



## CITY COUNCIL REGULAR MEETING MINUTES

City Hall - 10769 W State Street, Star, Idaho

Tuesday, July 18, 2023 at 7:00 PM

### 1. CALL TO ORDER – Welcome/Pledge of Allegiance

Mayor Chadwick called the meeting to order at 7:00 p.m.

### 2. INVOCATION –

Associate Pastor Nathan Held of Calvary Star Church provided the invocation.

### 3. ROLL CALL

#### City Council members present:

Council President David Hershey, Council Member Kevan Wheelock, Mayor Trevor Chadwick, and Council Member Kevin Nielsen were all present. Council Member Jennifer Salmonsens was absent/excused.

#### Staff present:

City Attorney Chris Yorgason, City Clerk / Treasurer Jacob Qualls, City Planner / Zoning Administrator Shawn Nickel, Assistant City Planner / Code Enforcement Ryan Field, Public Information Officer Dana Partridge, and City Engineer Ryan Morgan were all present.

### 4. CONSENT AGENDA (ACTION ITEM)

A. **Findings of Fact / Conclusion of Law** - Willowbrook Annexation (**FILE: AZ-21-12 / DA-21-20**)

B. **Claims** - Pending / Paid Claims to be Approved

City Planner / Zoning Administrator Shawn Nickel advised Mayor Chadwick and the City Council that he had provided them with an email earlier that afternoon with a few minor modifications to the findings of fact for the Willowbrook annexation; he said provided a copy at the dais as well (on file). He stood for questions; there were none.

- Council President Hershey moved to approve the Consent Agenda consisting of Topic A Findings of Fact / Conclusion of Law for the Willowbrook Annexation (File: AZ-21-12 / DA-21-20) and Topic B Claims Pending / Paid Claims to be Approved; Council Member Wheelock seconded the motion.

**ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.

### 5. PUBLIC INPUT: Members of the Public may address the Mayor and Council on any item not currently on the Agenda or on items currently or potentially set for a Public Hearing. Comments regarding City Staff, Elected Officials and private citizens should be made in a private meeting with the Mayor. (**LIMIT FOUR MINUTES PER PERSON**)



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**Skip Banach of 9857 W. Golden Rain Street, Star**, asked the Council to review the City Charter and consider having a Citizen Review Board for the Police, as Mr. Banach said that the police cannot police themselves.

Banach stated that Star is no longer a Mayberry-type small town, and that the city is fast-approaching a population of seventeen thousand citizens. He said he thought the current population might easily double in another five years. Banach said he had spoken with a number of people in Ada County who agreed that a Citizen Review Board was needed in Idaho; he said that he was here to start with Star.

Banach said he felt a police review board should be composed of retired police officers, prosecutors, attorneys, and at least one mental health professional; he further stated that no retired officer or acting officer from the State of Idaho should be on such a board to keep the board above reproach. Per Banach, that way people all the way from Coeur d'Alene to the Treasure Valley would go to the same Advanced Official Training and none of them would know each other.

Banach stated that from 2020 to 2023 there have been seventy-one people killed by the police in the State of Idaho and that to put that in perspective, he is a retired San Diego police officer who served a significantly larger population base and in twenty years San Diego has had only eight killings by a police officer. Banach pointed out the disparity, noting that San Diego has many more problems including human trafficking, gangs, cartels, and the fentanyl problem. Mr. Banach stated he was not seeking a position on the proposed board, but rather that he was pursuing this for residents of the City of Star and anyone moving here, so there would be police oversight.

Council Member Nielsen told Mr. Banach that he knew Banach was standing before Council with a great personal loss, and just wanted to recognize that. Nielsen inquired about Banach's recommendation of a civilian review board, as he noted Banach was talking about the proposed board having the power to subpoena and the power to make recommendations that need to be implemented without prejudice; he asked Banach how it is different from the Department of Justice and the jury process.

Banach replied that it places oversight knowing that law enforcement and citizens know they are being protected. Banach noted that where we are missing the accountability today, for example, is that the problem is that police officers cannot police themselves or else they would be ostracized. Banach pointed out that police internal review involves organizations where people know one another, and that is why he feels a civilian board is needed.

Mayor Chadwick thanked Mr. Banach for speaking and advised that the Council could take this up under advisement and there would be a lot more involved. Council Member Nielsen said he appreciated Mr. Banach taking time to speak and that he would be happy to look at the book that Mr. Banach offered for Council Review.



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Mayor Chadwick advised the City Council would consider the agenda items out-of-order this evening, with the Public Hearings section to be heard first and consideration of Action Items to be heard after.

