



## CITY OF GARDEN CITY

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**File Number: CUPFY2023 - 0004**

**Requested Use: Lodging**

**Location: 300, 303, 304, 310 & 318 E. 34th St and 3342 N. Carr St,**

**Applicant: Michael Slavin with Accomplice Group**

**Planning and Zoning Commission Hearing Date: February 15, 2023, 6:30 p.m.**



### **STAFF REPORT**

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## A. Project Information

### Proposed Scope of Work:

Request	Review Process
Conditional Use Permit	<a href="#">GCC 8-6B-2</a>

A conditional use may be found to be appropriate or inappropriate at a given property. In some situations, conditions of approval may be required to assist the proposed use in being appropriate to a location and in conformance with code. In other situations where the use cannot be conditioned to be appropriate to the location or code, it should not be permitted.

### Project Details:

- 1) Applicant: Michael Slavin
- 2) Owner: Casino Beach LLC and Hannah Ball
- 3) Title 8 Use: It has been determined that the Garden City defined use that best describes the use is: Lodging
- 4) Definition of Use: Garden City Code 8-7A-1 defines this use as: The use of a site providing visitor or overnight accommodations, including sleeping rooms, sanitary facilities, guest registration and lobby areas. The term "lodging" shall include motels, hotels and inns.
- 5) The applicant has not proposed exterior work.

### Site Conditions:

- 1) Existing Use: Entitlements for a 32-lot mixed-use subdivision called Casino Beach
- 2) Street Address:
  - a) 300 E. 34th Street; Ada County Parcel Number R2734540550; described as LOTS 1/2 BLK 3 FAIRVIEW ACRES SUB NO 5;
  - b) 303 E. 34<sup>TH</sup> Street; Ada County Parcel Number
  - c) 304 E. 34<sup>th</sup> Street; Ada County Parcel Number R2734540570; Described as LOT 3 BLK 30 FAIRVIEW ACRES SUB NO 5
  - d) 310 E. 34<sup>th</sup> Street; Ada County Parcel Number R2734540584; Described as LOT 4 & 5 BLK 30 FAIRVIEW ACRES SUB NO 5
  - e) 318 E. 34th Street; Ada County Parcel Number R2734540586; Described as LOT 6 BLK 30 FAIRVIEW ACRES SUB NO 5
  - f) 3342 N. Carr Street; Ada County Parcel Number R2734541520; Described as LOTS 33/34 BLK 35 FAIRVIEW ACRES SUB NO 5
  - g) E. 34th Street; Ada County Parcel Number R2734540587; Described as LOT 7 BLK 30 FAIRVIEW ACRES SUB NO 5
- 3) Legal Lot of Record: Yes – Parcels, addresses and descriptions will change once Casino Beach Subdivision is recorded.
- 4) Property Size: 1.98 acres
- 5) Zoning District: C-2
- 6) Zoning Overlay(s): None
- 7) Comprehensive Plan Land Use Map Designation:
  - a) Live-Work-Create
- 8) Floodplain Designation:
  - a) 2003 FIRM: outside of the Special Flood Hazard Area
  - b) 2017 Draft FIRM: 100 Year
- 9) Surrounding Uses:

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- a) Eating Establishment; limited services
  - b) Residential dwelling unit; single family
  - c) Vehicle Services
  - d) Public Use
  - e) Drinking Establishment; Limited Services
- 10) Adjacent Zoning: C-2**
- 11) Adjacent Comprehensive Plan Designations: Live Work Create**
- 12) Easements on site:**
- a) Fairview Acres Sub 05 Plat: Utility, Drainage, Irrigation Easement
  - b) Fairview Acres 05 Acceptance of Responsibility; Acceptance of Liability
  - c) FA05 8116; 38' Sewer Easement
  - d) Alhberg Easement for Thurman Mill; Drainage Easement
  - e) SBI Agreement 29th to 43rd 9-14-1992; Agreement for Line Replacement
  - f) FA05 B30 L6 Waterline: 20' Water Easement
- 13) Site Access:**
- a) Front: Carr Street
  - b) Side: E. 34<sup>th</sup> Street
- 14) Sidewalks: No existing sidewalks – the site is under construction – sidewalk proposed with SUBFY2021-0005**
- 15) Wetlands on site: none identified**

## C. Discussion

SUBFY2021-0005 for Casino Beach Subdivision contains all previously approved landscape, architectural, site, civil, parking, etc. plans. The subdivision was processed as a Planned Unit Development (PUD) and allowed for waivers and deviations to code standards.

