

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**JOSH KINNEY ANNEXATION**  
**FILE NO. AZ-21-19/DA-21-27/PUD-21-02**

The above-entitled Annexation, Development Agreement and Planned Unit Development land use application came before the Star City Council for their action on February 1, 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 an Annexation and Zoning (RUT to R-3-PUD-DA/MU-PUD-DA), a Development Agreement, and a Planned Unit Development for a mixed-use development to include future residential and non-residential uses including retail, office, event center, farmers market, restaurant, winery, bed & breakfast, and garden center. The property is located near the southwest corner side of W. Floating Feather Road (Old) and State Hwy 16 and extends west to the southeast corner of N. Pollard Road and W. Floating Feather Road in Star, Idaho, and consists of a total of 25.15 acres. The subject properties are generally located on the south side of W. Floating Feather Road between N. Pollard Road and Highway 16. Ada County Parcel No's R5437560010, R5437560200 & R5437560230.

*B. Application Submittal:*

A neighborhood meeting was held on August 10, 2021, in compliance with the application submittal requirement of the Star Unified Development Code (Section 8-1 A-6 C). The Land Use application was deemed complete on December 21, 2021.

*C. Notice of Public Hearing:*

Notice of Public Hearing on the application for the City of Star Council was published in accordance with the requirements of Title 67, Chapter 65, Idaho Code and the Star Unified Development Code on January 13, 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 10, 2022. Notice was sent to agencies having jurisdiction in the City of Star on December 21, 2022. The property was posted in accordance with the Star Unified Development Code on January 13, 2022.

D. *History of Previous Actions:*

The Magnolia Subdivision was approved by Ada County in the early 1990’s as a Non-Farm Development. The purpose of the Non-Farm Developments at that time was to allow property outside an Impact Area and in the Rural Residential to develop with 25% residential as one-acre lots, with the remaining 75% being set aside as open area for 15 years, The intent was then to allow redevelopment of the open area once the property was able to annex into a City and have City Services. 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>	County Rural Transitional (RUT)	Neighborhood Residential Mixed-Use Special Transition Overlay	Single Family Residential/Vacant
<b>Proposed</b>	Neighborhood Residential (R-3-DA); Mixed-Use (MU-DA)	Neighborhood Residential Mixed-Use	Single Family Residential Commercial Agricultural
<b>North of site</b>	County Rural Transitional (RUT) Residential (R-5)	Neighborhood Residential Compact Residential Special Transition Overlay	Single Family Residential Agricultural Approved Milestone Subdivision
<b>South of site</b>	Neighborhood Residential (R3-DA-PUD)	Neighborhood Residential	Rosti Farms Subdivision
<b>East of site</b>	County Rural Transitional (RUT) Residential (R-1)	Neighborhood Residential Mixed Use	Agricultural/Vacant ITD Yard
<b>West of site</b>	County Rural Transitional (RUT)	Existing Public Use/Parks & Open Space	Star Cemetery

F. *Development Features:*

**ANNEXATION & REZONE:**

The annexation and zoning request from County Rural Urban Transition (RUT) to Residential (R-3-PUD-DA) and (MU-PUD-DA) on the applicant’s property will allow for the future subdivision and development of the properties into a mixture of residential and mixed-uses consistent with the current Comprehensive Plan Land Use Map. The applicant has requested a Residential R-3

zoning designation on the residential portion of the property and Mixed-Use MU designation on the remainder of the property. The proposed residential density shown on the conceptual site plan is lower than the Comprehensive Plan designation in the Neighborhood Residential, with density allowances ranging from 3 to 5 dwelling units per acre. The requested zoning designation and density meets the intent of the Comprehensive Plan.

### **PLANNED UNIT DEVELOPMENT:**

Through the PUD process, the applicant proposes a range of land uses including residential, retail, office, event center, farmers market, restaurant, winery, bed & breakfast, and garden center. These uses are all allowed in the Residential and Mixed-Use zoning districts. The PUD will allow all of the uses to be integrated together to provide for pathway connections, parking and landscaping, setbacks and amenities in one approval process. The conceptual site plan indicates the applicants vision of the entire project. Prior to final approval of the any individual residential lots, a preliminary plat shall be submitted for Council approval with design and dimensional standards of the Unified Development Code being adhered to. Understanding that the submitted site plan is only conceptual, the residential lots on the western half of the development would not meet current Code requirements, and, would therefore need to be revised. This would include lot size, access and emergency turn-around of the proposed roadways and required landscape buffers along N. Pollard Road and W. Floating Feather Road.

