

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**LANDYN VILLAGE SUBDIVISION**  
**FILE NO. AZ-20-04/DA-21-14/PP-20-04/PUD-20-03/PR-21-07**

The above-entitled Preliminary Plat, Private Street and Development Agreement Modification land use applications came before the Star City Council for their action on November 16, 2021, 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 to Mixed Use (M-U), a Development Agreement, a Planned Unit Development, a Preliminary Plat and a Private Street for a proposed mixed-use residential and commercial subdivision consisting of 53 residential lots, 10 live/work lots, a future commercial lot and 9 common lots. The property is located at 551 S. Crystal Springs Lane in Star, Idaho, and consists of 10 acres with a proposed residential density of 6.2 dwelling units per acre. The subject property is generally located south of State Street and west of Highway 16, south of W. Wildbranch Street on the current private road known as Crystal Springs Lane in Star, Idaho. Ada County Parcel No R8079960200.

*B. Application Submittal:*

A neighborhood meeting was held on May 08, 2019, 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 September 12, 2019.

*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 October 28, 2021. 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 October 28, 2021. Notice was sent to agencies having jurisdiction in the City of Star on January 14, 2020. The property was posted in accordance with the Star Unified Development Code on November 4, 2021.

*D. History of Previous Actions:*

This property was created through Ada County in the late 1990's as part of Springwood Subdivision (Lot 2, Block 1). A private road was approved to provide access and frontage to the property.

This application was submitted and accepted in January of 2020. Due to circumstances including the submittal of the Larson Property to the east, the existing private road issues and the transportation issues in the Crystal Springs area with ACHD and ITD, this application has been postponed a number of times from its original hearing date of March 3, 2020. The application was submitted and accepted under the old Unified Development Code, therefore, specific Code requirements are in place.

*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)	Mixed Use	Single Family Dwelling
<b>Proposed</b>	M-U-PUD	No Change	Mixed Use Residential/Commercial
<b>North of site</b>	County Rural Transitional (RUT)	Compact Residential	Single Family Dwelling
<b>South of site</b>	County Rural Transitional (RUT)	Mixed Use	Single Family Dwelling
<b>East of site</b>	R-2-DA-P (Eagle) County Rural Transitional (RUT)	Mixed Use	Currently Vacant
<b>West of site</b>	R-2-DA	Neighborhood Residential	Single Family Residential (Heron River)

*F. Development Features:*

**ANNEXATION & REZONE:**

The annexation and zoning request from County Rural Urban Transition (RUT) to Mixed Use (M-U-PUD) on the applicant's property will allow for the development and subdivision of the subject property into a mixed residential subdivision with accompanying commercial uses that will be consistent with the adopted Comprehensive Plan. The overall density of the proposed development as submitted is 5.2 dwelling units per acre. The current Comprehensive Plan Land Use Map designates this property as Mixed-Use. The requested land uses of residential and commercial within the annexation and zoning and planned unit development applications meet the standards of the zoning designation and the intent of the Comprehensive Plan.

## **PRELIMINARY PLAT:**

The Preliminary Plat submitted contains 69 lots, including 49 new residential townhome lots, 10 Live/Work Lots, 8 common area/open space lots, 1 existing residential lot (Lot 17) and 1 common lot (existing barn)/future commercial lot (Lot 16). The residential lots will include both attached and detached homes, with minimum frontages of 30 feet and lot sizes of 3,000 square feet. All streets are proposed to be private, and will be built to ACHD roadway standards, including 36' widths. A common driveway serving several dwellings, along with a private alleyway serving another portion of the development, is proposed. These access points must be approved by the Star Fire District prior to final plat approval.

The submitted site plan indicates that the development will contain a total of 1.36 acres (13.6%) total open space within common lots. The useable open space provided is 1.24 acres (12.4%). The development is required to provide a minimum of 15% open space, 10% usable. The applicant will need to come up with an additional 6,221 square feet of open space in order to meet the 15% requirement. The useable open space provided by the applicant currently includes amenities such as open space with pathways, a gazebo and picnic area and play structure. The grading and drainage plan submitted indicates that portions of the useable open space will be used for stormwater drainage. To qualify as useable open space, the applicant must show that the drainage areas meet the UDC requirements for open space drainage areas (Section 8-4B-11). This section includes design of the drainage facilities as landscaped areas, without gravel, rock or sand at the surface, and complete free draining within a 24-hour period of time.

