



## CITY COUNCIL REGULAR MEETING AGENDA

City Hall - 10769 W State Street, Star, Idaho  
Tuesday, September 03, 2024 at 7:00 PM

**PUBLIC NOTICE: THIS MEETING IS RECORDED AND PLACED IN AN ONLINE FORMAT. PERSONS MAY EITHER VIEW OR LISTEN TO VIDEO / AUDIO OF THIS MEETING UNTIL SUCH TIME THE RECORDING IS DESTROYED UNDER THE CITY'S RETENTION POLICY.**

1. **CALL TO ORDER** – Welcome/Pledge of Allegiance
2. **INVOCATION** – Associate Pastor Calvary Star Church, Nathan Held
3. **ROLL CALL**
4. **PUBLIC HEARINGS with ACTION ITEMS:**
  - A. **CONTINUATION OF PUBLIC HEARING: Dieter & Catherine Gruner Variance (FILE: V-24-01)** - Applicant is seeking approval of a variance to the standards of the Flood Plain Application. The property is located at 686 S. Star Road in Star, Idaho . **(ACTION ITEM)....continued from August 20, 2024**
5. **ACTION ITEMS:**
  - A. **Contract Approval - Survey Work / BLM Project** - Approve / Authorize the Mayor to sign contract for Survey Work **(ACTION ITEM)**
  - B. **Contract Approval - Survey Work / Freedom Park Project** - Approve / Authorize the Mayor to sign contract for Survey Work **(ACTION ITEM)**
6. **CONSENT AGENDA (ACTION ITEM)** *\*All matters listed within the Consent Agenda have been distributed to each member of the Star City Council for reading and study, they are considered to be routine and will be enacted by one motion of the Consent Agenda or placed on the Regular Agenda by request.*
  - A. **Approval of Claims:**
  - B. **Findings of Fact / Conclusion of Law** - UHaul Annexation / CUP **(FILE: AZ-24-05; DA-24-05 & CU-24-03)**
  - C. **Findings of Fact / Conclusion of Law** - Joplin Rim Subdivision **(FILE: AZ-24-04; DA-24-04; PP-24-01 & PR-24-03)**
7. **ADJOURNMENT**



## CITY COUNCIL REGULAR MEETING AGENDA

City Hall - 10769 W State Street, Star, Idaho  
Tuesday, September 03, 2024 at 7:00 PM

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The meeting can be viewed via a link posted to the City of Star website at [staridaho.org](http://staridaho.org). Information on how to participate in a public hearing remotely will be posted to [staridaho.org](http://staridaho.org) under the meeting information. The public is always welcomed to submit comments in writing.

### **Land Use Public Hearing Process**

Public signs up to speak at the public hearing

Mayor Opens the Public Hearing

Mayor asks council if there is any Ex Parte Contact

Applicant has up to **20 minutes** to present their project

Council can ask the applicant questions and staff questions

Public Testimony (**3 minutes per person**)

1. Those for the project speak
2. Those against the project speak
3. Those who are neither for or against but wish to speak to the project
4. Council may ask the individual speaking follow-up questions that does not count towards their 3 minutes

Applicant rebuttal (**10 minutes**)

Council can ask the applicant and staff questions

Mayor closes the public hearing

Council deliberates

Motion is made to approve, approve with conditions, deny or table the application to a date certain in the future

Thank you for coming to the Star City Council meeting, public involvement is fantastic and helps in shaping our city for the future. As this is a public hearing, there will be no cheering, clapping, jeering or speaking out during the hearing. Only the person at the podium has the floor to speak during their allotted time. If someone does speak out, cheer, claps, etc. they will be asked to leave the hearing and or escorted out of the hearing. We want to keep these hearings civil so everyone can be heard.

Thank you for your participation.

Mayor Trevor Chadwick

## LEGAL NOTICE PUBLIC HEARING

Notice is hereby given that the Star City Council will hold a Public Hearing on **August 20, 2024** at the Star City Hall, 10769 W. State Street, Star, Idaho at 7:00 pm, or as soon thereafter as the matter may be heard.

**Application:** Dieter & Catherine Grunder  
Files # V-24-01 Variance

**Representative:** Bruce Hessing

**Owner:** Deiter & Catherine Grunder, 686 S. Star Rd. Star, Idaho 83669

**Action:** The Applicant is seeking approval of a variance to the standards of the Flood Plain Application. The property is located at 686 S. Star Road in Star, Idaho 83669

**Property Location:** The subject property is generally located at 686 S. Star Road. Ada County Parcel No R1842701804.

**Information/Comments:** A complete copy of the applications are available at City Hall for public review. The City invites all interested parties to attend the meeting and provide public testimony. Written comments will be accepted by the City up to 2 days prior to the date of the public hearing.

Services for persons with disabilities may be made available if notice is received in advance of the meeting by calling Star City Hall at (208) 286-7247.

Shawn L. Nickel  
Planning Director and Zoning Administrator  
[snickel@staridaho.org](mailto:snickel@staridaho.org)



# CITY OF STAR

## LAND USE STAFF REPORT

**TO:** Mayor & Council

**FROM:** City of Star Planning Department *Shawn T. Mack*

**MEETING DATE:** **August 20, 2024 – PUBLIC HEARING**

**FILE(S) #:** V-24-01 – 686 S. Star Road Variance

**OWNER/APPLICANT/REPRESENTATIVE**

<p><b><u>Applicant/Owner:</u></b> Dieter &amp; Catherine Gruner 686 S. Star Road Star, Idaho 83669</p>	<p><b><u>Representative:</u></b> Bruce Hessing, Hesscomm 2338 W. Boulder Bar Drive Meridian, Idaho 83646</p>
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**REQUEST**

**Request:** The Applicant is seeking approval of a variance from City Council to the Flood Ordinance 10-1-2 to construct a residential addition without adhering to the 2’ requirement to construct above the base flood elevation. The property is located at 686 S. Star Road in Star, Idaho.

**PROPERTY INFORMATION**

**Property Location:** The subject property is generally located on the west side of N. Star Road, south of S. Main Street. Ada County Parcel No. S0418417322.

**APPLICATION REQUIREMENTS**

Pre-Application Meeting Held	May 7, 2024
Neighborhood Meeting Held	July 10, 2024
Application Submitted & Fees Paid	July 15, 2024
Application Accepted	July 15, 2024
Residents within 300’ Notified	July 30, 2024
Legal Notice Published	August 4, 2024
Property Posted	August 6, 2024

**HISTORY**

- There are no previous applications for development on this property. The home was built in 1995. A remodel occurred in 2018.

**ZONING ORDINANCE STANDARDS / COMPREHENSIVE PLAN**

**Chapter 1 Flood Ordinance:**

**10-1-2: Definitions**

**FLOOD PROTECTION ELEVATION (FPE): The base flood elevation plus the freeboard.**

1. **In special flood hazard areas where base flood elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet (2') of freeboard;** and
2. In special flood hazard areas where no BFE has been established, this elevation shall be at least two feet (2') above the highest adjacent grade.

**10-1-4: Administration**

C. Floodplain Development Application, Permit, And Certification Requirements:

2. Permit Requirements: The floodplain development permit shall include, but not be limited to:

- a. A complete description of all the development to be permitted under the floodplain development permit (i.e. house, garage, pool, septic, bulkhead, cabana, pole barn, chicken coop, pier, bridge, mining, dredging, filling, rip-rap, docks, grading, paving, excavation or drilling operations, or storage of equipment or materials, etc.).
- b. The special flood hazard area determination for the proposed development in accordance with available data specified in subsection 10-1-3B.**
- c. The flood protection elevation required for the lowest floor and all attendant utilities.**
- d. The flood protection elevation required for the protection of all utility equipment and machinery.

E. Variance Procedures:

1. **The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.**
2. Variances may be issued for:

- a. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - b. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - c. Any other type of development, provided it meets the requirements of this section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
- a. The danger that materials may be swept onto other lands to the injury of others;
  - b. The danger to life and property due to flooding or erosion damage;
  - c. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - d. The importance of the services provided by the proposed facility to the community;
  - e. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
  - f. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - g. The compatibility of the proposed use with existing and anticipated development;
  - h. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - i. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - j. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - k. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
4. The applicant shall include a written report addressing each of the above factors in subsections E3a through E3k with their application for a variance.
5. Upon consideration of the factors listed above and the purposes of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this chapter.
6. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to twenty five dollars (\$25.00) per one

hundred dollars (\$100.00) of insurance coverage. Such notification shall be maintained with a record of all variance actions, including justification for their issuance.

7. The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.

**8. Conditions For Variances:**

- a. Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
- b. Variances shall not be issued within any designated floodway if the variance would result in any increase in flood levels during the base flood discharge.
- c. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- d. Variances shall only be issued prior to development permit approval.
- e. Variances shall only be issued upon:
  - 1) A showing of good and sufficient cause;
  - 2) A determination that failure to grant the variance would result in exceptional hardship; and
  - 3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**PROJECT OVERVIEW**

**VARIANCE:**

The applicant is requesting a variance to Section 10-1-2 of the Star Municipal Code Flood Ordinance regarding the Flood Protection Elevation (FPE) requirement of a new addition to an existing single-family dwelling to be two feet (2') above the base flood elevation (BFE). The owner's representative indicates that a new addition is being sought for the existing residence, and that compliance with the requirement to construct the new addition "roughly 1.6 feet above finish floor" of the existing dwelling would negatively impact the owner's accessibility within the structure due to physical mobility limitations of the owner. The applicant requests a variance from the Council to remedy this "unique hardship".

**PUBLIC RESPONSES**

Idaho Department of Water Resources

May 23, 2024 Via Email

**STAFF ANALYSIS & RECOMMENDATIONS**

**The City of Star Floodplain Manager has reviewed the variance request and supporting documentation and has recommended denial of the request for variance before the Council.** In the review letter provided by the Manager, it is stated that alternative construction options exist that would allow ADA accessibility to be achieved without the need for the variance. In addition, the letter indicates that floodplain elevations are dictated by FEMA, with the City being responsible for maintaining an ordinance requirement on the additional elevation from the base flood that is a State of Idaho standard. Finally, it is pointed out in the letter the increased risks to the well-being of the owner, given their mobility concerns, along with the increased safety risks of emergency responders due to rising floodwaters within a floodplain during a 100-year flood event, should these standards not be followed.

The Council should consider the entire record and testimony presented at their scheduled public hearing, including testimony from the applicant and additional input from the City Flood Administrator, and any additional public testimony prior to rendering its decision on the matter. Council should determine if the approval of the variance to allow the addition to the existing residential structure without the addition being elevated 2' above the base flood elevation would meet the following:

- f. Variances shall only be issued upon:
  - 4) A showing of good and sufficient cause;
  - 5) A determination that failure to grant the variance would result in exceptional hardship; and
  - 6) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

**Should the Council vote to approve the variance, either as presented or with added or revised conditions of approval, Council shall direct staff to draft findings of fact and conclusions of law for the Council to consider at a future date.**

**COUNCIL DECISION**

The Star City Council \_\_\_\_\_ File Number V-24-01 for 686 S. Star Road on \_\_\_\_\_, 2024.





VICINITY MAP  
NOT TO SCALE



**ACKERMAN ESTVOLD**  
 7661 West Riverside Drive, Ste. 102 · Garden City, ID 83714  
 208.853.8470 · www.ackerman-estvold.com  
Professional Engineer License No. 10888 · PE · Mechanical · ID · 06/2007

**GRUNER RESIDENCE**  
 686 S STAR ROAD, STAR, IDAHO

DRAWN BY: AMC  
CHECKED BY: AMC

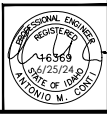
DATE: 06/25/2024

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Project No.  
R24073

DRAWING NAME  
VICINITY MAP

**1**



Application for Variance: Narrative

Introduction:

I, Bruce Hessing, on behalf of the property owner, Dieter and Catherine Gruner, hereby submit this application for a variance for the property located at 686 S. Star Rd. Star, Idaho 83669, within the city of Star. The purpose of this variance is to address a unique hardship specific to the site, taking into consideration the fact that the property owner has mobility issues. This variance is sought without granting any special privileges or rights that are not otherwise permitted within the city.

Statement of Purpose:

We are proposing to construct an addition to the existing house to allow handicap mobility; due to the change in the Boise Flood Elevation, we were told that the new addition should be 2' above base elevation, which amounts to roughly 1.6' above finished floor therefore not making the addition ADA accessible. The requested variance is not intended to provide any special privileges or rights that are not afforded to other properties within the city. Instead, it seeks to alleviate an undue hardship resulting from the unique characteristics of the site, particularly in light of the property owner's handicap accessibility needs.

Justification:

The property at 686 S. Star Rd. Star, Idaho 83669 faces a unique set of challenges due to its topography and location within the designated flood plain of the city, compounded by the accessibility requirements of the property owner. The current flood plain regulations pose significant limitations on the development potential of the site, making it difficult to conform without causing undue hardship to the property owner, who has mobility issues.

Compliance with Regulations:

It is crucial to emphasize that the variance being sought will not result in any special privileges that are denied to other lands, structures, or buildings within the city. FEMA dictates flood elevation height approximately 2' lower than the city of star flood elevations. The proposed variance aims to bring the property into alignment with the city regulations while addressing the specific challenges that the site presents, essential in accommodating mobility needs. Also, considering the adjoining neighbor to the south successfully obtained approval for their permit.

Community Impact:

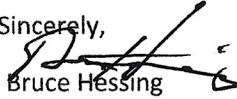
The granting of this variance will not be detrimental to public health, safety, or welfare. On the contrary, it will enable the responsible and sustainable development of the property in a manner that is inclusive and accessible, thereby enhancing the quality of life for the property owner and contributing positively to the surrounding community and neighborhood.

Conclusion:

In conclusion, the requested variance is essential to address the unique hardships presented by the site at 686 S. Star Rd. Star, Idaho 83669, particularly in consideration of the property owner's mobility needs. This variance will allow for a reasonable and fair use of the property while ensuring that the rights and privileges of others in the city are not compromised. I respectfully urge the mayor and city council to consider this application favorably and grant the variance to facilitate the appropriate development of the property.

Thank you for your attention to this matter.

Sincerely,



Bruce Hessing

Hesscomm

[Bruce.hesscom@aol.com](mailto:Bruce.hesscom@aol.com)



07/15/2024 2:34:05 PM

### VARIANCE APPLICATION

\*\*\*All information must be filled out to be processed.

File No.: <u>V-24-01</u>		
Date Application Received: <u>07/15/2024</u>	Fee Paid: _____	
Processed by: City: <u>BN</u>		

#### Applicant Information:

PRIMARY CONTACT IS: Applicant  Owner  Representative

Applicant Name: Dieter and Catherine Gruner  
 Applicant Address: 686 S. Star Rd Star, ID Zip: 83669  
 Phone: 805 588 3061 Fax: \_\_\_\_\_ Email: dcg1820@gmail.com

Owner Name: Dieter and Catherine Gruner  
 Owner Address: 686 S. Star Rd Star, ID Zip: 83669  
 Phone: 805 588 3060 Fax: \_\_\_\_\_ Email: dcg1820@gmail.com

Representative (e.g., architect, engineer, developer):  
 Contact: Bruce Hessing Firm Name: Hesscomm  
 Address: 2338 W. Boulder Blvd Meridian, ID Zip: 83646  
 Phone: 208 831 7111 Fax: \_\_\_\_\_ Email: bruce.hesscom@aol.com

#### Property Information:

Site Address: 686 S. Star Rd Star, ID 83669  
 Approved Zoning: R1C Parcel Number(s): R1842701804

#### Application Requirements:

(Applications are required to contain one copy of the following unless otherwise noted.)

Applicant (√)	Description	Staff (√)
✓	Pre-application meeting with the Planning Department required prior to neighborhood meeting.	
✓	Copy of neighborhood meeting notice sent to property owners within 300 feet and meeting sign-in sheet. (Applicants are required to hold a neighborhood meeting to provide an opportunity for public review of the proposed project prior to the submittal of an application.)	BN
✓	Completed and signed Variance Application	BN
✓	Fee	

✓	Narrative fully describing the request: (must be signed by applicant) Address in the narrative how this request meets the following findings: <ul style="list-style-type: none"> <li>➤ The variance shall not grant a right or special privilege that is not otherwise allowed in the district.</li> <li>➤ Granting the variance will not provide any special privilege that is denied to other lands, structures or buildings in the same district.</li> <li>➤ The variance relieves an undue hardship because of characteristics of the site</li> <li>➤ The variance shall not be detrimental to the public health, safety, and welfare.</li> </ul>	BN
✓	Recorded warranty deed for the subject property	
✓	One (1) 8 ½" X 11" Copy of the recorded plat the property lies within	BN
✓	Legal description of the subject property with engineer's seal. (Lot, Block, and Subdivision name if located in a recorded subdivision OR a metes and bounds legal description of the property if not in a subdivision) <ul style="list-style-type: none"> <li>• Submit two (2) paper and one (1) electronic copy</li> </ul>	BN
✓	Two (2) 11" X 17" vicinity maps showing the location of the subject property	BN
✓	One (1) 8 ½" X 11" vicinity maps showing the location of the subject property	BN
✓	Two (2) 11" X 17" copies of site plan	
✓	If the signature on this application is not the owner of the property, an <b>original</b> notarized statement (affidavit of legal interest) from the owner stating the applicant is authorized to submit this application.	
✓	Names and addresses, printed on address labels, of property owners within three hundred feet (300') of the external boundaries of the property being considered as shown on record in the County Assessor's office.	BN
	Two (2) Electronic versions of the site plan, vicinity map, & legal description in PDF format submitted on disks with the files named with project name & plan type. We encourage you to submit at least one color version.	
	Signed Certification of Posting with pictures. (see attached posting requirements and certification form)	

**FEE REQUIREMENT:**

*\*\* I have read and understand the above requirements. I further understand fees are due at the time of filing. I understand that there may be other fees associated with this application incurred by the City in obtaining reviews or referrals by architect, engineering, or other professionals necessary to enable the City to expedite this application. I understand that I, as the applicant, am responsible for all payments to the City of Star.*

*Brian Bruner*  
Applicant/Representative Signature

6/11/2024  
Date

**\*\*Note:** All presentation boards, material boards, and documentation that are a part of the public hearing shall become property of the City of Star.



**Saint Alphonsus**

A Member of Trinity Health

Section 4, Item A.