Staff is supportive of the Annexation, Planned Unit Development, and overall concept of the submitted application and the residential and commercial uses proposed. However, Staff will recommend to the Council that the current CC&R's associated with the existing Magnolia Subdivision, for which the majority of the development is part of, be adhered to. Specifically, the subdivision covenants (see attached in neighbors letter) states that "no lot shall be re-subdivided to less than one-acre". There are also additional specific design standards and use restrictions that should be considered. In addition, the Amended CC&R's for the Magnolia Subdivision prohibits certain, allowed commercial uses on Lot 1, which would be part of the Mixed-Use property. These uses include:

- Animal Care Facility
- Bar/Drinking Establishment
- Cement Manufacturing. Cemetery
- Chemical Manufacturing Plant
- Convenience Store
- Products Processing
- Gasoline Station
- Gasoline Station with Convenience Store
- Heliport
- Kennel
- Mortuary

- Parking Garage
- Pawnshop
- Recycling Center
- Shooting Range
- Truck Terminal
- Vehicle Impound Yard
- Vehicle Sales or Rentals

Staff would recommend that the residential property be zoned R-1 to recognize the minimum lot sizes of 1-acre, and that the Development Agreement include language regarding adherence to the Covenants of Magnolia Subdivision, including but not limited to lot size, uses and design standards.

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 applications, either as presented or with added 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.

Additional Items for the Council to consider for the Development Agreement and as Conditions of Approval in the PUD include the following:

- Council may want to explore the intentions more fully of the vineyard and open space in the center of the development.
- Commercial Uses
- Pathway/Sidewalk Details
- Residential allowances, including high density, in the Mixed-Use area
- ITD Proportionate Shares

*G. Existing Site Characteristics:*

**Existing Site Characteristics:** The property currently has a single-family dwelling; the remaining land is bare/vacant.

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

**Flood Zone:** A portion of this property on the western side is currently located in a Flood Hazzard Area.

FEMA FIRM Panel Number: 16001C0130J  
 Effective Date: 6/19/2020  
 Flood Zone: A

**Special On-Site Features:**

- ✪ Areas of Critical Environmental Concern – No known areas.
- ✪ Evidence of Erosion – No known areas.
- ✪ Fish Habitat – No known areas.
- ✪ Mature Trees – None.
- ✪ Riparian Vegetation – Unknown.
- ✪ Steep Slopes – None.
- ✪ Stream/Creek – None.
- ✪ 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.
- ✪ Wildlife Habitat – No wildlife habitat has been developed or will be destroyed.
- ✪ Historical Assets – No historical assets have been observed.

H. *Agencies Responding:*

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

ACHD	January 25, 2022 (Draft)
Keller and Associates	January 26, 2022

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

December 13, 2021	Tony & Brenda O’Neil	via Letter
	James & Michelle Stanford	via Letter
	Mike & Theresa Prenn	via Letter
	Steve Herron	via Letter
January 27, 2022	Morris Bower & Haws PLLC	Letter

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.

### Special Transition Overlay Area

Development adjacent to, and potentially within, this area is to provide for an appropriate transition between existing and new home sites where new urban development is being planned adjacent to previously approved and constructed rural county developments of years past. Site layout is to provide for a transition in density and lot sizing.

#### 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:

- Manage urban sprawl in order to minimize costs of urban services and to protect rural areas.
- Retain and encourage rural areas where it will not result in increased costs for urban service.
- 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

C. Site layout within the Special Transition Overlay Area is to provide for a transition in density and lot sizing. Base densities may be significantly reduced or home sites may be clustered to increase open space within a portion of a site when property is within this overlay.

