

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**KIRSHNER-DILL ANNEXATION**  
**FILE NO. AZ-21-15/DA-21-23**

The above-entitled Annexation, Zoning and Development Agreement land use application came before the Star City Council for their action on February 15, 2022, at which time public testimony was taken and the public hearing was closed. The Star City Council, having requested and taken oral and written testimony, and having duly considered the matter, does hereby make the following Findings of Fact and Conclusions of Law.

**Procedural History:**

*A. Project Summary:*

The Applicant is seeking approval of Annexation and Zoning (RUT to R-1-DA), and a Development Agreement. The property is located at 2689 N. Brandon Road in Star, Idaho, and consists of 10.9 acres. The subject property is generally located on the southwest corner of N. Brandon Road and W. New Hope Road. Ada County Parcel No. R7626810020.

*B. Application Submittal:*

A neighborhood meeting was held on January 18, 2022, in compliance with the application submittal requirement of the Star Unified Development Code (Section 8-1 A-6 C). The Land Use application was deemed complete on January 6, 2022.

*C. Notice of Public Hearing:*

Notice of Public Hearing on the application for the City of Star Council was published in accordance with the requirements of Title 67, Chapter 65, Idaho Code and the Star Unified Development Code on January 27, 2022. Notice of this public hearing was mailed to property owners within three-hundred feet (300') of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Star Unified Development Code on January 6, 2022. Notice was sent to agencies having jurisdiction in the City of Star on January 6, 2022. The property was posted in accordance with the Star Unified Development Code on January 13, 2022.

*D. History of Previous Actions:*

This property does not have any history of land use applications within the City of Star.

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

	<b>Zoning Designation</b>	<b>Comp Plan Designation</b>	<b>Land Use</b>
<b>Existing</b>	RUT (County)	Neighborhood Residential	Agricultural/Residential
<b>Proposed</b>	R-1-DA	Neighborhood Residential	Agricultural/Single Family Residential
<b>North of site</b>	Residential (R-3-DA)	Estate Residential	Approved Stargazer Subdivision
<b>South of site</b>	Residential (R-1-DA)	Neighborhood Residential	Approved Haven Ranch Subdivision
<b>East of site</b>	RUT (County)	Neighborhood Residential	Single Family Residential
<b>West of site</b>	Residential (R-4)	Neighborhood Residential	Single Family Residential/Agricultural

F. *Development Features.*

**ANNEXATION & REZONE:**

The applicant is requesting approval of an annexation and zoning application with a zoning designation of Residential (R-1-DA) on 10.9 acres. This zoning district would allow for a maximum residential density of 1 dwelling unit per acre. The property is located in an area that will be serviceable with central sewer and water provided by Star Sewer and Water District in the near future. The property will be accessed from N. Brandon Road, as it is today. The rezone request includes a development agreement.

The property owners intent is to annex and zone the property and then split the property into two parcels. The owner intends to keep the eastern corner parcel and potentially sell the western parcel for redevelopment. Council should discuss whether to condition sidewalks along N. Brandon Road and W. New Hope Road as this may be the only opportunity to get this portion of sidewalk built. Council may want to consider or condition sidewalks upon development of the western parcel, should that happen in the future. Ada County Development Services has requested that sidewalks also be considered as part of their review.

**DEVELOPMENT AGREEMENT**

Through the Development Agreement process, the applicant is proposing to work with the City to provide further insurances that the development will be built as presented and/or modified by the Council through the review process. Items that should be considered by the applicant and Council include the following:

- Emergency Access
- Future Development
- Sidewalk along the property for both Brandon and New Hope Road

## STAFF ANALYSIS AND RECOMMENDATION

The applicant originally requested an R-3 designation, however, without a clear plan on how the property will redevelop in the future, staff is only supportive of the R-1 designation at this time. Once a plan for development is clear, the applicant can submit a rezone application with the preliminary plat for redevelopment of the western parcel that meets the current Comprehensive Plan Future Land Use Map designation.

Based upon the information provided to staff in the applications and agency comments received to date, the proposed annexation and zoning request meets the requirements, standards and intent for development as they relate to the Comprehensive Plan and Unified Development Code. The proposed density of 1.0 dwelling unit per acre is well below the 3-5 dwelling units per acre allowed in the Neighborhood Residential Comprehensive Plan Future Land Use Map.

The Council should consider the entire record and testimony presented at their scheduled public hearing prior to rendering its decision on the matter. Should the Council vote to approve the application, either as presented or with added or revised conditions of approval, Council shall direct staff to draft findings of fact and conclusions of law for the Council to consider at a future date. A development agreement will also be brought back to the Council for review of proposed Conditions of Approval for the rezone.

### *G. Existing Site Characteristics:*

**Existing Site Characteristics:** The property currently has a single-family residential home with outbuildings and vacant ground.

