

**STAFF SUGGESTED DECISION OPTION B**  
**BEFORE THE PLANNING AND ZONING COMMISSION**  
**GARDEN CITY, ADA COUNTY, IDAHO**

**THIS IS NOT A PREDETERMINED DECISION. ALL EVIDENCE WILL BE  
CONSIDERED. A DIFFERENT DECISION MAY RESULT IN AN UPDATE OF THE  
FINDINGS OF FACT, CONCLUSIONS OF LAW, OR CONDITIONS.**

In the Matter of:	)	CUPFY2025 - 0012
	)	
Conditional Use Permit	)	FINDINGS OF FACT,
3300 W Chinden Blvd	)	CONCLUSIONS OF LAW
Garden City, Ada County, Idaho	)	AND DECISION

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THIS MATTER came before the Garden City Planning and Zoning Commission for consideration on September 17, 2025. The Planning and Zoning Commission reviewed the application and materials submitted. Based on the evidence presented, pursuant to Garden City Code Table 8-6A-1, the Planning and Zoning Commission makes the following Findings of Fact, Conclusions of Law and Decision:

**FINDINGS OF FACT**

1. The request is for the use of Commercial entertainment facility defined by Garden City Code 8-7A-1 as "The use of a site for any profit-making activity which is generally related to the entertainment field. The term "commercial entertainment facility" includes motion picture theaters, carnivals, nightclubs, and dance halls.
2. The applicant is Jeff Hatch.
3. The property owner of record is SONG & DANCE LLC.
4. The location of the project is 3300 W. Chinden Blvd.; Ada County Assessor parcel number(s) R2734541100; LOT 01 BLK 33 FAIRVIEW ACRES SUB NO 5 #1080-B.
5. The property is a legal parcel of record.
6. The subject property is 0.172 acres or 7,492 SF.
7. The scope of the request applies to the entire property.
8. The project is located in the C-1 Highway commercial zoning district.

9. The project is located in the Activity Node: Neighborhood Destination; Green Boulevard Corridor , Live-Work-Create of the Garden City Comprehensive Plan Land Use Designation.
10. The project is in the:
  - a. 500 Year of the Special Flood Hazard Area according to the 2020 adopted FIRM (the FIRM has adopted seclusion and utilizes the 2003 Flood Insurance Study).
  - b. 100 Year of the Special Flood Hazard Area according to FEMA's most recent model as adopted by resolution 1083-20.
11. The existing use on the site is Vacant building.
12. The following standards apply to this proposal:
  - a. Garden City Code 8-1A-4 Applicability
  - b. Garden City Code 8-1B Existing Nonconforming Properties, Structures, and Uses
  - c. Garden City Code 8-2B Base Zoning District Regulations
  - d. Garden City Code 8-2C Land Use Provisions
  - e. Garden City Code 8-4A General Provisions
  - f. Garden City Code 8-4D Parking and Off Street Loading Provisions
  - g. Garden City Code 8-4E Transportation and Connectivity Provisions
  - h. Garden City Code 8-4I Landscaping and Tree Protection Provisions
  - i. Garden City Code 8-6A Administration
13. The following plans and policies apply to this proposal:
  - a. Garden City Comprehensive Plan
  - b. Garden City Sidewalk Policy
  - c. Garden City Street Light Policy
  - d. Garden City Transportation Needs List
14. The following previous approvals apply to this proposal:
  - a. BLDFY2024-0176
15. Required materials per Garden City Code Table 8-6A-2 Required Application Information was provided:

Conditional Use Permit			
Provided			
Yes	No	NA	
X			Compliance Statement
X			Neighborhood Map
X			Will Serve

16. Additional application materials submitted include:
  - a. Site Plan;

- b. Landscape Plan;
  - c. 300' Neighborhood List;
  - d. Affidavit of Legal Interest;
  - e. Application;
  - f. Statement of Intent.
  - g. Site Photos.
  - h. Shared parking agreements
  - i. Parking demand study
17. Agency Comments were received from:
- a. Central District Health, August 25<sup>th</sup>, 2025
  - b. Idaho Transportation Department, August 25<sup>th</sup>, 2025
  - c. City Engineer, September 9<sup>th</sup>, 2025
18. Public comments were received from:
- a. Elizabeth Clovis, September 8<sup>th</sup>, 2025
19. The following noticing was completed in accordance with GCC 8-6A-7:

Noticing Requirement	Required Date	Completion Date
Receipt of application		8/4/2025
Letter of Acceptance	9/3/2025	8/14/2025
Radius Notice	9/2/2025	8/15/2025
Legal Notice	8/29/2025	8/19/2025
Agency Notice	9/2/2025	8/15/2025
Property Posting Sign	9/7/2025	9/5/2025
Affidavit of Property Posting and Photos	9/10/2025	9/8/2025

20. Additional noticing includes:
- a. None;
21. On September 17, 2025, a public hearing before the Planning and Zoning Commission was held:
- a. This section will be completed after the hearing.
22. The record contains:
- a. Application Documents
  - b. Noticing Documents
  - c. Agency Comments
  - d. Written Public Comments
  - e. Staff report
  - f. September 17, 2025, Planning and Zoning Commission Hearing Minutes and Audio
  - g. Planning and Zoning Commission Signed Findings of Fact, Conclusions of

## Law and Decision

23. The record was reviewed by the Planning and Zoning Commission to render the decision.

### CONCLUSIONS OF LAW

The Planning and Zoning Commission reviewed the application with regard to Garden City Code Title 8, and based on the conditions required herein, concludes the application **meets/does not meet** the standards of approval under **GCC 8-6B-2 Conditional Use**. The below are reasoned statements to support this conclusion.

