

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**MILLED OLIVE CONDITIONAL USE PERMIT**  
**FILE NO. CU-23-06**

The above-entitled Conditional Use Permit land use applications came before the Star City Council for their action on December 5, 2023, 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 requesting approval of a Conditional Use Permit for a mixed-commercial use to include a retail store, wine & beer lounge, retail storage area, outdoor concessions and an event space. The property is located at 1133 S. Main Street in Star, Ada County, Idaho, and consists of 2.0 acres in a central business district (CBD) zoning designation. The subject property is generally located at the northeast corner of S. Star Road and S. Main Street. Ada County Parcel No. R1842701420.

*B. Application Submittal:*

A neighborhood meeting was held on September 14, 2023, 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 October 20, 2023.

*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 November 19, 2023. 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 20, 2023. Notice was sent to agencies having jurisdiction in the City of Star on October 24, 2023. The property was posted in accordance with the Star Unified Development Code on November 20, 2023.

*D. History of Previous Actions:*

Council approved an application for Rezone and Development Agreement (RZ-20-10/DA-20-21) for the property to be rezoned Central Business District (CBD).

E. *Comprehensive Plan Land Use Map and Zoning Map Designations:*

	<b>Zoning Designation</b>	<b>Comp Plan Designation</b>	<b>Land Use</b>
<b>Existing</b>	Central Business District (CBD)	Central Business District	Vacant – Pasture
<b>Proposed</b>	Central Business District (CBD)	Central Business District	Commercial, Retail
<b>North of site</b>	Residential (R-1)	Central Business District	Single Family Residential
<b>South of site</b>	Rural Transitional (RT)	Central Business District	Vacant
<b>East of site</b>	Rural Transitional (RT)	Central Business District	Single Family Residential
<b>West of site</b>	Rural Urban Transition (RUT)	Central Business District	Single Family Residential/Agricultural

F. *Development Features.*

**CONDITIONAL USE PERMIT:**

The Applicant is requesting approval of a Conditional Use Permit for a mixed-commercial use to include a retail store, wine & beer lounge, retail storage area, outdoor concessions and an event space. The property contains approximately 2-acres. The proposed main structure that includes the retail sales, beer and wine lounge, warehouse and 2<sup>nd</sup> Floor event/meeting room is approximately 17,141 total square feet in size. The proposed accessory storage building is 1,450 square feet in size, and the proposed concessions building is 367 square feet in size. The proposed food truck and farmers market booth area, located in the southeast corner of project, will include temporary spaces for food trucks and retail booths to be used throughout the year and during community events.

The site will be improved with paved driving aisles and parking spaces, perimeter landscaping and fencing. Main site access will be on S. Main Street.

The Unified Development Code Section 8-4B-2 states that all drive aisles adjacent to a building shall be a minimum of 25’0” or as required by the fire code, unless the building is 30 feet in height or greater, at which point the drive aisle shall be 26’0” or as otherwise approved by the Fire District. **It appears that all proposed drive aisles will be able to meet the 25’ and 26’ widths throughout the project, as required.**

**Section 8-4B-2 also states that parking stalls shall be 9’ wide and 20’ deep. The materials submitted with the application indicate compliance with the parking standards. The applicant is providing 2 ADA parking spaces in front of the main building. The site plan indicates a total of 51 on-site parking spaces, with an additional 17 on-street parking spaces along S. Main Street. ACHD will need to approve the allowance for parking in the public right of way. The parking calculations provided by the applicant appear to meet the**

**required parking requirements within the CBD zone. The addition of approved on-street parking of 17 additional spaces will benefit the uses proposed.**

**The Applicant is proposing fencing along all boundaries of the property, including open, metal fencing along the Star Road and S. Main Street frontages, with a security gate along the entrance drive. A 6' solid wood and metal fence is proposed adjacent to the existing residential uses to the north and east of the proposed development.**

**The Applicant has not indicated the hours of operation for the project. Council may want to consider hours of operation for the food trucks and farmers market uses of the project.**

The applicant has provided exterior elevations and color renderings of all of the structures within the development. The buildings appear to meet the intent of the architectural overlay, however, the site plan and elevations will need additional approval from the design review committee as part of the Certificate of Zoning Compliance process.