## **PLANNED UNIT DEVELOPMENT:**

The application has been submitted as a Planned Unit Development (PUD) in order to include both residential and commercial components of the project, and to allow for "deviations from the development standards and/or area requirements of the district", as may be requested as part of the PUD process. In reviewing the development as a whole, the application meets the intent of a PUD in that the purpose of the planned unit development (PUD) requirements is to provide an opportunity for exemplary site development that meets the PUD objectives, including the preservation of natural and scenic features, an innovative design that creates visually pleasing and cohesive pattern of development and the creation of a functionally integrated development that allows for a more efficient and cost-effective provision of public services. Finally, the proposed PUD is not being submitted solely for the purpose of deviation from the dimensional standards in the zoning district.

The PUD site plan is anticipating several residential types, including, in addition to the existing single-family dwelling, attached, detached townhomes with front loaded garage access, and alleyway garage access with front yards facing landscaped areas (Lots 1-10 & Lots 25-33).

Lots 1 through 10, Block 3 are considered as live/work units that will provide the non-residential component of the development. The development has included 10 guest parking spaces within the design. Together with the potential of on-street parking within the development on the proposed private streets, adequate parking for all uses is provided.

The existing single-family dwelling (Lot 17) and the lot with the existing barn (Lot 16) have the potential to redevelop, especially Lot 16, into a non-residential use. The Council should consider specific uses that should be allowed on this lot and condition the uses appropriately.

The applicant is proposing specific uses for the commercial components of the project, including the live/work and Lot 16. These uses will be subject to UDC requirements, including additional review and approval, at the time of development.

As recommended from staff and proposed by the applicant through the PUD, the subdivision would include the following dimensional standards:

**Proposed Setbacks:**

- Minimum Residential Lot Frontage: 30 feet
- Front Setbacks (Measured from the back of sidewalk or property line):
  - 20 feet for standard lots (Garages), 15' for living space
  - 10 feet for Lots -1-10, Block 3; Lots 25-33, Block 1
- Rear Setbacks:
  - 15 feet = Lots 14-15, 19-24, Block 1; Lots 2-3, Block 4; Lots 1-14, Block 5
  - 25 feet = Lot 16, Block 1
  - 10 feet = Lots 2-12, Block 1, Lots 2-7, Block 2
  - 20' feet for Garages = Lots 1-10, Block 3; Lots 25-33, Block 1
- Interior Setbacks:
  - 0 feet for Zero Lot Lines, 5 feet (for one and two-stories)
  - 10 feet for Lot 12, Block 1
  - 10 feet - Local Street Side Setbacks

**ADDITIONAL DEVELOPMENT FEATURES:**

**Existing and Proposed Private Streets:**

**S. Crystal Springs Lane is an existing private road that was approved by Ada County as part of the Springwood Subdivision. The private street appears to have approximately 13' of improved, paved surface on a 30' easement. The applicant will be required to upgrade the existing S. Crystal Springs Lane to ACHD standards, including a road width that meets Fire District requirements and the intent of the Unified Development Code. While the applicant believes that they have rights to access the existing private road and increase the intensity of roadway by means of redevelopment of their property, neighboring**

property owners have argued that the applicant does not have the right to use the existing private street to access the proposed Landyn Village Subdivision (see attached letter from Clark-Wardle dated 2/26/20). The City Attorney has reviewed both arguments and has given the opinion that the City should ensure that appropriate access is provided to the new subdivision through Conditions of Approval, including conditioned construction standards that allow for future dedication of the road system to ACHD, however, the City should not be involved in determining the legal status of the existing private street for the purposes of redevelopment. That should be left to the current property owners to sort out. Staff shall include a condition of approval requiring all access issues be resolved prior to acceptance of a final plat application.