This Conditional Use Permit (CUPFY2023-0004) is specifically for the use of lodging. All improvements that are to be made on site have already been approved, conditioned, and required by the Planning and Zoning Commission, Design Review Committee, and City Council. Please refer to the SUBFY2021-0005 documents for reference.

The use of lodging was a component of the original SUB/PUD, however, because of Garden City Code 8-2B-2, the decision document required that a conditional use permit for the use of lodging be approved prior to the commencement of the use. As such, the applicant has applied for this CUP to satisfy condition item #6 of the original SUBFY2021-0005 decision document. The previously approved PUD allowed for waivers and fully contemplated the use of lodging including use specific parking, architectural design, landscaping, and connectivity.

Garden City Code 8-2C-28 requires that the lot be at least 30,000sqft in size. The size of the approved SUB/PUD is about 1.98 acres, or 86,248sqft, meeting the minimum requirements. Despite meeting the minimum requirements, the PUD would have allowed for waivers to code standards and would have effectively waived the minimum size requirement considering the use was heavily discussed during the entitlement process.

Staff is recommending that a condition of the conditional use permit is that the use of lodging apply only to the future Casino Beach Subdivision lots 1 & 3.

## D. Decision

The Planning and Zoning Commission has been provided a draft document that includes findings of fact, conclusions of law, and a decision in the affirmative and in denial. This is done to provide potential options based on the staff's review of the project. This is not intended to be a predetermined decision. All evidence will be considered, and the document may be updated based on the Planning and Zoning Commission's review of the application.

### **Required Decisions:**

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), Planning and Zoning Commission is the final decision maker for a Conditional Use Permit. There is no recommending authority to the Planning and Zoning Commission. Pursuant to [GCC 8-6A-2A](#), The City Council shall have the authority to review any action taken by the Planning and Zoning Commission regarding Conditional Use Permits, which would be final unless appealed.

### **Required Findings:**

To approve a conditional use permit, the Planning and Zoning Commission must find the application meets the following findings found in [GCC 8-6B-2](#):

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;
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;

3. The use will not unreasonably diminish either the health, safety or welfare of the community; and
4. The use is not in conflict with the comprehensive plan or other adopted plans, policies, or ordinances of the city.

**Decision:**

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is :

1. Granted,
2. Granted with conditions, or
3. Denied.

The decision maker may find that there is inadequate information to render a decision and may also continue the hearing for additional materials to be supplied. It is recommended that they continue the hearing to a date certain for noticing purposes.

The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

If there is a denial, state code requires that the decision maker identify what could be done to obtain approval.

**Appeal of Decision:**

Pursuant to [8-6A-9 Appeals](#), there is a 15-day appeal period to appeal the decision to the City Council. This period starts from the signed decision date and runs concurrently with the 15-day objection period noted above. An appeal is \$210 and must be filed on the appeal application form provided by the City. Appeals received after the 15-day appeal period will not be accepted.

**E. Agency Comments**

The following agency comments were provided:

Agency	Comment Date	Summary
Garden City Engineer <a href="#">Link to Comment</a>	02/03/2023	<ul style="list-style-type: none"> <li>• The affidavit provided has been personally signed by Bryan Shepherd and not the entity that owns the land. It appears a new affidavit is needed.</li> <li>• What is the status of the Casino Beach Subdivision? We note it has not yet been recorded.</li> <li>• We presume the project will not alter the Casino Beach Subdivision. Should the subdivision need modification, said modifications will need to be discussed with city staff.</li> <li>• Other general comments.</li> </ul>

## F. Public Comment

None provided as of the drafting of this document.