SAINT ALPHONSUS STAR FAMILY MEDICINE

10717 W STATE ST

STAR ID 83669-6046

Phone: 208-302-6300

Fax: 208-302-6355

July 2, 2024

Patient: **Dieter Gruner**

Date of Birth: **6/16/1945**

Date of Visit: **6/27/2024**

To Whom It May Concern:

Dieter Gruner was seen in my clinic on 6/26/2024. He has parkinson's, history of falls and an unsteady gait requiring the use of a 4 wheeled walker for safe ambulation. He would benefit from widened doorways in his home to allow for easy mobility. In addition would benefit from having his home as a single level given his chronic gait issues are expected to continue.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

Nathan R Mason, MD

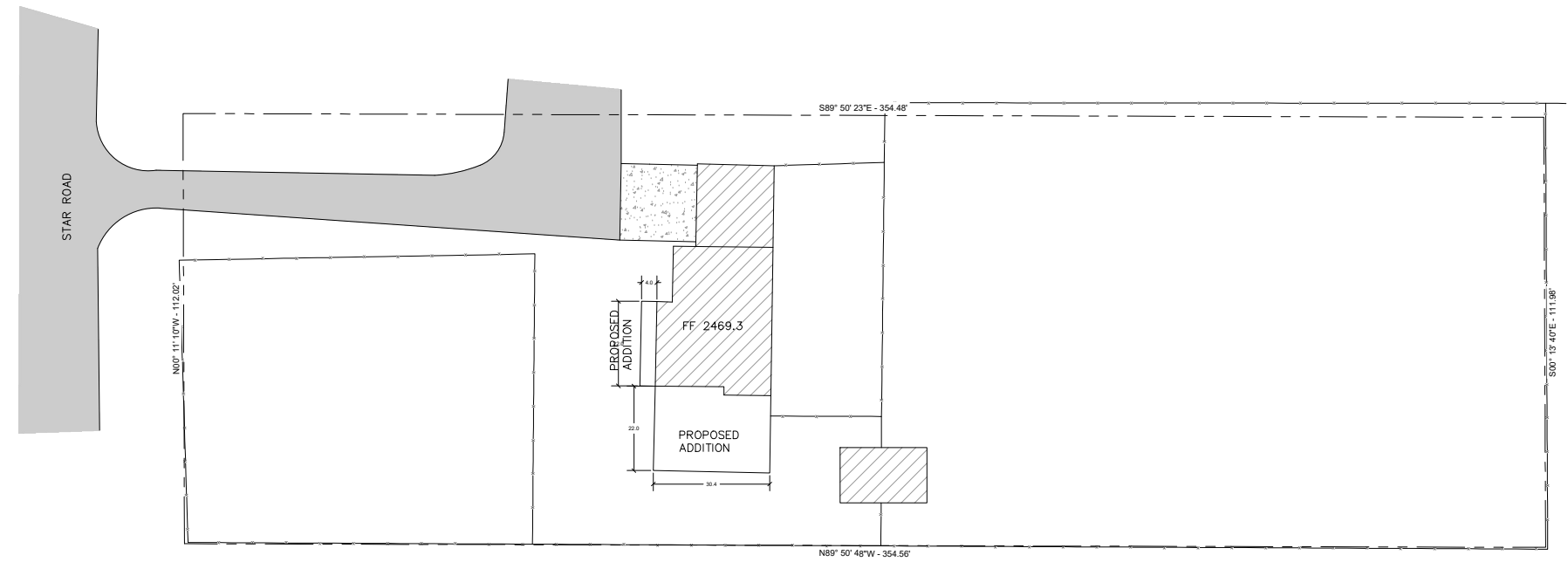
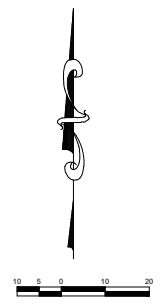
CC:

No Recipients

**ACKERMAN  
ESTVOLD**  
7661 West Riverside Drive, Ste. 102 · Garden City  
208.853.6470 · www.ackerman-estvold.com  
Minot, ND | Fargo, ND | Williston, ND | Boise, ID

BOUNDARY INFORMATION IS APPROXIMATE. A  
BOUNDARY SURVEY WAS NOT PERFORMED AT  
THIS TIME

FLOOD INFORMATION  
ZONE AE  
BASE FLOOD ELEVATION: 2,468.9



**GRUNER RESIDENCE**  
686 S STAR ROAD, STAR, IDAHO

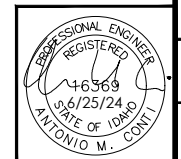
DRAWN BY: AMC  
CHECKED BY: AMC

DATE: 06/25/2024

REVISIONS	
#	DATE
1	--/--
2	--/--
3	--/--

Project No.  
R24073

DRAWING NAME  
SITE PLAN



City of Star

P.O. Box 130  
Star, Idaho 83669  
208-286-7247  
Fax 208-286-7569

[www.staridaho.org](http://www.staridaho.org)



Mayor: Section 4, Item A.  
Trevor A. Chadwick

Council:  
Kevin Nielsen  
Jennifer Salmonsens  
Kevan Wheelock  
David Hershey

8 August 2024

Bruce Hessing  
Hesscomm  
2338 W Boulder Bar Dr  
Meridian, ID 83642

**Re: Gruner Home Floodplain Variance Application**

Dear Mr. Hessing

As the City Floodplain Manager, I have reviewed your Variance Application and supporting documents submitted to the City on July 15, 2024. I am recommending denial of the application. The reasons for my recommendation are listed in the following paragraphs.

First, you indicate that this variance is based on a unique hardship. While I understand that your client has some health concerns and limited mobility, I received a similar request for constructing an addition to a home located around the corner from this property only two months ago. During my conversations with that property owner, they also mentioned their limited mobility and difficulty with stairs. I sympathize with health concerns but suggest that they are not a unique situation, even for homes located within the floodplain.

Secondly, you claim that construction of a finish floor higher than the existing floor would make the house non-ADA accessible. There are ways to construct the home with the elevated floor ADA accessible. Again, referring to the other property around the corner from you, we explored several options, including the construction of a ramp located within an adjacent hallway to the new elevated rooms.

Some additional clarifications I would like to provide here. The City of Star does not dictate or determine floodplain elevations, that is done by FEMA and their consultants. Star does have a floodplain ordinance that requires buildings to elevate the finish floor of a building two feet above the Base Flood Elevations determined by FEMA. This requirement is not unusual and is the recommended requirement by the State of Idaho. The language used in our ordinance is included as part of the State's standard floodplain ordinance template.

You also refer to your neighbor to the south successfully obtaining a building permit. I assume you are referring to 720 S Star Road. If I am correct in this assumption, they went through the



floodplain ordinance, submitted a floodplain application and met all the requirements. Their existing building was already elevated to the required height of the floodplain ordinance and so their new addition was also in compliance with this ordinance. Additionally, Your claim that the proposed variance aims to bring the property into alignment with the City regulations is an incorrect statement. If you wanted to bring it into compliance you would not need a variance request.

Finally, I disagree with your claim that granting the variance will not be detrimental to public health, safety or welfare. I would argue that you are actually creating more health, safety and welfare concerns. What happens if a 1.0 percent flood (also known as the hundred-year flood) as determined by FEMA where to occur. Your client with their limited mobility would be trapped in the home, the additional elevation would allow them to remain in the home safe from rising floodwaters. A rescue attempt for homes not built to the Flood Ordinance requirements also endangers emergency responders. This request, while it may appear to reduce cost, in the long term that is not the case. Your client would be responsible for higher insurance premiums and the cost to rebuild after flood may be higher. It also increases the City and possibly the surrounding community cost to rebuild as there will be more potential for damage to the home and furnishings. This is the exact reason for floodplain ordinances.

Again, I am sympathetic to the health concerns of your client but do not feel that granting a variance to the floodplain ordinance does them, the community or the first responders, any long-term benefits. There are other alternatives for constructing a safe home to meet their needs. I have reached out to the State Floodplain Coordinator regarding this matter, and he agrees with the recommendation for denial. I have included his email, and the preceding emails to his comments for your review.

Sincerely,

Ryan V. Morgan, P.E.  
Floodplain Manager/City Engineer

## Ryan Morgan

---

**From:** Jackson, Peter <Peter.Jackson@idwr.idaho.gov>  
**Sent:** Thursday, May 23, 2024 8:02 AM  
**To:** Ryan Morgan; Antonio Conti; Bruce Hessing  
**Cc:** Building Dept; Shawn Nickel; Ryan Field; Tim Clark  
**Subject:** RE: 686 S Star Road

Ryan,

The City of Star is correctly looking out for the safety of its residents.

This area is in a Special Flood Hazard Area, Zone AE. Variances are not a good idea and add increased risks to the public.

Granting a Variance for a homeowner that is dependent on a walker only increases the risk to persons during a flood event and makes emergency response a greater risk.

Items # 2 & 9 in your variance procedures are highlighted below.

### Variance Procedures:

1. The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
2. Variances may be issued for:
  1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  2. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  3. Any other type of development, provided it meets the requirements of this section.
3. In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter, and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

11. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

IDWR supports the City of Star in their recommendation of denial of a variance at this location.

IDWR recommends that you verify that these two additions do not exceed your Substantial Improvement provision of your ordinance.

Please let me know if you have any other questions or concerns. I am available to attend a meeting to discuss further.

Thanks for all that you do,



*Peter Jackson, CFM  
Idaho Dept. of Water Resources  
State Floodplain Manager/NFIP  
Coordinator*

Office # 208-287-4973  
Cell # 208-912-5123

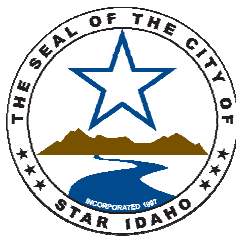
[Peter.Jackson@idwr.idaho.gov](mailto:Peter.Jackson@idwr.idaho.gov)  
<https://www.idwr.idaho.gov/floods/>

**From:** Ryan Morgan <rmorgan@staridaho.org>  
**Sent:** Thursday, May 23, 2024 7:51 AM  
**To:** Antonio Conti <Antonio.Conti@ackerman-estvold.com>; Bruce Hessing <bruce.hesscom@aol.com>  
**Cc:** Building Dept <building@staridaho.org>; Jackson, Peter <Peter.Jackson@idwr.idaho.gov>; Shawn Nickel <snickel@staridaho.org>; Ryan Field <rfield@staridaho.org>; Tim Clark <tclark@staridaho.org>  
**Subject:** RE: 686 S Star Road

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See comments

**Ryan V. Morgan; P.E., CFM**  
**City Engineer**  
City of Star  
P.O. Box 130  
Star, ID 83669  
208-286-7247 x3002



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**From:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>  
**Sent:** Wednesday, May 22, 2024 7:19 PM  
**To:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>; Jackson, Peter <[Peter.Jackson@idwr.idaho.gov](mailto:Peter.Jackson@idwr.idaho.gov)>; Shawn Nickel <[snickel@staridaho.org](mailto:snickel@staridaho.org)>; Ryan Field <[rfield@staridaho.org](mailto:rfield@staridaho.org)>; Tim Clark <[tlark@staridaho.org](mailto:tlark@staridaho.org)>  
**Subject:** RE: 686 S Star Road

Ryan,

Thank you for the detailed response. There are a couple of items I would like to point out.

Portion of the improvements are tied to extending the bedroom for 4' so the owner can easily move around the bed with the walker. This extension account for less than 50SF and needs to be at level with the existing finish floor. **This is still a structural change and a building expansion and therefor must meet current code requirements. If the improvements where to be done all within the existing structure then the rules are a little more flexible. I also want to point out that if the wall is removed then the entire room has to be elevated. See link to the document below. Specifically the Figure 8-4 on page 8-12.**

[https://www.fema.gov/pdf/floodplain/nfip\\_sg\\_unit\\_8.pdf](https://www.fema.gov/pdf/floodplain/nfip_sg_unit_8.pdf)

The other expansion could be handled with ramps on the inside of the house if we have to.

I do not agree with labeling this house a non-conforming use. When the house was built it was constructed above the then Base Flood Elevation. FEMA decided to raise the BFE. The finish floor is still above the BFE but does not meet the 2' freeboard which is a City requirement. **See the definition of nonconforming use.**

**NONCONFORMING STRUCTURE:** A structure that was lawfully constructed and/or existing prior to the effective date of this title but that does not conform to the standards for the district in which it is located.

**NONCONFORMING USE:** A use that lawfully existed prior to the effective date of this title but that does not now conform to the allowed uses for the district in which it is located. For the purposes of this title, **nonconforming** parking lot design and landscaping shall be deemed a **nonconforming** use.

**This is the exact thing that is labeled as nonconforming, it was built under old codes but does not meet new codes.**

Variances are usually granted due to undo hardship and forcing an elderly person with a walker to go up steps or ramps is an undue hardship. **That is your opinion, but in my opinion does not meet the other requirements outlined in the variance, there are other solutions, and any response I provide to a variance request will state as much.**

Could we set up the pre application meeting to go over this ? I do not schedule the preapps, this is something that has to go to City Council so you will have to schedule this with Shawn.

Thank you

Antonio Conti  
Ackerman-Estvold

---

**From:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>  
**Sent:** Wednesday, May 22, 2024 2:14 PM  
**To:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>; Jackson, Peter <[Peter.Jackson@idwr.idaho.gov](mailto:Peter.Jackson@idwr.idaho.gov)>; Shawn Nickel <[snickel@staridaho.org](mailto:snickel@staridaho.org)>; Ryan Field <[rfield@staridaho.org](mailto:rfield@staridaho.org)>; Tim Clark <[tclark@staridaho.org](mailto:tclark@staridaho.org)>  
**Subject:** RE: 686 S Star Road

Antonio,

Here is what our Code says on variances

**8-1B-6: Variance**

1. Authority To Grant Variances: The council may authorize, in specific cases, such variance from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship. No nonconforming use of neighboring lands, structures or buildings in the same district and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this title would result in unnecessary, non-financial hardship.
2. Process:
  1. The applicant shall complete a pre-application conference with the administrator prior to submittal of an application for a variance.
  2. A neighborhood meeting shall be held by the applicant pursuant to Section 8-1A-6C of this title.
  3. An application and fees shall be submitted to the administrator on forms provided by the city.
3. Standards: The variance shall comply with Idaho Code section 67-6516. A variance may be considered as a waiver of development standards when associated with a conditional use permit, development agreement or planned unit development.
4. Required Findings: In order to grant a variance, the council shall review the application at a public hearing and use its discretion to make the following findings:
  1. The variance does not grant a right or special privilege that is not otherwise allowed in the district;
  2. The variance relieves an undue hardship because of characteristics of the site, which must be other than financial in nature; and
  3. The variance is not detrimental to the public health, safety, and welfare.

**8-2-4: Nonconforming Use**

1. The nonconforming use may continue as long as the use remains lawful and is not extended, subject to the following provisions:
  1. Alteration: No existing structure containing a nonconforming use may be enlarged, extended, constructed, reconstructed, moved or structurally altered except: a) through the approval of a conditional use permit in accord with the procedures set forth in this title; or b) where the use of the structure is changed to a conforming use.
  2. Extension: A nonconforming use may be extended to occupy additional land area only through the approval of a conditional use permit in accord with the procedures set forth in this title.
2. If a nonconforming use has ceased for twelve (12) consecutive months or has been replaced with a conforming use, the nonconforming use shall be deemed abandoned and shall not be reestablished.
3. A nonconforming use or structure housing a nonconforming use that is damaged more than fifty percent (50%) of its current assessed taxable value by fire, flood, explosion, wind, earthquake, war, riot, calamity, or other catastrophic event, shall comply with this title upon reconstruction. If the damage to the nonconforming use or structure housing the nonconforming use is fifty percent (50%) or less of its current assessed taxable value, the nonconforming use may continue, provided that the nonconforming use commences within twelve (12) months of the event.

**8-2-5: Nonconforming Structure**

1. Nonconforming structures may be enlarged, repaired or modified, with approval of a conditional use permit, provided that the additions or modifications to the structure conform to the requirements of this title.
2. A nonconforming structure that is damaged more than fifty percent (50%) of its current assessed taxable value by fire, flood, explosion, wind, earthquake, war, riot, calamity, or other catastrophic event, shall comply with this title upon restoration or reconstruction. If the damage to the nonconforming structure is fifty percent (50%) or less of its current assessed taxable value, the structure may be restored or reconstructed, provided that restoration or reconstruction commences within twelve (12) months of the event.
3. Structures listed on the national register of historic places shall be exempt from the regulations of this section.

From the floodplain ordinance:

Variance Procedures:

1. The City Council, hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this chapter.
2. Variances may be issued for:
  1. The repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  2. Functionally dependent facilities, if determined to meet the definition as stated in section 10-1-2, provided provisions of subsections E8b, E8c, and E8d have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  3. Any other type of development, provided it meets the requirements of this section.

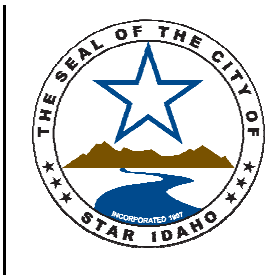
3. In passing upon variances, the appeal board shall consider all technical evaluation factors, all standards specified in other sections of this chapter, and:
  1. The danger that materials may be swept onto other lands to the injury of others;
  2. The danger to life and property due to flooding or erosion damage;
  3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  4. The importance of the services provided by the proposed facility to the community;
  5. The necessity to the facility of a waterfront location as defined under section 10-1-2 as a functionally dependent facility, where applicable;
  6. The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  7. The compatibility of the proposed use with existing and anticipated development;
  8. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  9. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  10. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

In my opinion you do not meet most of these requirements and my report to City Council would be to deny any variance for this parcel. Not trying to be harsh here, but the City adopted these Codes for a reason and granting variances defeats these reasons. Also it sets a precedence as if have had similar conversations for three other properties located within ½ mile of this address.

I have included the State Floodplain Coordinator on this email as well. Peter, please feel free to weigh in on granting variances to floodplain ordinances for residential building additions.

Sincerely,

**Ryan V. Morgan; P.E., CFM**  
**City Engineer**  
 City of Star  
 P.O. Box 130  
 Star, ID 83669  
 208-286-7247 x3002



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**From:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>  
**Sent:** Tuesday, May 21, 2024 1:09 PM  
**To:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>  
**Subject:** RE: 686 S Star Road

Ryan

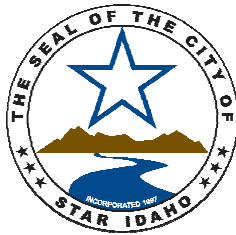
Thank you. I have one more. Can we ask council to override your denial due to the required 2' above BFE? Not sure we can build it if that is the case.

Antonio Conti  
**Ackerman-Estvold**

**From:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>  
**Sent:** Tuesday, May 21, 2024 12:59 PM  
**To:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>  
**Subject:** RE: 686 S Star Road

See below for responses

**Ryan V. Morgan; P.E., CFM**  
**City Engineer**  
City of Star  
P.O. Box 130  
Star, ID 83669  
208-286-7247 x3002



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**From:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>  
**Sent:** Tuesday, May 21, 2024 11:27 AM  
**To:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>  
**Subject:** RE: 686 S Star Road

Ryan

I am reviewing your comments on this application and I have some questions:

- In the Narrative Description, I am not sure what is needed. We are not doing any significant grading. Just building an addition to the house and minor landscape around the house. No watercourse alteration, no road fills, embankments etc. **Sounds like this will be a short paragraph or two.**
- Certification of registered engineer. I thought that it applies to non-residential structure. **Required for all floodplain improvements (elevation certificate)**
- Due to ADA needs, we cannot change the floor elevation of the addition. The finish floor is less than the minimum 2' above BFE, but still above BFE. Any thoughts? **I cannot approve anything bellow the 2 foot requirement.**

Thank you

Antonio Conti  
**Ackerman-Estvold**

---

**From:** Ryan Morgan <[rmorgan@staridaho.org](mailto:rmorgan@staridaho.org)>  
**Sent:** Tuesday, May 7, 2024 8:40 AM  
**To:** Antonio Conti <[Antonio.Conti@ackerman-estvold.com](mailto:Antonio.Conti@ackerman-estvold.com)>; Bruce Hessing <[bruce.hesscom@aol.com](mailto:bruce.hesscom@aol.com)>  
**Cc:** Building Dept <[building@staridaho.org](mailto:building@staridaho.org)>  
**Subject:** 686 S Star Road

Bruce,

I have reviewed the attached floodplain application. I have several comments that I have included on the marked up document. Additionally, please note that an elevation certificate will be required for the new addition. I also need some additional information on the new addition. What will be the finished floor of this addition, what is the finished floor of the existing structure, please note that the new addition may have to be elevated higher than the existing building to meet our floodplain ordinance.

**Ryan V. Morgan; P.E., CFM**  
**City Engineer**  
City of Star  
P.O. Box 130  
Star, ID 83669  
208-286-7247 x3002



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## Variance Request Report for Home Addition

Property Address: 686 S. Star Rd. Star ID 83669

Date: 9/27/2024

Prepared by: Hesscomm Corp

### Introduction

This report addresses the variance request for a home addition for the property owner with mobility issues. The proposed addition will be constructed at the same grade of elevation of the existing structure. The existing structure is 6 inches above BFE. The owner is aware of the risk of flooding but due to illness and the need to make his home ADA accessible out way the risks. The proposed facility finished floor elevation is above the published BFE therefore risk of damage is minimal. The owner is aware of this risk. This home is at similar elevation as of similar homes in the neighborhood.

### A. Use Danger

The materials selected for the home addition will adhere to local building codes to minimize potential flood risks. The owners yard is fenced so if a flood did occur would keep materials from leaving the property ensuring safety is a top priority to prevent floating material from leaving the property. Material will not be swept into other lands due to the fenced in yard and existing elevation being above BFE.

### B. Property Danger

The proposed elevation of the addition is at the same elevation as the existing home that was built in the early 1900s.

C. Susceptibility of the proposed facility

The existing facility has been evaluated for vulnerability to flood damage. The addition will be above BFE so to enhance resilience against flooding while ensuring the structure remains accessible.

D. Necessity for Variance

The variance is vital to accommodate the homeowner's mobility needs. A addition adding to the existing structure will alleviate undue hardship by providing safe, Easy access throughout the home, reducing the risk of falls associated with uneven elevations. A doctors note that stated his needs was provided in the variance application.

E. Impact on Adjacent Properties

The addition will not negatively impact neighboring properties. The elevation aligns with the existing topography, preventing adverse drainage issues and maintaining neighborhood aesthetics.

F. Availability of other locations

The addition would be the only structure needing to be level with the home so to help with easy access throughout the home reducing the risk of falls by the owner. Any locations that the addition would be placed would also need to be level to reduce undue hardship to the owner. Where the addition is located is where it needs to be to fulfill the needs of the addition to the property.

G. Compatibility

If the variance is granted, the proposed addition would be compatible with the existing home. When the existing home house was built in the early 1900s, the city did not have floodplain regulations. This is the reason why there needs to be a variance to be compatible with the existing structure. Also, it would be more aesthetically pleasing for the community. The community the home is located in has many other homes that where built long before regulations, so it will not impact the community to have the addition at the same level as the existing home.