6. **ACTION ITEMS:**(The Council at its option may suspend the rules requiring three separate readings on three separate days for ordinances on the agenda for approval. This may be by a single motion to suspend the rules under Idaho Code 50-902; second of the motion; ROLL CALL VOTE; Title of the Ordinance is read aloud; motion to approve; second of the motion: ROLL CALL VOTE.)
- A. **Ordinance 385-2023 (Hood Rats Rezone & Development Agreement):** AN ORDINANCE REZONING CERTAIN REAL PROPERTY LOCATED IN THE CITY OF STAR, ADA COUNTY, IDAHO; MORE SPECIFICALLY LOCATED AT 11525 W. STATE STREET IN STAR, IDAHO (ADA COUNTY PARCEL R1842701715); THE PROPERTY IS OWNED BY NEWELL AND ELIZABETH PRICE; ESTABLISHING THE ZONING CLASSIFICATION OF THE REZONED PROPERTY AS CENTRAL BUSINESS DISTRICT WITH A DEVELOPMENT AGREEMENT (CBD-DA) ON APPROXIMATELY .19 ACRES; DIRECTING THAT CERTIFIED COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE. **(ACTION ITEM)**
- Mayor Chadwick noted that Topic 6.A. Ordinance 385-2023 (Hood Rats Rezone & Development Agreement) was removed from this evening's proceedings and will come back at a later date. **No vote taken.**
- B. **Ordinance 383-2023 & Development Agreement: Naismith Commons Subdivision Annexation** - AN ORDINANCE ANNEXING TO THE CITY OF STAR CERTAIN REAL PROPERTY LOCATED IN THE UNINCORPORATED AREA OF ADA COUNTY, IDAHO; MORE SPECIFICALLY LOCATED AT 8895 W. JOPLIN ROAD, IN STAR, IDAHO (ADA COUNTY PARCEL S0419314950 & S0419325800) AND CONTIGUOUS TO THE CITY OF STAR; THE PROPERTY IS OWNED BY BEACON CROSSING LLC; ESTABLISHING THE ZONING CLASSIFICATION OF THE ANNEXED PROPERTY AS RESIDENTIAL WITH A DEVELOPMENT AGREEMENT (R-4-DA) OF APPROXIMATELY 53.58 ACRES; DIRECTING THAT CERTIFIED COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE. **(ACTION ITEM)**
- Council Member Hershey moved to introduce Ordinance 383-2023 and suspend the rules requiring three readings and 383-2023 be considered after reading once by title; Council Member Wheelock seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.
  - Council Member Hershey read the title and moved to approve Ordinance 383-2023 and Development Agreement; Council Member Wheelock seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.



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- C. **Ordinance 386-2023 & Development Agreement Garnett Subdivision Annexation:** AN ORDINANCE ANNEXING TO THE CITY OF STAR CERTAIN REAL PROPERTY LOCATED IN THE UNINCORPORATED AREA OF CANYON COUNTY, IDAHO; MORE SPECIFICALLY LOCATED AT 6697 FOOTHILL ROAD IN STAR, IDAHO (CANYON COUNTY PARCEL R3379700000) AND CONTIGUOUS TO THE CITY OF STAR; THE PROPERTY IS OWNED BY OPUS DEVELOPMENT LLC; ESTABLISHING THE ZONING CLASSIFICATION OF THE ANNEXED PROPERTY AS RESIDENTIAL WITH A DEVELOPMENT AGREEMENT (R-1-DA) OF APPROXIMATELY 5.23 ACRES; DIRECTING THAT CERTIFIED COPIES OF THIS ORDINANCE BE FILED AS PROVIDED BY LAW; PROVIDING FOR RELATED MATTERS; AND PROVIDING FOR AN EFFECTIVE DATE. **(ACTION ITEM)**
- Council President Hershey moved to introduce Ordinance 386-2023 and suspend the rules requiring three readings and 386-2023 be considered after reading once by title; Council Member Council Member Wheelock. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.
  - Council Member Hershey read the title and moved to approve Ordinance 363-2023 Development Agreement; Council Member Wheelock seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.
- D. **Historical Committee Request** - Committee is requesting additional funds to complete the Historical Kiosk Project **(ACTION ITEM)**

Topic 6D was discussed out of order starting at 9:17 p.m.

Chip Sitton, chair of the Star Historical Committee, was joined by committee member Lynn Davis; both provided an overview of the committee's request. Sitton said the Historical Committee would like to request additional funds for the kiosk from Catapult 3, and explained that the kiosk is a display of oral histories collected from Star residents over the last several months.

Sitton explained that the committee originally expected to hold only five interviews, which expanded to over fifteen and over one to two hours in length. The committee considered a low tech flip book which would include the entire text of the interviews in written form, but found the flip books were not a viable option. They considered revising the kiosk to include an iPad and anticipated having two more rounds of citizen interviews.

Sitton and Davis noted the kiosk would be owned by the City but also be multi-use; and that the proposal would give some long-term benefits to the City. He said the committee proposed a fifteen-minute compilation of segments of the various interviews and that they would like to open it for public viewing in the next few months with an introduction in the council chamber. He noted it is an additional approximately \$9,000.00 to the originally approved amount.



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The City Council questioned the screen size of the recommended iPad; Sitton verified it was a 10.9 inch iPad. Council discussion surrounded providing QR codes vs. citizens standing to view content at the kiosk and how citizens of different abilities or who had security concerns and didn't want to use a QR code could potentially access the material.

Council Member Wheelock asked where the kiosk would be stored. Davis noted that the committee had over thirty hours of footage, and that a concern was bringing it down to a viable amount with a fast way of going through the text; and that the kiosk would be housed at City Hall.