## G. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

<b>Garden City Title 8 Code Sections</b>			
<b>Code Section</b>	<b>Review Authority</b>	<b>Compliance Issues</b>	<b>Analysis/ Discussion</b>
<b>Title 7 Building Regulations</b>			
<a href="#">7-2-1 Building Code</a>	N/A	No compliance issues as conditioned.	A building permit will be required to be completed prior to occupancy of the structure.
<b>Title 8, Chapter 1: General Regulations</b>			
<a href="#">8-1A-4 Applicability</a>			The regulations of Garden City Code, Title 8 Development Code of the City, shall apply and govern development and use of all properties within the corporate limits of the city.
<a href="#">8-1B-1 Nonconforming Properties</a>		No compliance issues noted	Through the creation of the Casino Beach Subdivision, the hotel will be located on a new, legal lot of record.  The properties as described currently are legal.
<a href="#">8-1B-3 Nonconforming Uses</a>		Compliant upon approval	Conditional Use Permit will be required for the use of Lodging.
<b>Title 8, Chapter 2: Base Zoning District Regulations</b>			
8-2B-1 Purpose	PZ	No compliance issues noted	The purpose of the two (2) commercial districts is to provide a full range of commercial uses and services for both the residents of Garden City and the region. Location determines the type and form of commercial uses. Activities which are more compatible with mixed use or residential uses and minimally disruptive to the neighborhood are to be located in the general commercial (C-2) district.
<a href="#">8-2B-2 Allowed Uses</a>	PZ	Compliant upon approval	Garden City Code Table 8-2B-1 requires a conditional use permit in this zone for the proposed use.
<a href="#">8-2B-3 Form Standards</a>	PZ	No compliance issues noted	The required setbacks are: Front: 5' Interior Side: 5' Rear: 5' Street side: 5' The allowable maximum height is: n/a The minimum lot size is: n/a  Refer to SUBFY2022-0005 Casino Beach Subdivision for PUD allowed setbacks. The dimensions of the structure proposed here was approved with the SUB application.

<a href="#">8-2C</a>	PZ	Compliant as conditioned	<p>Minimum Lot Size: The minimum lot size for lodging uses shall be thirty thousand (30,000) square feet.</p> <p><b>The properties currently meet this requirement. The Casino Beach planned unit development subdivision is about 1.98 acres, equaling approximately 86,248sqft. In order for the conditional use permit to act as it is intended to, staff has isolated the use of lodging to the current addresses of 303 E. 34<sup>th</sup> Street and 3342 N. Carr; future Casino Beach Subdivision Lots 1 &amp; 3.</b></p> <p><b>At the time of the subdivision/PUD approval in 2021, the Commission, Design Review Committee, and City Council were aware of the proposed use of lodging associated with Lots 1 &amp; 3.</b></p> <p>B. Limitations:</p> <ol style="list-style-type: none"> <li>1. A maximum of sixty percent (60%) of the lodging units may contain a kitchen.</li> <li>2. Lodging guestrooms shall not be provided on less than a daily basis.</li> </ol>
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**Title 8, Chapter 3: Overlay Zoning District Regulations**

<a href="#">8-3C Surel Mitchell Live-Work-Create</a>	PZ	No compliance issues noted	Applicant did not request the overlay to apply.
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**Title 8, Chapter 4: Design and Development Regulations**

<a href="#">8-4A-3 Fences and Walls</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4A-4 Outdoor Lighting</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4A-5 Outdoor Service and Equipment Areas</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4A-7 Stormwater Systems</a>	DC	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4A-8 Utilities</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4A-9 Waterways</a>	DC	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.