#### 8.5.4 Policies Related to The Special Transition Overlay Areas:

A. Development adjacent to and within the Special Transition Overlay Area is to provide for an appropriate transition between existing and new home sites where new urban development is being planned adjacent to previously approved and constructed rural county developments of years past. This may include new abutting lots to be one acre in size or may include buffering.

B. Site layout is to provide for a transition in density and lot sizing with all policies regarding compatibility herein applying.

C. Modified street sections, such as with no curbs gutters or sidewalks, should be encouraged for adjacent compatibility where determined appropriate.

D. When an urban density residential development is planned with lots that directly abut lots within a Special Transition Overlay Area an appropriate transition is to be provided for the two abutting residential lot types. A transition must take into consideration site constraints that may exist and may include clustering of the urban lots in order to provide an open space area avoiding urban lots directly abutting Special Transition Overlay Area lots, or may include the provision of a buffer strip avoiding urban lots directly abutting Special Transition Overlay Area lots, or may include setbacks within the urban lots similar to the Special Transition Overlay Area lots directly abutting, or may include the provision of one half to one acre size lots directly abutting the Special Transition Overlay Area lots.

E. Larger setbacks should be required for new lots planned to abut existing Special Transition Overlay Area lots.

#### 8.5.9 Additional Land Use Component Policies:

- Encourage flexibility in site design and innovative land uses.
- Encourage landscaping to enhance the appearance of subdivisions, structures, and parking areas.
- Require more open space and trees in subdivisions.
- 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.
- The City should utilize the 2018 Treasure Valley Tree Selection Guide when requiring trees within developments.

#### 18.4 Implementation Policies:

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

Unified Development Code:

**8-1B-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.

MU MIXED USE DISTRICT: To provide for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential depending upon the specific comprehensive plan area designated as Mixed Use. Development within this zone is to proceed through the PUD process unless a development agreement has already been executed for the particular property. Identifying areas for mixed-use development has two objectives. The first objective is to give the city a better tool to manage the type of developments through the planned unit development and/or the Development Agreement process. The second objective is that this zone may allow the development community to be more innovative in design and placement of structures subject to Council review and approval. Rezoning within this land use designation is to be strictly monitored by the city to assure that the Mixed-Use areas are not being used simply to justify high density residential use. Residential uses may be part of an overall mixed-use development that includes a non-residential component and may not exceed 30% of the overall size of the development.

P PLANNED UNIT DEVELOPMENT: This designation, following any zoning designation noted on the official zoning map of the city (i.e., R-4-P), indicates that the development was approved by the city as a planned unit development, with specific allowances and design approved by Council.

**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.

<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

**8-3A-3: USES WITHIN ZONING DISTRICTS**

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

<b><u>ZONING DISTRICT USES</u></b>		
<b>USES</b>	<b>A</b>	<b>MU</b>
Accessory structure - Residential or Commercial	A	C/P
Adult business/adult entertainment	N	N
Agriculture, forestry, fishing	P	N
Airport	C	N
Animal care facility <sup>1</sup>	P	C
Artist studio <sup>1</sup>	P	P
Arts, entertainment, recreation facility <sup>1</sup>	C	C
Asphalt plant <sup>1</sup>	N	N
Auction facility	N	C
Automated Teller Machine (ATM) <sup>1</sup>	N	A
Automotive hobby <sup>1</sup>	A	A
Automotive mechanical/electrical repair and maintenance	N	C
Bakery- Retail or Manufacturing	N	P/C
Bar/tavern/lounge/drinking establishment	N	C
Barbershop/styling salon	N	P
Bed and breakfast	P	C
Beverage bottling plant	N	N
Boarding house	C	C
Brewery/Distillery	N	C
Brewpub/Wine Tasting	A	C