- Council Member Hershey moved to approve the Star Historical Committee's request for additional funds for the Historical Kiosk project, in an amount not to exceed \$1,500.00 and with the condition of approval, inclusion of the larger iPad screen; Council Member Wheelock seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.

**7. PUBLIC HEARINGS with ACTION ITEMS:** (The Council at its option may suspend the rules requiring three separate readings on three separate days for ordinances on the agenda for approval. This may be by a single motion to suspend the rules under Idaho Code 50-902; second of the motion; ROLL CALL VOTE; Title of the Ordinance is read aloud; motion to approve; second of the motion: ROLL CALL VOTE.)

- A. **PUBLIC HEARING: Dude Dewalt Cellars Winery & Event Center (FILE AZ-23-02 / CPA2-23-01 / DA-23-04 / CU-23-05)** - The Applicant is requesting approval of an Annexation and Zoning (RR Rural Residential), a Comprehensive Plan Map Amendment, a Development Agreement, and a Conditional Use Permit for a proposed winery and events center to be located within the City of Star. The property is located at 5446 Hwy 16 in Star, Idaho, and consists of 34.60 acres. **(ACTION ITEM)**

Topic 7A was considered out of order starting at 7:14 p.m.

Mayor Chadwick explained the public hearing process. Chadwick asked if any Council Member had any ex parte communication to report, hearing none, he opened the Public Hearing at 7:16 p.m.

City Planner Shawn Nickel presented slides summarizing the request and pointed out to Council two late exhibits received after the agenda deadline, one letter in opposition from Fiorino and one letter in favor from Shirley. Nickel stated that there were no outstanding issues from the Staff's perspective, and agency letters in favor of the application were present in the Council packet from the Star Fire District, ATD, and Ada County. Nickel said that Staff recommended approval of the application with conditions of approval; he noted that if Council should choose to approve the development agreement that it would come back before Council with those conditions of approval later once the findings of fact are completed and adopted by Council.

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**Applicant presentation:**

**Trey and Zana Buchert of 5446 Highway 16, Star,** thanked the Mayor, Council, and attendees in the audience who came in support for participating this evening. The applicants said they represented Dude DeWalt Cellars, and that they had purchased the land where Dude DeWalt is located in 2002 and moved onto the property in about 2003. They noted raising their two sons in Star and they now have four grandchildren. Trey Buchert noted that in 2011 they made their first batch of wine and kept working at it and finally around 2017 some friends suggested that they think about selling it. Using a slide presentation, Buchert explained that Dude DeWalt Cellars has been through three prior conditional use permit processes with Ada County; the first one was the establishment of the winery in 2019, then an additional buildings request (production facility, case storage, and new tasting room) in 2021, and a request for event center designation in 2022, and that all three requests were approved.

Buchert explained the nature of their request to be annexed into the City involved some changes that the winery needed to make, including having production storage and case storage increased in size by approximately twenty percent, hoping to move the case storage to a more convenient place closer to the house, and add another potential location for a new tasting room which would be farther away from the neighbors on the other side of the property. The applicant stated additional time, perhaps as much as ten years, would be needed to build out the various projects, and they've asked for an increase of twenty-five more people be added to their already Ada County-approved limit of one hundred attendees, to arrive at a proposed one hundred and twenty-five attendees. Buchert noted another hope in requesting to annex into Star was to become a part of a community.

Council inquiry surrounded the location of neighbors. Buchert explained there are two neighbors located to the south, with the Fiorino property immediately to the south and used the map to point to the location of the Hill/Fairbanks property, which he noted was about three-football field distance from the Dude DeWalt tasting room.

The applicant gave an overview of various neighborhood concerns, summarizing the concerns were basically noise from people talking at the winery, from musicians, and from seeing the parking lot and parked cars. He listed mitigating factors, such as the placement of existing mature trees between the winery and the neighbors to the south, the existence of a berm that the winery was required to put up in front of a row of trees, and about two-hundred immature trees and shrubs planted on the berm to help shield the view from the neighbor properties, and existing young grape vines.



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Buchert stated that when the winery has music, they aim the musicians away from the direction of the neighbors and they keep music levels at a reasonable level and have them only within reasonable timeframes with most music ending at 7:00 p.m., they are law-abiding and have had no written violations of any kind in the past three years. Buchert emphasized the community aspect of the winery, noting residents from Star have held birthdays, showers, anniversaries, and even wedding proposals there. He noted compatible uses are located on one of the busiest highways in Idaho, Highway 16, with the River Birch Golf Course, the First Miracle Restaurant, Firebird Raceway, and now the upcoming Willowbrook Golf Course nearby, and stated that Dude DeWalt will also provide employment opportunities. The applicant stood for questions.

**Public Comment:**

**Brian Howard, 3393 N Cherry Laurel Way, Star**, said that he and his wife moved to Star in 2020 and were used to great wineries in Southern California and Paso Robles. He said his family was missing great wineries and found one as well as community in Dude DeWalt. Howard noted the saying that good fences make good neighbors and said he disagreed with that. Rather, he said he felt that good neighbors make good neighbors. He said his daughter had her wedding celebration at Dude DeWalt and it was a time of joy, kindness, and friendship and that Dude DeWalt Cellars helped make the most important day of his family's life an extremely pleasurable one. He expressed support for annexing the winery into Star.