#### H. Relationship to Floodplain Management

Proposed addition complies with floodplain management regulations by ensuring that the addition is level with the existing structure, we minimize any additional flood risk to the surrounding areas by keeping the elevation the same as the existing structure. The proposed addition complies with floodplain management regulations by keeping the addition above the BFE. We believe that it does not contribute to increased flood risks in the area by noting that the existing home is already at the level proposed for the addition.

#### I. Emergency Services Access

The elevation of the addition does not hinder emergency services. In case of flooding, the addition will be positioned safely above potential water levels, allowing for quick and effective response by emergency personnel. The same access that emergency services would use now will be the same access they use after the addition is built.

#### J. Written Report Submission

A detailed written report, including specifications and drawings for the addition has been submitted with this request. This documentation outlines the proposed construction methods and materials, ensuring clarity and transparency.

#### K. Consideration of Other Factors

All relevant factors outlined in the ordinance have been carefully considered. The proposal aims to balance the homeowner's needs for accessibility and safety with community welfare and compliance with regulations. The addition will not impact the community's water, sewer, gas, electrical, or any streets or bridges.

#### Conclusion

This variance request for the home addition is justified based on the outlined factors. The proposed construction will create a safer, more accessible living environment for the homeowner while adhering to necessary safety and floodplain management standards.

---



**Application for a Variance from the Flood Damage Prevention Ordinance**

Property Address: 686 S Star Road

Explanation of Variance request: We are extending the house and in order to maintain ADA we are requesting to match the existing finish floor elevation

Submit/Attach supporting documentation, maps, studies, etc.

Owner Name: Dieter Gruner

Owner Address: 686 S Star Road

Owner Signature: \_\_\_\_\_

Date of Application for Variance: 4/29/24

**VARIANCE PROCEDURES.** See Title 44 of the Code of Federal Regulations Section 60.6

- (1) The City Council (*appeal board*) as established by City of Star (*community*), hereinafter referred to as the "appeal board", shall hear and decide requests for variances from the requirements of this ordinance.
- (2) Any person aggrieved by the decision of the appeal board may appeal such decision to the Court.
- (3) Variances may be issued for:
  - (a) the repair or rehabilitation of historic structures upon the determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and that the variance is the minimum necessary to preserve the historic character and design of the structure;
  - (b) functionally dependent facilities if determined to meet the definition as stated in Article \_\_ of this ordinance, provided provisions of Article \_\_, Section \_\_, and \_\_ have been satisfied, and such facilities are protected by methods that minimize flood damages during the base flood and create no additional threats to public safety; or
  - (c) any other type of development, provided it meets the requirements of this Section.
- (4) In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this ordinance, and:

- (a) the danger that materials may be swept onto other lands to the injury of others;
  - (b) the danger to life and property due to flooding or erosion damage;
  - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) the importance of the services provided by the proposed facility to the community;
  - (e) the necessity to the facility of a waterfront location as defined under Article \_\_\_ of this ordinance as a functionally dependent facility, where applicable;
  - (f) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
  - (g) the compatibility of the proposed use with existing and anticipated development;
  - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) the expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
  - (k) the costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.
- (5) A written report addressing each of the above factors shall be submitted with the application for a variance.
- (6) Upon consideration of the factors listed above and the purposes of this ordinance, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purposes and objectives of this ordinance.
- (7) Any applicant to whom a variance is granted shall be given written notice specifying the difference between the Base Flood Elevation (BFE) and the elevation to which the structure is to be built and that such construction below the BFE increases risks to life and property, and that the issuance of a variance to construct a structure below the BFE will result in increased premium rates for flood insurance up to \$25 per \$100 of insurance coverage. Such notification shall be maintained with a record of all variance actions, including



justification for their issuance.

- (8) The Floodplain Administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency and the State of Idaho upon request.
- (9) Conditions for Variances:
  - (a) Variances shall not be issued when the variance will make the structure in violation of other Federal, State, or local laws, regulations, or ordinances.
  - (b) Variances shall not be issued within any designated floodway or non-encroachment area if the variance would result in any increase in flood levels during the base flood discharge.
  - (c) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (d) Variances shall only be issued prior to development permit approval.
  - (e) Variances shall only be issued upon:
    - (i) a showing of good and sufficient cause;
    - (ii) a determination that failure to grant the variance would result in exceptional hardship; and
    - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, or extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- (10)
  - (e) The [City of Star](#) (*community*) has notified the Idaho State NFIP Coordinator & FEMA Region X of its intention to grant a variance at least thirty (30) calendar days prior to granting the variance.

**In passing upon variances, the appeal board shall consider all technical evaluations, all relevant factors, all standards specified in other sections of this chapter and:**

- (1) The danger that materials may be swept onto other lands to the injury of others; [The property is fenced on all sides and materials will not transfer to adjacent properties.](#)
- 
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**STAFF COMMENT:**

Significant flooding will impact the fencing as well as the home. Additionally there is no fencing on the north and only half of the west. This is the direction flood waters will flow, debris is a valid concern

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(2) The danger to life and property due to flooding or erosion damage;

The property is has no significant slope, we will not import any fill material and erosion is not a concern. The owner is aware of the risk but due to illness and the need to make house ADA accessible outweigh the risks

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**STAFF COMMENT:**

Erosion potential is limited

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(3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

The proposed facility finish floor elevation is above the published base flood elevation there fore risk of damage is minimal. The owner is aware of the risk.

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**STAFF COMMENT:**

It will be above the Base Flood Elevation. However what is the intent for HVAC and insulation? These Items must also be elevated above the BFE.

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(4) The importance of the services provided by the proposed facility to the community;

This is a private residence

**STAFF COMMENT:**

They provide no services to the community above a standard residence and therefore are not considered an essential building.

(5) The necessity to the facility of a waterfront location as defined under Section \_\_\_ as a functionally dependent facility, where applicable;

Not applicable

**STAFF COMMENT:**

Agreed, this is not a water front facility and that factor should not be considered in approving the variance.

(6) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;

There are no alternative locations. this is an addition to an existing home to make it ADA accessible for the owner.

**STAFF COMMENT:**

There are lots of alternative homes the resident could purchase and move to.

(7) The compatibility of the proposed use with existing and anticipated development;

The use is an existing use and it is compatible with surrounding uses.

**STAFF COMMENT:**

This is comparable to other properties in the area.

(8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;

This use is an existing use in line with the City's comprehensive plan

**STAFF COMMENT:**

This is an existing use, however the City's current comprehensive plan list the area a Central Business District.

(9) The safety of access to the property in times of flood for ordinary and emergency vehicles;

The property is accessible through star road. The elevation of the ground is barely below the established base flood elevation and emergency vehicle will have no problem accessing the existing house.

**STAFF COMMENT:**

There is likely to be 3-4 inches of water based on the hydraulic models.

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(10) The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and

Not Applicable to this parcel

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**STAFF COMMENT:**  
Disagree, FEMA requires these items to be considered during the variance process.

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(11) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, and streets and bridges.

We are not installing any public utilities and no increase of cost is attributable to this project.

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**STAFF COMMENT:**  
There is little impact to public utilites as most are currently located at the site.

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Floodplain Management Bulletin

# Variations and the National Flood Insurance Program

FEMA P-993 / July 2014



FEMA

Floodplain Management Bulletin

# Variations and the National Flood Insurance Program

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**FEMA**

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### Acronyms and Abbreviations

- BFE Base Flood Elevation
- CFR Code of Federal Regulations
- DOI Department of the Interior
- FEMA Federal Emergency Management Agency
- FIRM Flood Insurance Rate Map
- NFIP National Flood Insurance Program
- SFHA Special Flood Hazard Area
- WSEL Water Surface Elevation

# SECTION 1

## Purpose and Background

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The National Flood Insurance Program (NFIP) variances procedures are designed to help local governments protect their citizens and property from flood damages. Allowing variances to the local floodplain management standards may significantly increase the property’s flood insurance rate and decreased the community’s resilience. Therefore, by implementing the NFIP variance procedures, a community will ensure that alternative actions are taken that protect and encourage safe development in the floodplain. This publication outlines the floodplain management variance criteria as set forth in Title 44 Code of Federal Regulations (CFR) Part 60, Criteria for Land Management and Use, Subpart A – Requirements for Floodplain Management Regulations, Section 60.6 (44 CFR §60.6).

This publication is not intended to offer legal advice.

### 1.1 Purpose

This guidance will assist local government officials in reviewing requests for variances and determining if a request meets the minimum requirements of the NFIP. The variance regulation set forth in 44 CFR §60.6 is not absolute; State zoning enabling legislation or State floodplain management regulations and local case law<sup>1</sup> may take precedence and may be more restrictive. Therefore, community officials should consult their local attorney or State Attorney General regarding the specific requirements of State and local variance regulations.

### 1.2 Background and Meaning of Variance

A variance is an authorization for the construction or maintenance of a structure or other land uses that would otherwise be prohibited by a land use regulation such as a zoning ordinance. Local floodplain regulations may complement and be augmented by zoning regulations to reduce the community’s overall risk to flooding. Relevant to this guidance, 44 CFR §59.1 defines “variance” as “a grant of relief by a community from the terms of a floodplain management regulation.” Variances are meant to address unique, site-specific and individual circumstances where the strict application of the ordinance may result in an extreme hardship to a property owner. While the variance is intended to provide relief, it still enables the community to:

- Preserve the purpose and intent of the zoning law/ordinance;
- Minimize legal challenges to the zoning law or floodplain management regulations and avoid an unconstitutional “taking” of private property without compensation; and
- Protect the safety, health, and welfare of the public and emergency responders.

<sup>1</sup> Case law dictates following the due process of law detailed in the floodplain ordinance, enforcing regulations consistently, and acting under the advisement of the community’s attorney. For more information, consult with your community’s attorney.

The authority to grant a variance is typically delegated to communities through State statutes. This authority empowers a community to establish a board to adjudicate variance applications and sets out the standards and elements necessary for granting variances. The standards and elements vary from State to State. Some are strictly defined, and others are imprecise and allow the board greater discretion when granting a variance.

In some cases, a variance granted for floodplain management purposes can result in a project that does not meet the minimum standards of the NFIP. Because a variance can lead to an increased risk to life and property, variances from flood elevation requirements or other floodplain management requirements should be granted only rarely.

## SECTION 2

# Evaluating the General Merits of a Floodplain Management Variance

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The floodplain management variance requirements are based on the general principles of zoning laws in State statutes. The minimum floodplain requirements for communities participating in the NFIP are designed to ensure the practice of sound floodplain management. (See 44 CFR §60.6.) To grant a variance from floodplain ordinances, in addition to meeting the requirements set out by State law, the community must determine:

- Good and sufficient cause and exceptional hardship exist;
- The variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- The variance is the minimum action necessary to afford relief.

If the required standards of State law, local ordinances, and 44 CFR §60.6 are closely adhered to, granting variances from floodplain ordinances should be rare. Additionally, where a variance is granted, some level of flood protection and hazard mitigation should always be required.

## 2.1 Floodplain Regulations versus Zoning Regulations

Floodplain regulation and zoning regulations, when applicable, are land use and development controls that should be administered in concert to promote the general welfare by minimizing the threat from natural hazards to life and property.

Floodplain regulations are similar in nature and function to zoning regulations in that both involve land use regulation and control, have benefits and performance expectations, and are often implemented under the same legislative authorities at the local or State level. However, floodplain regulations differ from zoning regulations because they specifically address human safety and property protection in relation to a known and defined natural hazard. Furthermore, in accordance with the provisions of 44 CFR Part 60, the local jurisdiction must enforce floodplain regulations for all development in the Special Flood Hazard Area (SFHA).

### SPECIAL FLOOD HAZARD AREA (SFHA)

Land areas subject to a 1 percent or greater chance of flooding in any given year. These areas are indicated on Flood Insurance Rate Maps (FIRMs) as Zone AE, A1-A30, A99, AR, AO, AH, V, VO, VE, or V1-30. Mapped zones outside of the SFHA are Zone X (shaded or unshaded), B, or C.

## 2.2 Evaluating a Floodplain Management Variance

When evaluating a request for a variance, communities should first look to their own State law and local land use zoning and floodplain management requirements. While each State has adopted individual and often unique requirements and procedures for the issuance of variances, common examples of variance criteria include the following:

### 1. Hardship

- An exceptional hardship related to the property such as unique physical and topographical conditions of the property; **this is not related to the individual personal circumstances of the applicant.**
- The hardship related to the property was not caused by the applicant or is shared by adjacent parcels.
- A variance is required for the applicant to make reasonable use of the property.

### 2. Increased Risk

- Issuing the variance will not impair the adjacent properties or neighborhood.
- The variance will not be detrimental to public health, welfare, or safety.

### 3. Minimum Action

- The variance will deviate from the overall zoning as little as possible to afford the necessary relief.

## Variance Review Boards

Typically, variance requests are reviewed by the community planning commission, a separate appeals board, or in some cases the city council. These boards will not have the authority to change the ordinance, only to impose the application or interpretation of the ordinance's provisions. Generally, the community's variance board reviews variance requests only on a structure-by-structure basis. Variance requests should not be reviewed or granted for multiple lots, phases of subdivisions, or entire subdivisions. When a review board follows and considers the intent and procedures outlined in the NFIP criteria, few situations would qualify for a floodplain management variance related to flood elevations or flood loss reduction provisions in the local ordinance.

## Key Issues to Consider

A community should consider four important issues before granting a variance: (1) the community's liability, (2) the cumulative impacts on the floodplain of granting multiple similar variances, (3) the variance decision will last for the life of the structure, and (4) whether granting a variance will jeopardize the community's participation in the NFIP.

For example, variances are granted for the structure and not associated with the property owner. As such, when communities review a variance request, they should consider the life expectancy of a building. A home built today is expected to last an average of about 100 years; shopping malls with traditional parking lots have a life expectancy of about 12 to 20 years; commercial structures have a life expectancy of about 25 to 75 or more years, depending on building type. If the structure is located within a floodplain, the cumulative effects of development will increase possible flood damage to the structure.

## SECTION 3

# Floodplain Management Variance Review Process

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To properly administer its floodplain management ordinances, including the granting of variances, a local government should establish a standardized variance review procedure. This procedure must be within the bounds of State-enabling law and in accordance with local laws and ordinances. In most cases, the variance standards in 44 CFR §60.6 are incorporated into the body of a community's floodplain management ordinance.

The NFIP variance criteria set forth at 44 CFR §60.6 must be read as a whole and not in segments. Therefore, the granting of a floodplain variance is rare.

Administrative procedures for processing and considering variance requests vary from State to State, and often from community to community. Some communities have separate procedures to hear variance requests related to zoning and building codes, while other communities have only one set of procedures. Procedurally, a variance request is usually presented to the appropriate commission (board), which then considers the request during a public meeting or hearing. During the deliberations, reports from the appropriate community official, as well as testimony from the applicant and other potentially affected or interested parties, are usually accepted orally and in writing.

### 3.1 Types of Variances

In general, there are two types of variances allowed by State law: use variances and area variances. The responsibility for determining that an applicant qualifies for either of these variances rests solely on the community.

A variance is the only legal means by which a community can permit construction that is inconsistent with the provisions in its floodplain management ordinance.

**Use variances.** Local officials permit a property owner to use a building or parcel for a purpose not normally allowed in a particular zone. An example of this would be allowing someone to establish an office in a residential zone because the property has some unique characteristic that precludes use or development as a residence, and use as an office would not be detrimental to the surrounding properties or the community as a whole.

**Area variances.** An area variance may be granted when, for instance, a property owner is able to show that there are serious, practical difficulties associated with complying with the dimensional requirements of the zoning ordinance, such as setback requirements or maximum height restrictions.

### Floodplain Management Variances

While variances from NFIP floodplain management criteria may seem, at first glance, to be similar to area variances, this is not actually the case. Variance requests that deal with maximum height or setbacks

are usually related to aesthetic concerns, and may affect property values. Variances from floodplain management criteria are not related to aesthetics, but rather may affect the safety and protection of the public, the environment, and the flood risk of a community.

Any variance from local floodplain management standards must be closely scrutinized to determine if it meets State and local standards for variance issuance, as well as the minimum standards adopted by the community in the variance requirements of the floodplain management ordinance.

Variances can be granted for new construction and Substantial Improvements only if *all* the other NFIP requirements in the local floodplain management ordinance are met. If even one criterion is not met, the variance should not be granted.

**DEFINITIONS**

<p><b>Substantial Damage:</b> Defined by the National Flood Insurance Program (NFIP) as <i>“damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.”</i></p> <p><b>Substantial Improvement:</b> Defined by the NFIP as <i>“any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals</i></p>	<p><i>or exceeds 50 percent of the market value of the structure (or smaller percentage if established by the community) before the ‘start of construction’ of the improvement. This term includes structures that have incurred ‘Substantial Damage,’ regardless of the actual repair work performed.”</i></p> <p>Refer to FEMA P-758, <i>Substantial Improvement/Substantial Damage Desk Reference</i> (2010) for more information.</p>
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### 3.2 NFIP Variance Standards

The NFIP does not set forth an absolute criterion for granting variances from the minimum floodplain management provisions. NFIP regulations provide the basis for each participating community to determine whether construction or other development activities qualify for a variance from the local floodplain management regulations.

The authority and the responsibility to approve or disapprove a variance rest with the local government. However, because variances may expose insurable property to a higher flood risk, the Federal Emergency Management Agency (FEMA) evaluates variances granted by a community to determine whether they are consistent with sound floodplain management standards as required for participation in the NFIP. The floodplain management variance criteria contained in the NFIP regulations are intended to:

- Provide specific floodplain management input to the community criteria for approving variances;
- Inform participating communities of FEMA’s guidelines for evaluating local compliance with the standards required for participation in the NFIP;
- Ensure appropriate notification of the issuance of a variance; and
- Advise applicants and future owners of potentially high flood insurance rates.



The NFIP variance standards are based on the general principle of zoning law that variances pertain to a piece of property and are not personal in nature. Though standards vary among States, in general, a properly issued variance is granted for a parcel of property with “physical characteristics” so unusual that complying with the local floodplain management ordinance would create an exceptional hardship to the applicant or the surrounding property owners. Those characteristics must be unique to that specific parcel or property and not be common to or shared with adjacent parcels. The unique characteristics must pertain to the land itself and the intended function of the structure, *not to its inhabitants or the property owners*. Therefore, financial hardship or the health condition of the property owner is never a sufficient cause for granting a variance. Section 3.3.3 of this document details the “Good and Sufficient Cause” that must be considered for approval when reviewing a variance.

Some communities have considered floodplain variances based solely on the fact that another Federal or State agency permit has been issued or a project is federally funded (e.g., a U.S. Army Corps of Engineers Section 404 permit or a U.S. Office of Housing and Urban Development Community Development Block Grant). While the NFIP requires a community “to assure that all necessary permits have been received from those government agencies from which approval is required by Federal or State law” (CFR §60.3(a) (2) before issuing a floodplain development permit or considering a variance, the determining factor should be whether a development permit or variance will meet the requirements of the community’s local floodplain management provisions, including the cumulative impacts of development within the SFHA. Even if a Federal or State permit has been issued, a community must still determine whether the requirements of the local floodplain management ordinance have been met, and either issue or deny a floodplain development permit, and then review whether to grant a variance. A variance granted based solely on the applicant obtaining a permit or funding grant from a Federal or State does not meet the NFIP requirement in CFR 44 §60.6.

### VARIANCES DURING A POST-DISASTER PERIOD

Frequently, post-disaster situations lead a community to erroneously consider granting variances so the rebuilding process can begin quickly. Often, communities are pressured to grant variances for structures that have incurred Substantial Damage. The enforcement of a floodplain management ordinance requires new construction and structures that have had Substantial Damage in SFHAs to be elevated or floodproofed (non-residential only) so they are at or above the base flood elevation (BFE). The consistent enforcement of such an ordinance should

be viewed by community officials as the fulfillment of a responsibility to protect the lives and property of residents and business owners, especially in the aftermath of a disaster. It is also a requirement for implementing a sound floodplain management program for the overall betterment of the community, risk reduction, and continued participation in the NFIP. For these reasons, a variance requesting the alteration of floodplain management ordinances involving elevation of a damaged structure in an SFHA would not meet the NFIP variance criteria.

### 3.3 NFIP Variance Regulations

The following sections describe each criterion of the variance regulations as stated in 44 CFR §60.6.

#### 3.3.1 Floodways

Communities should not issue variances for construction within a floodway if the variance will result in an increase in flood levels during the base flood event.

**44 CFR 60.6(A)(1)**  
Variances shall not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

#### Floodway Definition and Background

The floodway is defined in the NFIP regulations as:

*...the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height. (44 CFR §59.1)*

The floodway is designated on FEMA’s Flood Insurance Rate Maps (FIRMs) for riverine areas based on a detailed study called a Flood Insurance Study. It is important to reserve the floodway as a water conveyance area because any encroachments or obstructions placed in the floodway will increase flood heights and/or water velocities, and consequently increase flood damage to other properties.