The below are staff suggested conclusions and reasoned statements to support those conclusions. The Planning and Zoning Commission will review the record in its entirety. They may select the explanations provided by staff or they may amend the conclusions or explanations based upon their review of the record.	
Finding	Standard
<b>GCC 8-6B-2 CONDITIONAL USE: REQUIRED FINDINGS</b>	
Application <b>is/ is not</b> compliant with standard	<p>1. The use is appropriate to the location, the lot, and the neighborhood, and is compatible with the uses permitted in the applicable zoning district.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p> <p>This use <b>is/ is not</b> compatible with permitted uses in the zoning district.</p> <p>The C-1 Highway Commercial zoning district recognizes that a Commercial Entertainment Facilities may be appropriate within the zoning district, and therefore requires a Conditional Use Permit (CUP). The proposed use is consistent with the purpose of the C-1 district, which is to concentrate commercial and retail activities along arterial streets. Chinden Boulevard is a designated arterial and regional traffic corridor, making it a suitable location for a high-traffic entertainment venue. The use does not involve outdoor activities or events in the parking area, and no alcohol sales are proposed, avoiding potential conflicts with nearby sensitive uses.</p> <p>This use <b>is/ is not</b> appropriate to the lot and the location.</p> <p>The site is an existing nonconforming structure, with setbacks and parking that do not currently meet code. The existing structure may continue to be occupied, repaired, and modified, provided that any construction does not increase the degree of nonconformity. This application does not request to increase the nonconformity of the structure, and as conditioned, <b>adequately addresses / does not adequately address</b> parking needs.</p> <p>The site is located within the Live-Work-Create District, Activity Node: Neighborhood Destination, and Green Boulevard Corridor designations of the Garden City Comprehensive Plan. These designations encourage</p>

	<p>mixed-use development, cultural venues, and pedestrian-oriented destinations. The proposed use aligns with the intent of these designations by providing a dedicated venue for fine arts and cultural programming, which is expected to enhance the vibrancy of the area and support surrounding businesses.</p> <p>This use <b>is/ is not</b> compatible with the neighborhood.</p> <p>The applicant has proposed exterior improvements and a long-term lease-to-own agreement, demonstrating a commitment to revitalizing the site and contributing to the district's cultural identity.</p> <p>Surrounding uses include artist studios, food stores, and other commercial establishments, many of which operate within similar hours and attract similar clientele. The proposed use complements these existing uses and contributes to the area's identity as a creative and entertainment hub.</p> <p>The anticipated attendance of 140+ patrons per performance is consistent with the district's designation as a neighborhood destination and supports the Comprehensive Plan's goals for public gathering spaces and cultural enrichment.</p> <p>Concerns have been raised regarding pedestrian safety and off-site parking, these issues <b>are conditioned to / cannot adequately</b> be mitigated through conditions of approval requiring sidewalk improvements, ADA-compliant access, and verified parking agreements.</p>
<p>Application <b>is/ is not</b> compliant with standard</p>	<p>2. The use will be supported by adequate public facilities or services to the surrounding area, or conditions can be established to mitigate adverse impacts.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p> <p><b>In Approval:</b> Due to the intensification of the use of the building, it is necessary to provide all required infrastructure and improvements in accordance with code. These include sidewalk and landscaping improvements along Chinden Boulevard consistent with the design developed by Garden City staff and ITD, installation of a detached sidewalk and landscaping along 33rd Street, and improvements along Osage Street. Moreover, public services and utilities are available or are conditioned.</p> <p>To address the aforementioned requirements, conditions of approval to require adequate parking through shared parking agreements, sidewalks, installation of code complaint stormwater systems, and trash service areas have been drafted.</p> <p><b>In Denial:</b></p> <p>The site provides only one on-site parking space, while the use requires at least 14 spaces under Garden City Code §8-4D-5, based on square footage. While the applicant proposes to meet parking demand</p>