**Jerry Brakebill, 1140 N. Luge Avenue, Eagle**, said he originally wasn't going to comment, but like the speaker before him, he and his wife had moved to the area three years ago from Southern California. He said after meeting the Bucherts and their entire staff, he noted they are incredible people, and he considered the proposed inclusion of the winery as part of the City to be a great opportunity for Star and he feels they will bring so much to the community.

**Korina Bennallack, 9926 Stony Brook Way, Middleton**, stated she is the general manager at Dude DeWalt and her husband works in the wine production area. She said she and her husband both make a living for their family at the cellars, and the small team environment that they pride themselves on ensures a low turnover rate among employees. She said their team is a family, and they serve and treat the community like family. She said the music and activity at the winery is taken seriously by staff and the Bucherts have been very transparent with staff as they want to be good neighbors and staff needs to be respectful with music volume and acoustics. She said this is the reason the winery pursues one-man bands and uses a small sound system with music going no later than 7:00 p.m. She noted the last couple years have not been easy as the team has tried to do what they could to make the neighbors happy. She further stated the staff is TIPS certified and have all taken the ISP ABC certification online, and they are well aware of their responsibilities as servers, taking pride in serving their community lawfully and respectfully. She said the winery team is excited to make the City of Star their new home.

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**Nick Bennallack, 9926 Stony Brook Way, Middleton**, stated Korina is his wife and he is also employed by Dude DeWalt Cellars, and the owners are not only fantastic people to work for but they're like family and are role models for he and his wife. He said that the Bucherts are people that most people would love to have as neighbors, and they are business owners that would be incredible for the City of Star.

**David Stephens, 2660 N. Penny Lake, Star**, said he has lived in Idaho nearly his entire life and he bought a home in Star fifteen years ago. He noted he met the winery owners about two years ago, and he looks up to them as they own a business with a peaceful atmosphere and are wonderful people. He said he also owns a small business in the City of Star and would like to see Dude DeWalt Cellars annexed into the City because he respects business owners who work very hard.

**Danny Robinson, 1765 N. Willowbrook Place, Star**, said he and his wife Cindy love their life in Star and were told a few years ago about Dude DeWalt which is just a few miles from their home. He said from day one, they were impressed with the winery and more importantly, the people. Robinson stated his family cancelled all their other wine memberships and are wine club members only at Dude DeWalt because they feel the winery produces the best wines in Idaho. He noted the Bucherts' faith and they have set aside one night a month at the winery for worship service.

**Todd Collins, 4718 N. Echo Summit Way, Star**, provided a written statement and stated he is for the annexation and expansion of Dude DeWalt Winery as proposed, but he was speaking out to note the hazardous conditions being created along this portion of Highway 16 from Beacon Light North regarding numerous nearby developments which have been approved or are in the process of being approved with direct access to Highway 16. He expressed concern over the possibility of increasingly dangerous road conditions with respect both to left turns into the DeWalt winery and with respect to the increased population moving into those new developments. He proposed the Dude DeWalt Winery have their entrance re-aligned with Deep Canyon and include a left turn lane.

**Scott Nickell, 662 N. Culver Creek Avenue, Star**, said he moved to Star three years ago from Western Washington, he has been an influencer for twenty years, and he is currently the wine editor for Star Spirit Magazine. Nickell said in all his years of speaking to wine makers, Dude DeWalt Cellars is the most community-oriented winery he has ever come across, and their team is one big family. He noted besides supporting worship, Dude DeWalt also fully supports law enforcement through tactical equipment donations and the placement of the thin blue line flag on their property.

**Jon Courtney, 3023 N. Cherry Grove, Star**, said Dude DeWalt was one of the finest places he has visited in terms of a wine bar/winery. He noted there were many wine club members here in the audience attending in support of the winery, and they are really unique and would be a welcome member of the Star community.



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**Kent Borgman, 634 S. Redonda Way, Star**, said he moved here back in the 1990's and he was an Air Force brat for twenty years, noting that when you're in the military you learn to be a good neighbor. Borgman said that he serves on the HOA board at Heron River. Borgman said he has known Trey Buchert for twenty-six or twenty-seven years and that they met originally at church and had travelled to Israel together. He noted the Bucherts were incredible people with character. Borgman stated that the Bucherts have had to deal with ridiculous things through this process, including people flying drones over their property, a neighbor hiring an underage kid to try to buy alcohol from them, and a neighbor backing up a pickup truck with a large speaker and blasting ACDC during their worship service. He noted the Bucherts' faith in God and said that he and his wife had suggested that they start this business.

**Kathy Peters, 9254 W. Whitecrest, Star**, said she and her husband grew up in small country towns and were looking to get out of the rat race. She said they found Dude DeWalt not because of their wine, but because they had a forum where they had candidates speaking, noting that meant to her family the winery was not just in the community to make a profit but also to make a difference. She said it was important to her they hold the worship because it is very special.

**David Blackstock, 2252 Hawk Creek Circle, Emmett**, said he goes to a winery and doesn't drink. He said his wife enjoys wine; and he typically avoids going to wineries except this one. He said Dude DeWalt immediately makes customers feel great about being there and the owners and staff are enjoyable to be around.