**Irrigation/Drainage District(s):** Farmer's Union Ditch Company  
P.O. Box 1474  
Eagle, Idaho 83616

HRM Lateral

**Flood Zone:** This property is not located in a Special Flood Hazard Area.  
Flood Zone: Zone X  
FEMA FIRM Panel Number: 16001C0130J  
Effective Date: 6/19/2020

### **Special On-Site Features:**

- ✪ Areas of Critical Environmental Concern – No known areas.
- ✪ Evidence of Erosion – No evidence.
- ✪ Fish Habitat – No.
- ✪ Floodplain – No.
- ✪ Mature Trees – Yes.

- ✧ Riparian Vegetation – No.
- ✧ Steep Slopes – None.
- ✧ Stream/Creek – Pond and irrigation ditch.
- ✧ Unique Animal Life – No unique animal life has been identified.
- ✧ Unique Plant Life – No unique plant life has been identified.
- ✧ Unstable Soils – No known issues.
- ✧ Historical Assets – No historical assets have been observed.
- ✧ Wildlife Habitat – No known sensitive wildlife habitat observed

H. *Agencies Responding:*

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

Ada County Development Services	January 10, 2022
ACHD	January 25, 2022

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

None

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

Comprehensive Plan:

8.2.3 Land Use Map Designations:

Neighborhood Residential:

Suitable primarily for single family residential use. Densities in the majority of this land use area are to range from 3 units per acre to 5 units per acre. Densities not exceeding 1 to 2 units per acre are to be encouraged in areas of the floodplain, ridgeline developable areas, hillside developable areas, and where new residential lots are proposed adjacent to existing residential lots of one acre and larger where those existing larger lots are not likely to be subdivided in the future.

8.3 Goal:

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

8.4 Objectives:

- Implement the Land Use Map and associated policies as the official guide for development.
- Manage urban sprawl in order to minimize costs of urban services and to protect rural areas.
- Encourage land uses that are in harmony with existing resources, scenic areas, natural wildlife areas, and surrounding land uses.

#### 8.5.3 Policies Related Mostly to the Urban Residential Planning Areas:

A. The Neighborhood Residential Land Use is to encourage urban style development densities to limit urban sprawl.

B. Low densities within the Neighborhood Residential Land Use are to be designed within the floodplain, ridgeline developable areas, hillside developable areas and where new residential lots are proposed adjacent to existing residential lots of one acre and larger where those existing larger lots are not likely to be subdivide in the future.

#### 8.5.9 Additional Land Use Component Policies:

- Encourage flexibility in site design and innovative land uses.
- Work with Ada County Highway District (ACHD), Canyon Highway District #4 (CHD4), and Idaho Department of Transportation (ITD) for better coordination of roadway and access needs.
- Support well-planned, pedestrian-friendly developments.
- Dark sky provision should be adopted within the code to assure down style lighting in all developments and Star should consider joining the International Dark Sky Association.

#### 18.4 Implementation Policies:

F. 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-1: ANNEXATION AND ZONING; REZONE:**

##### B. Standards:

1. The subject property shall meet the minimum dimensional standards of the proper district.

2. The city may require a development agreement in conjunction with the annexation and zoning, or rezone, pursuant to Idaho Code section 67-6511A, which may include a concept plan. In addition to other processes permitted by city and state code, exceptions or waivers of standards, other than use, may be permitted through execution of a development agreement. A development agreement and concept plan shall be required for any rezone to a mixed-use zone, high density zone or land which includes steep slope (land over 25%) or floodway.

3. The termination of a development agreement shall result in the reversal of the official zoning map amendment approval and applicable development approval for any undeveloped portion of property subject to the development agreement. The undeveloped property subject to the development agreement shall be rezoned to the district classification as designated by the development agreement. When no designation is provided, the property shall revert to its original zoning or, if the original designation no longer exists, to the closest current equivalent zoning as determined by the current Comprehensive Plan Land Use Map designation.

4. An amendment or termination of a previously recorded development agreement shall be recorded in the office of the county recorder by the clerk.

5. An approved development agreement must be executed within ninety (90) days of the meeting at which the development agreement is approved by the city council. A one-time administrative extension of maximum thirty (30) days may be granted by the zoning administrator. Additional extensions may be approved by majority vote of the city council. Failure to execute the development agreement within the required timeframe will result in the denial of all related applications.

C. Required Findings: The council shall review the application at the public hearing. In order to grant an annexation and zoning or rezone, the council shall make the following findings:

1. The map amendment complies with the applicable provisions of the comprehensive plan;
2. The map amendment complies with the regulations outlined for the proposed district;
3. The map amendment shall not be materially detrimental to the public health, safety, and welfare; and
4. The map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city.
5. The annexation (as applicable) is in the best interest of city.