**8-4D Parking and Off Street Loading Provisions**



<a href="#">8-4D-3 Parking Design and Improvement Standards</a>	PZ	No compliance issues noted	All proposed parking has been approved by City Council previously. Refer to the SUBFY2021-0005 decision and approvals. It appears that the plans submitted are in compliance with the original approvals.
<a href="#">8-4D-4 Parking Use Standards</a>	PZ	No compliance issues noted	Upon any change of use, the number of vehicle parking spaces to be provided shall be calculated according to the requirements for the new use. Although this is a conditional use permit insinuating the change of use, it was previously analyzed under the scope of SUBFY2021-005 for the use of lodging and so long as the parking has not changed from the original approval, the parking has already been approved.
<a href="#">8-4D-5 Required Number of Off-Street Parking Spaces</a>	PZ	No compliance issues noted	<p>All proposed parking has been approved by City Council previously. Refer to the SUBFY2021-0005 decision and approvals. It appears that the plans submitted are in compliance with the original approvals.</p> <p>For reference: The parking proposal identified in the parking demand analysis provided to City Council on May 24, 2021, is approved, with the following stipulations:</p> <ul style="list-style-type: none"> <li>a) There is a requirement of a reduction of 3 hotel rooms rather than the proposed reduction of 5 rooms.</li> <li>b) There shall be at least 36 parking spaces for guest and commercial purposes not including the parking on 34th Street (before or after vacation) or Carr Street.</li> </ul> <p>All required residential parking spaces shall be at least 10'x 20'.</p> <p>The 11 parallel spaces at the western edge of the property may be 7'X23', ACHD's parallel parking standards.</p> <p>10 surface spaces are permitted to be compact spaces not less than 7.5'X15'.</p> <p>All dwelling units shall have the code required enclosed parking spaces with the exception of the one-bedroom loft units. The one-bedroom loft units are permitted to use surface parking to meet the minimum parking requirements.</p> <p>The Creative Townhome units are to use the preferred parking floorplan of a one-car garage.</p>
<b>8-4E Transportation and Connectivity Provisions</b>			
<a href="#">8-4E-2 Applicability</a>			Provisions apply to any new construction, addition, expansion, grading, alteration, or any new or more intense use of property.
<a href="#">8-4E-3 Public Street Connections</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4E-4 Internal Circulation Standards</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.

<a href="#">8-4E-5 Private Street Standards</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approvals.
<a href="#">8-4E-6 Sidewalk Standards</a>	PZ	No compliance issues noted	The site was required to provide 11' sidewalks with street trees along E. 34 <sup>th</sup> .  The site was required to provide 7' sidewalks with street trees along N. Carr.  Construction plans have been approved with adequate dimensions for construction.
<a href="#">8-4E-7 Pedestrian and Bicycle Accessibility Standards</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approval documents.
<b>8-4I Landscaping and Tree Protection Provisions</b>			
<a href="#">8-4I-2 Applicability</a>			For all new residential and nonresidential uses, all landscaping standards of this article shall be met.
<a href="#">8-4I-3 General Landscaping Standards and Irrigation Provisions</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approval documents.
<a href="#">8-4I-4 Landscaping Provisions for Specific Uses</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approval documents Class II or III trees can be substituted at the ratio of two class I trees for every Class II or III tree.
<a href="#">8-4I-5 Perimeter Landscaping Provisions</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approval documents
<a href="#">8-4I-6 Parking Lot Landscaping Provisions</a>	PZ	No compliance issues noted	Refer to SUBFY2021-0005 decision and approval documents
Title 8, Chapter 6, Article A: Administration			
<a href="#">8-6A-3 General Application Process</a>		No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
<a href="#">8-6A-4 Required Application Information</a>			No application waivers were requested pursuant to 8-6A-4A.
<a href="#">8-6A-7 Public Hearing Process</a>		No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided a radius notice, notifications to agencies with jurisdiction, and ran a legal notice in the Idaho Statesman, at least 15 days prior to the first hearing. The applicant provided an affidavit of property posting more than 7 days in advance of the hearing validating that the property was posted more than 10 days prior to the hearing.