**Suzy Campbell, 5832 N Rosepoint Place, Boise**, said she was born and raised here in Treasure Valley and has the privilege of raising her family in the same amazing community. She said every time she has attended events at Dude DeWalt, the atmosphere has been warm, welcoming, and peaceful. She stated the music has been quiet and inviting, a simple instrument and a gentle vocalist, noting the winery was punctual in her experience with their live music ending promptly at 7:00 p.m. and closing the cellar down at 8:00 p.m. She stated the facility is always very well maintained and clean, and the vegetation is well cared-for and cultivated. She said she has visited there since 2021 and she attends their events once or twice a month, noting with respect to community the owners/staff know her by name and show a genuine interest in her life. Campbell said it is a unique and special place.

**Isaac Ax, 1041 White Horse Ridge Drive, Middleton**, said the owners are some of the most caring people he has ever met. He said within two weeks of moving to the area, he found a job with them caring for the plants and vegetation and is still employed with them. Ax said he heard a legend about Star, that during the time of the Oregon Trail if you came to a little town in Idaho with a star on the door, that it would be hospitable. He said he thinks the Dude DeWalt Winery is the exact representation of the legend, and they have strong faith, and are loyal and trustworthy. He said he has spent hours with owner Trey Buchert digging holes in the berm in order to plant trees to be neighborly towards the neighbor.

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**Keith Hill, 8602 W. High Ridge Lane, Eagle**, stated the owners of Dude DeWalt obtained their alcohol permit through a materially false statement, they have sold alcohol to minors, and Hill has videos showing his concerns. Hill stated the tasting room is designed for thirty-nine people, and the owners added an event tent doubling its occupancy in violation of Ada County's conditional use permit. The AG is in violation of the 125-foot setback and is violated all the time and they extended their parking lot all the way up to the berm to (Hill's) property line. Hill stated they also park on the grass and the driveway, and he feels Star Fire will have a problem with the conditional use permit. Hill stated Ada County said to screen the parking lot with six-foot trees but they planted six inch trees. Hill noted that Dude DeWalt serves pizza but is not a restaurant and does not possess any of the appropriate authorizations. He said they violated the hours of their existing C.U.P. with Ada County, noting a Valentine's dinner that ran from 6:00-8:00 p.m. this year and stating the winery should have hours truncated to 6:00 p.m. every day for safety. Mr. Hill said Dude DeWalt hoped they could get Ada County to administratively alter their conditional use permit to extend by twenty to twenty-five percent the size of their buildings. Hill said he is not opposed to their buildings, particularly north of the residence he has no problem with that at all, but says he feels that is why they have fled the County to Star. Hill said his problem is noise, specifying drunk behavior in the parking lot and from the patio. Hill played a ten second sound clip, which he stated was taken from his deck three football fields' distance away from the winery.

**Barbara Fairbanks, 8602 W. High Ridge Lane, Eagle**, identified that Keith Hill is her husband. She said she and Mr. Hill purchased their property for the quiet beauty of the foothills, and they bought the last undeveloped parcel in their subdivision and had no knowledge of Dude DeWalt Cellars until after they had closed on their property in January 2019. She said the area around them was all rural residential and developed, so their perspective was "what could go wrong." She said they had no idea what was coming for them with outdoor music, which is amplified, traffic lights, and escalating crowd noise as wine is poured. Ms. Fairbanks stated it can be a daily happening in nice weather, so it's not like regular neighbors who might get noisy or throw a large party a couple of times a year, which would be no big deal. She said she and Mr. Hill had no objection to being next to a winery with a small tasting room with five to seven parking spaces as with the original conditional use permit. Fairbanks said as such, she and her husband went ahead and started building their house which they have lived in for a little over a year. She said as they went through the conditional use permit process with Ada County, the term property rights came up frequently, but it was almost always in reference to the Bucherts being able to have the right to use their property, not the property rights of neighbors to use their own properties for peaceful enjoyment of the foothills. She stated while she can understand the patrons of Dude DeWalt Cellars wanting to be at Council to support the business, the fact is patrons don't have the potential to experience any of the negative impacts she and Mr. Hill as neighboring property owners do since they are there every day. She asked Council to deny the application.

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**Paul Hudson, 8604 W. High Ridge Lane, Eagle,** said he and his wife have lived in Idaho since 1971 and their property is one of the four parcels adjacent to the subject property. He said the applicants invited them and they sat down in their living room and the applicants said they would like to have a little winery with five or six parking spots and two employees and the Hudson's said hey, that's great. Mr. Hudson stated since then, the winery has grown and grown to the point even the County Commissioners kind of put a halt on it and that's why the applicant has circled around to the City of Star, to evade the restrictions of the County. Mr. Hudson said the Ada County Planning and Zoning Commissioner stated what the applicant originally put up was like a pup tent compared to now being a three-ring circus and devaluing the neighboring properties. Mr. Hudson said he has been a real estate broker for fifty-two years, is a realtor emeritus, and he can say it will damage the neighbors' property values. He said having a nice vineyard next door is great, but this is an entertainment center. Hudson said he felt Highway 16 is probably the deadliest highway in Idaho, and expressed worry there will be deaths on the stretch of road due to serving alcohol. He stated he has lived on his property for twenty-five years, and asked the Council to consider safety, property value, and quality of life over what's nice and enjoyable for people.

