

FINDINGS OF FACT AND CONCLUSIONS OF LAW
TOMMY'S CARWASH
FILE NO. CUP-21-05

The above-entitled Preliminary Plat, Private Street and Development Agreement Modification land use applications came before the Star City Council for their action on October 19, 2021, 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 and operate a carwash facility within the Heron River Commercial Subdivision. The property is located at 9839 W. State Street in Star, Idaho. The subject property is generally located between S. Plummer Way and S. Seneca Springs Way on the south side of W. State Street. Ada County Parcel No. R6925810020.

B. Application Submittal:

A neighborhood meeting was held on April 28, 2021, 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 August 25, 2021.

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 October 7, 2021. 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 September 30, 2021. Notice was sent to agencies having jurisdiction in the City of Star on August 25, 2021. The property was posted in accordance with the Star Unified Development Code on October 8, 2021.

D. History of Previous Actions:

This entire property was approved for commercial uses under the original Heron River (Parkstone Sub) Planned Unit Development and Development Agreement. The property was rezoned from R-2-DA to CBD in July, 2020.

E. *Development Features.*

CONDITIONAL USE PERMIT:

The Conditional Use Permit included in this application is for an automated, full-service, tunnel carwash contained in a building of 4,553 square feet and sitting on 1.22 acres. The property will have 16 vacuum stanchions, each stanchion has 2 vacuum hoses. Landscaping will be included in the design and will be subject, to further design review, along with other specific details with the Certificate of Compliance application.

ADDITIONAL DEVELOPMENT FEATURES:

- Parking
Unified Development Code Section 8-4B-3 states that parking required for this use is 1 space per 200 square feet of gross floor area of sales, office, or lounge area: plus, queue for 3 cars per washing station. The applicant is proposing 23 parking stalls, which satisfies this requirement of the UDC. The proposed design also has adequate queue space to satisfy the code. Staff will review parking compliance as part of the Certificate of Zoning Compliance and building permit process.
- Lighting
Streetlights, parking lot lighting and building lighting shall reflect the "Dark Sky" criteria with all lighting. The same streetlight design shall continue throughout the entire portions of the development. A lighting plan has been submitted as part of the application process. **City Staff will want to work with the applicant on all final lighting designs and plans and will monitor throughout the Certificate of Zoning Compliance and building permit process.**
- Building Design
The applicant is proposing a building design for a 130-foot-long tunnel car wash with a color scheme of black, reds, silvers and gray. A large portion of the tunnel will be housed in a transparent material. Proposed materials are prefinished metal and aluminum panels, fiber cement board, split faced CMU and MCM panels. No building heights were provided.
- Landscape
The applicant has provided a landscape plan that incorporates a berm with Evergreen and Deciduous Trees and large shrubs where cars enter the drive lane and lights would shine into the residential units to the south. Applicant is also proposing to build an eight (8) feet high wall along the northern boundary of the residential units and add evergreens between the existing trees to help dampen noise.

F. *Agencies Responding:*

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

Keller Associates	October 4, 2021
ACHD	August 31, 2020
Star Fire District	October 6, 2021

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

Nicole Etcheverry-Sarkany	Via Email
---------------------------	-----------

H. *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.
- 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.
- Encourage land uses that are in harmony with existing resources, scenic areas, natural wildlife areas, and surrounding land uses.
- **Work to create a vibrant Central Business District.**

- Encourage land uses that are in harmony with existing resources, scenic areas, natural wildlife areas, and surrounding land uses.

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 city should encourage assemblage of the smaller properties where appropriate.
- 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.
- 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.
- 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.

18.4 Implementation Policies:

E. Development Agreements allow the city to enter into a contract with a developer upon rezoning. The Development Agreement may provide the city and the developer with certain assurances regarding the proposed development upon rezoning.

Unified Development Code:

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.

8-1E-1: TERMS DEFINED:

VEHICLE WASHING FACILITY: The use of a site where a vehicle may be washed, waxed, detailed, or vacuumed by the owner of the vehicle or employees on the site.

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

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.