Therefore, all streets will be private and shall be constructed to ACHD standards, including a 36' width from back of curb to back of curb, or as approved by the Council and Fire District, for the purpose of future dedication to ACHD. This shall include S. Crystal Springs Lane.

#### **Participation in Moyle Ave Signal Light :**

As part of the review and analysis for this area south of W. State Street and west of Hwy 16, all property owners will be responsible for additional fees regarding access onto W. State Street (Hwy 44), more specifically, participation in the Moyle Avenue signal light that is planned for access to the area. The total percentage amount for each property will be determined by Council during the entitlement process of each project.

#### **Emergency Access:**

Staff has required as part of the proposed East Star River Ranch Subdivision an emergency only access east/west to provide Landyn Village and East Star River Ranch each with access for emergency vehicles. This access point will be located in a location to be coordinated between the two developments and will be provided with Star Fire District approved gates.

- Floodplain  
A portion of the property lies within Flood Hazard Area AE. An Application for Permit to Develop in An Area of Special Flood Hazard will be required prior to final plat approval.
- Sidewalks  
Internal sidewalks are proposed at five-foot (5') widths and will be attached throughout the development.
- Lighting

Streetlights shall reflect the "Dark Sky" criteria with all lighting. The same streetlight design shall continue throughout the entire development. The applicant has submitted a proposed streetlight plan. All proposed light locations satisfy City code.

**Applicant has not provided a streetlight design/cut sheet for City approval.**

**Applicant will be required to work with Staff and submit a cut sheet and design before acceptance of a final plat.**

- Street Names

**Applicant has not provided documentation from Ada County that the street names are acceptable and have been approved. This will be required at final plat**

- Subdivision Name

Applicant has provided a letter from Ada County that the subdivision name has been approved and reserved for this development.

- Landscaping - As required by the Unified Development Code, Chapter 8, Section 8-8C-2-M (2) Street Trees; A minimum of one street tree shall be planted for every thirty-five (35) linear feet of street frontage. The applicant shall use "Treasure Valley Tree Selection Guide", as adopted by the Unified Development Code. Section 8-8C-2, J5 states that a minimum of one deciduous shade tree per four thousand (4,000) square feet of common area shall be provided. **The submitted landscape plan does not include street trees. A revised landscape plan shall be submitted prior to final plat approval indicating all street trees.**

- Setbacks – All setbacks will meet the intent of the proposed zone, unless otherwise approved as part of this application.

- Block lengths – All blocks meet the 750' block length requirement.

- Mailbox Cluster – Applicant has provided documentation from the Star Postmaster depicting the approved location for the mailbox cluster will be with the cluster for Iron Mountain Estates.

- Phasing – The applicant has not indicated the phasing of the development.

## **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:

- Density;
- ITD Proportionate Share Fees;
- Emergency Access
- Setbacks
- Proposed Land Uses

*G. Existing Site Characteristics:*

**Existing Site Characteristics:** The property contains one (1) single-family dwelling and gets access from the existing S. Crystal Springs Lane, an approved private road (County). The Lawrence Kennedy Lateral runs through the northern boundary of the property.

**Irrigation/Drainage District(s):** Pioneer Irrigation District

**Flood Zone:** The development lies within an AE Flood Zone.

**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 – Yes
- ✧ Riparian Vegetation – No known areas.
- ✧ Steep Slopes – Slight elevation changes to the north.
- ✧ 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.

US Postal Services	August 27, 2019
Central District Health	January 6, 2020
Star Fire District	December 23, 2020
Keller and Associates	January 09, 2020
Drainage District #2	January 21, 2020
West Ada School District	February 1, 2020
US Army Corp of Engineers	January 30, 2020
ACHD	April 22, 2020

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

Jerome L. Arbiter, 351 S. Crystal Springs Lane, Star, Idaho 83669  
Jason Dickman, P.O. Box 216, Star, Idaho 83669  
David Ray, 446 S. Rivermist Ave, Star, Idaho 83669  
Paul Larson – [paul@pdlarson.com](mailto:paul@pdlarson.com) – Email

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

Comprehensive Plan:

8.2.3 Land Use Map Designations:

Mixed Use:

Generally suitable for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential depending upon the specific area designated as Mixed Use. See Mixed Use Implementation Policies for specific criteria. Development within this land use designation is to proceed through the PUD and/or development agreement process. 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 land use designation will allow the development community to be more innovative in design and placement of structures. Development design guidelines should also be established to guide development within mixed-use areas. 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.