**BASE FLOOD ELEVATION (BFE)**  
Elevation of flooding, including wave height, having a 1 percent chance of being equaled or exceeded in any given year. The BFE is the basis of insurance and floodplain management requirements and are shown on FIRMs.

#### Floodway Variance Requests

The intent of this variance criterion is to prohibit development that may increase flood levels which, in turn, could increase potential flood damage to the development and to structures of other property owners. In most cases, alternative locations for the proposed development are available outside the limits of the floodway. Other actions may also be taken or required as a condition of approval to compensate for increased flood levels, such as requiring the applicant to install flood-control measures to accommodate increased discharge.

The burden of proof rests on the applicant or developer, not FEMA, the local community, State, or other agency, to demonstrate that scientific data were used to determine that no increase in flood levels would result from the proposed development. Sufficient proof may include, but is not limited to, studies provided by an appropriately licensed professional.

If no feasible or practical alternative location for the proposed development is available, the variance applicant must demonstrate that it conforms to all of the requirements stipulated in NFIP variance regulations and is in accord with other floodplain management regulations such as:

*Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge. 44 CFR 60.3(d)(3)*

Even when all variance criteria are met and a floodway analysis has been reviewed and approved by the community, a community may still choose not to grant a variance and deny issuance of a floodplain development permit. Some communities choose to adopt a higher regulatory standard that exceeds the minimum requirements of the NFIP. As a result, based on the potential hazards involved, communities can still prohibit the issuance of variances for floodway development.

When deciding whether to issue a variance, the community should consider the potential liability it may encounter if the granting of a variance later results in increased property damages, personal injuries, or even loss of life during a flood.

Generally, a community may prohibit variance requests based on three potential flood hazards in the floodway:

- The hazard to the development itself;
- The increased hazard the development may cause to other properties; and
- The risk to individuals stranded in isolated structures surrounded by what is, in many cases, rapidly flowing, debris-laden floodwater, and the risk to the rescue workers.

For example, granting a variance that allows the placement of a manufactured home below the base flood elevation (BFE) in a floodway will endanger the lives of its inhabitants because a flood will likely severely damage or demolish the home. Additionally, manufactured homes can float into other structures and cause severe damage, or become wedged in a bridge opening or culvert, which can dramatically increase flood heights upstream and endanger other citizens.



**A flooded manufactured home can float off its foundation and cause additional damage nearby.**

Because of the hazards of granting variances for development in the regulatory floodway, community officials should carefully consider all of the possible dangers created by the variance issuance. For example, local emergency services personnel may be endangered while attempting to rescue the occupants in fast-moving floodwater. In most cases, the incremental benefits of allowing the development are outweighed by the increased costs of future flood damage and increased life safety hazards.

### 3.3.2 Lots of One-Half Acre or Less

This variance criterion specifies that variances should generally be granted only for lots that are one-half acre or less; variances for lots of larger sizes must include significant technical justification. The intent of this variance provision is not to place a lesser burden of justification on one-half acre lots, but a greater burden on lots larger than one-half acre.

#### Variance Requests for Lots One-Half Acre or Less

Common misinterpretations of this variance criterion include using it to justify variance requests related to personal convenience, preference, or aesthetics, e.g., the height inconsistency that would result between adjacent structures if the middle one were elevated to or above the BFE. Aesthetics or other personal preferences should never be a consideration when making variance determinations. This variance criterion addresses the physical, not the aesthetic, characteristics of a lot in relation to the adjacent lots. When balancing an applicant's personal issues with issues related to public health and safety, such as the minimum NFIP criteria, a community should always choose public safety and the protection of lives and property.

Some communities misinterpret this variance criterion to mean that variances can be granted systematically for all remnant or "in-fill" lots of less than one-half acre located in subdivisions built prior to the effective date of the community's current FIRM. Granting a variance on an "in-fill" lot of less than one-half acre is not automatic.

The granting of variances for small lots where elevation on fill will pose an exceptional hardship due to drainage problems should be rare. Variances for "in-fill" lots of one-half acre or less should be granted on the basis of potential drainage problems only if, as 44 CFR § 60.6(a)(2) explicitly states, all other variance criteria are met. In addition, communities should grant variances for "in-fill" lots only if a professional engineer or architect has prepared and certified data demonstrating that no technically feasible methods are available to alleviate or mitigate the drainage problems.

#### Variance Requests for Lots Larger Than One-Half Acre

The 44 CFR §60.6(a) specifically states that "as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases." The one-half acre threshold is meant to be a *general* cutoff point and is related to the intrinsic qualities of the site or parcel; as the regulations state, "deviations from that limitation may occur" provided sufficient cause has been demonstrated by the applicant in accordance with the variance criteria. However, lots larger than one-half acre, in nearly all instances, have sufficient space to elevate structures on fill to or above the BFE without resulting in adverse drainage impacts on adjacent properties and structures, whether or not the adjacent structures' lowest floor elevations are at or below grade. Because of the additional storage and infiltration capacity on

#### 44 CFR 60.6(A) AND (A)(2)

While the granting of variances generally is limited to a lot size less than one-half acre (as set forth in paragraph (a)(2) of this section), deviations from that limitation may occur. However, as the lot size increases beyond one-half acre, the technical justification required for issuing a variance increases.

Variances may be issued by a community for new construction and substantial improvement to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, in conformance with the procedures of paragraphs (a)(3), (4), (5) and (6) of this section.

larger lots, and because of the flexibility of being able to choose a location on a large lot that will have less impact, the technical justification required for issuing a variance based on potential drainage problems increases as the lot size increases beyond one-half acre. Site-specific considerations will vary, including the size of the structure relative to the size of the lot, as well as the location of the structures relative to each other.

### Compliant Mitigation Measures for Large and Small Lots

Many design and construction alternatives are available to reduce potential drainage problems while still allowing a structure to be built in full compliance with NFIP regulations. Several acceptable elevation techniques cause no more, and usually less, disruption of drainage patterns than building a structure at ground level through a variance. Examples include:

- Elevating the structure on pilings, columns, or extended foundation walls;
- Grading or landscaping the elevated fill pad to drain away from adjoining properties; and
- Creating natural or artificial infiltration fields or systems at the intersection of the fill slope and the natural ground.

These types of alternatives are often cost effective and visually appealing, without creating drainage problems for adjacent structures. Studies have demonstrated that floodplain-compliant development construction practices and alternatives are effective at mitigating the flood threat and risk to life and property while promoting resiliency. The initial cost of flood-resistant construction has been demonstrated to offset the financial impacts of emergency response, recovery, and other costs associated with flooding, such as the cost of reconstruction, displacement from the residence or business, and loss and replacement of building contents.

### 3.3.3 Good and Sufficient Cause

A variance request by an applicant that is based on a “good and sufficient cause” is one that deals solely with the unique site-specific physical characteristics of the property, subdivision lot, or land parcel in question. Physical conditions are uniquely inherent to the land or property and will not change or be significantly altered over time. A “good and sufficient” cause for a variance occurs when a parcel of land possesses physical characteristics so unusual that complying with NFIP regulations in a local ordinance would create an exceptional hardship related to the property, the surrounding property owners, or the community in general. In addition, the unusual physical characteristics must be unique to that property and not be shared by adjacent parcels or be typical of other lots in the community.

#### 44 CFR 60.6(A)(3)(I)

Variations shall only be issued by a community upon a showing of good and sufficient cause.

A rendering of a “good and sufficient” cause should never be based on the design character of the planned construction or Substantial Improvements to the structure, the personal difficulties of the owner or inhabitants, or local provisions that regulate standards other than health and public safety standards (e.g., aesthetic restrictions of subdivision homeowner associations). The variance should not be based on the convenience that it would afford the applicant. Inconvenience, aesthetic considerations,

physical handicaps, personal preferences, the disapproval of one’s neighbors, or homeowners association restrictions do not qualify as “good and sufficient” causes. In addition, the financial hardship of the property owner is never a “good and sufficient” cause for granting a variance. Granting a variance for construction in a flood hazard area based on financial hardship only increases the probability that the owner will suffer high health and safety risks as well as monetary adversity when the structure is damaged during a flood. In addition, the structure will be subject to higher insurance premiums.

The justification for granting a variance based on physical characteristics should be such that it remains valid over time. In contrast, personal difficulties of the owner and intended uses of buildings can change dramatically with changes in ownership. For example, once the personal circumstances of the owner changes (e.g., the property is sold or leased, or the owner no longer suffers from financial hardship) the justification for the variance may no longer exist, but the structure remains, exposing future owners/occupants to the nonconforming nature of the property and any hazards and public safety problems associated with it. This exposure of life and property to risk from flood damage would be directly attributable to a variance issued based on the personal difficulty of the previous owner.

### 3.3.4 Exceptional Hardship

The hardship that would result from failure to grant a requested variance must be exceptional, unusual, and specific to the property involved, not the personal circumstances of the applicant. When determining whether an applicant has established an exceptional hardship sufficient to justify a variance, the local variance appeal board or other governing body must weigh the applicant’s hardship against the community-wide flood damage prevention requirements.

#### 44 CFR 60.6(A)(II)

Variances shall only be issued by a community upon a determination that failure to grant the variance would result in exceptional hardship to the applicant.

As stated in Section 3.3.3, inconvenience, aesthetic considerations, physical handicaps, personal preferences, the disapproval of one’s neighbors, or homeowners association restrictions do not qualify as exceptional hardships. This applies even if the alternative means of construction are more expensive or complicated than building the structure with a variance, or if they require the property owner to use the parcel differently than originally intended or build the home elsewhere.

Two examples are provided below to illustrate situations in which variances should not be granted:

1. *A property owner requests a variance to the elevation requirement because it will cost the owner several thousand dollars to elevate the house to comply with an ordinance and an additional several thousand to build a wheelchair ramp to provide access for a handicapped family member.*

While financial considerations are always important to property owners, and the needs of the handicapped person certainly must be accommodated, these difficulties are not in the category of “exceptional hardships” as they relate to floodplain management variances. These characteristics result in personal hardships (the physical condition and financial situation of the homeowner) rather than pertaining to the property itself.

2. *A property owner requests a variance to the elevation requirement because it will result in a structure that is architecturally different from other structures within a subdivision governed by a homeowners association.*

Homeowners associations or subdivision boards frequently place restrictions on landscaping and construction practices, such as the total height to which structures can be built, to promote architectural and aesthetic consistency. The owner, and usually the prospective neighbors and homeowners association, protest that the structure, if elevated, will be architecturally out of sync with other structures on the block and that property values will be lowered as a result.

Local governments must never grant variance requests for exceptional hardship stemming from architectural considerations or conflicts with local subdivision aesthetic regulations. The safety of all residents takes precedence over neighborhood aesthetics.

### 3.3.5 Increased Flood Heights

Development that receives a variance must not cause an increase in water surface elevations (WSELs) during floods of any magnitude, not just the base flood. Therefore, to grant a variance under this provision, a community must meet all the other variance requirements, and the applicant must demonstrate through technical studies that the proposed development will not increase flood heights.

#### 44 CFR 60.6(A)(3)(III)

Variations shall only be issued by a community upon a determination that the granting of a variance will not result in increased flood heights.

The underlying principle is that an increase in flood heights may increase flood damage to structures in the community that otherwise would not be floodprone. Allowing flood heights to increase is inconsistent with the objectives of sound floodplain management and undermines a community's efforts to protect structures by requiring elevation or floodproofing to or above the BFE. Allowing any increase in flood heights would decrease the level of protection provided by the NFIP requirements.

### 3.3.6 Public Safety and Nuisances

Variations must not result in additional threats to public safety or create nuisances. Local flood damage prevention ordinances and minimum NFIP requirements are intended to help protect the health, safety, well-being, and property of the local citizens. Local floodplain management is a long-range community effort usually made up of a combination of approaches, including adequate drainage systems, warning and evacuation plans, and keeping new property—especially homes—at or above the BFE. These long-term goals can be met only if exceptions to the flood damage prevention ordinances are kept to a minimum.

#### 44 CFR 60.6(A)(3)(III)

A variance will not cause additional threats to public safety or create nuisances.

Variations that allow the construction of habitable area below the BFE, especially in high-hazard areas such as floodways and areas adjacent to coastal Zone V, increase the risk to life and property of both occupants

and emergency services personnel. The potential for loss of life is greatest in structures where the lowest floor is below the BFE, and where flood depths are greater than 3 feet or where high velocity floodwater is present.

structured below the flood elevation, the variance then raises public safety concerns for the homeowner and adjacent properties.

In addition to potentially increasing public safety concerns, granting variances for elevation requirements often results in abandonment when non-elevated structures are damaged during flood events, thereby creating a public nuisance.

### 3.3.7 Public Expense

Extraordinary public expenses may include protection and/or repairs to structures, time and materials expended by emergency service personnel, the expense involved in operating disaster assistance programs, and the cost to communities to:

#### 44 CFR 60.6(A)(3)(III)

Variances shall only be issued by a community upon a determination that the granting of a variance will not result in extraordinary public expense.

- Repair or replace public facilities and infrastructure that continue to be exposed to flood damage because a variance was issued;
- Publically fund emergency flood protection measures, such as sandbags and temporary floodwalls, used to protect structures exposed to flooding as a result of the issuance of an elevation variance;
- Accommodate time and equipment expended by emergency services personnel to evacuate an area or rescue occupants of flooded structures;
- Identify public disaster assistance needed by occupants of structures exposed to increased flooding following the issuance of a variance; this assistance may be in the form of various Federal disaster assistance programs (e.g., FEMA, Small Business Administration), non-government organization assistance (e.g., Red Cross), and denominational and other private donations; and
- Repair or demolish flood-damaged properties when such properties were granted variances and the owners, unable to afford repairs, abandon them.

### 3.3.8 Fraud and Victimization

Local governments should be careful to never grant variances that have the potential to cause public victimization or fraud. Public fraud or victimization can result when a property that was granted a variance changes ownership.

An unsuspecting buyer may be unaware that the structure is subject to flood damage and costly flood insurance rates. Frequently, unsuspecting buyers of previously flooded homes are not aware of the

#### 44 CFR 60.6(A)(3)(III)

Variances shall only be issued by a community upon a determination that the granting of a variance will not cause fraud on or victimization of the public.



magnitude of previous flood damage to the structure, or that a variance from the required flood elevation was granted.

An example of the potential for public victimization is when a variance for a nonconforming elevation or floodproofing requirement is granted for a storage warehouse. The units or “bays” of the warehouse, typically rented to the public for personal uses, may victimize citizens who are unaware of the flood hazard and the risk to their property. If the warehouse is flooded and its contents damaged, citizens renting units may have no recourse for financial compensation.

### 3.3.9 Existing Local Laws or Ordinances

A community should not grant a variance from its local floodplain ordinances if the variance is in conflict with other existing local laws or ordinances or Federal and State laws or regulations that, by statute, the community is required to obey.

#### 44 CFR 60.6(A)(3)(III)

Variances shall only be issued by a community upon a determination that the granting of a variance will not result in conflict with existing local laws or ordinances.

Examples of local laws that may conflict with a floodplain management variance include State and local building codes, health and safety regulations, and laws protecting environmental and other natural resources, including but not limited to threatened or endangered species and historic or cultural resources. Any variance must comply with the provisions of State zoning legislation and case law.

While an approved variance to the floodplain management regulations may allow particular development within the SFHA, a variance to the floodplain standards cannot be used to waive compliance or development requirements for other local, State, or Federal requirements. A variance, if granted, must approve only the absolute minimum necessary to relieve the particular hardship identified through the variance process with regard to floodplain management; it must not exclude or exempt the development from compliance with overlapping policies, regulations, authorities, and jurisdictions.

If a variance to the floodplain development requirements is granted, the development must demonstrate receipt of permits and approvals from all other local, State, and Federal agencies as part of the variance process and prior to issuance of the floodplain development permit associated with the proposed development. For example:

- If a community has adopted the 2012 International Building Code the development must still conform to the applicable building code requirement. Conformance includes verification that all other applicable Federal and State permits have been received prior to issuance of the floodplain development permit.
- If a community has not adopted the 2012 International Building Code or other land use regulations, the development must still comply with the stand-alone provisions of the floodplain ordinance as well as all other applicable State and Federal laws. Conformance includes verification that all other applicable permits have been received prior to issuance of the floodplain development permit.

State and Federal laws that may apply even if a variance has been granted include, but are not limited to:

- State health department requirements for well or septic systems, or other requirements
- Threatened and Endangered Species Act of 2005
- National Historic Preservation Act of 1966
- National Environmental Policy Act of 1970
- Clean Water Act
  - Federal and State wastewater or stormwater discharge requirements and permits
  - Clean Water Act, Section 404 permits

A variance to the floodplain ordinance cannot be used to waive compliance or development requirements for other local, State, or Federal requirements.

When it is not feasible to secure all other permits prior to consideration of a variance and issuance of a floodplain development permit, the local jurisdiction may condition issuance of a flood development permit on receipt of these permits. In these instances, it is important to have administrative procedures established to:

1. Identify which permits are required;
2. Refer and notify the applicable authorities and jurisdictions of permit issuance;
3. Specify within the floodplain development permit, as conditions of approval, the expectation and need to secure and provide copies of these permits in a timely fashion;
4. Communicate these requirements to the applicant and provide contact information to initiate the permitting process with other applicable authorities; and
5. Follow up with the applicant to complete the file with copies of the permits from the other applicable jurisdictions.

### 3.3.10 Minimum Necessary to Afford Relief

A variance granted by a community must be the absolute minimum needed to minimize or reduce future flood damage and still relieve the hardship, as defined by the previous provisions. In considering variances, the community review board should use local technical staff expertise and recommendations from the building, planning, zoning, or engineering departments.

A “blanket variance” that would waive all NFIP requirements could never meet all of the requirements of a variance. There will always be some feasible action that can be taken to reduce the potential for flood damage.

#### **44 CFR 60.6.(A)(4)**

Variances shall only be issued by a community upon a determination that the granting of a variance is the minimum necessary, considering the flood hazard, to afford relief.

For a variance request to waive the elevation requirement, the community review board must require the “minimum necessary” actions. For example, the minimum actions necessary for a non-residential structure may include implementing “wet floodproofing” techniques and meeting the other provisions in the local floodplain management ordinance, including properly anchoring the structure, using flood damage-resistant materials and construction techniques, and elevating utilities as defined in 44 CFR 60.3(a)(3). As another example, if an applicant can justify a variance from the requirement to elevate building utilities above the BFE, the community review board should still require as much elevation as possible to provide some flood risk protection or risk to adhere to the intent of the flood ordinance.

### 3.3.11 Disclosure

Community officials must notify the applicant that the issuance of an elevation variance will result in increased flood insurance premium rates and that construction below the BFE will increase risks to life and property.

If the applicant is not required to purchase flood insurance at the time the variance is granted, costly flood insurance rates may not be a factor. However, if the structure experiences flooding at some point in the future, the owner may wish to purchase flood insurance. In addition, future buyers of a structure for which a variance has been granted may wish or be required to purchase flood insurance and may be discouraged from purchasing the structure because of costly flood insurance rates. This situation can be compounded when an unsuspecting buyer purchases such a structure and later discovers that flood insurance is required, at a prohibitive cost.

In addition to notifying the applicant regarding the insurance implications of a variance, the “Planning Considerations in Floodprone Areas” section of the NFIP regulations (44 CFR 60.22) recommends that a community consider requiring full disclosure of the variance “to all prospective and interested parties (including but not limited to purchasers and renters) [44 CFR 60.22(c)(3)(ii)]. Such a disclosure is important and necessary to inform subsequent buyers of structures for which an elevation variance was granted. Some communities require that a copy of the variance be attached to the property title abstract to protect a prospective buyer from victimization. The attached variance should include any conditions and findings that relate to the granting of the variance.

From a public safety standpoint, the prospective buyer has a right to know that the structure will be susceptible to flooding and its occupants subject to a flood risk. From a financial standpoint, the prospective buyer has a right to know that the structure and its contents will be susceptible to damage and that the premium rates applied can be much higher than structures built in compliance with the minimum NFIP standards.

#### 44 CFR 60.6(A)(5)

...a community shall notify the applicant in writing over the signature of the community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with a record of all variance actions as required... to afford relief.

### 3.3.12 Functionally Dependent Uses

The NFIP regulations define a “functionally dependent use” as one that cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities necessary for loading and unloading cargo or passengers, and ship building and repair facilities.

The definition of “functionally dependent use” limits variances to the practical problems of building and repairing ships, loading and unloading cargo and passengers from vessels, moving the cargo onto other forms of transportation, and moving the cargo to long-term storage facilities that fully comply with NFIP criteria.