DA DEVELOPMENT AGREEMENT: This designation, following any zoning designation noted on

the official zoning map of the city (i.e., C-2-DA), indicates that the zoning was approved by the city with a development agreement, with specific conditions of zoning.

8-3A-3: USES WITHIN ZONING DISTRICTS

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

<u>ZONING DISTRICT USES</u>										
USES	A	R-R	R	CBD	C-1	C-2	L-O	LI	PS	MU
Vehicle washing facility ¹	N	N	N	C	C	P	N	P	N	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
CBD	35'	0'	0'	0'	0'

8-3C-2: ADDITIONAL CENTRAL BUSINESS DISTRICT STANDARDS:

- A. Comply with Section 8-3A-1: ZONING DISTRICTS AND PURPOSE ESTABLISHED.
- B. High density residential may be permitted 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. New development on Main Street and Star Road, generally south of State Street, shall include transition consisting of a compatible mix of lower intensity commercial, retail and office type uses mixed with live/work type residential. Existing Single-Family uses are encouraged to convert to or redevelop as non-residential uses.
- D. Big Box commercial, generally a single-story single use building over 50,000 square feet, shall not be permitted and any single-story single use building which is large in scale, such as approaching the 50,000 square foot size, shall be located to front on Highway 44 or Star Road.
- E. The Council may place requirements on a mixed-use development, including a ratio of uses and/or timing of phases, to ensure that the overall development maintains its commercial intent.

8-5-35: VEHICLE WASHING FACILITY:

- A. A site plan shall be submitted that demonstrates safe pedestrian and vehicular access and circulation on the site and between adjacent properties. At a minimum, the plan shall demonstrate compliance with the following standards:

1. Stacking lanes shall have sufficient capacity to prevent obstruction of the public right of way by patrons. The stacking lane shall be a separate lane from the circulation lanes needed for access and parking.
2. The stacking lane shall not be located within ten feet (10') of any residential district or existing residence.
3. A letter from the transportation authority indicating the site plan is in compliance with the highway district standards and policies shall be required.
- B. Within the industrial districts, a vehicle washing facility shall be allowed only as an accessory use to a gasoline or diesel fuel sales facility for use by non-passenger vehicles. The vehicle washing facility shall be limited in capacity to a single vehicle. The intent is to discourage facilities that cater to passenger vehicles, in this district.
- C. **Any use shall be located a minimum one hundred feet (100'), or as otherwise approved, from any abutting residential use or district**, and shall be limited in operating hours from six o'clock (6:00) A.M. to ten o'clock (10:00) P.M.

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 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 is not harmonious with the Star Comprehensive Plan and is not in accord with the requirements of this Title. The proposed commercial use doesn't meet the intent or purpose of the Central Business District.
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 not be compatible with the other uses in the general neighborhood. Noise from the proposed use would adversely impact the neighboring property owners.
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, even with imposed conditions of approval, would 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 could 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 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, at which time testimony was heard and the public hearing was closed. The City Council made their decision at that time.

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

- Mark Ridley
- Jillian Kolk
- Margaret Marlatt
- Debbie Cornell
- Flo Wheeler
- Pat Nulato-Waide

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

None

Deliberations and Conclusions of Law:

The Council reviewed the particular facts and circumstances of this proposed conditional use application in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in discussions on noise, traffic, landscaping buffers and fencing, distance from neighboring property owners and Zoning Ordinance compliance. The Council concluded that the Applicant's request does not meet the requirements for a conditional use. Council hereby incorporates the staff report dated October 19, 2021 into the official decision as part of these Findings of Fact, Conclusions of Law.

Statement of Compliance:

Council finds the Applicant has not met all requirements of the Unified Development Code and the intent and purpose of the Comprehensive Plan requirements.

Council Decision:

The Council voted 3-1 to deny the Conditional Use Permit for Tommy's Carwash on October 19, 2021.

Dated this 7th day of December 2021.

Star, Idaho

By: _____

Trevor A. Chadwick, Mayor

ATTEST:

Jacob M. Qualls, City Clerk