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.

#### 8.5.7 Policies Related Mostly to the Mixed-Use Planning Areas

- A. Council, at their sole discretion, shall determine what mix of uses are appropriate for any mixed-use area considering existing property owners rights.
- B. Development within the Mixed-Use Designation is to proceed through the CUP, PUD, and/or Development Agreement process, and a concept plan must be included with any such proposed use.
- C. In general, mixed-use areas along state highways should be predominantly commercial with a very minor component of residential unless the residential is placed on upper floors as part of a mixed-use building.
- D. Mixed-use areas along state and U.S. Highways where direct access to the state highway is prohibited, like along State Highway 16 between State Highway 44 and US Highway 20/26, should be predominately residential with a minor component of neighborhood commercial, or light industrial if sufficient roadway access, by means of backage or other roads, to the State Highway is provided.
- E. Mixed-use areas located between commercial and residential land use designations are to provide a compatible transition between the higher intensity use of commercial and the lower intensity use of Neighborhood Residential. Uses for these mixed-use areas could include multi-family housing and or office related uses if determined by the Council through the public hearing process, to be appropriate.

#### 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:**

#### **8-3 E-1: MIXED USE PURPOSE (From old Unified Development Code in place at the time of Submittal of original Application):**

The purpose of the Mixed-Use District is to encourage compact development that is sensitive to the environmental characteristics of the land and facilitates the efficient use of services. A traditional neighborhood district diversifies and integrates land uses within close proximity to each other, and it provides for the daily recreational and shopping needs of the residents. The purpose of the MU District is also to conditionally provide for a variety of Residential land uses including attached and detached single-family Residential, duplex, townhouse, and multifamily. Development in the MU District includes open spaces and promotes pedestrian activity through well-designed and varied streetscapes that also provide for the safe and efficient movement of vehicular traffic. Vertically integrated Residential projects are encouraged in all Mixed-Use neighborhood districts.

**MU MIXED USE DISTRICT (Updated Development Code):** 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.

**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.

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

#### **8-3A-4: ZONING DISTRICT DIMENSIONAL STANDARDS (Current):**

<b>Zoning District</b>	<b>Maximum Height</b>	<b>Minimum Yard Setbacks Note Conditions</b>			
	<b>Note Conditions</b>	<b>Front (1)</b>	<b>Rear</b>	<b>Interior Side</b>	<b>Street Side</b>

R-5	35'	15' to living area/side load garage  20' to garage face	15'	5'	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).			

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.

**8-3E-2: USES IN MIXED USE DISTRICT (From old Unified Development Code in place at the time of Submittal of original Application):**

**Table 8-3E-2(a) of this section lists permitted (P), conditional (C), and prohibited (N) uses within each traditional neighborhood district. (As requested by the Applicant)**

Use	MU
Accessory structure	C
Artist studio <sup>1</sup>	C
Bakery	P
Barbershop/styling salon	P
Daycare center <sup>1</sup> (more than 12)	C
Daycare, family <sup>1</sup> (6 or fewer)	P
Daycare, group <sup>1</sup> (7 - 12)	C
Dwelling:	
Multi-family <sup>1</sup>	C
Secondary <sup>1</sup>	N

Single-family attached	C
Single-family detached <sup>1</sup>	C
Townhouse	C
Two-family duplex	C
Healthcare and social services	P
Home occupation <sup>1</sup>	N
Library	P
Personal and professional services	P
Photographic studio	P
Professional offices	P
Retail store/retail services	P

#### **8-4D-3: STANDARDS (PRIVATE STREETS):**

All private streets shall be designed and constructed to the following standards:

##### **A. Design Standards:**

1. Easement: The private street shall be constructed on a perpetual ingress/egress easement or a single platted lot (with access easement) that provides access to all applicable properties.
2. Connection Point: Where the point of connection of the private street is to a public street, the private street shall be approved by the transportation authority.
3. Emergency Vehicle: The private street shall provide sufficient maneuvering area for emergency vehicles as determined and approved by the Star Fire District.
4. Gates: Gates or other obstacles shall not be allowed, unless approved by Council through a Planned Unit Development or Development Agreement.