**Sara Keyes, 3386 S. Long Bay Way, Star,** noted she had researched this topic over the years and asked to talk about zoning and the exit on Highway 16. Ms. Keyes displayed minutes from the City Council meetings when she gave public testimony, noting one time she said the situation was much like a frog that gets put in a pot of cold water over a flame that doesn't jump out as the heat rises. She mentioned incrementalism, noting step by step over the years the applicant brought in a tent and now it is a three-ring circus. She referenced the recording that Mr. Hill said was from his house on his phone, and also noted concerns over the exit with a fifty-five mile-per-hour zone that comes out right on Highway 16. Keyes said she understood the Council wanted commercial businesses but said the Comprehensive Plan and what Rural Residential means also needs to be considered. She said the applicant has turned their pup tent winery into an event center, and she's not sure where an event center fits in to Rural Residential. Ms. Keyes said she feels the applicant has not been a good neighbor, and no one would approve a bar or brewery there or an event center as it rural.

**Chris Todd, 10497 W. Deep Canyon, Star,** said that the AVA (American Viticultural Area) is kind of a big deal and nobody hit on that when he moved here twenty years ago. He explained that the AVA was supposed to be a large area of basically sixteen to fifty-five in the foothills which would be wine and viticultural businesses. He said not many have come in those twenty years, and they have made a lot of NIMBY's (Not In My Back Yard) which don't want this in their backyard. Mr. Todd said at the end of the day, the AVA brings in employment, and a product which is grown in Idaho/made in Idaho/sold in Idaho. He said he felt it brings in the commercial component, a business that is owned by locals with local customers and it is a big deal to have economic, social, and land use benefits. He stated he is the President of the Star Chamber of Commerce and noted the applicant's support of the Chamber, community support, and support of the police. Todd noted he felt their application was consistent with the zoning code and comprehensive plan. He concluded by stating he was in support of the project.

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**Scott Emerich, 4981 N. High Prairie Place, Star,** identified he was President of the Hillsdale Estates HOA but noted he was not representing the HOA on this matter. Emerich said he felt the zoning should reflect its actual primary use and it is clear the use is a commercial setting, not a residential one. He pointed out Dude DeWalt is an LLC registered by the State of Idaho and is clearly a commercial venture. Emerich pointed out the hours of operation as described in the council packet could present some noise problems if the winery does decide to do some night-time cultivation or other wine-producing operations. He noted from Page 133 the Ada County conditions required re-application of the ITD permit and the trip generation would clearly be going to increase. Emerich suggested the Council should require re-application as a condition of approval, as well as improvement of the driveway. He said the comprehensive plan should be considered in this matter.

**Applicant Rebuttal:**

**Trey Buchert, 5446 Highway 16,** noted there was potential to farm at night but he doesn't believe they have been out farming at night time. However, he said they do fall under the Farm Act and in this region, he felt it was critical to bring it to everyone's attention. He clarified with respect to a letter referenced from ITD the right turn lane for Dude DeWalt will be incorporated into Spring Valley's project, noting when the letter was written, they had not finished the engineering yet so the engineering includes the left turn lane and a right turn lane.

Council Member Wheelock asked about the requested change from one hundred to one hundred and twenty-five. Buchert said the requested increase allows for winery events to have what they need to always be in compliance without looking over their backs every time they have an event at the winery.

Buchert explained the winery was open Wednesday, Thursday, Friday, and Saturday, with Wednesdays and Thursdays planned from noon to 6:00 p.m. and Fridays and Saturdays open until 8:00 p.m. He said music generally starts at 4:00 p.m. and ends at 7:00 p.m. Sundays and Mondays, he said they typically do not do anything at the winery unless it is a small private party with friends because his family lives on the property. He mentioned the winery holds Mondays and Tuesdays as available for local community events, such as an office meeting, noting this was quite seldom.

Council Member Hershey remarked the winery does exist, and he hears the opposition is acting like they don't exist. He asked for clarity on what is really changing, other than the thirteen stipulations. Buchert replied very little is actually changing regarding the buildings and size, they are supposed to be able to administratively increase by twenty-five percent and move the building, which would be an advantage to the neighbors. Attendance would increase from one hundred to one hundred and twenty-five on the small event size, and notice would have to be given of anything over that.



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Council Member Nielsen asked if Dude DeWalt had ever been cited for any of the violations which were referenced tonight. Buchert replied they had not.

Council discussion moved to the applicant being willing to commit to hours / times and recommendations for the driveway to be improved to meet Star Fire needs.

Mayor Chadwick closed the public hearing at 8:32 p.m.