**The applicant has requested a 10' northern building setback for the main building and 5' northern and southern setback for the storage building located in the northeast corner of the property. In addition, the concessions building has indicated a 5' northern setback. Council should consider future CBD uses adjacent to this property. Staff believes the proposed setbacks are appropriate for the future build-out of the Central Business District.**

**Cross access to adjacent properties is critical for maintaining circulation between commercial uses, especially along Star Road, where access points are intended to be eliminated and combined where necessary as properties redevelop. Staff supports a requirement for a cross access easement to the north of the property in the event that the northern property were to redevelop. The easement would be located where the applicant is showing 3 parking spaces in the northeast corner of the project. Until a need for access is warranted, the applicant shall maintain the 3 parking spaces as shown.**

**The applicant has not indicated a location for restroom facilities near the concession building and food truck and farmers market area of the development. Facilities located in the main building may provide this service when open, however, bathroom facilities should be discussed by Council and the applicant.**

**A landscaping plan has been submitted with the application. Staff would like to see an additional landscaping buffer on the northern boundary of the development adjacent to the proposed parking lot and main building.**

#### H. *On-Site Features:*

- ☉ Areas of Critical Environmental Concern – No known areas.

- ✧ Evidence of Erosion – No known areas.
- ✧ Fish Habitat – No known areas.
- ✧ Mature Trees – Yes. Mature Trees
- ✧ Riparian Vegetation – None.
- ✧ Steep Slopes – None.
- ✧ Stream/Creek – None.
- ✧ Unique Animal Life – No unique animal life has been identified.
- ✧ Unique Plant Life – No unique plant life has been identified.
- ✧ Unstable Soils – No known issues.
- ✧ Wildlife Habitat – No wildlife habitat has been developed or will be destroyed.
- ✧ Historical Assets – No historical assets have been observed.

I. *Agencies Responding:*

The following agencies responded, and correspondence was attached to the staff report.

ACHD  
ITD

December 5, 2023  
October 25, 2023

J. Staff received the following letters & emails for the development:

None

K. *Comprehensive Plan and Unified Development Code Provisions:*

**Comprehensive Plan:**

8.2.3 Land Use Map Designations:

Central Business District

The Central Business District is planned to be a vibrant downtown center for the community. Uses encouraged are commercial, retail, civic, private offices, and entertainment. High density housing is encouraged on the upper floors of mixed-use buildings and at the fringes of the land use designation. Developments in this district are to place an emphasis on pedestrian and bicycle access and compatibility.

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.
- Work to create a vibrant Central Business District.
- 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:

A. 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.

B. High density residential is suitable within the CBD in mixed use buildings with commercial or office type uses on the first floor and high density residential on upper floors.

C. Main Street, generally south of Tempe Lane extended, consists of several lots which are about one acre in size created by "Dixon Subdivision" almost a century ago. Many of the existing home sites on these lots are rural in nature, including farm animals. As redevelopment of this area occurs, a transition consisting of a compatible mix of lower intensity commercial and office type uses mixed with residential should be encouraged. This Main Street area needs to be studied to provide for special care guiding future development understanding that the rights consisting of the existing rural use of residential lots are not to be infringed. Furthermore, Main Street is to be studied for the provision of traffic calming measures and to provide for a connection for horseback riders to access an equestrian trail which should be planned along the Boise River.

D. 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.

E. 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.

F. The east west public road from the Heron River Development, south of the LDS Church on Main Street, should be extended to Star Road.

G. Implement, review, and update the 2011 Star Downtown Revitalization Plan for development strategies within the plan intended to stimulate development within the CBD.