Building material, garden equipment and supplies	N	C
Campground/RV park <sub>1</sub>	C	C
Caretaker Unit <sub>1</sub>	A	A
Cement or clay products manufacturing	N	N
Cemetery <sub>1</sub>	C	N
Chemical manufacturing plant <sub>1</sub>	N	N
Child Care center (more than 12) <sub>1</sub>	N	C
Child Care family (6 or fewer) <sub>1</sub>	A	A
Child Care group (7-12) <sub>1</sub>	C	C
Child Care-Preschool/Early Learning <sub>1</sub>	N	C
Church or place of religious worship <sub>1</sub>	P	P
Civic, social or fraternal organizations	C	C
Concrete batch plant <sub>1</sub>	N	N
Conference/convention center	N	C
Contractor's yard or shop <sub>1</sub>	C	N
Convenience store	N	C
Dairy farm	C	N
Drive-through establishment/drive-up service window <sub>1</sub>	N	C
Dwelling:		
Multi-family <sub>1</sub>	N	C
Secondary <sub>1</sub>	A	C

Single-family attached	N	C
Single-family detached	P	C
Two-family duplex	N	C
Live/Work Multi-Use <sup>1</sup>	N	C
Educational institution, private	C	C
Educational institution, public	C	C
Equipment rental, sales, and services	N	C
Events Center, public or private (indoor/outdoor)	C	C
Fabrication shop	N	N
Farm	P	N
Farmers' or Saturday market	C	C
Feedlot	N	N
Financial institution	N	C
Fireworks Stands	N	P
Flammable substance storage	N	N
Flex Space	N	C
Food products processing	C	N
Fracking	N	N
Gasoline, Fueling & Charging station with or without convenience store <sup>1</sup>	N	C
Golf course	C	C
Government office	N	C
Greenhouse, private	A	A

Greenhouse, commercial	P	C
Guesthouse/granny flat	P	C
Healthcare and social services	N	C
Heliport	C	N
Home occupation <sub>1</sub>	A	A
Hospital	N	C
Hotel/motel	N	C
Ice manufacturing plant	N	N
Industry, information	N	C
Institution	N	C
Junkyard	N	N
Kennel	C	C
Laboratory	N	C
Laboratory, medical	N	C
Lagoon	N	N
Laundromat	N	P
Laundry and dry cleaning	N	C
Library	N	N
Manufactured home <sub>1</sub>	P	C
Manufactured home park <sub>1</sub>	N	N
Manufacturing plant	N	N
Meatpacking plant	C	N
Medical clinic	N	P
Mining, Pit or Quarry (excluding	C	N

accessory pit) 1		
Mining, Pit or Quarry (for accessory pit) 1	A	A
Mortuary	N	C
Museum	C	P
Nursery, garden center and farm supply	N	C
Nursing or residential care facility 1	N	C
Office security facility	N	C
Parking lot/parking garage (commercial)	N	C
Parks, public and private	P	P
Pawnshop	N	P
Personal and professional services	N	P
Pharmacy	N	P
Photographic studio	N	P
Portable classroom/modular building (for private & public Educational Institutions)	C	C
Power plant	N	N
Processing plant	C	N
Professional offices	N	C
Public infrastructure; Public utility major, minor and yard 1	C	C
Public utility yard	C	N
Recreational vehicle dump station	N	A

Recycling center	N	N
Research activities	A	C
Restaurant	N	C
Retail store/retail services	N	C
Retirement home	N	C
Riding Arena or Stable, Private/ Commercial	P/C	N
Salvage yard	N	N
Sand and gravel yard	C	N
Service building	C	C
Shooting range ( <u>Indoor/Outdoor</u> )	C	C/N
Shopping center	N	C
Short Term Rentals <sub>1</sub>	A	A
Solid waste transfer station	N	N
Storage facility, outdoor (commercial) <sub>1</sub>	C	C
Storage facility, self-service (commercial) <sub>1</sub>	C	C
Swimming pool, commercial/public	N	P
Television station	N	C
Temporary living quarters <sub>1</sub>	P	N
Terminal, freight or truck <sub>1</sub>	N	N
Truck stop	N	C
Turf farm	P	N
Vehicle emission testing <sub>1</sub>	N	C



Vehicle impound yard 1	N	N
Vehicle repair, major 1	N	C
Vehicle repair, minor 1	N	C
Vehicle sales or rental and service 1	N	C
Vehicle washing facility 1	N	C
Vehicle wrecking, junk or salvage yard1	N	N
Veterinarian office	P	C
Vineyard	P	C
Warehouse and storage	N	C
Wholesale sales	N	C
Winery	P	C
Wireless communication facility 1	C	C
Woodworking shop	N	N
<b>8-3A-4: ZONING DISTRICT DIMENSIONAL STANDARDS:</b>		