	<p>through off-site shared parking agreements, but several of these locations Exceed the maximum allowed distance of 0.25 miles as walked; Lack continuous, code-compliant sidewalks or ADA-accessible routes; Have overlapping operating hours, raising concerns about actual availability during events; and include inaccurate or unverifiable parking counts, such as the Parcero Wine Bar site, which was claimed to have 25 spaces but only has 12 per approved plans.</p> <p>These deficiencies cannot be fully mitigated through conditions of approval, as they rely on third-party agreements and infrastructure improvements that are outside the applicant's control.</p> <p>Moreover, the pedestrian infrastructure to and from the parking areas is unsafe and incomplete. The site lacks safe pedestrian access from off-site parking areas, particularly those located across Chinden Boulevard, a high-speed arterial road without a walkable designated crosswalks near the site. The nearest safe crossing requires an 11-minute detour. Garden City Police have provided comments on the design of Chinden which express concerns about inattentive driving behavior and the safety of patrons crossing Chinden and, in general, does not support pedestrian crossings of Chinden.</p> <p>While sidewalk improvements are recommended as conditions of approval, they are not currently scheduled in the Capital Improvement Plans of ACHD or ITD, limiting their feasibility in the near term. This would necessitate the applicant install the improvements to the parking areas.</p> <p>Utility and service coordination is incomplete as the site plan identifies unscreened trash containers and utility cabinets, which do not comply with visibility and screening standards. Compliance may rely on adjacent lots, requiring shared-use agreements that have not been finalized.</p> <p>The City Engineer has identified unresolved issues related to fire protection, stormwater management, and irrigation facilities, which may require off-site improvements and coordination with multiple agencies.</p> <p>The proposed landscaping does not meet minimum coverage or tree requirements, and stormwater retention systems have not been adequately designed. These deficiencies impact the site's ability to manage runoff and contribute to the public realm and cannot be resolved without substantial redesign and investment.</p>
<p>Application <b>is/ is not</b> compliant with standard</p>	<p><b>3.</b> The use will not unreasonably diminish either the health, safety, or welfare of the community.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p> <p><b>In Approval:</b></p> <p>The proposed use will not unreasonably diminish the health, safety, or welfare of the community, provided that conditions of approval are implemented to address identified concerns.</p>

While the site lacks sufficient on-site parking, the applicant has entered into shared parking agreements and submitted a Parking Demand Study.

Concerns about pedestrian safety, particularly related to patrons crossing Chinden Boulevard from off-site parking areas are conditioned to not be allowed without first having a crosswalk and adequate lighting installed on Chinden within one block (34<sup>th</sup> - 32<sup>nd</sup> Street)

The applicant has access to ADA-compliant parking on adjacent properties, and conditions ensure that pedestrian routes are safe and accessible.

The use does not involve hazardous materials, industrial processes, or other activities that would pose a risk to public health.

Stormwater retention and landscaping improvements will be required to ensure environmental compliance and support the public realm.

On-site trash and utility areas are conditioned to meet visibility and screening standards.

**In Denial:**

The applicant has not provided the required infrastructure improvements necessary to ensure safe movement of visitors.

Parking facilities, and pedestrian routes to the proposed facilities are inadequate and cannot be reliably mitigated.

The site provides only one on-site parking space, while the proposed use requires at least 14 spaces under Garden City Code §8-4D-5, based on square footage. However, due to the nature of the use, much more parking is needed in actuality. The applicant proposes to rely on off-site shared parking agreements, but several of the proposed locations: Exceed the allowable distance of 0.25 miles as walked. Lack continuous, code-compliant sidewalks or ADA-accessible routes. Have overlapping operating hours, raising concerns about actual availability during scheduled events. Include inaccurate or unverifiable parking counts, such as the Parcero Wine Bar site, which was claimed to have 25 spaces but only has 12 per approved plans.

These deficiencies cannot be fully mitigated through conditions of approval, as they rely on third-party agreements and infrastructure improvements that are outside the applicant's control.

Pedestrian Safety Risks Cannot Be Fully Mitigated. The site lacks safe pedestrian access from off-site parking areas, particularly those located south of Chinden Boulevard, a high-speed arterial road. There are no designated crosswalks near the site, and the nearest safe crossing



	<p>requires an 11-minute detour. Law enforcement has expressed concerns about inattentive driving behavior and the safety of patrons crossing Chinden without designated infrastructure. While sidewalk improvements are recommended, they are not currently scheduled in the Capital Improvement Plans of ACHD or ITD, limiting their feasibility in the near term.</p> <p>These issues present potential risks to public health and safety and cannot be resolved without substantial redesign and agency coordination.</p>
Application <b>is/ is not</b> compliant with standard	<p>4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.</p> <p><b>Explanation of Finding (Reasoned Statement):</b></p> <p><b>In Approval/ Denial:</b></p> <p>Pursuant to Idaho Code § 67-6512(a), special or conditional use permits may only be issued when the proposed use is not in conflict with the adopted comprehensive plan. This statutory language establishes a threshold that is less stringent than requiring full alignment; a use need not be “in accordance with” the plan, but it must not contradict its goals or policies.</p> <p>Conditional use permits are treated distinctly under Idaho law because they authorize uses that may not conform to the standard zoning regulations for a given area. In effect, they function as site-specific exceptions, that require careful evaluation to ensure compatibility with the broader vision for community development.</p> <p>In this case, the proposed use demonstrates strong alignment with several goals and land use designations of the Garden City Comprehensive Plan, particularly within the Live-Work-Create District, Activity Node, and Green Boulevard Corridor designations. The project supports the following goals:</p> <ul style="list-style-type: none"> <li>• Goal 1: Nurture the City <ul style="list-style-type: none"> <li>• 1.1: Promote city events, seasonal holidays, and celebrations.</li> <li>• 1.4: Create a premier destination to live, work, and recreate.</li> </ul> </li> <li>• Goal 3: Create a Heart for the City <ul style="list-style-type: none"> <li>• 3.2: Establish public gathering places throughout the city.</li> </ul> </li> <li>• Goal 10: Plan for the Future <ul style="list-style-type: none"> <li>• 10.2: Reinforce the Old Town site as a live-work-create district.</li> </ul> </li> <li>• Goal 12: Evolve as a Destination <ul style="list-style-type: none"> <li>• 12.3: Develop premier destinations for work, recreation, entertainment, culture, and commerce.</li> </ul> </li> </ul> <p><b>In Denial add:</b></p> <p>Despite this application having positive contributions that align with the vision of the city, the proposal raises concerns regarding pedestrian safety and connectivity, particularly the lack of safe and code-compliant access between the site and off-site parking areas. The absence of safe</p>