##### **B. Construction Standards:**

1. Obtain approval from the county street naming committee for a private street name(s);
2. Contact the transportation authority to install an approved street name sign that complies with the regulations of the county street naming ordinance;
3. Roadway and Storm Drainage: The private street shall be constructed in accord with the roadway and storm drainage standards of the transportation authority or as approved by the

city of Star based on plans submitted by a certified engineer.

4. Street Width: The private street shall be constructed within the easement and shall have a travel lane that meets ACHD width standards for the City of Star, or as determined by the Council and Star Fire District.

5. Sidewalks: A five foot (5') attached or detached sidewalk shall be provided on one side of the street in commercial districts. This requirement may be waived if the applicant can demonstrate that an alternative pedestrian path exists.

6. Fire Lanes: All drive aisles as determined by the Star Fire District to be fire lanes, shall be posted as fire lanes with no parking allowed. In addition, if a curb exists next to the drive aisle, it shall be painted red.

7. No building permit shall be issued for any structure using a private street for access to a public street until the private street has been approved.

C. The applicant or owner shall establish an on-going maintenance fund through the Owner's association with annual maintenance dues to ensure that funds are available for future repair and maintenance of all private streets. This shall be a requirement in a development agreement and/or as part of a planned unit development. A reserve account condition shall be included in the recorded CC&R's and shall be provided to the City for review. The condition of approval shall include the following:

1. Private Road Reserve Study Requirements.

- a. At least once every three years, the board shall cause to be conducted a reasonably competent and diligent visual inspection of the private road components that the association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the common interest development, if the current replacement value of the major components is equal to or greater than one-half of the gross budget of the association, excluding the association's reserve account for that period. The board shall review this study, or cause it to be reviewed, annually and shall consider and implement necessary adjustments to the board's analysis of the reserve account requirements as a result of that review.
- b. The study required by this section shall at a minimum include:
  - i. Identification of the private road components that the association is obligated to repair, replace, restore, or maintain.
  - ii. Identification of the probable remaining useful life of the components identified in paragraph (1) as of the date of the study.
  - iii. An estimate of the cost of repair, replacement, restoration, or maintenance of the components identified in paragraph (1).
  - iv. An estimate of the total annual contribution necessary to defray the cost to repair, replace, restore, or maintain the components identified

- in paragraph (1) during and at the end of their useful life, after subtracting total reserve funds as of the date of the study.
- v. A reserve funding plan that indicates how the association plans to fund the contribution identified in paragraph (4) to meet the association's obligation for the repair and replacement of all private road components.
- c. A copy of all studies and updates shall be provided to the City, to be included in the development application record.

#### **8-4D-4: REQUIRED FINDINGS (PRIVATE STREETS):**

In order to approve the application, the administrator and/or Council shall find the following:

- A. The design of the private street meets the requirements of this article;
- B. Granting approval of the private street would not cause damage, hazard, or nuisance, or other detriment to persons, property, or uses in the vicinity; and
- C. The use and location of the private street shall not conflict with the comprehensive plan and/or the regional transportation plan.

#### **8-7-1: PURPOSE - PLANNED UNIT DEVELOPMENTS (From old Unified Development Code in place at the time of Submittal of original Application)**

- 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 (From old Unified Development Code in place at the time of Submittal of original Application):**

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.