### **Council Deliberations:**

Council Member Nielsen said he wanted to clarify this application was in compliance with the zoning ordinance with respect to the conditional use permit and said that he appreciated the application. For testimony, he noted the traffic concerns along Highway 16 are significant, and the Cities of Star and Eagle are working together. He noted in Idaho, we do not have improvements until there is demand which requires it; and the city does not have the ability to bind ITD and must trust our partners to comply. He said he is satisfied the applicant has been working with the various agencies. He mentioned this is bringing an existing business in to Star and offers protection for the citizens, because if there are any code violations the winery will have to answer to our City Code Enforcement instead of to Ada County.

Council Member Wheelock noted other than the change from one hundred to one hundred and twenty-five occupancy, he does not see it changing much other than the turn lanes left and right for the safety of patrons and the public. Wheelock stated safety was his most important issue, but the residential farming vineyards and the Right to Farm Act is also important.

Council Member Nielsen noted that along the highway is a great place to have a business and when it comes to a winery, there are not too many places you can zone commercial and then successfully have a vineyard and it makes sense to have the winery adjacent to it which is why it would be a conditional use per the city code.

- Council Member Nielsen moved to approve the Dude DeWalt Winery and Event Center (File ZA-23-02 / CPA2-23-01 / DA-23-04 / CU-23-05) application finding the application is consistent with the comprehensive plan and zoning and thirteen conditions of approval as listed in the staff report and (correction) thirteen additional conditions of approval for a total of twenty-six and to direct Staff to find Finding of Facts and Conclusions of Law; Council Member Hershey seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.

Mayor Chadwick called a brief recess at 8:39 p.m.

Chadwick called the meeting back to order at 8:45 p.m.



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- B. **PUBLIC HEARING: Inspirado Commercial Annexation (FILE: AZ-23-04 / DA-21-11)** - The Applicant is requesting approval of an Annexation and Zoning (MU Mixed Use) and a Development Agreement modification for two future commercial parcels and a parcel for future roadway. The properties are located at 7230 W. Chinden Blvd and the intersection of W. Old School Drive and N. Mystic Creek Ave, Meridian, Ada County, Idaho, and consists of a total of 5.26 acres. **(ACTION ITEM)**

Topic 7B was heard out of order starting at 8:44 p.m.

Mayor Chadwick explained the public hearing process. Chadwick asked if any Council member had had any ex parte communication, hearing none he opened the public hearing at 8:45 p.m.

City Planner / Zoning Administrator Shawn Nickel used a slide presentation (on file) to provide an overview of the Inspirado Commercial Annexation, with a designation of Mixed Use and a development agreement. He stated the application was submitted and met the requirements of the Unified Development Code, and agency transmittals were taken care of including legal notices and site postings. He said the application was reviewed for compliance with the City Comprehensive Plan and Zoning Ordinance including the South of the River Plan and there were no outstanding issues. Nickel said Staff recommended approval with conditions as noted in the staff report.

### **Applicant Presentation:**

**Nicolette Womack of Kimberly Horn, 1100 W. Idaho Street, Boise**, presented on behalf of the applicant. She utilized a slide presentation to depict Inspirado Phase 5, for annexation and zoning with a development agreement. Womack thanked the Council, and said her team was there to request to bring a few parcels into the City and assign MU and R3 PUD Zoning.

She clarified the request was also for the development agreement for Inspirado the original one to be modified to include these parcels as shown in the slide presentation, noting a total of 4.2 acres and a parcel along Chinden is a parcel her client has recently acquired and would like to develop consistent with the rest of the adjacent parcels to achieve consistent setback and use requirements. Ms. Womack noted a parcel on Old School Road, which she stated was a cleanup item and allows Old School Road to continue eastward. She noted Mixed Use and R3 are along Star Road. Womack displayed conceptual elevations and uses she said could be anticipated along Chinden.

With respect to annexation findings, Womack said they reviewed the subdivision area to the South of the River Plan and there is strong retail potential, and the designation is appropriate as a measure allowing Star to either augment the corner development with complementary inline retail and dining tenants or to preserve some of the parcels for later multi-family use or other development. Womack noted this flexibility is important given the current uncertain trajectory of brick-and-mortar retail. The applicant stood for questions.





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### **Public Testimony:**

**Jeanette Johnson of 6760 N. Misty Creek Avenue, Meridian appeared on behalf of Hector Castellanos-Rizo of 6765 N. Misty Creek Avenue, Meridian.** Ms. Johnson explained Mr. Castellanos-Rizo has the property next to the small parcel mentioned in the applicant presentation, the total is 5.6 acres, but the legal documents all have 5.26 acres listed. She said there is a difference when filing the documents, and asked for clarification on where the difference and where the land is, wanting to understand if it is in the Inspirado project. She noted the seven pieces of property, and asked if there is something in between and why annex in between, also why would those seven properties need to get the road to go through. Ms. Johnson pointed out Mr. Castellanos-Rizo's property is actually at a small circle on the map and that the total does come to 4.2 acres, but in all the legal documents it shows a difference of 1.043 acres.

Council Member Nielsen said council relies on people like Ms. Johnson to come and provide testimony so Council can take all of this into consideration.

Applicant representative Ms. Womack explained that the question was on the acreage, and she was able to pull up the legal descriptions which are certified by licensed surveyors. She noted it does have 5.26 noted in the legal description of this permit, and they did note there is a minor error in the report where it mentions the smaller amount.