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

R RESIDENTIAL DISTRICT: To provide regulations and districts for various residential neighborhoods. Gross density in a Residential (R) district shall be determined according to the

numeral following the R. The numeral designates the maximum number of dwelling units per acre. In zoning designations of R-1, R-2, R-3, R-4 and R-5, housing shall be single family detached unless approved with a PUD or development agreement. Connection to municipal water and sewer facilities are required for all subdivision and lot split applications submitted after the effective date hereof in all districts exceeding one dwelling unit per acre. Wells and septic systems may be permitted for larger lots in this land use designation that are not adjacent to municipal services, as determined by the Sewer District, and if approved by the applicable Health Department. Private streets may be approved in this district for access to newly subdivided or split property. This district does allow for some non-residential uses as specified in 8-3A-3.

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**

<b><u>ZONING DISTRICT USES</u></b>	<b>A</b>	<b>R-R</b>	<b>R</b>
Accessory structure	A	A	A
Dwelling:			
Multi-family 1	N	N	C
Secondary 1	A	A	A
Single-family attached	N	N	C
Single-family detached	P	P	P
Two-family duplex	N	N	P

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

**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
R-1	35'	30'	30'	10'	20'

Notes:

1. Interior side yard setbacks for lots with 50' or less of lot width shall be allowed 5' interior side yard setbacks for one and two-story structures.
2. Front yard setback shall be measured from the face of the garage to the face of the sidewalk, allowing for 20' of parking on the driveway without overhang onto the sidewalk.

**8-1B-1C ANNEXATION/REZONE FINDINGS:**

1. The map amendment complies with the applicable provisions of the Comprehensive Plan.

*The Council finds that the purpose of the Star Comprehensive Plan is to promote the health, safety, and general welfare of the people of the City of Star and its Impact Area. Some of the prime objectives of the Comprehensive Plan include:*

- ✓ *Protection of property rights.*
- ✓ *Adequate public facilities and services are provided to the people at reasonable cost.*
- ✓ *Ensure the local economy is protected.*
- ✓ *Encourage urban and urban-type development and overcrowding of land.*
- ✓ *Ensure development is commensurate with the physical characteristics of the land.*

*The goal of the Comprehensive Plan for Land Use is to encourage the development of a diverse community that provides a mixture of land uses, housing types, and a variety of employment options, social and recreational opportunities, and where possible provides an assortment of amenities within walking distance of a residential development. The Council finds that this annexation is in compliance with the Comprehensive Plan.*

2. The map amendment complies with the regulations outlined for the proposed district, specifically, the purposes statement.

*The Council finds that that the proposal complies with the proposed district and purpose statement. The purpose of the residential districts is to provide regulations and districts for various residential neighborhoods with gross densities in compliance with the intent of the Comprehensive Plan designation. Housing shall be single family detached unless approved with a PUD or development agreement. Connection to municipal water and sewer facilities are required for all subdivision and lot split applications in all districts exceeding one dwelling unit per acre. Private streets may be approved in this district for*



*access to newly subdivided or split property.*

3. The map amendment shall not be materially detrimental to the public health, safety, and welfare; and

*The Council finds that there is no indication from the material and testimony submitted that the rezoning of this property will be materially detrimental to the public health, safety or welfare.*

4. The map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts.

*The Council finds that the City has not been presented with any information from agencies having jurisdiction that public services will be adversely impacted other than traffic, which will continue to be impacted as the City grows.*

5. The annexation is in the best interest of the city.

*The Council finds the annexation request is reasonably necessary for the continued, orderly development of the City.*

#### **Public Hearing of the Council:**

a. A public hearing on the application was heard by the City Council on February 15, 2022, at which time testimony was heard and the public hearing was closed. The City Council made their decision at that time.

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

- Kim Owens

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 annexation and zoning in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in review of the record, including the staff report, and discussions on the rezoning and platting of the development. Review and discussion included drainage, sidewalks and future redevelopment. The Council concluded that the Applicant's request meets the requirements for annexation. Council hereby incorporates the staff report dated February 15, 2022, together with the hearing minutes into the official decision as part of these Findings of Fact, Conclusions of Law.

**Statement of Compliance:**

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

Council added to the Development Agreement the following conditions of approval to their decision to approve the application to include the following:

- Sidewalk shall be constructed on the corner parcel (eastern parcel) at the time of redevelopment of the western parcel, or through ACHD impact fees as New Hope Road is improved, whichever comes first.

**Council Decision:**

The Council voted 4-0 to approve the Annexation and Development Agreement for the Kirshner-Dill property on February 15, 2022.

Dated this 15th day of March 2022.

Star, Idaho

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

ATTEST:

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