The term does not include long-term storage or related manufacturing facilities since these uses can be located outside the floodplain or fully comply with all NFIP requirements, and are therefore excluded from the definition of functionally dependent use. In accordance with this variance provision, variances for new construction, Substantial Improvements, and any other development necessary for the conduct of a functionally dependent use must meet all other floodplain development and applicable variance requirements. In addition, the structures or other development must be protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

In many cases, such as port facilities, the seafood industry, or shipbuilding, NFIP floodplain management criteria can be met with the industry still being able to operate as intended. However, because functionally dependent uses must be located on or adjacent to water, practical and operational difficulties may result from the physical characteristics of the property. One way to meet the floodplain management requirements is to use wet floodproofing techniques, such as installing flood damage-resistant materials, elevating mechanical equipment, locating offices above the BFE, using ground fault circuit interrupters, or developing an emergency plan to remove contents before a flood.

If a variance is used to address the unique challenges of functionally dependent uses, it must include only the minimum necessary to afford relief considering the flood hazard. When evaluating variances for functionally dependent uses, the primary concerns should be:

- Preserving human health and safety, both within and surrounding the proposed development, including emergency responders;
- Minimizing flood damage during the base flood;
- Ensuring that no ancillary or additional threats to public welfare will be created; and
- Ensuring that only minimum deviation from the NFIP requirements is made to allow the intended use of the facility.

#### 44 CFR 60.6(A)(7)

Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that (i) the criteria of paragraphs (a)(1) through (a)(4) of this [60.6] section are met, and (ii) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

As with the other variance criteria, no variances for functionally dependent uses may be issued within a designated regulatory floodway if flood levels would increase during the base flood because an increase in flood levels would increase potential flood damage to other property owners.

In many situations, feasible locations for a functionally dependent use are available outside the floodway. If a functionally dependent use must be located in a floodway, the applicant must either demonstrate (using technical analyses) that no increase in the BFE will result or provide additional floodway carrying capacity, such as through channel improvements, to accommodate increased flood flows and ensure that the BFE does not increase as a result of the variance.

Local officials should contact their FEMA Regional office for technical assistance if they encounter situations where functionally dependent uses must be located in a floodway and cannot meet the no-increase-in-flood-stage requirement.

### 3.3.13 Historic Structures

A variance may be issued for the reconstruction, rehabilitation, or restoration of historic structures if the variance is the minimum necessary to preserve the historic character and design of the structure. “Historic structures” are those listed in the Department of the Interior (DOI) National Register of Historic Places, a DOI-certified State Inventory of Historic Places, or a certified local inventory, and structures listed as a contributing building in a listed historic district.

**44 CFR 60.6(A)**

Variances may be issued for the repair or rehabilitation of historic structures upon a determination that (i) the proposed repair or rehabilitation will not preclude the structure’s continued designation as a historic structure and (ii) the variance is the minimum necessary to preserve the historic character and design of the structure.

The original intent of providing special treatment to historic structures was to comply with the intent of the National Historic Preservation Act of 1966 by:

1. Allowing historic structures to always maintain pre-FIRM subsidized insurance rates; and
2. Minimizing the adverse impacts of NFIP requirements on the historic integrity of historic structures.

The granting of a variance should be based on a structure-by-structure review to determine whether elevation (or floodproofing, if a non-residential structure is involved ) to or above the BFE would destroy the historic character or design of the structure. Variances should only be granted for individual structures and should never be granted for portions of a historic district or an entire historic district. For example, if elevating a historic structure would destroy its character and cause it to be removed from the DOI National Register of Historic Places, a variance for the elevation requirement may be considered. However, the community should place conditions on the variance to minimize flood damage such as:

For additional guidance on historic structures, see FEMA P-467-2, *Floodplain Management Bulletin on Historic Structures* (2008).

- Elevate all utilities and finished interior workings to or above the BFE or to the maximum extent possible or practically feasible;
- Use flood damage-resistant materials for interior and exterior improvements wherever possible; and
- Raise the interior floors to or above the BFE or to the maximum extent possible (this is often technically feasible in older structures with high ceilings).

If repair or improvements result in the loss of the structure's historic designation, the structure would no longer qualify for the variance and would be required to meet the NFIP floodplain regulations.

### **Community Considerations**

In addition to this "historic structure" variance criterion, another provision of the NFIP also provides relief for historic structures located in the SFHA. The definition of Substantial Improvement at 44 CFR 59.1 excludes historic structures from its definition by excluding "any alteration of an historic structure provided that the alteration will not preclude the structure's continued designation as 'historic structure.'" The same exclusion also applies to historic structures that have incurred Substantial Damage.

In regulating historic structures, communities have the option of using the provisions as stated in the variance criteria at CFR 60.6(a) or the definition of Substantial Improvement to address the unique needs of historic structures. Communities should adopt only one option to regulate historic structures. Some communities have chosen to adopt the variance criteria in their ordinance, while other communities have chosen to include the historic structure exemption as part of their Substantial Improvement definition. In either case, historic structures can be excluded from the NFIP elevation and floodproofing requirements (non-residential only). When a community exempts a historic structure from the NFIP floodplain management requirements, it should document the process and maintain the documents in the community permit files.

### **Property Owner Considerations**

Owners of historic structures should be aware that physical alterations made to a historic structure may cause the structure to be removed from the National Register of Historic Places, DOI-certified State Inventory of Historic Places, or local inventory. If such alterations cause the structure to lose its official listing or historic status, the structure would no longer be a historic structure for the purposes of the NFIP and would be required to meet the minimum floodplain management requirements of the local ordinance. A determination of whether the structural alternations would forfeit the historic designation should be made before requesting a permit.

## SECTION 4

# Common Situations in which a Variance May Be Requested

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There are several situations in which a variance may be requested. In each case, the variance should be reviewed by the community on its own merit and not in conjunction with an adjacent property.

### 4.1 Appurtenant/Accessory Structures

One of the most common variance requests that a community may encounter is for appurtenant structures, especially detached garages and storage sheds. If technically feasible, all accessory structures should be elevated to or above the BFE to minimize damage to the structure.

The following are possible conditions that a community may place on a variance for an accessory structure to ensure damage is minimized during a flood event:

- Use of the accessory structure must be restricted to parking of personal vehicles or limited storage (storage that is incidental to the primary use of the principal structure). For instance, the storage in the accessory structure should be limited to items such as lawn and garden equipment, snow tires, and other low-damage items that cannot be conveniently stored in the principal structure.
- The accessory structure must be designed with an unfinished interior and constructed with flood damage-resistant materials as described in FEMA’s NFIP Technical Bulletin 2, *Flood Damage-Resistant Materials Requirements* (2008).
- The accessory structure must be adequately anchored to prevent flotation, collapse, or lateral movement.
- The accessory structure must have adequate flood openings as described in FEMA’s NFIP Technical Bulletin 1, *Openings in Foundation Walls and Walls of Enclosure Below Elevated Buildings in Special Flood Hazard Areas* (2008).
- Any mechanical and utility equipment in the accessory structure must be elevated to or above the BFE or must be floodproofed.
- The accessory structure must comply with floodway encroachment regulations in the floodplain management ordinance.

#### ACCESSORY OR APPURTENANT STRUCTURE

Defined in 44 CFR 59.1 as: “a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.”

Communities should not grant variances to entire subdivisions for accessory structures, especially detached garages. As with any other structure type, variances should only be reviewed and issued on an individual or case-by-case basis and be based on the unique characteristics of the site.

Accessory structures located in Zone V areas are subject to excessive hydrodynamic forces associated with wave action and cannot meet the variance conditions described above. In these locations, communities should prohibit accessory structures in Zone V areas, or allow only very low value, “disposable” storage sheds unless the sheds are elevated to or above the BFE. For additional information, see FEMA NFIP *Technical Bulletin 5, Free-of-Obstruction Requirements for Buildings Located in Coastal High Hazard Areas*.

## 4.2 Boat Storage Facilities

Many boat storage facilities constructed in SFHAs are steel-framed buildings with sheet metal exterior walls, a roof, and a concrete floor at ground elevation. Some of these facilities store boats vertically from the ground to the roof on multi-tiered overhead racks using a hydraulic forklift to hoist the boats. Other facilities are simpler in design and function, storing boats on wheeled trailers at ground level.

For the purposes of NFIP floodplain management requirements, boat storage facilities that are walled and roofed buildings are by definition “structures” and must comply with the NFIP requirements. For boat storage facilities to comply with the minimum NFIP requirements, the lowest floor must be elevated to the BFE, or the walls must be floodproofed to be watertight to the BFE.

### LOWEST FLOOR

The “lowest floor” of a structure is defined by the NFIP as the lowest floor of the lowest enclosed area.

In determining whether the construction of a boat storage facility is in compliance with minimum NFIP regulations as adopted by the local ordinance, the following factors should be considered:

- Are the construction materials and architectural design of the structure flood resistant?
- Does the proposed operating plan include storage position and techniques (e.g., vertical racks, ground level) and transporting procedures (e.g., forklift, trailers)?
- What is the distance from the water source and the intermediate terrain?
- What is the lot size and orientation?
- What is the severity of the flood hazard (e.g., height of the BFE above natural grade and risk zone designation, Zone V, Zone A, floodway)?
- What is the anticipated water velocity during flood conditions?
- Are the utilities elevated above the BFE?

If the community determines that a variance is warranted, the variance should be issued

### WET FLOODPROOFING

Wet floodproofing involves purposely designing a building to withstand inundation by floodwaters and constructing it with materials resistant to or minimally damaged by floods. FEMA’s *Technical Bulletin No. 7-93, Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program*, provides technical information on wet floodproofing.



only for the minimum necessary to afford relief related to the flood hazard. Communities should place conditions on this type of variance to minimize flood damages. An example would be stipulating that wet floodproofing measures (refer to text box) be applied to a boat storage facility to reduce damage to the structure and its contents. Property owners should understand, however, that wet floodproofing will not result in a reduction of insurance premiums. Structures that are wet floodproofed are rated by the elevation difference between the lowest floor (usually the ground elevation) and the BFE.

### 4.3 Subdivisions

Variances are not intended to provide a means of exempting lot divisions, phases of subdivisions, or entire subdivisions from floodplain management regulations. Variances should never be granted as part of a split or the creation of multiple lots, phases of subdivisions, or entire subdivisions. Variances can affect public safety, such as variances to the elevation requirement for a subdivision that could potentially increase the risk of flooding for a large number of people, as well as the demand on local emergency services. The granting of variances by a community should be based on a site-specific, structure-by-structure review to determine whether all variance criteria are met. When a property is subdivided, streets and utilities are installed, and individual sites graded, it is generally relatively manageable and cost effective for property owners to meet the floodplain elevation requirements as stated in the local ordinance.

Subdivision design should account for the flood hazard characteristics of the properties. Communities should not approve subdivisions unless the design accounts for the flood hazard. The design of a subdivision should consider access to and from the subdivision to allow local residents a safe evacuation route from the development during a hazard event such as a flood. A safe evacuation route will reduce the demand for emergency services.

### 4.4 Temporary Development

- Communities may be asked to consider a variance to allow temporary development, such as a highway project or drilling operation, in the floodplain. A variance cannot be granted by a community when the proposed measure is permanent or affects insurable structures.
- Temporary projects, however, for which there is a net public benefit (such as a highway project) are not inconsistent with the variance criteria, provided the conditions described in this subsection are met.

**DEVELOPMENT**

The NFIP defines development as any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

#### 4.4.1 Considerations for a Temporary Development Variance

- Two conditions should be closely considered by a community before granting a variance for temporary development:

- The magnitude of the impact (i.e., the potential height of the increase in WSEL) caused by the temporary project; and
- The number of insurable structures that would potentially be affected by such an increase during the base flood, and the severity of the impact.

Before granting a variance for temporary development, communities should consider issuing a temporary permit. The greater the increase in WSEL and number of potentially affected structures, the stricter the temporary performance requirements (e.g., sizing of temporary bridge openings) and the less justification for a variance. If the affected area has a low population density and one or more of the following factors are present, the community may want to consider allowing construction of a temporary project or other temporary development using a less restrictive standard:

- The increased flood hazard would be limited to property owned or leased by the State transportation agency or variance applicant, or property for which the owner has acquired “flowage” easement;
- The increased flood hazard would be limited to undeveloped community areas that the local government judges to have no development potential during the time the temporary measure would be in place;
- The increased flood hazard would not affect insurable structures (i.e., cause an increase in flood levels for structures that are already floodprone or cause non-floodprone structures to become floodprone); or
- The State or county transportation authority, another government agency with the power of eminent domain, or a private applicant has agreed to one of the following actions: (1) purchase or relocate structures affected by the proposed project, (2) elevate such structures to the temporary BFE, (3) purchase flowage or flooding easements, or (4) provide other forms of equivalent mitigation such as purchasing flood insurance for the duration of the temporary increase.

If one or more of the above factors are met, any increase in the BFE for the duration of the temporary permit should not adversely affect insurable structures in the community. In this case, the community may decide to grant a variance allowing a temporary project.

#### 4.4.2 Storage of Equipment and Material in Temporary Development Projects

Per the NFIP definition of development, the storage of equipment and materials is subject to local floodplain development permit requirements. Continuous storage operations—such as lumber yards, landscape material yards, recreational vehicle/automobile storage and sale, and junk yards—are also considered development and are subject to floodplain development permit requirements. The storage of equipment and materials should not increase flood heights in the floodway and should meet the other required standards of the floodplain management ordinance.

It is a community’s responsibility to make a prudent and reasonable distinction between types of storage activities. This distinction should be based on considerations such as the length of storage time, nature of the materials or equipment being stored, physical characteristics of the floodplain, and characteristics of the flood flows. As a guide, the smaller the SFHA and longer the storage time, the more concerned a

community should become with the placement of materials and equipment within the SFHA and the potential impact of such activities on the storage and conveyance of floodwaters.

The unique characteristics of the site in relation to the flood threat and type of activity, material, or items to be stored may be significant. The type of flood exposure, such as flash flooding or backwater ponding, water velocity and depth, time of concentration, and potential accumulation of debris are factors to consider when determining the effect of allowing temporary storage within the floodplain. Generally, the potential for water to rise more rapidly, the greater the depth and velocity, and the potential to adversely impact neighboring properties, the greater the concern the community should have with the placement of materials and equipment and its impact on the storage and conveyance of floodwaters.

Local governments should be sure to distinguish between the temporary storage of materials and equipment in flood hazard areas and the storage activities associated with continuous businesses, construction operations, or other commercial and industrial enterprises.

# SECTION 5

## NFIP Flood Insurance Implications of Variances

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Property owners should understand the financial consequences of constructing or repairing a building using an approved variance. While an approved variance may allow development within the SFHA to deviate from specific performance and building standards specified in a local floodplain ordinance, NFIP flood insurance rates and the flood insurance purchase requirement enforced by lending institutions cannot be waived. As described in Section 3.3.11, Disclosure, the variance regulations require that the community notify the applicant that flood insurance rates will likely be substantially higher than rates for a comparable structure that is fully compliant. A variance from elevation requirements—the most common kind of variance requested—increases the risk to a building, and that increased risk is reflected in higher annual insurance premiums. Insurance rates for a building built below the BFE can be substantially higher than those for elevated buildings.

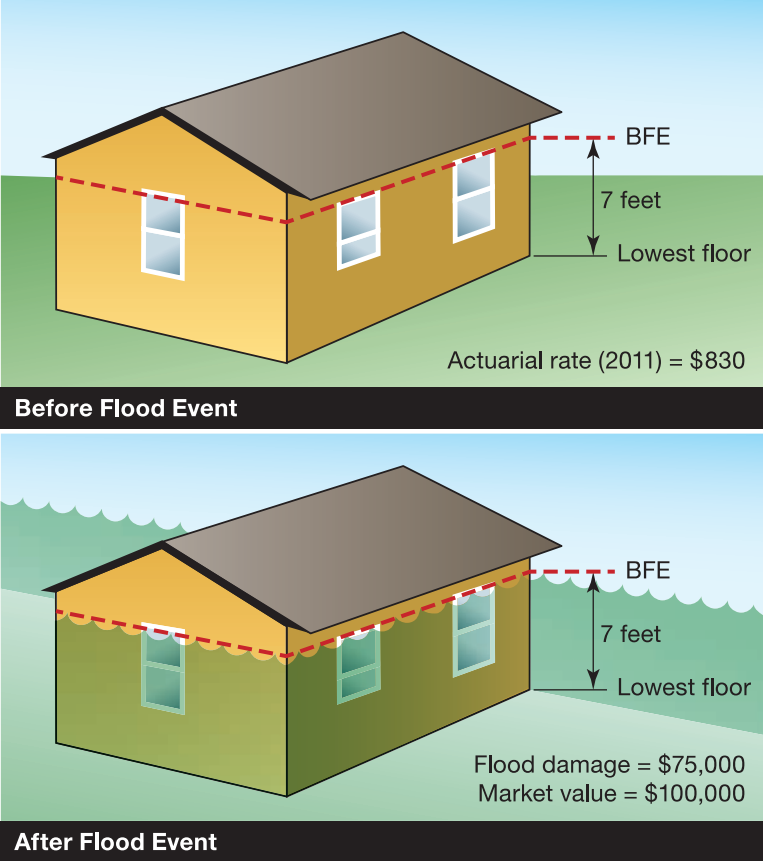
If a local government receives a variance request to construct a building below the BFE, it must notify the applicant (in writing) that granting the variance will result in increased flood insurance premium rates, up to \$25 per \$100 of coverage. The variance-induced flood insurance premium rates may increase to a level beyond affordability for the owners. For example, a marine supply store on the Gulf Coast was built 14 feet below the BFE in Zone V, resulting in an annual flood insurance premium of \$25,000 on a building valued at \$100,000. In some cases, the applicant for the variance may not care about the cost of flood insurance. However, if the variance is approved, the impact of the variance on flood insurance premiums may affect future owners who, if they cannot afford the property’s high flood insurance rates, may abandon the building and leave the community with a vacant, flood damaged, and essentially uninsurable building.

Property owners seeking to obtain a variance to reduce construction costs should understand that a variance may save money in the short term, but may result in higher costs over the long term as a result of higher insurance premiums or, if uninsured, in flood losses.

The insurance premiums for a single-family home are directly affected by the elevation of the first floor in relation to the BFE. Figure 1 shows a pre-FIRM building constructed with the lowest floor 7 feet below the BFE and an annual premium of \$830 that is flooded by the base flood event, incurring Substantial Damage. Figures 2 and 3 show different reconstruction scenarios and the resulting flood premiums. The illustrations provide a clear picture of the cost of actuarial post-FIRM flood insurance rates and, therefore, the true risk to which the building is exposed.

**Note:** The premiums cited in these figures are for the purposes of this example. Insurance rates vary based on flood zone, date of construction, and lowest floor elevation, and must be computed case-by-case. The premiums shown for the next series of illustrations were computed based on \$100,000 in building coverage. Current rates for these buildings may be different from those shown.

Recent changes to the National Flood Insurance Program may result in long-term premium increases to the Standard Flood Insurance Policy.



**Figure 1: Pre-FIRM building with lowest floor 7 feet below the BFE incurred Substantial Damage during the base flood event.**

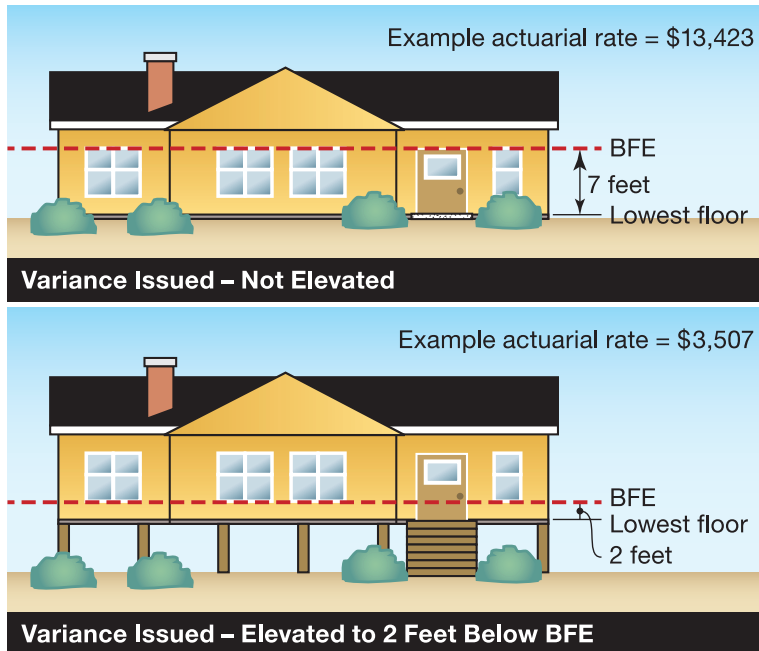


Figure 2: Two examples of repairs requiring a variance to the building shown in Figure 1. Note the example actuarial rates based on \$100,000 in building coverage.