	pedestrian infrastructure and connectivity undermines key objectives related to accessibility, safety, and multimodal transportation and result in conflict with the Comprehensive Plan's desire for the city to be safe and connected: Goals 7: Connect the City and Goal 8 Maintain a safe City.
<b>8-4D-6: Required Findings for Approval of a Parking Adjustment.</b>	
This finding is not applicable to this application.	<p><b>1.</b> Special conditions, including, but not limited to, the nature of the proposed operation or site; transportation characteristics of the use; and/or persons residing, working, or visiting the site that will reduce the parking demand at the site or preclude adequate parking on site.</p> <p><b>Explanation of Finding (Reasoned Statement):</b> The applicant has indicated that performers attending rehearsals will primarily use public transportation or pedestrian access to reach the building. However, on performance days, the number of visitors could exceed 140, considering the seating capacity and additional spaces within the building, such as the lounge and loft. There is no dispute that additional parking is needed. The applicant proposes off-site parking to mitigate for the parking needs that are not available on-site.</p>
Application <b>is/ is not</b> compliant with standard	<p><b>Finding 2.</b> The use(s) will adequately be served by the proposed parking.</p> <p><b>Explanation of Finding (Reasoned Statement):</b> <b>In Approval/Denial</b> The applicant submitted a Parking Demand Study that identifies the anticipated occupancy load of 176 people and outlines the proposed parking strategy, including shared parking agreements with nearby businesses. The agreements collectively provide access to 130 parking spaces, which is sufficient to accommodate the expected attendance of approximately 140 patrons per performance, plus staff and performers.</p> <p><b>In Denial add:</b> Notwithstanding, the locations of the parking facilities are not supported by adequate pedestrian infrastructure to safely provide access to and from the property, and in some instances exceed the allowable distance.</p> <p>Moreover, this estimated number does not match the existing capacity on the selected parcels.</p>
Application <b>is/ is not</b> compliant with standard	<p><b>Finding 3.</b> Parking demand generated by the project will not have an impact on the supply of public parking in the surrounding area.</p> <p><b>Explanation of Finding (Reasoned Statement):</b> <b>In Approval</b> The applicant has secured shared parking agreements with multiple nearby private businesses. These agreements collectively provide access to 130 off-street parking spaces, which is sufficient to accommodate the anticipated attendance of 140 patrons per performance, plus staff. The parking demand study submitted by the applicant demonstrates that the proposed use will be served by these</p>

	<p>private parking arrangements and does not rely on public street parking to meet its needs.</p> <p>Garden City Code §8-4D-6 allows for equivalent parking adjustments through shared agreements, provided that the parking is located within 0.25 miles and connected by safe pedestrian routes.</p> <p>As drafted, conditions of approval will assist in preventing spillover as the signage and pedestrian connectivity will ensure that patrons are directed to designated private lots and do not rely on informal or on-street parking. Additionally, the applicant may also be required to monitor parking usage during events and adjust operations if spillover into public parking areas is observed.</p> <p><b>In Denial</b></p> <p>Parking will impact the supply of public parking in the surrounding area. This is because there is insufficient on-site parking of only one parking space to accommodate an anticipated 140+ attendees per performance or a total building capacity of 176 persons.</p> <p>The proposal includes shared parking agreements, however, several of the shared parking agreements are not located in areas to reasonably expect that patrons will use them due to distance and safety concerns caused by in some instances the crossing of Chinden Boulevard, or incomplete sidewalk systems. Additionally, some of the parking agreements have overlapping operating hours which raises concerns regarding actual availability of the parking.</p> <p>In the event of a shortage of spaces for visitors, the only alternative would be parking on public streets or parking areas that do not have a shared parking agreement.</p> <p>The staff report notes that parking has been a recurring concern in the neighborhood. For example, the Bardenay proposal (DSRFY2023-0007), located nearby, was appealed specifically due to parking impacts, even though it met code requirements. This precedent demonstrates that even compliant projects can strain public parking resources in this area, and the current proposal presents a greater risk due to its reliance on off-site and potentially unavailable parking.</p> <p>Finally, the proposal does not provide for a mechanism, such as monitoring, to prevent spill over.</p>
This finding is not applicable to this application.	<p><b>Finding 4.</b> The parking reduction does not preclude or significantly diminish the ability for a different future use of the property to be adequately parked.</p>
	<p><b>Explanation of Finding (Reasoned Statement)</b></p> <p>Given the size of the site, the property in its current configuration does not provide parking and will not be able to accommodate parking in the future.</p>