Zoning District	Maximum Height	Minimum Yard Setbacks			
		Note Conditions			
	Note Conditions	Front (1)	Rear	Interior Side	Street Side
R-3	35'	15' to Living Area/Side Load Garage. 20' to Garage Face	15'	5' Per Story	20'
MU	35'	For MU and CBD - Unless otherwise approved by the Council as a part of a PUD or development agreement, all residential buildings shall follow the residential setbacks shown in this			

		table based upon the project density and all other buildings shall follow setbacks for the C-2 zone (3).
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Notes:

1. 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.
2. 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.

**8-4E-2: COMMON OPEN SPACE AND SITE AMENITY REQUIREMENTS - STANDARDS:**

A. Open Space and Site Amenity Requirement (see also Chapter 8 "Architectural Review"):

1. The total land area of all common open space shall equal or exceed fifteen percent (15%) of the gross land area of the development. Ten percent (10%) of that area shall be usable open space.
2. Each development is required to have at least one site amenity.
3. One additional site amenity shall be required for each additional twenty (20) acres of development area, plus one additional amenity per 75 residential units.
4. Developments with a density of less than 1 dwelling units per acre may request a reduction in total required open space and amenities to the Council. Developments with a density of less than 2 dwelling units per acre may request a 50% reduction in total required open space to the Council.
5. For multi-family developments, see Section 8-5-20 for additional standards.

B. Qualified Open Space: The following may qualify to meet the common open space requirements:

1. Any open space that is active or passive in its intended use, and accessible or visible by all residents of the development, including, but not limited to:
  - a. Open grassy area of at least fifty feet by one hundred feet (50' x 100') in area;
  - b. Qualified natural areas;
  - c. Ponds or water features where active fishing, paddle boarding or other activities are provided (50% qualifies towards total required open space, must be accessible by all residents to qualify.) ponds must be aerated;
  - d. A plaza.
2. Additions to a public park or other public open space area.

3. The buffer area along collector and arterial streets may be included in required overall common open space for residential subdivisions.
  4. Parkways along local residential streets with detached sidewalks that meet all the following standards may count toward the common open space requirement:
    - a. The parkway is a minimum of eight feet (8') in width from street curb to edge of sidewalk and includes street trees as specified otherwise herein.
    - b. Except for alley accessed dwelling units, the area for curb cuts to each residential lot or common driveway shall be excluded from the open space calculation. For purposes of this calculation, the curb cut area shall be a minimum area of twenty-six feet (26') by the width of the parkway.
    - c. Stormwater detention facilities do not qualify to meet the common area open space requirements, unless all of the following is met:
      1. Must be at least fifty feet by one hundred feet (50' x 100') in area;
      2. Specifically designed as a dual use facility, as determined by the administrator, to include minimal slopes, grass throughout, and guarantee of water percolation within 24 hours of storm event.
      3. Is located in a development that has a second usable open space area that contains a qualified site amenity as herein defined.
  5. Visual natural space, including open ditches, wetlands, slopes or other areas that may not be readily accessible to residents, and is provided with open style fencing, may qualify for up to 20% of the required open space total.
- C. Qualified Site Amenities: Qualified site amenities shall include, but not be limited to, the following:
1. Clubhouse;
  2. Fitness facilities, indoors or outdoors;
  3. Public art;
  4. Picnic area; or
  5. Recreation amenities:
    - a. Swimming pool.
    - b. Children's play structures.
    - c. Sports courts.
    - d. Additional open space in excess of 5% usable space.

- e. RV parking for the use of the residents within the development.
  - f. School and/or Fire station sites if accepted by the district.
  - g. Pedestrian or bicycle circulation system amenities meeting the following requirements:
    - (1) The system is not required for sidewalks adjacent to public right of way;
    - (2) The system connects to existing or planned pedestrian or bicycle routes outside the development; and
    - (3) The system is designed and constructed in accord with standards set forth by the city of Star;
- D. Location: The common open space and site amenities shall be located on a common lot or an area with a common maintenance agreement.