**Other Items Reviewed**

Plan/Policy	Discussion/ Analysis
<p><a href="#">Idaho Code 67-6512</a> Local Land Use Planning Special Use Permits, Conditions, and Procedures</p>	<p>Garden City Code noticing requirements are compliant with this Statute.</p> <p>The statute notes that upon the granting of a special use permit, conditions may be attached to a special use permit including, but not limited to, those:</p> <ul style="list-style-type: none"> <li>(1) Minimizing adverse impact on other development;</li> <li>(2) Controlling the sequence and timing of development;</li> <li>(3) Controlling the duration of development;</li> <li>(4) Assuring that development is maintained properly;</li> <li>(5) Designating the exact location and nature of development;</li> <li>(6) Requiring the provision for on-site or off-site public facilities or services;</li> <li>(7) Requiring more restrictive standards than those generally required in an ordinance;</li> <li>(8) Requiring mitigation of effects of the proposed development upon service delivery by any political subdivision, including school districts, providing services within the planning jurisdiction.</li> </ul> <p>Prior to granting a special use permit, studies may be required of the social, economic, fiscal, and environmental effects and any aviation hazard as defined in section <a href="#">21-501(2)</a>, Idaho Code, of the proposed special use. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one (1) parcel of land to another.</p>
<p>Previous entitlement that might affect this project</p>	<p>SUBFY2021-0005 for Casino Beach Subdivision contains all previously approved landscape, architectural, site, civil, parking, etc. plans.</p>
<p><a href="#">Garden City Comprehensive Plan</a></p>	<p>This application is in future land use designations of the Comprehensive Plan:</p> <ul style="list-style-type: none"> <li>a) Live-Work-Create</li> </ul> <p>The application may be supported by:</p> <p>Goal 1. Nurture the City</p> <ul style="list-style-type: none"> <li>a) 1.4 Objective: Create a premier destination place to live, work, and recreate.</li> </ul> <p>Goal 2. Improve the City Image</p> <ul style="list-style-type: none"> <li>a.) 2.3 Objective: Promote quality design and architecturally interesting buildings.</li> <li>b.) 2.4 Objective: Create a vision for the design of all streets and highways consistent with city’s urban setting.</li> </ul> <p>Goal 3. Create a Heart for the City</p> <ul style="list-style-type: none"> <li>a.) 3.2 Objective: Create public gathering places at multiple locations throughout the city.</li> </ul> <p>Goal 4. Emphasize the “Garden” in Garden City</p> <ul style="list-style-type: none"> <li>a.) 4.1 Objective: Beautify and landscape</li> <li>b.) 4.3 Objective: Beautify streets, sidewalks and gateways with landscaping, trees, and public art.</li> </ul>

	<p>Goal 7. Connect the City</p> <ul style="list-style-type: none"> <li>a.) 7.4 Objective: Maintain and improve standards for sidewalks, curbs and gutters.</li> </ul> <p>Goal 12. Evolve as a Destination</p> <ul style="list-style-type: none"> <li>a.) 12.1 Objective: Support a positive business environment;</li> <li>b.) 12.2 Objective: Continue to support commercial and industrial land uses.</li> <li>c.) 12.3 Objective: Create a premier destination for work, recreation, entertainment, culture and commerce.</li> </ul> <p>The live-work-create district is in the Old Town Site generally between 32nd to 37th Streets with a possible expansion, based on further study. This designation reflects an opportunity to create an Arts District within the city where artists, crafts persons, or others can live, work, exhibit and operate a business. A mix of uses, including residential, retail, office and small scale industrial are appropriate for this area. Regulation should be primarily through form not uses, including maintaining the existing subdivision pattern of small lots, and limiting the maximum building footprint or square footage of a building in relation to lot size. Large scale development that consolidates lots and allows for larger scale industrial or commercial uses should be restricted.</p>
<p><a href="#">Garden City Street Light Policy</a></p>	<p>A streetlight is installed along E. 34<sup>th</sup> Street in accordance with the policy.</p>
<p><a href="#">Old Town Circulation Network Plan</a></p>	<p>This plan identifies Thurman Mill as a multi-use trail connecting to the Greenbelt.</p>