<p>Application <b>is/ is not</b> compliant with standard</p>	<p><b>5.</b> The parking of the use will not create a nonconformity on another property.</p> <p><b>Explanation of Finding (Reasoned Statement)</b></p> <p><b>In Approval</b></p> <p>The parking of the proposed use will not create a nonconformity on another property. The applicant does not propose any changes to the configuration of parking spaces at the selected off-site locations. All shared parking agreements are with properties that are already developed and operational, and no physical modifications are proposed that would alter their compliance with existing zoning or development standards. As conditioned, the use of these spaces for shared parking does not increase the intensity of use on the host properties or create new nonconformities.</p> <p><b>In Denial</b></p> <p>The parking of the proposed use may create a nonconformity on another property. While the applicant does not propose changes to the configuration of parking spaces, one of the selected off-site locations lacks a delineated parking area, and its actual capacity is unknown due to missing dimensional data. Additionally, several shared parking agreements involve businesses with overlapping operating hours, raising concerns about whether sufficient parking will be available during events. If the proposed use relies on spaces that are already in use or exceed the actual capacity of the host site, it may result in noncompliance with parking requirements on those properties.</p>
<p>Application <b>is/ is not</b> compliant with standard</p>	<p><b>6.</b> The administration of the alternative will not create a burden to the city.</p> <p><b>Explanation of Finding (Reasoned Statement)</b></p> <p><b>In Approval</b></p> <p>The administration of the proposed parking alternative will not create a burden to the city. The applicant has submitted shared parking agreements and a parking demand study, and no changes to the configuration of off-site parking areas are proposed. The city can condition approval on verification of parking availability, signage, and pedestrian connectivity, which are standard administrative procedures. As such, the oversight required does not exceed typical review and enforcement responsibilities.</p> <p><b>In Denial</b></p> <p>The administration of the proposed parking alternative may create a burden to the city. There are multiple concerns identified in the staff report with the off-site parking arrangements. These unresolved issues may require ongoing monitoring, enforcement, and coordination by city staff to ensure compliance, exceeding the scope of typical administrative oversight and creating a potential burden on city resources.</p>

## DECISION

WHEREFORE, based upon the foregoing Findings of Fact and Conclusions of Law contained herein, the Planning and Zoning Commission hereby **APPROVES/ DENIES** of the application subject to the following conditions:

### **POTENTIAL CONDITIONS FOR APPROVAL DECISION**

#### **Application Specific Requirements:**

##### Scope of Permit:

1. The scope of this permit is to allow for the use of a Commercial Entertainment Facility located at 3300 W Chinden Blvd.
2. The existing structure may continue to be occupied, repaired, and modified, provided that the construction does not further increase the nonconformity.

##### Prior and During Construction:

1. The applicant may pursue a temporary certificate of occupancy, contingent upon successful fire and building inspections of the structure.
2. A public works and utility permit shall be submitted for review and approval of the site work.
3. The applicant shall submit an adjusted plan, including corrected site layout and setbacks, to the Development Services Department for review and approval prior to issuance of a Certificate of Occupancy.
4. The applicant shall address all comments provided by the City Engineer prior to the issuance of any construction permits and commencement of site work.
5. Construction noise that is disruptive to the neighborhood shall be limited to Monday through Saturday from 7:00 am to 8:00 pm unless residents within 300' and the city have been notified in advance of the specific days which will be necessary to exceed this limitation.

##### Prior to Occupancy:

1. Occupancy of the site shall not commence until after a Certificate of Occupancy has been obtained from Garden City Development Services Department.
2. HVAC equipment, trash dumpsters, recycling, trash compaction, and other service functions shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets.

- a. The 600 AMP CT Cabinet shall not be visible from any public street or adjoining property and shall be fully incorporated into the overall design of the buildings or landscaping so that its visual and acoustic impacts are contained and screened from adjacent properties and public streets.
3. All onsite service areas for waste, recycling, or trash; and equipment areas for transformer and utility vaults shall be located in an area not visible from a public street or adjoining property or shall be screened from view from a public street and adjoining property with a privacy fence.
  - a. If the trash enclosure remains located on the neighboring lot, the applicant shall provide a recorded shared-use agreement and bring the enclosure into compliance with all applicable code, including screening requirements prior to issuance of a Certificate of Occupancy. This is the city's desired approach to satisfy trash services. Should this option not be executed, documentation of negotiations shall be provided to the city, to demonstrate that the adjacent owner does not agree with this condition.
  - b. If a trash enclosure is provided on site along Osage, the applicant shall coordinate with Republic Services and the Ada County Highway District (ACHD) to confirm the feasibility of service access and compliance with applicable standards prior to issuance of a Certificate of Occupancy. If the agencies provide documentation that site constraints preclude compliance, on-site service that is not screened is allowed.
4. All stormwater systems that have received formal approval by the relevant regulatory authority shall be deemed permissible and may remain in operation. Any such approved stormwater system found to be in a state of disrepair, deterioration, or non-functionality shall be subject to mandatory reconstruction or rehabilitation.
5. All new utilities on the site, including telephone, cable television, and electrical shall be underground and in compliance with Garden City Code 8-4A-8.
6. At least 14 bicycle parking spaces shall be provided.
  - a. Bicycle parking shall be a minimum of 6' long x 2' wide.
  - b. On-site spaces shall be located within fifty feet (50') of a public building entrance.
  - c. Be separated by a physical barrier to protect the bicycle from damage by motor vehicles if located within a motor vehicle parking area. The physical barrier can be curbs, poles, wheel stops, or other similar features.
  - d. Not impede pedestrian or vehicular circulation or loading zones. The facilities shall be incorporated, whenever possible, into the structure's design or street furniture.
  - e. Be properly illuminated to increase security and avoid accidents and adhere to 8-4A-4 Outdoor Lighting.
  - f. If site constraints preclude all spaces to be onsite, legally binding shared bicycle parking agreements shall be recorded with Ada County Land Records.