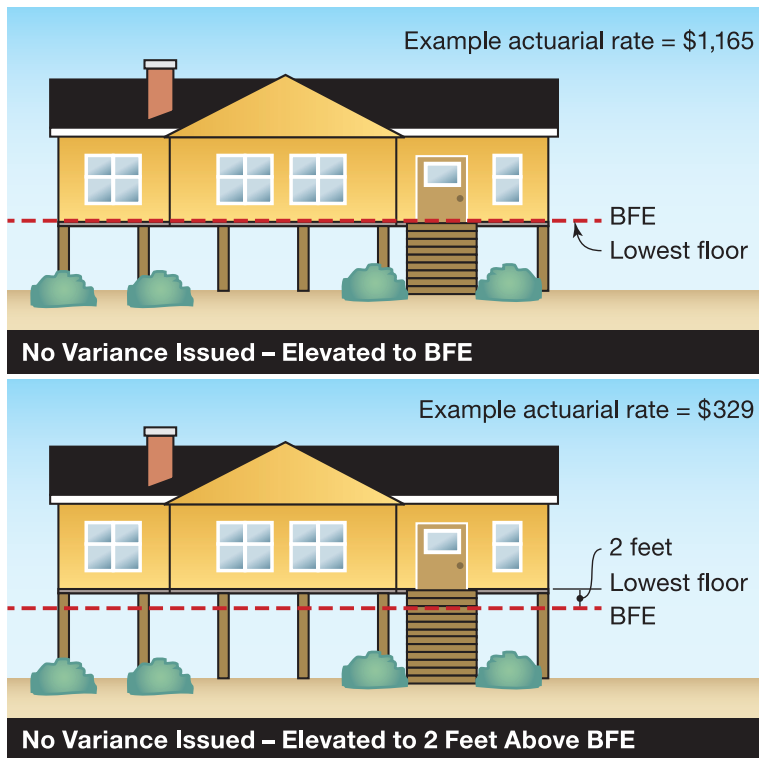


Figure 3: Two examples of repairs where no variance to the building shown in Figure 1. Note the example actuarial rates based on \$100,000 in building coverage.

## SECTION 6

# Additional Resources

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Contact the FEMA Regional Office or the State Coordinating Agencies for the NFIP for assistance implementing the NFIP. The current listing of FEMA Regional Offices is provided at <http://www.fema.gov/about/contact/regions.shtm>. The NFIP State Coordinating Agencies are provided at <http://www.floods.org> (see State/Local Resource and Tools).

### 6.1 Federal Emergency Management Agency Publications

#### Guidance and Manuals

*Floodproofing Non-Residential Structures*. FEMA 102. May 1986. Available at <http://www.fema.gov/library/viewRecord.do?id=3581>.

*Protecting Building Utilities From Flood Damage: Principles and Practices for the Design and Construction of Flood Resistant Building Utility Systems*. FEMA P-348. November 1999. Available at <http://www.fema.gov/library/viewRecord.do?id=1750>.

*Floodplain Management Bulletin on Historic Structures*. FEMA P-467-2. May 2008. Available at <http://www.fema.gov/library/viewRecord.do?id=3282>.

*Homeowner's Guide to Retrofitting: Six Ways to Protect Your House from Flooding*. FEMA P-312. December 2009. Available at <http://www.fema.gov/library/viewRecord.do?id=1420>.

*Recommended Residential Construction for Coastal Areas: Building on Strong and Safe Foundations*. FEMA P-550. December 2009. Available at <http://www.fema.gov/library/viewRecord.do?id=1853>.

*Protecting Your Home And Property From Flood Damage*. FEMA P-805. October 2010, <http://www.fema.gov/media-library/assets/documents/21471?id=4654>.

*Substantial Improvement/Substantial Damage Desk Reference*. FEMA P-758. May, 2010, <http://www.fema.gov/media-library/assets/documents/18562?id=4160>.

*Repairing Your Flooded Home*. FEMA P-234. American Red Cross Publication 4477. October 2010.

*Additional resources:* <http://www.fema.gov/resource-document-library>.

## National Flood Insurance Program (NFIP) Technical Bulletins

Available at <http://www.fema.gov/national-flood-insurance-program-2/nfip-technical-bulletins>:

- *Below-Grade Parking Requirements for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* FEMA Technical Bulletin-6-93 (FIA-TB-6). April 1993.
- *Non-Residential Floodproofing – Requirements and Certification for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* FEMA Technical Bulletin 3-93 (FIA-TB-3). April 1993.
- *Wet Floodproofing Requirements for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* Technical Bulletin 7-93 (FIA-TB-7). December 1993.
- *Corrosion Protection for Metal Connectors in Coastal Areas for Structures Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* FEMA Technical Bulletin 8-96 (FIA-TB-8). August 1996.
- *Ensuring That Structures Built on Fill In or Near Special Flood Hazard Areas Are Reasonably Safe From Flooding in accordance with the National Flood Insurance Program.* FEMA Technical Bulletin 10-01 (FIA-TB-10). May 2001.
- *Design and Construction Guidance for Breakaway Walls Below Elevated Buildings Located in Coastal High Hazard Areas in accordance with the National Flood Insurance Program.* FEMA Technical Bulletin 9. August 2008.
- *Openings in Foundation Walls and Walls of Enclosure Below Elevated Buildings in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* FEMA NFIP Technical Bulletin 1. August 2008.
- *Flood-Damage Resistant Materials Requirements for Buildings Located in Special Flood Hazard Areas in accordance with the National Flood Insurance Program.* FEMA NFIP Technical Bulletin 2. August 2008.
- *Free-of-Obstruction Requirements for Buildings located in Coastal High Hazard Areas in accordance with the National Flood Insurance Program.* FEMA NFIP Technical Bulletin 5. August 2008.

## 6.2 Comments

Any comments on the Floodplain Management Bulletin should be directed to:

DHS/FEMA  
 Flood Insurance and Mitigation Directorate  
 500 C St., SW  
 Washington, D.C. 20472



## 6.3 Ordering Information

This document can be downloaded from the following Web site: <http://www.fema.gov/library/index.jsp>.

Copies of this bulletin and the above-listed publications are available from:


FEMA Publications Warehouse  
4440 Buckeystown Pike  
Frederick, MD 21704

The FEMA Publications Warehouse also accepts telephone requests (1-800-480-2520) and facsimile requests (240-699-0525)



FEMA

FEMA P-993  
Catalog No: 14016-1



**CITY OF STAR**  
**ENGINEERING DEPARTMENT**  
**MEMO**

**TO:** Mayor & Council  
**FROM:** Ryan V. Morgan, P.E., CFM City Floodplain Manager  
**MEETING DATE:** **September 3, 2024**  
**RE:** **686 S Star Road, Floodplain Variance**

**ACTION**

Mr. Mayor and members of the City Council, thank you for the opportunity to provide you with additional information regarding the Floodplain Variance Application for 686 S Star Road. Per the council direction at the August 20, 2024, council meeting, I have done some additional research and met with the State Floodplain Coordinator. Below are several items I would like to present to the council for consideration in reviewing this application.

First, the structure located at 686 S Star Road was purchased by Mr. and Mrs. Gruner during July of 2019. The home was originally constructed in 1995 in unincorporated Ada County under the jurisdiction of Ada County and their ordinances and codes. When Star was incorporated in 1997 this property was included as part of the original City limits. Since the construction of the home FEMA has remapped the Boise River Floodplain two times, once in 2003 and once in 2020. Both times, Base Flood Elevations were adjusted along with the floodplain boundaries.

State, local and federal codes allow for the grandfathering of properties without requiring improvements to the property or structures at the time of the adoption of new maps. However, when these properties are improved, codes and ordinances require review of the new improvements for compliance with the current code. The request for the home addition has triggered this review. As noted, the new improvements do not meet the current floodplain code requirements, and as such the applicant has requested a variance to build the addition to lesser standards.

In 2014 FEMA published a Floodplain Management Bulletin titled "Variances and the National Flood Insurance Program" which I have taken additional time to review. You will find a copy of that document included with the council packet. I have highlighted several sections of this document but would like to provide a summary of some of the information.



- The variance is tied to the property, and not the individual and therefore “is not related to the individual personal circumstances of the applicant”
- “Common misinterpretations of this variance criterion include using it to justify variance requests related to person convenience, preferences, or aesthetics, e.g.”

FEMA is very clear that personal health and abilities should not be a factor when considering a variance. They support this stance by asking the question, what if the property sells soon? Now you have a non-compliant building that is not associated with the individual who requested the variance. There are several other statements throughout the document that continue the argument of not granting variance based on personal health. The variance process is in place for properties where site constraints make it impossible to comply with the Floodplain Ordinance.

Additionally, the document states “the variance criterion specifies that variances should generally be granted only for lots that are one-half acre or less; variances for lots of larger sizes must include significant technical justification.” This technical justification must include how it is not possible to retain stormwater on the site without the variance, or construction of the building or improvements would not be possible without a variance.

Also requested by the council were the possible consequences of granting this variance if FEMA finds out. First, this is not a matter of IF FEMA finds out, but WHEN. FEMA is required to conduct Community Assistance Visits (CAV) where they come, visit the jurisdiction, review records and tour the area. During the process they look for items that are not in compliance with local, state and federal codes. They make a list of these items and require the jurisdiction to bring these items into compliance. Historically these visits occurred every three to five years. The last visit for Star occurred in 2017/2018, so Star may be due for another CAV. However, due to COVID, limited travel by federal employees for several years, and current understaffing issues, these visits may occur less often. I do not know when our next CAV will be. Also note that as part of the variance process, we are required to notify the State Floodplain Coordinator of the request. They are aware of this request and have been watching it. They will likely notify FEMA of the proceeding’s outcome, and the council’s final decision.

What actions will FEMA take after reviewing variance request? First, they will review the application and see if they agree with the council’s decision. If they agree with the decision and determine the council is not issuing too many variances then nothing is likely to happen.

If they do not agree with the council’s decision, there are several things that might happen. FEMA could:

1. Call for a meeting with the city and explain their findings, recommend we reconsider, or issue no further variances.
2. Require the city to work with the property to bring the building into compliance. This would be limited to the individual property only.

3. Initiate the CAV process triggering a visit by FEMA which may result in several outcomes.

If a CAV is initiated FEMA will visit the city as indicated above. After the visit FEMA will provide the city with a report on their findings, including any violations or concerns they find. The City will then be required to resolve all issue/concerns FEMA finds. One of the actions FEMA could do is require the City to bring this property into compliance with the City ordinance, along with other properties they identify. It would then be up to the City to work with the property owner to bring this property into compliance. Having seen the process before there are several options the city can do:

- Condemn or purchase the property, tear down the structure, and then sell the property or utilize it for the City.
- Force the property owner to bring it into compliance, this includes possible lawsuits or other negotiations. Because the City granted the variance it would be difficult force the issue or win any lawsuits.
- Pay the cost of bringing the building into compliance, which may include paying a contractor to raise the entire structure to meet the City ordinance.

4. Place the City on probation.

If FEMA fills the city is being unresponsive or is not working in good faith, they can then choose to place the city on probation or remove us from the NFIP. If the City is placed on probation every property in Star that has a current Flood Insurance policy will be charged an additional \$50 a year for their policy. If placed on probation and FEMA again feels we are being unresponsive they can then remove us from the NFIP.

5. Remove the City from the Nation Flood Insurance Program (NFIP).

If Star is removed from the NFIP, no property owner, residential or commercial will be able to purchase insurance from the NFIP. This means they cannot get the federal insurance rates and will likely pay five to ten time more for flood insurance, if they are able to find a policy at all. Most lenders require homeowners to have flood insurance if they live in a floodplain, and some require this if they live near the floodplain. If an existing homeowner that currently has a policy is removed from the property, the bank can force them to purchase this higher third-party policy's or foreclose on their property because they have defaulted on one of the loan requirements. Therefore, this decision may impact many residents of Star, not just the property in question.


During the August 20<sup>th</sup> council meeting there were several references to the 2017 flooding of the Boise River. While this event did cause some flooding and was considered by FEMA and others as a flood event, it was not the 0.1% chance (100 year) flood event. According to published reports the Boise River's Flood Stage is at 7,000 cubic feet per second (cfs) but the

0.1% flood event is based on 16,600 cfs. The 2017 flood event saw maximum flows of 9,600 cfs. Published reports indicate that flooding like the 2017 event have occurred 8 times in the last 50 years, including in 1984, the highest flow in the last 50 years. The following is a snippet from NOAA's website.

16000 - Major flooding will occur near the river in Boise, Garden City, Eagle, Star, and Caldwell. Some residential areas in low lying areas near the river will be flooded with water entering some houses. A flood of this magnitude has not occurred on the Boise River since 1943. Most of the area within the 100 year flood plain, including many city parks near the river, will be underwater. Debris piling up on bridge crossings will cause additional flood damage.

In conclusion, I am sympathetic to the applicant's request for a variance, however as the City's Floodplain Manager I need to balance the request of the applicant with the overall impact to the city, its other residents, and the requirements of the code. Per FEMA's guidelines this variance request does not meet their standards. In my professional opinion, granting this variance will likely trigger a review of the City's floodplain ordinances, policy, and development. FEMA will likely require the city to remedy the non-compliant building addition, which could include the city paying for the elevation of the structure. Should the City elect not to work with FEMA on this property, and any other items they may find, additional sanctions and penalties could be imposed, up to and including being removed from the National Flood Insurance Program.

If the variance is approved, the applicant should be notified that building the home addition at the lower elevation could increase their flood insurance by as much as 25% to 30%. They also need to be aware that the NFIP caps the limit of flood insurance at \$250,000 for building improvements, with an additional \$100,000 for furnishings. The total insured amount would probably be less than the total cost of damage during a major flooding event. Additionally, this variance is only for the finished floor of the building. All duct work and non-water-resistant materials (insulation, etc.) must be elevated above the Base Flood Elevation, and all other aspects of the Floodplain Ordinance must be complied with.



**CITY OF STAR**

**ENGINEER DEPARTMENT**

**MEMO**

**TO:** Mayor & Council  
**FROM:** Tim Clark, P.E., Assistant City Engineer  
**MEETING DATE:** **September 3, 2024**  
**RE:** **BLM Annexation Surveying Support**

**ACTION**

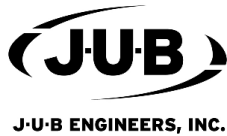
Engineering Staff has reached out to J-U-B Engineers to provide a scope of work and cost to provide surveying support for the annexation of the three following portions of BLM land adjacent to City limits:

1. 13.5 acres directly south of Freedom Park (in the Boise River)
2. 80 acres north of the Collina Vista subdivision (where the SSWD water tanks are)
3. 1,417.6 acres (seven parcels) north of the Willowbrook development

Mayor Chadwick and City Staff have been in communication with the BLM regarding the annexation of these properties. BLM will not oppose the annexation but is not going to initiate the annexation. Annexing these properties give the City the ability to preserve these parcels as open areas. This contract with J-U-B Engineers will provide the City the required documentation to annex the above referenced BLM parcels.

Engineering Staff is seeking approval from the Council to enter a contract (attached) for **\$60,250.00** with J-U-B Engineers to provide legal descriptions and records of survey for the BLM parcels to be annexed in the future.





J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: BLM Properties – Annexation and Records of Survey

CLIENT: City of Star

J-U-B PROJECT NUMBER: 10-24-

CLIENT PROJECT NUMBER:

ATTACHMENT TO:

[X] AGREEMENT DATED: / / ; or

[ ] AUTHORIZATION FOR CONTRACT AMENDMENT #X; DATED: Click or tap to enter a date.

The referenced Agreement for Professional Services executed between J-U-B ENGINEERS, Inc. (J-U-B) and the CLIENT is amended and supplemented to include the following provisions regarding the Scope of Services, Basis of Fee, and/or Schedule:

PART 1 - PROJECT UNDERSTANDING

J-U-B's understanding of this project's history and CLIENT's general intent and scope of the project are described as follows:

In three different locations, the City of Star intends to Annex multiple BLM parcels into the City limits, being BLM North (see Attachment A), BLM Tank (see Attachment B) and BLM River (see Attachment C).

PART 2 - SCOPE OF SERVICES BY J-U-B

J-U-B's Services under this Agreement are limited to the following tasks. Any other items necessary to plan and implement the project, including but not limited to those specifically listed in PART 3, are the responsibility of CLIENT.

A. Task 001: Initial Boundary Survey

- 1. Office work to set up Control files, calculate existing boundaries from record maps, plats, surveys and deeds, and establish project coordinate system as NAD83 Modified Idaho West Projected to the published Ada County Ground Projection.
2. Utilize office calculations to set project control around the site, and to field locate and tie all available record monuments for the corners of the three BLM areas noted above.
3. Office work to process the collected boundary markers and create a resolved boundary for all three areas for use in subsequent Tasks.

B. Task 002: Annexation Legal Descriptions (Three total)

- 1. Utilizing the linework created from the resolved boundary in Task 001, prepare three legal descriptions and exhibit plats for the three areas owned by the BLM for the purposes of annexing said areas into the City of Star. Deliverable: Three (3) Stamped and wet-signed legal descriptions and exhibits showing the Annexation Boundary for the CLIENT's use in annexing the properties into the City of Star.

C. Task 003: Records of Survey and CP&Fs

- 1. For all three areas, prepare a record of survey showing the field located monuments utilized to establish the boundaries of each respective area (BLM North, BLM Tank, and BLM River).
2. Prior to recording the three records of survey, J-U-B will set any relevant aliquot corners (Section, Quarter, and/or Sixteenth Corners) as prescribed by Idaho Statute. J-U-B will file with the County Recorder all of the required CP&F documents and subsequently record all three records of survey depicting the field located monuments and set monuments per the CP&Fs.



**PART 3 - CLIENT-PROVIDED WORK AND ADDITIONAL SERVICES**

- A. **CLIENT-Provided Work** - CLIENT is responsible for completing, or authorizing others to complete, all tasks not specifically included above in PART 2 that may be required for the project including, but not limited to:
1. Providing clear and open access to J-U-B field personnel to conduct the necessary fieldwork for the Tasks noted above.

**PART 4 - BASIS OF FEE AND SCHEDULE OF SERVICES**

- A. CLIENT shall pay J-U-B for the identified Services in PART 2 as follows:
1. For Lump Sum fees:
    - a. The portion of the Lump Sum amount billed for J-U-B's services will be based upon J-U-B's estimate of the percentage of the total services actually completed during the billing period.
  2. For Time and Materials fees:
    - a. For all services performed on the project, Client shall pay J-U-B an amount equal to the cumulative hours charged to the Project by each class of J-U-B's personnel times J-U-B's standard billing rates.
    - b. Client shall pay J-U-B for J-U-B's Consultants' charges times a multiplier of 1.1.

**B. Period of Services**

1. If the planned period of service for the Tasks identified above extend more than one year, J-U-B's billing rates and/or fees for remaining Tasks may be increased to account for direct labor cost, rate table adjustments, or other inflationary increases. If that occurs, an adjustment to the billing rates and/or Fee will be computed based on remaining scope amount times the specific rate increase.
2. If the period of service for the Tasks identified above is extended beyond 12 months or if the Project has stop/start iterations, the compensation amount for J-U-B's services may be appropriately adjusted to account for salary adjustments, extended duration of project management and administrative services, and/or costs related to stop/start cycles including necessary monitoring and communication efforts during inactive periods.

C. CLIENT acknowledges that J-U-B's schedule commitments outlined in Part 4 are subject to the standard of care and J-U-B will not be responsible for delays beyond our direct control.

D. The following table summarizes the fees and anticipated schedule for the tas identified in PART 2.

Task Number	Task Name	Fee Type	Amount	Anticipated Schedule
001	Initial Boundary Survey	Lump Sum	\$28,600	Begin field surveys within 10 working days of NTP
002	Annexation Legal Descriptions (Three total)	Lump Sum	\$9,850	Deliver within 30 days of fieldwork completion
003	Records of Survey and CP&Fs	Time and Materials (Estimated Amount Shown)	\$22,100	Complete in a diligent manner within 90 days of completion of Task 001.
<b>Total:</b>			<b>\$60,250</b>	

**Certification Concerning Boycott of Israel.** Pursuant to Idaho Code section 67-2346, J-U-B certifies that it is not currently engaged in, and will not for the duration of the Agreement engage in, a boycott of goods or services from Israel or territories under its control.

**Certification Concerning Government Ownership or Operation.** Pursuant to Idaho Code section 67-2359, J-U-B certifies that is not owned or operated by the government of China and will not for the duration of this contract.

E. Electronic deliverables provided to the CLIENT as part of the work described within this Attachment are subject to the provisions of J-U-B's "electronic document/data limited license" found at edocs.jub.com.