**8-1E-1: DEFINITIONS - TERMS DEFINED**

TRANSITIONAL LOT OR PROPERTY: The size of a new residential lot when being proposed adjacent to an established residential use. The ratio for lots adjacent to properties shall be determined on a case-by-case basis, when considering the size of the development potential for the existing use. This shall not be required if separated by an existing roadway or large canal where the distance between new structures and existing structures equal or exceed 100 feet.

**8-3B-3: ADDITIONAL RESIDENTIAL DISTRICT STANDARDS - RESIDENTIAL DISTRICTS:**

- B. When development is planned with lots that directly abut existing lots within a Rural Residential area, or "Special Transition Overlay Area" as shown on the Comprehensive Plan Land Use map, an appropriate transition shall be provided for the two abutting residential lot types. A transition shall take into consideration site constraints that may exist and may include clustering of the urban lots in order to provide an open space area avoiding urban lots directly abutting rural residential lots, or may include the provision of a buffer strip avoiding urban lots directly abutting rural residential lots, or may include setbacks within the urban lots similar to the rural residential lots directly abutting, or may include the provision of one half to one acre size lots directly abutting the rural residential lots.

**8-7-1: PURPOSE PLANNED UNIT DEVELOPMENTS:**

- A. The purpose of the planned unit development (PUD) requirements is to provide an opportunity for exemplary site development that meets the following objectives:
  - 1. Preserves natural, scenic and historic features of major importance;
  - 2. Allows for innovative design that creates visually pleasing and cohesive patterns of development; and

3. Creates functionally integrated development that allows for a more efficient and cost-effective provision of public services.

B. It is not the intent that the PUD process be used solely for the purposes of deviation from the dimensional standards in the district. (Ord. 215, 11-2-2011)

#### **8-7-4: STANDARDS:**

The council may approve planned unit developments, in accord with the following standards:

##### **A. General Use Standards:**

1. Deviations From Underlying District Requirements: Deviations from the development standards and/or area requirements of the district in accord with chapter 3, "District Regulations", of this title may be approved. The exception is that along the periphery of the planned development, the applicable setbacks as established by the district shall not be reduced.
2. Allowed Uses: Applicant may request that specific conditional use(s) be allowed in the district as principal permitted use(s).
3. Private Streets and Service Drives: The uses within the planned unit development are interconnected through a system of roadways and/or pathways as appropriate. Private streets and service drives may be permitted, if designed and constructed to the transportation authority standards and in accord with chapter 4, article E, "Private Street Requirements", of this title.
4. Buildings Clustered: Buildings shall be clustered to preserve scenic or environmentally sensitive areas in the natural state, or to consolidate small open spaces into larger, more usable areas for common use and enjoyment.

B. Private Open Space: In addition to the common open space and site amenity requirements as set forth in chapter 4, "Regulations Applicable To All Districts", of this title, a minimum of eighty (80) square feet of private, usable open space shall be provided for each residential unit. This requirement can be satisfied through porches, patios, decks, and enclosed yards. Landscaping, entryway and other accessways do not count toward this requirement.

##### **C. Residential Use Standards:**

1. Housing Types: A variety of housing types may be included within a single planned development, such as attached units (townhouses, duplexes), detached units (patio homes), single-family and multi-family units, regardless of the district classification of the site, provided that the overall density limit of the district is maintained. A minimum of two (2) housing types shall be provided for all PUD's.

D. Infill Planned Developments: Properties of five (5) acres or less within the city of Star, that are located in areas already substantially developed (at least 80 percent of the land area within 300 feet of the boundaries of the parcel) and where water, sewer, streets, schools and fire protection have already been developed and are provided. Upon recommendation of the administrator, the council may approve exceptions to other sections of this title as an incentive for infill development, including, but not limited to the following:

1. The council may allow up to a twenty five percent (25%) increase in the density permitted for the district in which the site is located. It is at the sole discretion of the Council to approve the maximum density bonus requested. Density bonuses shall not be allowed in the CBD.
2. The council may also waive or modify open space and amenity requirements set forth in this section depending on the size and scale of the planned development and proximity to public open space, pathways or greenbelts.