Ms. Womack stated she believed the difference has to do with the right of way calculation when you annex because annexations usually take the center line. The ITD right of way would usually annex to the center line of Chinden and so it would go beyond the exiting property line so the parcel legal descriptions will be smaller but go to the center line of the road. Womack reiterated this was a cleanup application to clean up the Old School Road access, and then including a parcel which was not previously owned by her client but is at this time, and they would like to develop it consistently. She further noted in the copy of the development agreement with the staff report of page 16 #2, parcels are indicated as mixed use on Star Road and commercial on Chinden.

Mayor Chadwick noted a big challenge is he doesn't want Star to start making 25-30 residential He said he wanted to preserve Star's commercial corridor without having additional residential go into that area. Council discussion ensued on the topic of multi-family apartments, with possible retail on the bottom floor. Council President Hershey said he was in agreement with the Mayor and there should not be residential in that parcel, stating a position of no on multi-family.

Mayor Chadwick closed the Public Hearing at 9:10 p.m.



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### Council Deliberations:

- Council Member Nielsen moved to approve the Inspirado Commercial Annexation (FILE: AZ-23-04 / DA-21-11) with the condition of approval the additional small R3 parcels may be used as a roadway only with no structures/multi-family dwellings; Council President Hershey seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.

- C. **PUBLIC HEARING: Vacation of Utility Easements for Milestone Ranch Subdivision (Hoot Nanney Farms) (FILE: VAC-23-01)** - The Applicant is seeking approval of a vacation of existing utility, drainage and irrigation easements within the new Milestone Ranch Subdivision and original Hoot Nanney Farms Subdivision. . The property is located at 8542 Broken Arrow Street (formerly W. Floating Feather Road) in Star, Idaho and consists of approximately 70.52 acres with a proposed density of 4.24 dwelling units per acre. **(ACTION ITEM)**

Topic 7C was considered out of order starting at 9:11 p.m.

Mayor Chadwick explained the public hearing process. Chadwick asked if any Council member had had any ex parte communication and hearing none he opened the public hearing at 9:11 p.m.

City Planning & Zoning Administrator Nickel gave a brief overview of the application, noting it was for the vacation of utility easements for the Milestone Ranch subdivision. He clarified the request is for vacation of the existing utility easements in the original Hootenanny subdivision which is now the Milestone Ranch subdivision. Nickel noted all application requirements including agency transmittals, legal notices, and site postings have been completed, the Uniform Development Code requirements were met, and the application was reviewed for compliance with City Codes and the Comprehensive Plan.

Nickel referenced the exhibits to the Staff Report contain the waiver letters from the agencies which have easement within the subdivision and there are no outstanding issues. Mr. Nickel also noted the City Engineer has reviewed the application for compliance with all survey and engineering matters and the Staff Recommendation is for approval with conditions as listed in the staff report.

### Applicant Presentation:

**Kyle Pruitt of 3103 W. Cheryl Drive, Meridian, appeared on behalf of Toll Brothers.** Mr. Pruitt gave an overview of the company, explaining Toll Brothers is a national Fortune Magazine #1 award-winning homebuilder and they employ over one-hundred-and forty Idahoans here in the Meridian area and they have a number of communities being developed in Star.

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Pruitt utilized a slide presentation to show the location of Milestone Ranch, noting it was northwest of Emmett Highway/Highway 16 and pointing out proximity to Floating Feather Road. He stated the subdivision was approximately seventy acres, with two hundred eight-four residential lots and thirty-three common lots. Pruitt said Toll Brothers had recorded phase one of the subdivision the day before (July 17) with approval from the Ada County surveyor. He noted other phases were planned for and their various statuses.

With respect to this evening's application, Pruitt explained the two easements in question were on the previous Hootenanny Farm Subdivision and were recorded in Ada County in 2010. He described the first was a ten-foot utility easement located along the exterior boundary of the subdivision except for ninety feet along the south boundary of Lot One (the southern section near Southeast corner of the three parcels and the second easement was a ten-foot public utilities drainage and irrigation easement lying five feet on either side of all interior lots.

Pruitt referenced letters from CenturyLink, Idaho Power, CTC Telecom, Star Sewer & Water District, Sparklight, and Intermountain Gas as being letters of approval and/or letters of no objection with respect to the previous Hootenanny Subdivision easements being vacated. The applicant stood for questions.

**Public Testimony:**

None was offered.

Mayor Chadwick closed the public hearing at 9:17 p.m.

**Council Deliberation:**

- Council President Hershey moved to approve the Vacation of Utility Easements for Milestone Ranch Subdivision (Hoot Nanney Farms) (FILE: VAC-23-01) with conditions of approval as stated in the Staff Report; Council Member Nielsen seconded the motion. **ROLL CALL VOTE:** Hershey – aye; Wheelock – aye; Nielsen – aye. Motion carried.

**8. ADJOURNMENT**

Mayor Chadwick adjourned the Star City Council meeting at 9:34 p.m.

\_\_\_\_\_/s/\_\_\_\_\_

Trevor A Chadwick, Mayor

ATTEST: \_\_\_\_/s/\_\_\_\_\_

Jacob M Qualls, City Clerk - Treasurer