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*For internal J-U-B use only:*

PROJECT LOCATION (STATE): Idaho

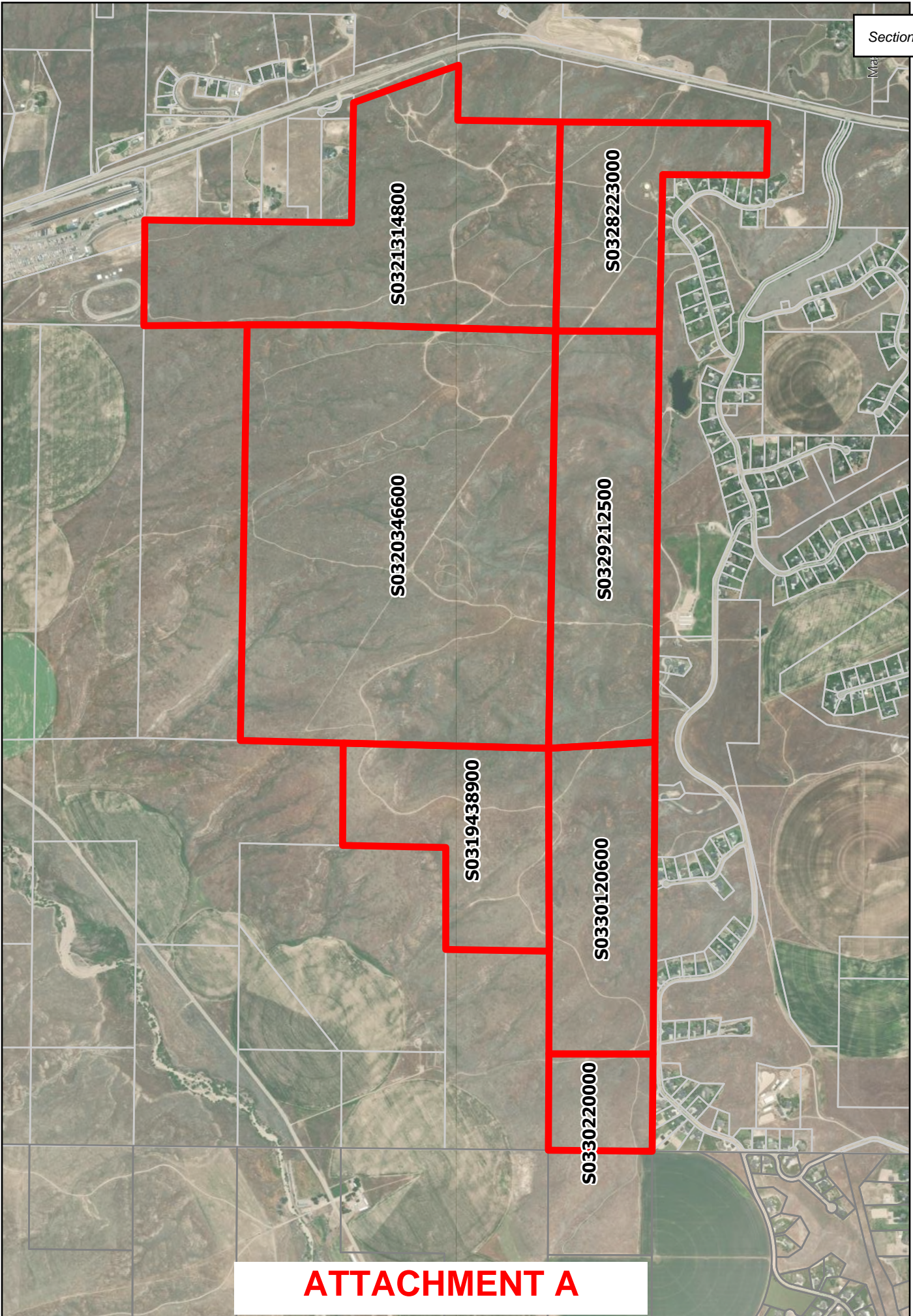
TYPE OF WORK: City

R&D: No

GROUP: Surveying

PROJECT DESCRIPTION(S):

1. Surveying (L02)
2. None



**ATTACHMENT A**

**BLM - North Area Lot Annexation  
City of Star - J-U-B Surveying**



Maxar, MicrOS



S0331427800

**BLM - Tank Site Lot Annexation  
City of Star - J-U-B Surveying**

**ATTACHMENT B**



S0417427810

**BLM River Lot Annexation  
City of Star - J-U-B Surveying**

**ATTACHMENT C**





J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: BLM Properties – Annexation and Records of Survey

CLIENT: City of Star

J-U-B PROJECT NUMBER: 10-24-

CLIENT PROJECT NUMBER:

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2. If the period of service for the Tasks identified above is extended beyond 12 months or if the Project has stop/start iterations, the compensation amount for J-U-B's services may be appropriately adjusted to account for salary adjustments, extended duration of project management and administrative services, and/or costs related to stop/start cycles including necessary monitoring and communication efforts during inactive periods.

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*For internal J-U-B use only:*

PROJECT LOCATION (STATE): Idaho

TYPE OF WORK: City

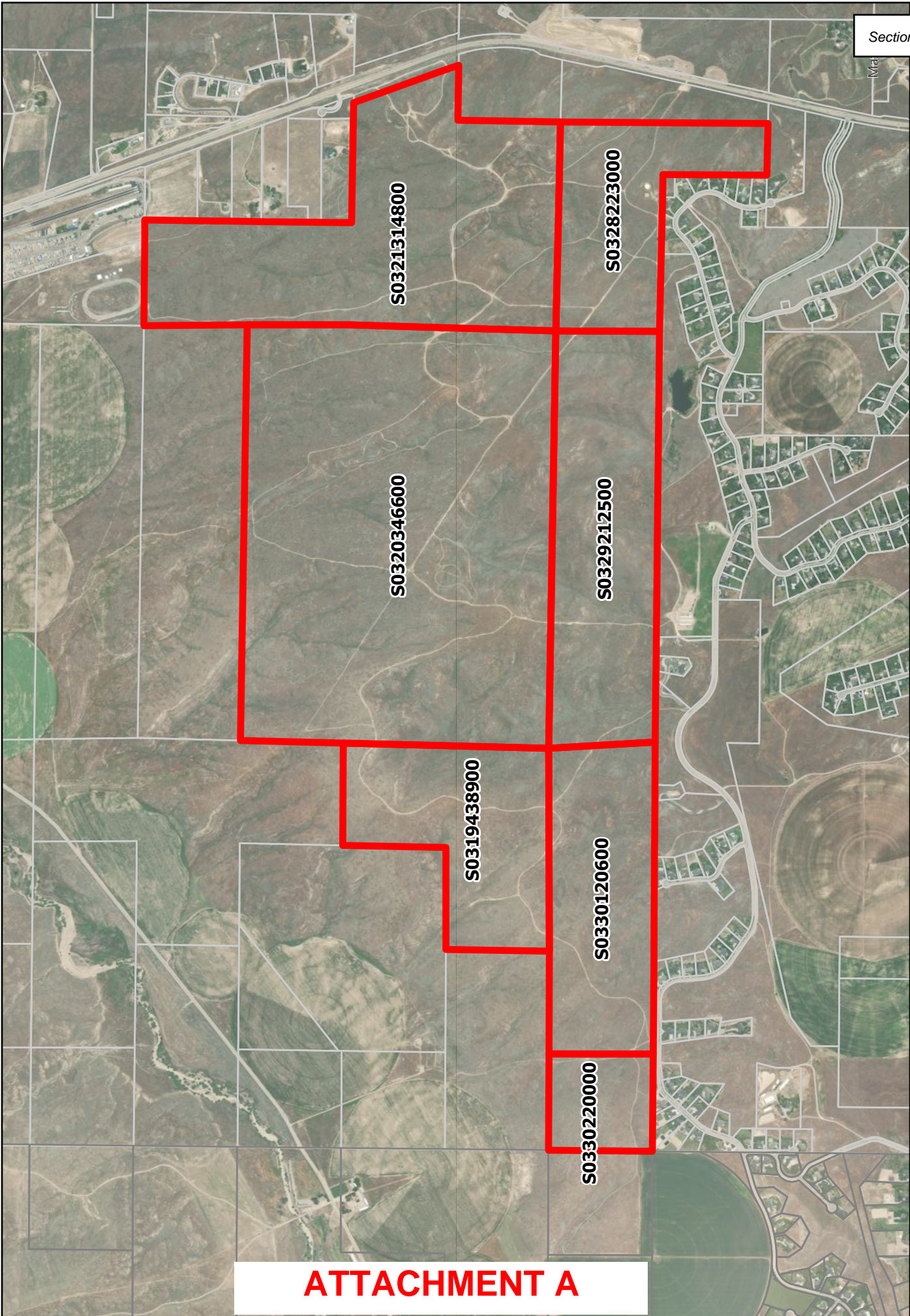
R&D: No

GROUP: Surveying

PROJECT DESCRIPTION(S):

1. Surveying (L02)
2. None





**ATTACHMENT A**

**BLM - North Area Lot Annexation  
City of Star - J-U-B Surveying**



Maxar, MicroS



S0331427800

**BLM - Tank Site Lot Annexation  
City of Star - J-U-B Surveying**

**ATTACHMENT B**




Maxar, Micros

S0417427810

BLM River Lot Annexation  
City of Star - J-U-B Surveying

**ATTACHMENT C**





**CITY OF STAR**

**ENGINEER DEPARTMENT**

**MEMO**

**TO:** Mayor & Council  
**FROM:** Tim Clark, P.E., Assistant City Engineer  
**MEETING DATE:** **September 3, 2024**  
**RE:** **Freedom Park Surveying Support**

**ACTION**

Engineering Staff has reached out to J-U-B Engineers to provide a scope of work and cost to provide surveying support at Freedom Park. Staff has the following three objectives for this contract:

1. Annexation of two City owned properties directly south of the River House.
2. Consolidation of the City owned properties at the River House and Freedom Park into a single lot.
3. Creation of an easement for the Star Sewer & Water District for the water main constructed as a part of the River House Parking Lot project.

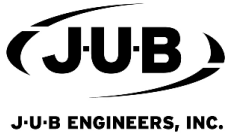
The annexation of the two City owned properties south of the River House will allow these two properties, along with the other five lots comprising the River House, the new River House parking lot, the River Walk parking lot, and Freedom Park (when deeded to the City) to be consolidated into a single lot.

Consolidating these seven parcels into a single lot provides several benefits to the City including the following:

1. Flexibility in the placing future buildings (future event center, bathrooms, etc).
2. The ability to provide utility services to multiple facilities from a single source. Typically, individual lots require individual utility service connections.
3. Protecting the integrity of the park from individual parcels being sold off in the future.

Engineering Staff is seeking approval from the Council to enter a contract (attached) for **\$28,200.00** with J-U-B Engineers to provide legal descriptions and a record of survey for the new, Freedom Park parcel.





J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: Freedom Park – Annexation and Lot Consolidation

CLIENT: City of Star

J-U-B PROJECT NUMBER: 10-24-

CLIENT PROJECT NUMBER:

ATTACHMENT TO:

[X] AGREEMENT DATED: / / ; or

[ ] AUTHORIZATION FOR CONTRACT AMENDMENT #X; DATED: Click or tap to enter a date.

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PART 1 - PROJECT UNDERSTANDING

J-U-B's understanding of this project's history and CLIENT's general intent and scope of the project are described as follows:

In the area of the Freedom Park Project, the City of Star (CLIENT) intends to annex two of the Freedom Park parcels (S0417323485 and S0417323480) into the City of Star. Subsequent to the Annexation, the CLIENT intends to consolidate said annexed parcels with five other contiguous parcels (R1842701951, R1842701921, R1842701985, R1842701320, and R6925900880) into one overall parcel for Freedom Park.

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J-U-B's Services under this Agreement are limited to the following tasks. Any other items necessary to plan and implement the project, including but not limited to those specifically listed in PART 3, are the responsibility of CLIENT.

A. Task 001: Preliminary Title Reports

- 1. Order preliminary title reports for the project. J-U-B assumes that the CLIENT will provide one title report for the above seven properties, and J-U-B will order the remaining six from a title company at a cost of \$550 per title report.

B. Task 002: Initial Boundary Survey

- 1. Office work to set up Control files, calculate existing boundaries from record documents and title reports received in Task 001, establish project coordinate system as NAD83 Modified Idaho West Projected to the published Ada County Ground Projection.
2. Utilize office calculations to set project control around the site, and to field locate and tie all available record monuments for the corners of the seven parcels noted above. Collect sufficient data on the existing waterline (in Parcel R1842701985) running generally easterly from S Main. Street to support a legal description for an easement (See Task 004).
3. Office work to process the collected boundary markers and create a resolved boundary for all seven parcels for use in subsequent Tasks.

C. Task 003: Annexation Legal Description

- 1. Utilizing the linework created from the resolved boundary in Task 002, prepare a legal description and exhibit plat for the two parcels owned by the City (S0417323485 and S0417323480) for the purposes of annexing said parcels into the City of Star. Deliverable: Stamped and wet-signed

legal description and exhibit showing the Annexation Boundary for the CLIENT's use in annexing the property into the City of Star.

**D. Task 004: Waterline Easement Legal Description**

1. Utilizing the data collected on the existing waterline (Item 2 of Task 002 above), office work to prepare a legal description to be used in recording a waterline easement.

**E. Task 005: Parcel Consolidation Legal Description and Record of Survey**

1. Subsequent to the Annexation of the parcels in Task 003, and subsequent to the acquisition of Lot 8 of Block 35 as shown on the Plat of Parkstone Subdivision No. 14 (R6925900880) from River Stone, LLC, J-U-B will utilize the linework created from the resolved boundary in Task 002, to prepare a legal description and exhibit plat for the consolidation of all seven (7) City of Star parcels noted above. Deliverable: Stamped and wet-signed legal description and exhibit showing the Parcel Consolidation for the CLIENT's use in recording a Deed to consolidate said parcels.
2. Subsequent to the recording of the Parcel Consolidation and waterline easement, J-U-B will set boundary corner markers at all corners of the consolidated parcel that are not already previously monumented, or, at the time of the survey are missing previously set monuments, and monuments for the corners of the recorded waterline easement. J-U-B will file with the County Recorder, a Record of Survey depicting the boundary of the Parcel Consolidation and the found and/or set monuments marking said boundary.

**PART 3 - CLIENT-PROVIDED WORK AND ADDITIONAL SERVICES**

**A. CLIENT-Provided Work** - CLIENT is responsible for completing, or authorizing others to complete, all tasks not specifically included above in PART 2 that may be required for the project including, but not limited to:

1. Providing J-U-B with a title report for one of the seven above-referenced parcels. Provide the final recorded deed for the parcel to be acquired from River Stone, LLC.
2. Providing clear and open access to J-U-B field personnel to conduct the necessary fieldwork for the Tasks noted above.

**PART 4 - BASIS OF FEE AND SCHEDULE OF SERVICES**

**A. CLIENT** shall pay J-U-B for the identified Services in PART 2 as follows:

1. For Lump Sum fees:
  - a. The portion of the Lump Sum amount billed for J-U-B's services will be based upon J-U-B's estimate of the percentage of the total services actually completed during the billing period.
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  - b. Client shall pay J-U-B for J-U-B's Consultants' charges times a multiplier of 1.1.

**B. Period of Services**

1. If the planned period of service for the Tasks identified above extend more than one year, J-U-B's billing rates and/or fees for remaining Tasks may be increased to account for direct labor cost, rate table adjustments, or other inflationary increases. If that occurs, an adjustment to the billing rates and/or Fee will be computed based on remaining scope amount times the specific rate increase.
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management and administrative services, and/or costs related to stop/start cycles including necessary monitoring and communication efforts during inactive periods.

C. CLIENT acknowledges that J-U-B's schedule commitments outlined in Part 4 are subject to the standard of care and J-U-B will not be responsible for delays beyond our direct control.

D. The following table summarizes the fees and anticipated schedule for the services identified in PART 2.

Task Number	Task Name	Fee Type	Amount	Anticipated Schedule
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<b>Total:</b>			<b>\$28,200</b>	

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*For internal J-U-B use only:*

PROJECT LOCATION (STATE): Idaho

TYPE OF WORK: City

R&D: No

GROUP: Surveying

PROJECT DESCRIPTION(S):

1. Surveying (L02)
2. None



S0417323485  
S0417323480

Maxar, Microsoft



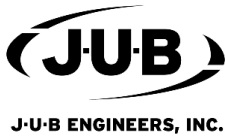
# City Lot Annexation City of Star - J-U-B Surveying





# City Lot Consolidation City of Star - J-U-B Surveying





J-U-B ENGINEERS, Inc.
AGREEMENT FOR PROFESSIONAL SERVICES

Attachment 1 – Scope of Services, Basis of Fee, and Schedule

PROJECT NAME: Freedom Park – Annexation and Lot Consolidation

CLIENT: City of Star

J-U-B PROJECT NUMBER: 10-24-

CLIENT PROJECT NUMBER:

ATTACHMENT TO:

AGREEMENT DATED: / / ; or

AUTHORIZATION FOR CONTRACT AMENDMENT #X; DATED: Click or tap to enter a date.

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PROJECT LOCATION (STATE): Idaho

TYPE OF WORK: City

R&D: No

GROUP: Surveying

PROJECT DESCRIPTION(S):

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2. None



Maxar, Microsoft



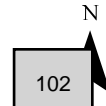
# City Lot Annexation City of Star - J-U-B Surveying



August 6, 2024



# City Lot Consolidation City of Star - J-U-B Surveying









**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
UHAUL ANNEXATION & CONDITIONAL USE PERMIT  
AZ-24-05/DA-24-05/CU-24-03**

The above-entitled Annexation and Zoning, Development Agreement, and Conditional Use Permit applications came before the Star City Council for their action on August 20, 2024, 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 requesting approval of an Annexation & Zoning (Commercial C-2), a Development Agreement, and a Conditional Use Permit for a self-storage, warehouse storage and regional maintenance operation facility for UHAUL. The property is located at 7020 and 7190 W. Chinden Blvd (Hwy 20/26), Star, Idaho, Ada County and consists of 14.47 acres. The subject property is generally located on the north side of Chinden Blvd, between S. Star Road and Highway 16. Ada County Parcel No's S0420438501, S0420438600, S0420438613, S0420438701.

*B. Application Submittal:*

A neighborhood meeting was held on May 1, 2024, 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 June 6, 2024.

*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 August 4, 2024. Notice of this public hearing was mailed to property owners within three-hundred feet (300') of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Star Unified Development Code on July 30, 2024. Notice was sent to agencies having jurisdiction in the City of Star on June 11, 2024. The property was posted in accordance with the Star Unified Development Code on August 8, 2024.

*D. History of Previous Actions:*

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

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

	<b>Zoning Designation</b>	<b>Comp Plan Designation</b>	<b>Land Use</b>
<b>Existing</b>	Ada County Rural Transitional (RUT)	South of the River Mixed Use (MU)	Single Family Residential/Bare Ground
<b>Proposed</b>	General Commercial District (C-2)	South of the River Commercial	Storage Facility/Maintenance Shop
<b>North of site</b>	Residential (R-3-PUD-DA)	South of the River Neighborhood Residential	Inspirado Subdivision
<b>South of site</b>	Commercial (C-2) (Ada County)	City of Meridian	Vacant
<b>East of site</b>	Ada County Rural Transitional (RUT)	Commercial/Compact Residential	Single Family Residential/Bare Ground
<b>West of site</b>	Residential (R-3-PUD-DA)	South of the River Mixed Use (MU)Neighborhood Residential	Inspirado Subdivision

F. *Development Features:*

**ANNEXATION & REZONE:**

The annexation and zoning request to General Commercial District (C-2) on the applicant’s property will allow for the development of the property in a manner that will be consistent with the current Comprehensive Plan South of the River Plan. Sewer and Water will be provided by the Star Sewer and Water District and is available at the northwest corner of the property. Annexation into the Sewer and Water District will be required.

**CONDITIONAL USE PERMIT:**

The applicant is requesting approval of a Conditional Use Permit for a multiple use commercial use campus consisting of several buildings and covered vehicle storage spaces. Building #1 will be a three-story, climate-controlled building that will house individual storage units and contain a showroom and retail space that will offer rental trucks and trailers as well as various supplies/materials. This building is approximately 101,291 square feet in size and will be available to the public.

Building #2 will be single-story, approximately 24,442 square feet and will be used as a warehouse storage for U-Boxes. This building will not be open to the general public. Building #3

will be one story, approximately 42,988 square feet and built to house the maintenance and regional operations business. This building will not be open to the public.

The site will also have 81 covered RV parking spaces located between buildings 1 and 3. These covered spaces will be encircled by three self-storage building that will contain individual 100 square foot storage units. The building to the west of the covered spaces will be approximately 1,123 square feet and to the south of the RV parking will be two buildings, one is approximately 2,146 square feet and the second is approximately 2,040 square feet.