E. Conditions, Bonds and Safeguards: In approving the planned unit development, the council may prescribe appropriate conditions, additional conditions, bonds, and safeguards in conformity with this title that:

1. Minimize adverse impact of the use on other property.
2. Control the sequence and timing, or phasing, of the uses.
3. Control the duration of the use. Assure that the use and the property in which the use is located is maintained properly.
4. Designate the exact location and nature of the use and the property development.
5. Require the provision for on site or off-site public facilities or services.
6. Require more restrictive standards than those generally required in this title.
7. Require mitigation of adverse impacts of the proposed development upon service delivery by any political subdivision, including school districts, which provides services within the city.

### **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 the proposal complies with the proposed districts and purpose statements. 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. The purpose of the mixed-use district is to provide for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential depending upon the specific comprehensive plan area designated as Mixed Use. Development within this zone is to proceed through the PUD process unless a development agreement has already been executed for the particular property. Identifying areas for mixed-use development has two objectives. The first objective is to give the city a better tool to manage the type of developments through the planned unit development and/or the Development Agreement process. The second objective is that this zone may allow the development community to be more innovative in design and placement of structures subject to Council review and approval. Rezoning within this land use designation is to be strictly monitored by the city to assure that the Mixed-Use areas are not being used simply to justify high density residential use. Residential uses may be part of an overall mixed-use development that includes a non-residential component and may not exceed 30% of the overall size of the development.*

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. Emergency services were*

*reviewed and mitigation recommended by the Star Fire District.*

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.*

**8-7-5 : PLANNED UNIT DEVELOPMENT FINDINGS:**

- A. The planned unit development demonstrates exceptional high quality in site design through the provision of cohesive, continuous, visually related and functionally linked patterns of development, street and pathway layout, and building design.

*The Council finds that the planned unit development includes a site design, street and pathway layout, and building design that is cohesive, continuous and visually and functionally appropriate for the area.*

- B. The planned unit development preserves the significant natural, scenic and/or historic features.

*The Council finds that the planned unit development preserves significant natural, scenic and historic features found on the property.*

- C. The arrangement of uses and/or structures in the development does not cause damage, hazard, or nuisance to persons or property in the vicinity.

*The Council finds that the planned unit development is arranged so that the uses and structures will not cause damage, hazard or nuisance to persons or property in the vicinity.*

- D. The internal street, bike and pedestrian circulation system is designed for the efficient and safe flow of vehicles, bicyclists and pedestrians without having a disruptive influence upon the activities and functions contained within the development, nor place an undue burden upon existing transportation and other public services in the surrounding area.

*The Council finds that the planned unit development has been designed to take into consideration internal street, bike and pedestrian circulation. ACHD and ITD have reviewed and commented on the application with requirements incorporated into the approval of the development.*

- E. Community facilities, such as a park, recreational, and dedicated open space areas are functionally related and accessible to all dwelling units via pedestrian and/or bicycle pathways.



*The Council finds that the planned unit development includes park, recreational and open space that will be functionally related and accessible to all dwelling units through the pedestrian and bicycle pathway system.*

F. The proposal complies with the density and use standards requirements in accord this title.

*The Council finds that the planned unit development complies with the density and use standards requirement of the UDC.*

G. The amenities provided are appropriate in number and scale to the proposed development.

*The Council finds that the planned unit development includes the appropriate number and scale of amenities to the proposed development.*

H. The planned unit development is in conformance with the comprehensive plan.

*The Council finds that the planned unit development is in conformance to the comprehensive plan and the pertinent land use designations.*

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

a. A public hearing on the application was heard by the City Council on February 1, 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:

- Josh Kinney
- Kelli Kinney
- Jeff Robbins
- Michael Prenn
- Mo Haws
- Tony O'Neil
- Randy Haverfield
- Theresa Prenn
- Michele Stanford