H. As recommended in the 2011 Star Downtown Revitalization Plan, the city should create an Urban Renewal District to stimulate development within the CBD.

I. The city should encourage assemblage of the smaller properties where appropriate.

J. The “floodway” lands abutting the CBD land use designation, all as shown in the Comprehensive Plan Land Use Map, should continue to be developed as park space supporting activities integral to the economic and “Live, Work, Play” ambiance planned for the CBD.

K. Main city service facilities should be located in the CBD and should all be south of State Highway 44 clustered into a “City Services Campus”. That includes the City Hall, Library, Post Office, Emergency Services, Department of Motor Vehicles, and other related facilities.

L. Big Box commercial, generally a single-story single use building over 50,000 square feet, should not be permitted within the CBD and any single-story single use building which is large in scale, such as approaching the 50,000 square foot size, should be located to front on Highway 44 or Star Road.

#### 8.5.9 Additional Land Use Component Policies:

- Encourage flexibility in site design and innovative land uses.
- Encourage landscaping to enhance the appearance of subdivisions, structures, and parking areas.
- 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.
- The City should utilize the 2018 Treasure Valley Tree Selection Guide when requiring trees within developments.

#### **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:

(CBD) CENTRAL BUSINESS DISTRICT: To provide for commercial, retail, civic, office, and entertainment uses. High density housing is encouraged on the upper floors of mixed-use buildings and may also be allowed at the fringes of the land use designation shown on the comprehensive plan. Live/work designed development is also encouraged in this district. Developments in this district are to place an emphasis on pedestrian and bicycle access and compatibility. Special emphasis shall be placed on development in the central downtown area to encourage and create a vibrant, walkable downtown community that incorporates the Boise River as an active amenity.

### 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	CBD
Events Center, public or private (indoor/outdoor)	C
Retail store/retail services	P

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

Zoning District	Maximum Height Note Conditions	Minimum Yard Setbacks Note Conditions			
		Front <sup>(1)</sup>	Rear	Interior Side	Street Side
CBD	35'	0'	0'	0' <sup>4</sup>	0'
C-2	35'	20'	5'	0' <sup>4</sup>	20'
MU	35'	For MU and <b>CBD</b> - Unless otherwise approved by the Council as a part of a PUD or development agreement, all residential buildings shall follow the residential setbacks shown in this table based upon the project density and all other buildings shall follow setbacks for the C-2 zone <sup>(3)</sup> .			

Notes:

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.

**8-1B-4E CONDITIONAL USE FINDINGS:**

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 can 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 heard by the City Council on December 5, 2023, at which time testimony was heard and the public hearing was closed, and the Council made their decision at that time.

b. Oral testimony regarding the application was presented to the City Council by:

- Shawn L Nickel, City Planning Director gave Staff Presentation
- Jessica Heggie
- Angie McGetrick
- Heidi Prigge
- Susan Avise
- Gary Avise
- Cheryl Cronk
- Victor Islas, Star Fire District
- Aaron Williams, ACHD

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

None

### **Request for Reconsideration:**

On February 20, 2024, Council approved the applicants requested reconsideration of the Council decision, as allowed in Section 8-1A-9 of the Unified Development Code and placed the application on a public hearing agenda. Upon deliberation, the Council voted 4-0 on April 16, 2024 to revise the specific conditions of approval requested by the applicant.

Oral testimony regarding the reconsideration application was presented to the City Council by:

- Shawn L Nickel, City Planning Director gave Staff Presentation
- Dan McGetrick
- Sgt. Jonathan Steele, Star Police Department
- Victor Islas, Star Fire District

### **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 review of the record, including the staff report, and discussions on the proposed land use. Review and discussion included site plan/layout, access and circulation, fencing, landscape buffering, cross-access, lighting, hours of operation and parking. The Council included Staff recommended conditions of approval and added additional

conditions to address these concerns. Council concluded that the Applicant's request, as conditioned, meets the requirements for conditional use. Council hereby incorporates the staff report dated December 5, 2023, and staff memo, dated April 16, 2024 into the official decision as part of these Findings of Fact, Conclusions of Law.