i. In no instance shall the bicycle parking spaces be located more than two hundred (200) feet from the use, measured as walked, rather measured from the shortest distance on the map. This is to be measured via public right-of-way or easement as otherwise dedicated to the public.

7. A direct and convenient pathway from the main entrance(s) shall be provided to the public sidewalk system.
8. A 5-foot-wide detached sidewalk shall be installed along 33<sup>rd</sup> Street in accordance with Garden City Code 8-4E-6 and the Garden City Sidewalk Policy.
  - a. All Ada County Highway District (ACHD) review comments and requirements shall be addressed prior to construction. If ACHD requires modifications to the streetscape, including but not limited to expansion of the 33<sup>rd</sup> Street landscape buffer from 6' to 8', the site plan shall be revised accordingly.
  - b. Any dimensional adjustments necessary to meet ACHD standards, shall be incorporated into the final construction drawings and shall not require further review approval unless they significantly alter the layout of the site or conflict with other conditions of approval.
  - c. If the sidewalk is to be located on the property rather than in the right of way, a public access easement shall be granted for the length and width of the sidewalk.
  - d. A minimum of one Class II or class III tree shall be planted in the frontage of every adjacent streetside. An additional tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.
    - a. At least 4 Class II or III trees shall be installed within the landscape buffer along W. 33<sup>rd</sup> Street.
      - i. The use of bulb-outs for the placement of street trees is acceptable, provided that ACHD will allow for this type of construction. The number of trees along W. 33<sup>rd</sup> street may be reduced to the maximum number achievable, as determined by the physical and engineering constraints of the site. Final tree placement shall be subject to review and approval by ACHD and Garden City.
      - ii. In instance where the installation of street trees is deemed infeasible by ACHD and Garden City due to site-specific constraints, the required landscape buffer may be reduced in size. In such cases, the applicant shall provide a modified buffer area designed to accommodate perennial plantings that serve as a visual and physical separation between the motor vehicle travel way and the pedestrian sidewalk. The alternative buffer design shall be subject to approval by the ACHD and Garden City and must demonstrate adequate



aesthetic and functional performance consistent with the intent of the original buffer requirement.

9. The streetscape along W. Chinden Blvd. shall be improved to meet the requirements of the ITD and Garden City Chinden Boulevard approved standards.
  - a. Prior to work in the ITD right-of-way approval must be granted by ITD.
  - b. The portion of the sidewalk along the Chinden side shall function as a Furniture/Planting Zone with a minimum width of 4 feet, including an 18-inch curb.
    - i. Large trees are not permitted due to potential conflicts between their root systems and existing water and irrigation lines.
    - ii. The Furniture/Planting Zone may include, but is not limited to, the following:
      1. artwork,
      2. benches,
      3. shallow rooted plantings.
  - c. A concrete sidewalk must be minimum 7' in width. Minor encroachments are acceptable provided that 5' remains clear for pedestrian travel.
  - d. Trees to be planted at an average of 50' or less
    - i. Trees must be pruned 8' or more above the pedestrian travel way.
  - e. The applicant is required to install a total of 2 Class II or III trees on the sidewalk side closest to the building.
10. The streetscape improvements along Osage Street, based on the Transportation Needs List, shall include the following:
  - a. Adjacent landscaping and/or art features and street furniture
  - b. Any fencing provided shall be no greater than 3 ½ feet tall along the property boundary line
  - c. The applicant can also propose his own options for improvements, but they must be agreed upon and approved by Garden City Development Services staff.
11. The frontage of Osage St. shall have a total of 2 trees Class I.
12. A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.
  - a. A minimum of 375 SF of landscaping is required.
13. A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.
  - a. Provide a minimum of 11 shrubs on the site.
14. Required landscape areas shall be at least seventy percent (70%) covered with vegetation at maturity, with mulch used under and around the plants.