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 and planned unit development application 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 annexation and zoning of the development. Review and discussion included development layout, access and street configuration, setbacks, open space, pathways and landscaping, sidewalks, cross access, and proposed commercial uses. The Council concluded that the Applicant's request meets the requirements for annexation and planned unit development. Council hereby incorporates the staff report dated February 1, 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 Planned Unit Development and Development Agreement the following conditions of approval to their decision to approve the applications to include the following:

- 7' Sidewalks shall be constructed along W. Floating Feather Road at the time of development of each phase
- A cross access easement shall be provided to the south to connect this development with the future commercial uses in Rosti Farms Subdivision
- A gravel pathway shall be installed along the southern boundary of the property at the time of redevelopment of the residential subdivision
- The future preliminary plat shall meet all requirements of the Unified Development Code that is in place at the time of final platting, unless modified by Council
- Future residential lots shall be limited to a minimum of 1-acre unless approved by Council and the Magnolia Subdivision HOA
- Lot 1 of Magnolia Subdivision, as it currently exists, shall be zoned Mixed-Use; Lot 2 of Magnolia Subdivision, as it currently exists, shall be zoned Residential R-1
- The following uses shall be prohibited within the Mixed-Use zone, per the Magnolia Subdivision Amended CC&R's:
  - Animal Care Facility
  - Bar/Drinking Establishment
  - Cement Manufacturing. Cemetery
  - Chemical Manufacturing Plant
  - Convenience Store
  - Products Processing
  - Gasoline Station
  - Gasoline Station with Convenience Store

- Heliport
- Kennel
- Mortuary
- Parking Garage
- Pawnshop
- Recycling Center
- Shooting Range
- Truck Terminal
- Vehicle Impound Yard
- Vehicle Sales or Rentals
- All new residential development shall comply with the current CC&R's associated with the existing Magnolia Subdivision
- Agricultural uses shall be allowed within the MU and R-1 zoning designations to accommodate the proposed vineyards

**Conditions of Approval:**

1. **The applicant shall enter into a Development Agreement with the City, agreeing to proportionate share assessment by ITD regarding impacts to the State Highway System. ITD will calculate the fees. These fees will be collected by the City of Star, by phase, prior to final plat signature. The development agreement shall be signed and recorded as part of the ordinance for annexation and zoning and shall contain the details of the fees to be collected.**
2. Any lighting associated with this approval shall comply with the Star City Code. Design shall follow Code with requirements for light trespass and "Dark Skies" lighting. **Applicant/Owner shall work with staff and submit a lighting design that meets city standards prior to final approval.**
3. The entire property shall be satisfactorily weed abated, preventing a public nuisance, per Star City Code.
4. The property shall be properly maintained throughout the construction process to include trash picked up and trash receptacles emptied with regular frequency, streets swept and cleaned weekly, including any streets used to access the property and all debris shall be prevented from accumulating on any adjacent property or public right of way and shall remove all debris from public way at least daily.
5. All signed Irrigation District Agreements with the Irrigation Districts shall be provided to the City of Star with each subsequent development phase.
6. **Landscaping shall be installed per the requirements of the Unified Development Code. The applicant shall submit a detailed landscape plan with the Certificate of Zoning Compliance application.**
7. Pressurized irrigation systems shall comply with the Irrigation District(s) and the City of Star Codes. Plans for pressurized irrigation systems shall be submitted to, and approved by the City of Star Engineer, prior to installation.

8. Development standards for single family residential units shall comply with effective building and zoning requirements at time of building permit issuance, or as approved through the Development Agreement or as stated herein.
9. The applicant shall provide a sign, to be located at all construction entrances, indicating the rules for all contractors that will be working on the property starting at grading and running through home sales that addresses items including but not limited to dust, music, dogs, starting/stopping hours for contractors (7a.m. start time). **Sign shall be approved by the City prior to start of construction.**
10. A sign application is required for any subdivision signs.

**Council Decision:**

The Council voted 3-0 to approve the Annexation, Development Agreement, and Planned Unit Development for Application AZ-21-19/PUD-21-02 on February 1, 2022.

Dated this 1st day of March 2022.

Star, Idaho

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

Trevor A. Chadwick, Mayor

ATTEST:

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