sidewalk.
2. Zero-Lot-Line and reduced front and rear setback waivers may be requested through the Development Agreement process. All other side yard setback requests for detached structures shall not be granted waivers, unless as part of a Planned Unit Development.
3. All setbacks in the CBD, C-1, C-2, LO, IL, PS, RC and M-U zone shall maintain a minimum 15' when adjacent to a residential use or zone.
4. As approved by the Fire District.

8-1B-4: CONDITIONAL USES:

A. Purpose: The purpose of this section is to establish procedures that allow for a particular use on a particular property subject to specific terms and conditions of approval.

B. Applicability: The provisions of this section apply to all uses identified as conditional use in [chapter 3](#), "District Regulations", of this title, and as otherwise required by specific development standards in [chapter 5](#), "Specific Use Standards", of this title.

C. Process:

1. The applicant shall complete a preapplication conference with the administrator prior to submittal of an application for a conditional use.

2. An application and appropriate application fees, in accord with article A, "General Provisions", of this chapter, shall be submitted to the administrator on forms provided by the planning department.

3. The administrator may require additional information concerning the social, economic, fiscal or environmental effects of the proposed conditional use, prior to the scheduling of a public hearing.

D. Standards: In approving any conditional use, the city council may prescribe appropriate conditions, bonds and safeguards in conformity with this title that:

1. Minimize adverse impact of the use on other property.

2. Control the sequence and timing of the use.

3. Control the duration of the use.

4. Assure that the use and the property in which the use is located is maintained properly.

5. Designate the exact location and nature of the use and the property development.

6. Require the provision for on site or off-site public facilities or services.

7. Require more restrictive standards than those generally required in this title.

8. Require mitigation of adverse impacts of the proposed development upon service delivery by any political subdivision, including school districts, that provides services within the city.

8-1B-4E. FINDINGS: The council shall base its determination on the conditional use permit request upon the following:

1. That the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the district in which the use is located.
2. That the proposed use will be harmonious with the Star comprehensive plan and in accord with the requirements of this title.
3. That the design, construction, operation and maintenance will be compatible with other uses in the general neighborhood and with the existing or intended character of the general vicinity and that such use will not adversely change the essential character of the same area.
4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity.
5. That the proposed use will be served adequately by essential public facilities and services such as highways, streets, schools, parks, police and fire protection, drainage structures, refuse disposal, water, and sewer.
6. That the proposed use will not create excessive additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.
7. That the proposed use will not involve activities or processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
8. That the proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance.

Findings for Conditional Use Permits (UDC §8-1B-4E):

1. That the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the district in which the use is located.
The Council finds nothing in the record indicating that the site of the proposed use would not be large enough to accommodate the proposed use or meet all of the dimensional and development regulations in the district in which the use would be located.
2. That the proposed use will be harmonious with the Star comprehensive plan and in accord with the requirements of this title.
The Council finds that the proposed use request is harmonious with the Star Comprehensive Plan and is in accord with the requirements of this Title. The proposed development meets the intent or purpose.
3. That the design, construction, operation and maintenance will be compatible with other uses in the general neighborhood and with the existing or intended character of the general vicinity and that such use will not adversely change the essential character of the same area.

The Council finds that operation of the proposed use would be compatible with the other uses in the general area.

4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity.

The Council finds that the proposed use, with imposed conditions of approval, would not adversely affect other property in the vicinity.

5. That the proposed use will be served adequately by essential public facilities and services such as highways, streets, schools, parks, police and fire protection, drainage structures, refuse disposal, water, and sewer.

The Council finds that the proposed use be adequately served by essential public facilities and services.

6. That the proposed use will not create excessive additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.

The Council finds that the proposed use would not create excessive additional costs for public facilities and would not be detrimental to the economic welfare of the community. The City has not received notice from any agency having jurisdiction stating that this application will create excessive additional costs for the public facilities and services as the development will pay for all changes in services.

7. That the proposed use will not involve activities or processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

The Council finds that the proposed use would involve activities that would not be detrimental to any person, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

8. That the proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance.

The Council finds that the proposed use would not result in the destruction, loss or damage of natural, scenic or historic feature of major importance since none are apparent on this site.

Public Hearing of the Council:

- a. A public hearing on the application was held before the City Council on December 20, 2022, at which time testimony was heard and the public hearing was closed. The City Council made their decision at that time.

- b. Oral testimony in favor of the application was presented to the City Council by:

Josh Hersel, Applicant

Theresa Tinsley

c. Additional Oral testimony to the application was presented to the Council by:

None

d. Oral testimony uncommitted to the application was presented to the Council by:

Mark Ehrman

e. Written testimony in favor of or opposing the application was presented to the City Council by:

Steven Dahlin

Deliberations and Conclusions of Law:

The Council reviewed the particular facts and circumstances of this proposed conditional use permit application in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in discussions on the request.

Council finds that, with added conditions of approval, the Applicant has met all requirements of the Unified Development Code and the intent and purpose of the Comprehensive Plan and Map requirements.

Council added to the Conditional Use Permit the following site-specific conditions of approval to their decision to approve the application to include the following:

- **There shall be no trees or shrubs within 15' of the irrigation ditch located south of the southern property line. Council hereby approves any variance or waiver of the UDC landscaping requirements addressing landscape buffering to accommodate this.**
- **The applicant shall be required to adjust the volume of any speaker within the drive-thru if requested by the City as a result of complaints by the City or neighboring property owners resulting from excessive noise at the property lines of the property.**

Conditions of Approval:

1. The approved Conditional Use shall comply with all statutory requirements of applicable agencies and districts having jurisdiction in the City of Star.
2. **Prior to issuance of a building permit, the applicant shall receive a certificate of zoning compliance and design review for compliance with the Architectural Design Guidelines.**
3. **Applicant will work with the adjacent property owner to provide paved access from W. State Street (Hwy 44) to this parcel.**
4. **Applicant shall work with the adjacent property owner to construct an all-weather road on the west side of the parcel, wide enough to meet the drive aisle requirements of the City and obtain Fire District approval.**
5. **Applicant shall provide recorded cross access agreements with the property to the west for both the norther and southern access points to this parcel prior to issuance of a certificate of occupancy.**
6. Pressurized irrigation systems shall comply with the Irrigation District(s) and the City of Star Codes. Plans for pressurized irrigation systems shall be submitted to, and approved by the City of Star Engineer, prior to installation.
7. A form signed by the Star Sewer & Water District shall be submitted to the City prior to issuance of building permit stating that all conditions of the District have been met, including annexation into the District.
8. The applicant shall provide a sign, to be located at all construction entrances, indicating the rules for all contractors that will be working on the property starting at grading and running through occupancy that addresses items including but not limited to dust, music, dogs, starting/stopping hours for contractors (7a.m. start time). **Sign shall be approved by the City prior to start of any construction.**
9. The applicant shall obtain all the proper building permits from the City Building Department prior to occupancy or the unit.
10. The Conditional Use Permit may be revoked or modified by the City Council for any violation of any Condition of Approval.
11. The applicant shall obtain a sign permit prior to any signage being placed on the site or building.
12. A Certificate of Zoning Compliance will be required prior to the start of construction.
13. Any additional Condition of Approval as required by Staff and City Council.
14. Any Conditions of Approval as required by Star Fire Protection District.

The Council voted unanimously to approve the Conditional Use Permit on December 20, 2022.

Dated this 17th day of January, 2023.

Star, Idaho

By: _____
Trevor A. Chadwick, Mayor

ATTEST:

Jacob M. Qualls, City Clerk