

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**11600 CORIANDER LANE VARIANCE**  
**FILE NO. V-22-01**

The above-entitled Variance application came before the Star City Council for their action on July 19, 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 a Variance from City Council for Ordinance 10-1-5 for Flood Hazard Reduction to allow fill within portions of the Floodway. The property is located at 11600 Coriander Lane in Star, Idaho. The property is currently zoned Residential (R-2). The subject property is generally located on the west side of N. Star Road, south of S. Main Street. Ada County Parcel No. S0418417322.

*B. Application Submittal:*

A neighborhood meeting was held on June 30, 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 July 1, 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 July 3, 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 July 1, 2022. The property was posted in accordance with the Star Unified Development Code on July 8, 2022.

*D. History of Previous Actions:*

- History on when the property was annexed and zoned by the City are unavailable.

**LAND USE:**

**VARIANCE:**

The applicant is requesting a variance to Section 10-1-5A-19 of the Star Municipal Code regarding Provisions for Flood Hazard Reduction. The subject property contains an existing

2,300 square foot agricultural structure. The property lies within the Boise River floodway. The intent of the applicant is to remove the existing barn and replace with a new single-family dwelling using the current barn footprint. The City Engineer has been working with the applicant on this replacement concept to ensure that the new building would replace the existing structure, with no additional disturbance to the floodway. The variance request is necessary in order for the applicant to construct the "ramp" from the driveway in order to access the garage area of the new dwelling. This would require additional fill to occur within the floodway. The applicant states that a pending Hydrologic and Hydraulic (H&H) report will demonstrate that the resulting fill to create the driveway will not increase flooding issues downstream as a result of its construction.

E. *Letters/Emails from the Public:*

None Received

F. *Unified Development Code Provisions and Conformance:*

**Unified Development Code**

**8-1B-6: VARIANCE:**

A. Authority to Grant Variances: The council may authorize, in specific cases, such variance from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this title would result in unnecessary, non-financial hardship.

B. Process:

1. The applicant shall complete a pre-application conference with the administrator prior to submittal of an application for a variance.
2. A neighborhood meeting shall be held by the applicant pursuant to Section 8-1A-6C of this title.
3. An application and fees shall be submitted to the administrator on forms provided by the city.

C. Standards: The variance shall comply with Idaho Code section 67-6516. A variance may be considered as a waiver of development standards when associated with a conditional use permit, development agreement or planned unit development.

D. Required Findings: In order to grant a variance, the council shall review the application at a public hearing and use its discretion to make the following findings:

1. The variance does not grant a right or special privilege that is not otherwise allowed in the district;
2. The variance relieves an undue hardship because of characteristics of the site, which must be other than financial in nature; and
3. The variance is not detrimental to the public health, safety, and welfare.

**10-1-5: Provisions For Flood Hazard Reduction**

- A. General Standards: In all special flood hazard areas the following provisions are required:
  1. All new construction, substantial improvements, and development shall be designed (or modified) and adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
  2. All new construction, substantial improvements, and development shall be constructed with materials and utility equipment resistant to flood damage in accordance with the Technical Bulletin 2, Flood Damage-Resistant Materials Requirements, and available from the Federal Emergency Management Agency.
  3. All new construction, substantial improvements, and development shall be constructed by methods and practices that minimize flood damages.
  4. All new and replacement electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding to the Flood Protection Elevation. These include, but are not limited to, HVAC equipment, water softener units, bath/kitchen fixtures, ductwork, electric/gas meter panels/boxes, utility/cable boxes, hot water heaters, and electric outlets/switches.
  5. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.
  6. All new and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.
  7. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
  8. A fully enclosed area, of new construction and substantially improved structures, which is below the lowest floor and used solely for parking, access, and storage shall:
    - A. Be constructed entirely of flood resistant materials at least to the flood protection elevation; and
    - B. Include, in Zones A, AE, AH, AO, and A1-30, flood openings to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters. To meet this requirement, the openings must either be certified by a professional engineer or architect or meet or exceed the following minimum design criteria:

1. A minimum of two (2) flood openings on different sides of each enclosed area subject to flooding;
  2. The total net area of all flood openings must be at least one (1) square inch for each square foot of enclosed area subject to flooding;
  3. If a building has more than one enclosed area, each enclosed area must have flood openings to allow floodwaters to automatically enter and exit;
  4. The bottom of all required flood openings shall be no higher than BFE above the interior or exterior adjacent grade;
  5. Flood openings may be equipped with screens, louvers, or other coverings or devices, provided they permit the automatic flow of floodwaters in both directions; and
  6. Enclosures made of flexible skirting are not considered enclosures for regulatory purposes, and, therefore, do not require flood openings. Masonry or flood resistant wood underpinning, regardless of structural status, is considered an enclosure and requires flood openings as outlined above.
9. Any alteration, repair, reconstruction, or improvements to a structure, which is in compliance with the provisions of this chapter, shall meet the requirements of "new construction" as contained in this chapter.
  10. Nothing in this chapter shall prevent the repair, reconstruction, or replacement of a building or structure existing on the effective date of this chapter and located totally or partially within the floodway, or stream setback, provided there is no additional encroachment below the flood protection elevation in the floodway, or stream setback, and provided that such repair, reconstruction, or replacement meets all of the other requirements of this chapter.
  11. New solid waste disposal facilities and sites, hazardous waste management facilities, salvage yards, and chemical storage facilities shall not be permitted, except by variance as specified in subsection 10-1-4E9. A structure or tank for chemical or fuel storage incidental to an allowed use or to the operation of a water treatment plant or wastewater treatment facility may be located in a special flood hazard area only if the structure or tank is either elevated or floodproofed to at least the flood protection elevation and certified in accordance with the provisions of subsection 10-1-4C3.
  12. All subdivision proposals and other development proposals shall be consistent with the need to minimize flood damage and determined to be reasonably safe from flooding.
  13. All subdivision proposals and other development proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
  14. All subdivision proposals and other development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

15. All subdivision proposals and other development proposals shall have received all necessary permits from those governmental agencies for which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 USC § 1334.
16. All subdivision proposals and other development proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, shall include within such proposals base flood elevation data.
17. When a structure is partially located in a special flood hazard area, the entire structure shall meet the requirements for new construction and substantial improvements.
18. When a structure is located in multiple flood hazard zones or in a flood hazard risk zone with multiple base flood elevations, the provisions for the more restrictive flood hazard risk zone and the highest base flood elevation (BFE) shall apply.
19. Fill is prohibited in the floodway, including construction of buildings on fill. This includes not signing the Community Acknowledgment page for Conditional Letters or Letters of Map Revision (CLOMR-F or LOMR-F).

**8-1B-4E. FINDINGS:** The council shall base its determination on the variance request upon the following:

1. Grant a right or special privilege that is not otherwise allowed in the district;

*The Council finds that a right or special privilege is not being granted in the approval of this variance that is not otherwise allowed in the district.*

2. Relieve an undue hardship because of characteristics of the site, which must be other than financial in nature; and

*The Council finds that there is an undue hardship associated with the characteristics of the site that the approval of the variance will relieve.*

3. Not be detrimental to the public health, safety, and welfare.

*The Council finds that the approval of this variance will not be detrimental to the public health, safety and welfare. The City Engineer has determined that the fill requested within the floodway will be satisfactorily mitigated elsewhere on site so that to prevent any negative consequences for the public within the floodway. Conditions of approval have been placed to further protect the public.*

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

a. A public hearing on the application was held before the City Council on July 19, 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 in favor of the application was presented to the City Council by:

Julie Kleinfischer – Applicants Representative  
Ryan Morgan – City Engineer

- c. Additional Oral testimony to the application was presented to the Council by:  
None
- d. Oral testimony uncommitted to the application was presented to the Council by:  
None
- e. Written testimony in favor of or opposing the application was presented to the City Council by:  
None received

**Deliberations and Conclusions of Law:**

The Council reviewed the particular facts and circumstances of this proposed variance request in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in discussions on the request.

Council finds that, with added conditions of approval, 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 Variance the following conditions of approval to their decision to approve the application to include the following:

- **Add a Condition regarding the allowance for stairs, ramps and equipment**

**Conditions of Approval:**

- 1. The applicant shall submit a Hydrologic and Hydraulic (H&H) report to the City Engineer for review and approval. If the report is not approved, the variance shall be null-in-void.**
2. The applicant shall comply with all requirements of the Unified Zoning Ordinance and Building Code for the City of Star regarding any development of this property unless as otherwise approved by Council.
- 3. This approval is to allow the placement of fill within the floodway to include a driveway, mechanical equipment pad, stairway and porch, and ADA ramp only.**

The Council voted unanimously to approve the Variance request on July 19, 2022.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

Star, Idaho

By: \_\_\_\_\_

Trevor A. Chadwick, Mayor

ATTEST:

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Jacob M. Qualls, City Clerk