- a. Use of mulch, organic or rock, as the only ground cover in required planting areas is prohibited
15. As stated in the staff report and building review, the actual number of visitors will exceed 150. Therefore:
- a. The applicant must provide 150 parking spaces either on-site or via a City approved parking agreement.
  - b. All on-site parking spaces shall comply with GCC 8-4D standards
  - c. Since there is no space available for parking on the site, the applicant may utilize GCC 8-4D-6: Standards for Equivalent Parking Adjustment.
    - i. All parking must comply with the requirements of GCC 8-4D-6.
    - ii. Legally binding shared parking agreements shall be recorded with Ada County Land Records.
    - iii. In no instance shall parking spaces be located more than one-quarter (0.25) mile from the use, measured as walked, rather measured from the shortest distance on the map. This is to be measured via public right-of-way or easement as otherwise dedicated to the public.
    - iv. There must be continuous, code-compliant sidewalk that connects the property to the parking area.
    - v. If Americans with Disabilities Act (ADA) accessible parking is provided, there shall be an ADA accessible route between the two (2) locations. The distance shall comply with ADA guidelines and the adopted building code.
  - d. Routes that cross a road without a designated pedestrian crossing shall not be accepted.
  - e. Prior to any parking being allowed south of Chinden Boulevard a crosswalk and adequate pedestrian lighting thereof must be installed on Chinden within one block (34<sup>th</sup> - 32<sup>nd</sup> Street) of the property.  
or
  - f. All identified parking locations must be situated north of Chinden.
  - g. For the duration of the absence of a designated pedestrian crossing at the intersection of Chinden Boulevard and 33rd Street (or within one block), a sign shall installed and maintained within the front yard of the subject property. The sign must be clearly visible to pedestrians traveling along Chinden Boulevard and shall include language indicating that crossing at 33rd Street is hazardous. The sign shall also direct pedestrians to the nearest safe crossing location at 36th Street.
  - h. The provided parking must accurately reflect the actual number of parking spaces available on the selected sites.
  - i. Should the applicant include Fluff Hardware among the proposed parking locations, the applicant shall provide a detailed submittal including:
    - i. Identification of the party responsible for marking or delineating the parking spaces,
    - ii. Specifications of the dimensions of each parking space, which must comply with GCC, Section 8-4D-3: Parking Design and Improvement Standards, and

- iii. A description of the method for collecting and management of paid parking on the site.

Site Specific Requirements for the Duration of the Use:

1. The applicant/property owner is required to monitor parking usage during events and adjust operations if spillover into public parking areas is observed.
2. In the event that the business entity with which the applicant/property owner has executed a shared parking agreement changes ownership, tenancy, or otherwise ceases to operate, the applicant/property owner shall, prior to the next scheduled event at the commercial entertainment facility, be required to:
  - a. Execute a new shared parking agreement with the successor business entity or property owner; or
  - b. Provide an alternative shared parking arrangement that demonstrates the availability of the same number of parking spaces as originally required and approved.
  - c. It shall be the sole responsibility of the applicant/property owner to ensure compliance with this condition. Failure to execute a new shared parking agreement or provide an alternative arrangement as required above will constitute a violation of this Conditional Use Permit and may affect the continued operation of the commercial entertainment facility.
3. Limitations: No outside activity or event shall be allowed in the parking area, except as allowed through a special events permit that takes into account the public health and welfare, the interests of adjoining property owners, noise, traffic, and vehicular and pedestrian safety.
4. Other Regulations Apply:
  - a. The use shall comply with all Idaho Code regulations regarding the sale, manufacturing, or distribution of alcoholic beverages.
  - b. The use shall comply with the licensing requirements as set forth in title 3, "Business And License Regulations", of this code.
  - c. Security shall be provided for the entire premises including inside the building and any parking lot or outside usable space. Security shall be provided in the prescribed manner:
  - d. Security personnel are required and shall wear identical attire clearly identifiable with the word "Security" on the backside of shirts; and
  - e. Security staff should have some means of two-way communication; and
  - f. Video surveillance is required; and
  - g. Parking areas shall be lighted; and
  - h. No loitering outside of the establishment shall be permitted.

**General Requirements**

1. Any changes in the design, construction, operation, or use shall be brought to the immediate attention of the Planning Official for determination if the changes are in substantial conformance with the City's action. Any changes to the plans and

- specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
2. This Conditional Use Permit shall not be transferable from one parcel of land to another. Unless otherwise stated in the conditions attached to a permit, the permit shall be granted to the applicant and successors in interest to the premises for which it was approved.
  3. This approval is only approval of the conditional use permit. All other applicable permits must be obtained and completed prior to a certificate of compliance or occupancy.
  4. The approval is specific to the application provided and reviewed. Final approval is based on substantial conformance. Any changes to the plans and specifications upon which this approval is based, other than those required by the above conditions, will require submittal of an application for modification and approval of that application prior to commencing any change.
  5. Final approval is subject to the approval of other reviewing agencies and City Departments. Any more restrictive standards adopted and made applicable by any Transportation Authority, Fire Authority or other Federal, State or Local regulatory agencies shall prevail.
  6. All improvements and operations shall comply with applicable local, state, and federal requirements and procedures whether specifically addressed in the analysis of this application or not. This shall include but not be limited to 8-4A General Provisions of Design and Development Regulations.
  7. The property owner is responsible to maintain the site to edge of roadway asphalt.
  8. If there are any tree grates, they shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right of way.
  9. Plant materials which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead and diseased plant materials shall be replaced.
  10. Where landscaping might impact motorist or pedestrian sight distance, shrubs shall be maintained below three feet (3') in height and trees shall be pruned so that the lowest branches will be at least seven feet (7') above the ground level.
  11. A three foot (3') clearance zone shall be maintained around the circumference of fire hydrants.
  12. Retain and protect existing trees, vegetation, and native soils and integrate these features into the overall landscape plan as required by or exempted from Garden City Code 8-4I and as shown in the approved landscape plans.
  13. If trees are staked, the stakes shall be removed within twelve (12) months to prevent damage to the tree.
  14. All planting areas that border driveways, parking lots, and other vehicle use areas shall be protected by curbing, wheel stops, or other approved protective devices.
  15. Trees shall be planted at least three feet (3') from curbs, sidewalks, driveways, and other hard surfaces to buffer from stress caused by vehicle overhang and compacted soils, or planted with sufficient space to provide for the full maturity of the particular tree species. All other plant material, except sod or ground cover,