### **Statement of Compliance:**

Council finds the Applicant has met all requirements of the Unified Development Code and the intent and purpose of the Comprehensive Plan and Map requirements.

Council included the following additional conditions of approval as part of the approval of this application request, and as revised through the reconsideration:

- **Applicant to add a pedestrian gate to the fencing at the southern curve area on Main Street.**
- **All lighting on the building and parking areas shall adhere to the Dark Sky requirements of the City.**
- **Hours of operation shall be as follows:**
  - **Monday – Saturday 10am-6 10pm for Milled Olive Retail**
  - **Monday – Saturday 10am-11pm for Wine Bar**
  - **Friday, Saturday & Sunday 9am to 6pm for Farmers Market/~~Food Trucks~~**
  - **Food Trucks – 8am -10pm daily**
  - **Seasonal Concessions 7-days a week until 11pm**
- **Cross-access easements shall be provided to the north and east to provide connection to adjacent uses once properties redevelop. Staff will analyze the need for cross access once uses have been determined to the north and east and evaluate whether the access is warranted. If access is to be provided, any parking that is lost shall not count against the overall parking requirements of this application. Gates for emergency access may be required and will be reviewed by City Staff and the Fire District at that time.**
- **All drainage requirements of the City Engineer shall be met.**
- **~~There shall be no music allowed outside of the buildings until immediate neighboring properties are developed into commercial.~~**
- **Outdoor music for Wine Bar Patio only until 10pm daily.**
- **Event Center shall only have music indoors.**
- **The site plan, with proposed building square footage, as approved on December 5, 2023 is hereby adopted into this approval and shall not be altered without further approval from the City. If the property is sold and/or uses change, a new Certificate of Zoning Compliance (CZC) shall be required.**
- **Any lighting on the proposed water tower/sign shall meet the Dark Sky requirements of the City.**
- **Patrons and employees of the Farmers Market/Food Trucks are allowed to use the restroom facilities at the Wine Bar/Retail business during business hours.**

## Conditions of Approval:

1. **All Council required conditions of approval as listed above.**
2. The approved Conditional Use shall comply with all statutory requirements of applicable agencies and districts having jurisdiction in the City of Star.
3. Streetlights/Parking Lot lights shall comply with the Star City Code. Design shall follow Code with requirements for light trespass and "Dark Skies" lighting. **Applicant/Owner shall work with staff and submit a streetlight design that meets city standards prior to Building Permit being issued.**
4. **A Certificate of Zoning Compliance will be required prior to the start of construction. The applicant shall address detailed building finishes, landscape buffering and other site details at that time.**
5. **A revised site plan, showing the correct parking dimensions shall be submitted to and approved by City Staff, prior to issuing the building permit.**
6. **The Applicant shall provide an updated landscape plan showing the correct number of street trees and landscape materials to Staff for approval prior to issuing a building permit.**
7. The property with the approved application shall be satisfactorily weed abated, preventing a public nuisance, per Star City Code.
8. 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.
9. 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.
10. 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 the start of any construction.**
11. The applicant shall obtain all the proper building permits from the City Building Department prior to occupancy of the unit.
12. The Conditional Use Permit may be revoked or modified by the City Council for any violation of any Condition of Approval.
13. The applicant shall obtain a sign permit prior to any signage being placed on the site or building.
14. Any additional Condition of Approval as required by Staff and City Council.
15. Any Conditions of Approval as required by Star Fire Protection District.

## Council Decision:

The Council voted 3-0 to approve the Conditional Use for Milled Olive on December 5, 2023. Council voted 4-0 to approve the Reconsideration on April 16, 2024.

Dated this 7th day of May, 2024.

Star, Idaho

By: \_\_\_\_\_  
Trevor A. Chadwick, Mayor

ATTEST:

\_\_\_\_\_  
Jacob M. Qualls, City Clerk