**8-4F-3: STANDARDS FOR COMMON OPEN SPACE AND SITE AMENITY REQUIREMENTS  
(From old Unified Development Code in place at the time of Submittal of original  
Application):**

A. Open Space And Site Amenity Requirement:

1. Open Space: Open space shall be designated as a total of 15% per application with 10% being useable space. (amd. Ord. 290, 2019)
2. One additional site amenity shall be required for each additional twenty (20) acres of development area.

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 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. Community garden;
  - c. Ponds or water features; or
  - d. Plaza.
- 2. Additions to a public park or other public open space area.
  - 3. The buffer area along collector streets may be included in required common open space for residential subdivisions.
  - 4. A street buffer with a minimum of ten feet (10') in width and street trees planted in accord with section 8-4B-7, "Landscape Buffers Along Streets", of this chapter may count up to fifty percent (50%) of the requirement.
  - 5. Parkway along local residential streets 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.
    - b. The parkway is planted with street trees in accord with section 8-4B-7, "Landscape Buffers Along Streets", of this chapter.
    - c. 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.
  - 6. Parkway along collector and arterials that are a minimum of ten feet (10') in width from street curb to sidewalk can be counted toward the open space requirement.
  - 7. Stormwater detention facilities when designed in accord with section 8-4B-11, "Stormwater Integration", of this chapter.
- C. Qualified Site Amenities: Qualified site amenities shall include, but not be limited to, the following:
- 1. Quality of life amenities;
  - 2. Clubhouse;
  - 3. Fitness facilities;
  - 4. Enclosed bike storage;

5. Public art;
  6. Picnic area; or
  7. Additional five percent (5%) open space;
  8. Recreation amenities:
    - a. Swimming pool.
    - b. Children's play structures.
    - c. Sports courts.
    - d. 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;
  9. Provision of transit stops, park and ride facilities or other multimodal facilities to encourage alternative automobile transportation.
- D. Location:
1. The common open space and site amenities shall be located on a common lot or an area with a common maintenance agreement.
  2. Common open space shall be grouped contiguously with open space from adjacent developments whenever feasible.
- E. Required Improvements And Landscaping:
1. Common open space shall be suitably improved for its intended use, except that natural features such as wetlands, rock outcroppings, ponds, creeks, etc., may be left unimproved.
  2. Common open space areas shall include (at a minimum) one deciduous shade tree per eight thousand (8,000) square feet and lawn, either seed or sod.
- F. Maintenance:

1. All common open space and site amenities shall be the responsibility of an owners' association for the purpose of maintaining the common area and improvements thereon; or
2. Land designated as common open space may be conveyed to the city, where the city council agrees to accept conveyance. (Ord. 215, 11-2-2011)

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

1. The map amendment does not comply 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 Mixed-Use designations is to provide uses that are generally suitable for a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or residential depending upon the specific area designated as Mixed Use. See Mixed Use Implementation Policies for specific criteria. Development within this land use designation is to proceed through the PUD and/or development agreement process. 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 land use designation will allow the development community to be more innovative in design and placement of structures. Development design guidelines should also be established to guide development within mixed-use areas. 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. The Council finds that this annexation and zoning request is not in compliance with the current Comprehensive Plan. Council recommends that the property designation be reclassified from Mixed-Use to Residential.*

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

*The Council finds that the Mixed-Use purpose statement states that the purpose of the 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. Council finds that this request is not consistent with the statement. The project layout does not provide an innovative design and the Mixed-Use zoning designation is being used to justify higher density residential uses.*

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

*The Council finds that material and testimony has been presented indicating that the annexation and zoning 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 been presented with information from agencies having jurisdiction that public services will be adversely impacted as the City continues to grow. ACHD cannot adequately provide public streets to access the property and the existing private street is not set up to adequately service the property.*

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

*The Council finds the annexation request is not in the best interest of the City and that the annexation would have a negative impact on surrounding properties.*

#### **8-6A-7: PRELIMINARY PLAT FINDINGS:**

1. The plat is in conformance with the Comprehensive Plan;  
*The Council finds that the Preliminary Plat, as proposed does not meet all requirements associated with Section 8-6A-3 of the UDC and is not consistent with the Comprehensive Plan and Mixed-Use land use designation. Mixed-use should provide a mixture of uses which may, at the sole discretion of the Council, include office, commercial, and/or*