- shall be set back a minimum of one foot (1') from any curb edge to protect from vehicle overhang and mechanical damage.
16. The landscape installation shall stabilize all soil and slopes.
  17. All required landscaping shall be provided with an automatically controlled irrigation system in conformance with the best management practices for automatic irrigation systems.
  18. Demonstrate compliance with or an exemption from Garden City Code 8-4G prior to certificate of occupancies.
  19. This approval is for this application only. Additional permits, licenses, and approvals may be necessary.
  20. Property maintenance standards shall be maintained as required by Garden City Code.
  21. The property owner is responsible for the maintenance of all landscaping and screening devices required.
  22. All outdoor living spaces must comply with Garden City Code 8-3C General Provisions- Living Space Requirements.
  23. All outdoor service and equipment areas shall comply with Garden City Code 8-4A-5 Outdoor Service and Equipment Areas.
  24. All stormwater systems must comply with Garden City Code 8-4A-7.
  25. Cross-Connections: All cross-connections between the domestic water lines and the irrigation water lines shall be in accord with the City's adopted standards, specifications, and ordinances.
  26. Materials submitted after the decision shall not be considered part of the record for this decision. If additional materials or information is submitted after the decision the application may be remanded to the decision-making body during which time the decision shall be stayed provided that there is no immediate threat to life or safety.
  27. No change in terms and conditions of this approval shall be valid unless in writing and signed by the applicant or his or her authorized representative and an authorized representative of the reviewing agency. The burden shall be upon the applicant to obtain the written confirmation of any change and not upon Garden City.
  28. The Commission may revoke a conditional use permit for any of the following: A) Violation of Garden City Code or State or Federal Laws; B) Failure to abide by any conditions of this permit; C) Causing or allowing a nuisance as determined by Garden City Code, in connection with the use for which the permit is granted.
  29. Any violation of the conditions of this application is a criminal offence.
  30. A certificate of occupancy or an application for a building permit shall be considered commencement of the use.
  31. All previous uses are null and void unless otherwise conditioned.
  32. Should there be a change in use, there is a clear intent to cease the use, or the use is discontinued for more than one year without written documentation submitted to the City, legal noticing, and property posting indicating intent to continue the use, this approval shall become void.
  33. The date of action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft

- decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
34. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
  35. This approval shall expire one (1) year from its approval, unless otherwise extended as allowed by Garden City Code .
  36. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
  37. Pursuant to Idaho Code, a request for reconsideration must be submitted within 14 days of the final decision and prior to judicial review. The written request must identify specific deficiencies in the decision for which reconsideration is sought.
  38. A takings analysis pursuant to Idaho Code may be requested on final decisions.
  39. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

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Chairman, Planning and Zoning Commission

Date

#### **STANDARD CONDITIONS FOR DENIAL DECISION**

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-6B-2. This project is not in compliance with 8-6B-2 standards GCC §8-4D; GCC §8-4E; GCC §8-4I; GCC §8-4A-5 and also those which are only compliant if conditioned GCC §8-2B-3; GCC §8-4A-7; GCC §8-4A-8
2. Compliance and approval of this project can be met by:
  - a. Providing adequate, safe, and ADA compliant parking and pedestrian infrastructure, as required by code.
  - b. Achieving landscaping and stormwater compliance.
  - c. Providing utility and trash screening must be screened from public view and comply with visibility and acoustic standards.
3. The date of action is the date the decision body formalizes their decision. The decision body may formalize their decision by approving a draft decision or a draft decision with noted changes at the hearing. The date of action may be a different date than the applicant is provided with a signed copy of the decision.
4. Pursuant to 8-6A-9 Appeals, those with standing may appeal a decision within fifteen days from the date of action.
5. Final decisions are subject to judicial review pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code.
6. Any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision

may be affirmed, reversed, or modified after compliance with applicable procedural standards. A written decision shall be provided to the applicant or affected person within sixty (60) days of receipt of the request for reconsideration or the request is deemed denied. A decision shall not be deemed final for purposes of judicial review unless the process required in this subsection has been followed. The twenty-eight (28) day time frame for seeking judicial review is tolled until the date of the written decision regarding reconsideration or the expiration of the sixty (60) day reconsideration period, whichever occurs first.

7. Pursuant to The Local Land Use Planning Act, Chapter 65 Title 67 Idaho Code, a takings analysis may be requested on final decisions.
8. If any term or provision of this decision, to any extent, is held invalid or unenforceable, the remaining terms and provisions hereof shall not be affected thereby, but each such remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

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Chairman, Planning and Zoning Commission

Date