*residential depending upon the specific area designated as Mixed Use. One of the objectives of the area is that this land use designation will allow the development community to be more innovative in design and placement of structures. The Council finds that the property, with its location to existing residential and current access issues cannot meet all requirements of the Comprehensive Plan and UDC.*

2. Public Services are available or can be made available and are adequate to accommodate the proposed development;  
*The Council finds that Agencies having jurisdiction on this parcel were notified of this action. While access issues were conditioned by the Star Fire District, and ACHD recommended that private streets be utilized, access to the property is limited and creates an undesirable problem for the City should annexation occur.*
3. There is public financial capability of supporting services for the proposed development;  
*The Council finds that the City has not received notice from any jurisdictional agency that there are any problems with public financial capability for this development.*
4. The development will not be detrimental to the public health, safety or general welfare;  
*The Council was made aware through public testimony, that a detriment in the form of additional traffic will be caused by this development. The Council finds that approval of the higher density residential would have a negative effect to the public health, safety and welfare.*
5. The development preserves significant natural, scenic or historic features;  
*The Council finds that there are no known natural, scenic, or historic features that have been identified with this Preliminary Plat.*

#### **8-4D-4: PRIVATE STREET FINDINGS:**

- A. The design of the private street meets the requirements of this article;  
*Council finds that the proposed private street could not meet the design standards in the Code.*
- B. Granting approval of the private street would not cause damage, hazard, or nuisance, or other detriment to persons, property, or uses in the vicinity:  
*Council finds that the private street, when associated with the proposed preliminary plat, would cause damage, hazard or nuisance, or other detriment to persons, property or uses in the vicinity.*
- C. The use and location of the private street shall not conflict with the comprehensive plan and/or the regional transportation plan.

*Council finds that the proposed use, when associated with the proposed preliminary plat, is in conflict with the comprehensive plan.*

**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 not cohesive, continuous or 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 would 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, as submitted, does not take into considerations for internal street, bike and pedestrian circulation.*

- 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 does not comply with the intent of 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 not in conformance to the comprehensive plan and the pertinent land use designations. Council recommended that the applicant apply for a Comprehensive Plan Map amendment and change the designation from Mixed-Use to Residential.*

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

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

- Steve Arnold, 1785 Whisper Cove, Meridian, ID
- Richard Lubber, 551 S. Crystal Springs Lane, Star, ID
- Larry Goodman, 490 S. Rivermist Ave, Star, ID
- Jeff Cresto, 9257 W. Wildbranch Drive, Star, ID
- Josh Leonard, 251 W. Front Street Suite 310, Boise, ID
- Jerry Arbiter, 351 S. Crystal Springs Lane, Star, ID
- David Ray, 446 S. Rivermist Ave, Star, ID

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, preliminary plat, planned unit development and private street application in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in discussions on the Comprehensive Plan designation, traffic, access, mixed-use developments, and platting at lower density residential. The Council concluded that the Applicant's request does not meet the intent of the Comprehensive Plan, and requirements for a preliminary plat, planned unit development and private street. Council did note that the applicant may resubmit an application for a Comprehensive Plan Map revision to a residential designation along with



another preliminary plat application and that Council would waive the application fees for one-year from the date of denial. Council stated that access via the private street should be worked out with the neighboring property owners prior to resubmittal. Council hereby incorporates the staff report dated November 16, 2021 into the official decision as part of these Findings of Fact, Conclusions of Law.

**Statement of Compliance:**

Council finds the Applicant has not met all requirements of the Unified Development Code and the intent and purpose of the Comprehensive Plan and Map requirements.

**Council Decision:**

The Council voted 3-0 (Nielson absent) to deny the Annexation & Zoning, Development Agreement, Preliminary Plat, Planned Unit Development and Private Street for Landyn Village Subdivision on November 16, 2021.

Dated this 7th day of December 2021.

Star, Idaho

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

ATTEST:

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