Primary site access will come from Highway 20/26 via a future stop light and collector road that was approved as part of the Inspirado Development. This site is also providing an access road to the adjacent eastern property for future circulation. This access road meets the intent of the street circulation plan that is part of the South of the River Vision Plan. The site has approximately 600 feet of frontage along W. Chinden BLVD. This requires a minimum 40-foot buffer, as W. Chinden is classified as a principal arterial, and appropriate landscaping, per code. The proposed landscape plan appears to satisfy these requirements. 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. The submitted landscape plan appears to satisfy these requirements.

The applicant has provided exterior elevations and color renderings with this packet. The buildings will need to go through the Design Review process as part of a Zoning Certificate, separate from this application.

The applicant has not asked for any setback waivers and the site plan is compliant with the required Commercial setbacks.

The developer is building the collector road from W. Chinden BLVD north that will allow access to this site. Streetlights will be required along this collector road and will be done by U-Haul unless completed by the Inspirado developer. The Applicant has not provided any specification on site or building lights. The Applicant shall work with Staff on site lighting plan and obtaining approval on site/building lights.

#### **DEVELOPMENT AGREEMENT:**

Through the Development Agreement process, the applicant is proposing to work with the City and neighboring property owners 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:

- Access to Site
- Landscaping

- Specifically requested Conditional Use Approvals
- Emergency Access
- Traffic Signal

H. *On-Site Features:*

- ✳ Areas of Critical Environmental Concern – No known areas.
- ✳ Evidence of Erosion – No known areas.
- ✳ Fish Habitat – No known areas.
- ✳ Mature Trees – No.
- ✳ Riparian Vegetation – None.
- ✳ Steep Slopes – None.
- ✳ Stream/Creek – None.
- ✳ Unique Animal Life – No unique animal life has been identified.
- ✳ Unique Plant Life – No unique plant life has been identified.
- ✳ Unstable Soils – No known issues.
- ✳ Wildlife Habitat – No wildlife habitat has been developed or will be destroyed.
- ✳ Historical Assets – No historical assets have been observed.

I. *Agencies Responding:*

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

Star Fire District	July 29, 2024
ACHD	Pending (ACHD did not provide comments)
City Engineer	July 23, 2024

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

No public comments have been received.

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

**Comprehensive Plan:**

8.2.3 Land Use Map Designations:

Commercial  
 Suitable primarily for the development of a wide range of commercial activities including offices, retail, and service establishments. Rezoning to this designation should not be allowed unless adequate ingress/egress to major transportation corridors are assured. Light industrial uses may be considered at the discretion of the City Council without amending this plan.

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.

8.5.6 Policies Related Mostly to the Commercial Planning Areas:

- A. Assist in the provision of coordinated, efficient, and cost-effective public facilities and utility services, carefully managing both residential and non-residential development and design, and proactively reinforcing downtown Star's role as the urban core while protecting existing property rights.

Encourage commercial facilities to locate on transportation corridors.

Locate neighborhood services within walking distance to residential development.

Discourage the development of strip commercial areas.

Maintain and develop convenient access and opportunities for shopping and employment activities.

Commercial areas of five acres or less should be encouraged in residential land use designations with appropriate zoning to allow for commercial services for residential neighborhoods and to limit trip lengths. Such commercial areas should be submitted for approvals with a Conditional Use Permit or Development Agreement to assure that conditions are placed on the use to provide for compatibility with existing or planned residential uses. These areas should be oriented with the front on a collector or arterial street.

Allow for some light industrial uses within the Commercial areas at the sole discretion of the City Council.

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.

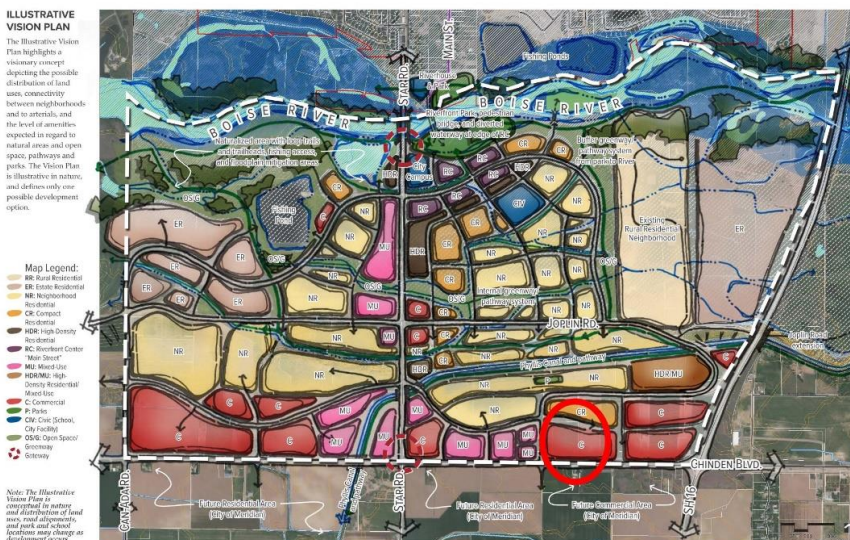
18.4 Implementation Policies:

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.

21.1 – South of the River Planning Area

Refer to the South of the River Area Document

Illustrative Vision Plan – South of the River Planning Area Document



**Unified Development Code:**

**8-1B-1: ANNEXATION AND ZONING; REZONE:**

B. Standards:

1. The subject property shall meet the minimum dimensional standards and/or density standards\_of the proper district.
2. The city shall 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, building elevations, including front and rear (when backing up to a collector or arterial street), and concept plan shall be required for any annexation or rezone to a commercial, mixed-use or residential zone or use, or land which includes steep slope (land over 25%) or floodway. An application for annexation or rezone shall not be accepted until any required traffic impact study is submitted and accepted by the appropriate transportation authority, or a letter from the transportation authority waiving said study is received by the administrator. A hearing date before the Council shall not be scheduled until any required traffic impact study has been approved and the transportation authority has issued a staff report on the development application. The administrator may waive these requirements in certain circumstances.
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:**

The following zoning districts are hereby established for the interpretation of this title, the zoning districts have been formulated to realize the general purposes as set forth in this title. In addition, the specific purpose of each zoning district shall be as follows:

(C-2) GENERAL COMMERCIAL\_DISTRICT: To provide for the establishment of areas for commercial uses allowed in other commercial zones and commercial uses which are more intensive than those permitted in other commercial zones, and typically located adjacent to arterial roadways and not immediately adjacent to residential, including the establishment of areas for travel related services such as hotels, motels, service stations, drive-in restaurants, offices, limited warehousing, commercial services and retail sales.

DA DEVELOPMENT AGREEMENT: This designation, following any zoning designation noted on the official zoning map of the city (i.e., C-2-DA), indicates that the zoning was approved by the city with a development agreement, with specific conditions of zoning.

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

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

ZONING DISTRICT USES	C-1	C-2	MU
Storage facility, outdoor (Commercial) 1	C	C	C
Storage facility, self-service (Commercial) 1	C	C	C

**Notes:**

**1. Indicates uses that are subject to specific use standards in accord with chapter 5 of this title.**



**8-3A-4: ZONING DISTRICT DIMENSIONAL STANDARDS:**

Zoning District	Maximum Height Note Conditions	Minimum Yard Setbacks Note Conditions			
		Front <sup>(1)</sup>	Rear	Interior Side	Street Side
C-2	35'/60' <sup>5</sup>	20'	5'	0' <sup>4</sup>	20'

Notes:

1. Front yard setback shall be measured from the face of the garage to the face of the sidewalk, allowing for 20' of parking on the driveway without overhanging onto the sidewalk.
2. Zero-Lot-Line, reduced street side yard setbacks and reduced front and rear setback waivers may be requested through the Development Agreement process. All other side yard setback requests for detached structures shall not be granted waivers, unless approved by Council as part of a Planned Unit Development.
3. All setbacks in the CBD, C-1, C-2, LO, LI, PS, RC and M-U zone shall maintain a minimum 15' when adjacent to a residential use or zone. A waiver may be requested if the adjacent property has the potential to redevelop as a non-residential use in the future.
4. As approved by the Fire District.
5. 35' height requirement unless a height exception is approved by Council through the Conditional Use Permit or Planned Unit Development Process.

**8-1B-4: CONDITIONAL USES:**

A. Purpose: The purpose of this section is to establish procedures that allow for a particular use on a specific property subject to specific terms and conditions of approval.

B. Applicability: The provisions of this section apply to all uses identified as conditional use within this title. In addition to other processes permitted by city and state code, exceptions or waivers of standards, other than use, may be permitted through issuance of a conditional use permit, development agreement or PUD, upon approval by Council.

C. Process:

1. The applicant shall complete a pre-application conference with the administrator prior to submittal of an application for a conditional use.
2. A neighborhood meeting shall be held by the applicant pursuant to Section 8-1A-6C of this title.

3. An application and appropriate application fees shall be submitted to the City on forms provided by the city.

4. Prior to issuing the conditional use permit, the administrator may require additional information, including studies, concerning the social, economic, fiscal or environmental effects of the proposed conditional use. Traffic studies may be required by the transportation authority prior to acceptance of an application.

D. Standards: In approving any conditional use, the city council may prescribe appropriate conditions, bonds and safeguards in conformity with this title that:

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

E. Findings: The council shall base its determination on the conditional use permit request upon the following:

1. That the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the district in which the use is located.
2. That the proposed use shall meet the intent of the Star comprehensive plan and be in compliance with the requirements of this title.
3. That the design, construction, operation and maintenance will be compatible with other uses in the general neighborhood and with the existing or intended character of the general vicinity.
4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity.
5. That the proposed use will be served adequately by essential public facilities and services such as highways, streets, schools, parks, police and fire protection, drainage structures, refuse disposal, water, and sewer.
6. That the proposed use will not create excessive additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.

7. That the proposed use will not involve activities or processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.
8. That the proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance as determined by the City.

**8-1B-1C: ANNEXATION AND ZONING FINDINGS:**

1. The map amendment complies with the applicable provisions of the Comprehensive Plan.  
*The Council finds that the purpose of the Star Comprehensive Plan is to promote the health, safety, and general welfare of the people of the City of Star and its Impact Area. Some of the prime objectives of the Comprehensive Plan include:*
- ✓ *Protection of property rights.*
  - ✓ *Adequate public facilities and services are provided to the people at reasonable cost.*
  - ✓ *Ensure the local economy is protected.*
  - ✓ *Encourage urban and urban-type development and overcrowding of land.*
  - ✓ *Ensure development is commensurate with the physical characteristics of the land.*
- ✓ *Commercial Districts are suitable primarily for the development of a wide range of commercial activities including offices, retail, and service establishments. Rezoning to this designation should not be allowed unless adequate ingress/egress to major transportation corridors are assured. Light industrial uses may be considered at the discretion of the City Council without amending this plan.*
2. The map amendment complies with the regulations outlined for the proposed district, specifically, the purposes statement.  
*The Council finds that the General Commercial District purpose statement states that the purpose of the district is to provide for the establishment of areas for commercial uses allowed in other commercial zones and commercial uses which are more intensive than those permitted in other commercial zones, and typically located adjacent to arterial roadways and not immediately adjacent to residential, including the establishment of areas for travel related services such as hotels, motels, service stations, drive-in restaurants, offices, limited warehousing, commercial services and retail sales. . Council finds that this request is consistent with the statement.*
3. The map amendment shall not be materially detrimental to the public health, safety, and welfare; and  
*The Council finds that there is no indication from the material and testimony submitted that this 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 not been presented with any information from agencies having jurisdiction that public services will be adversely impacted other than traffic, which will continue to be impacted as the City grows.*

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

*The Council finds this annexation is reasonably necessary for the orderly development of the City.*

**8-1B-4E CONDITIONAL USE FINDINGS:**

1. That the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the district in which the use is located.

*The Council finds nothing in the record indicating that the site of the proposed use would not be large enough to accommodate the proposed use or meet all of the dimensional and development regulations in the district in which the use would be located.*

2. That the proposed use will be harmonious with the Star comprehensive plan and in accord with the requirements of this title.

*The Council finds that the proposed use request is harmonious with the Star Comprehensive Plan and is in accord with the requirements of this Title. The proposed development meets the intent or purpose.*

3. That the design, construction, operation and maintenance will be compatible with other uses in the general neighborhood and with the existing or intended character of the general vicinity and that such use will not adversely change the essential character of the same area.

*The Council finds that operation of the proposed use would be compatible with the other uses in the general area.*

4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity.

*The Council finds that the proposed use, with imposed conditions of approval, would not adversely affect other property in the vicinity.*

5. That the proposed use will be served adequately by essential public facilities and services such as highways, streets, schools, parks, police and fire protection, drainage structures, refuse disposal, water, and sewer.

*The Council finds that the proposed use can be adequately served by essential public facilities and services.*

6. That the proposed use will not create excessive additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.

*The Council finds that the proposed use would not create excessive additional costs for public facilities and would not be detrimental to the economic welfare of the community. The City has not received notice from any agency having jurisdiction stating that this application will create excessive additional costs for the public facilities and services as the development will pay for all changes in services.*

7. That the proposed use will not involve activities or processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

*The Council finds that the proposed use would involve activities that would not be detrimental to any person, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

8. That the proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance.

*The Council finds that the proposed use would not result in the destruction, loss or damage of natural, scenic or historic feature of major importance since none are apparent on this site.*

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

- a. A public hearing on the application was heard by the City Council on August 20, 2024, 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:
- Shawn L Nickel, City Planning Director gave Staff Presentation
  - Brett Gulash
  - Victor Islas, Star Fire District
- 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 application in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in review of the record, including the staff report, and discussions on the development. Review and discussion included access, zoning designation, and signal light discussion. The Council accepted staff's recommended conditions of approval on the application in the development agreement and conditional use permit. Council concluded that the Applicant's request, as conditioned, meets the requirements for annexation and conditional use

permit. Council hereby incorporates the staff report dated August 20, 2024 into the official decision as part of these Findings of Fact, Conclusions of Law.

**Statement of Compliance:**

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

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

- **The property shall be zoned to Commercial (C-2).**

**CONDITIONS OF APPROVAL**

1. The approved Conditional Use shall comply with all statutory requirements of applicable agencies and districts having jurisdiction in the City of Star.
2. Streetlights/Parking Lot lights shall comply with the Star City Code. Design shall follow Code with requirements for light trespass and "Dark Skies" lighting. **Applicant/Owner shall work with staff and submit a streetlight, site and building light design that meets city standards prior to Building Permit.**
3. Pressurized irrigation systems shall comply with the Irrigation District(s) and the City of Star Codes. Plans for pressurized irrigation systems shall be submitted to, and approved by the City of Star Engineer, prior to installation.
4. Streetlights on the new collector road shall be installed by U-Haul unless otherwise provided for by the Inspirado developer.
5. A form signed by the Star Sewer & Water District shall be submitted to the City prior to issuance of building permit stating that all conditions of the District have been met, including annexation into the District.
6. The applicant shall provide a sign, to be located at all construction entrances, indicating the rules for all contractors that will be working on the property starting at grading and running through occupancy that addresses items including but not limited to dust, music, dogs, starting/stopping hours for contractors (7a.m. start time). **Sign shall be approved by the City prior to start of any construction.**
7. The applicant shall obtain all the proper building permits from the City Building Department prior to occupancy or the unit.
8. The Conditional Use Permit may be revoked or modified by the City Council for any violation of any Condition of Approval.
9. The applicant shall obtain a sign permit prior to any signage being placed on the site or building.
10. A Certificate of Zoning Compliance will be required prior to the start of construction.
11. Any additional Condition of Approval as required by Staff and City Council.
12. Any Conditions of Approval as required by Star Fire Protection District.

13. The property associated with this approved annexation and conditional use permit shall be properly maintained at all times, including throughout the construction process to include trash picked up and trash receptacles emptied with regular frequency, streets swept and cleaned weekly, including any streets used to access the property and all debris shall be prevented from accumulating on any adjacent property or public right of way and shall remove all debris from public way at least daily. This shall also include, but is not limited to any trash, junk or disabled vehicles during any portion of the development process. The site shall be properly mitigated from fugitive dust at all times, including during construction, as determined by the Zoning Administrator. Failure to comply with any of the above may result in a stop work order being issued until the violations are remedied, and/or revocation of the conditional use permit or building permit.

**Council Decision:**

The Council voted 4-0 to approve the Annexation and Development Agreement, and Conditional Use Permit on August 20, 2024.

Dated this 3<sup>rd</sup> day of September, 2024.

Star, Idaho

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

Trevor A. Chadwick, Mayor

ATTEST:

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

**FINDINGS OF FACT AND CONCLUSIONS OF LAW  
JOPLIN RIM SUBDIVISION  
FILE NO. AZ-24-04/DA-24-04/PP-24-01/PR-24-03**

The above-entitled Annexation, Development Agreement, Preliminary Plat and Private Street land use applications came before the Star City Council for their action on August 20, 2024, 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 (R-4), a Development Agreement, Preliminary Plat for a proposed residential subdivision consisting of 48 residential lots and 7 common lots, and a Private Street. The property is located at the southeast corner of W. Joplin Road and N. Can Ada Road and consists of 13.5 acres with a proposed density of 3.46 dwelling units per acre. The subject property is generally located near the southeast corner of W. Joplin Road and N. Can Ada Road. Ada County Parcel No's. S0419233700 and S0419325561.

*B. Application Submittal:*

A neighborhood meeting was held on October 17, 2023 & February 15, 2024, 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 May 2, 2024.

*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 August 2, 2024. Notice of this public hearing was mailed to property owners within three-hundred feet (300') of the subject property in accordance with the requirements of Title 67, Chapter 65, Idaho Code and Star Unified Development Code on July 30, 2024. Notice was sent to agencies having jurisdiction in the City of Star on May 2, 2024. The property was posted in accordance with the Star Unified Development Code on July 30, 2024.

*D. History of Previous Actions:*

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



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

	<b>Zoning Designation</b>	<b>Comp Plan Designation</b>	<b>Land Use</b>
<b>Existing</b>	RUT (Ada County)	South of the River Neighborhood Residential	Agriculture/Vacant Land
<b>Proposed</b>	Residential (R-4)	South of the River Neighborhood Residential	Single Family Residential
<b>North of site</b>	RUT (Ada County)	South of the River Estate Residential	Agriculture/Single Family Residential
<b>South of site</b>	RUT (Ada County)	South of the River Neighborhood Residential	Agriculture/Vacant Land
<b>East of site</b>	Residential (R-4-DA)	South of the River Neighborhood Residential	Naismith Commons Subdivision
<b>West of site</b>	RR (Canyon County)	Estate Rural Residential/Mixed Use	Agriculture

F. *Development Features.*

**ANNEXATION & REZONE:**

The applicant is requesting approval of an annexation and rezone application on 13.5 acres from Rural Urban Transitional (RUT) to Neighborhood Residential (R-4). This zoning district would allow for a maximum residential density of 4 dwelling unit per acre. The property is located in an area that can be serviced with central sewer and water provided by Star Sewer and Water District. Star Sewer and Water will be extending services along Joplin Road from the new sewer lift station completing construction on the west side of Star Road. The zoning request includes a development agreement that will address future density and development requirements.

**PRELIMINARY PLAT & PRIVATE STREET:**

The Preliminary Plat submitted contains 48 single family residential lots and 7 common area lots on 13.50 acres. This equates to 3.55 dwelling units per acre. The rim lots will have access and frontage from a private street running adjacent to Joplin Road. The southern portion of the development will have access and frontage from public streets. The residential lots range in size from 5,153 square feet to 15,040 square feet with the average buildable lot being 7,283 square feet. The private street is being proposed to be built in a 28-foot easement with the road being 28 feet from back of curb to back of curb. The applicant is requesting no sidewalk on the private street. The submitted preliminary plat is showing the local streets in a 50 ft wide right of way with paved streets measuring 36 feet from back of curb to back of curb. Internal sidewalks are proposed to be detached with a 6-foot-wide landscape strip and a 5-foot, concrete sidewalk. Joplin Road is proposed as a collector road with 36 feet roadway and 7-foot sidewalks. A private street maintenance plan, including proposed funding, shall also be required by Staff prior to

final plat signature. Street names must be obtained by the Ada County Street Naming Committee prior to signature of the final plat. The applicant is proposing 2.11 acres (15%) of open space, and 1.91 acres (14%) of usable open space.

The current Unified Development Code, Section 8-4E-2 requires a development of this size to have a minimum of 1 site amenity. The applicant is proposing a playground with walking paths and gathering areas. These amenities satisfy the code requirement for development amenities.

#### **ADDITIONAL DEVELOPMENT FEATURES:**

- Sidewalks  
Internal sidewalks are proposed at five-foot (5') widths and will be detached throughout the southern portion of the subdivision with a six (6') foot landscape strip. **Unified Development Code 8-4A-17 states that landscape strips shall be a minimum of eight (8') feet wide on both sides of the road. Applicant will need to adjust the plat to accommodate the wider landscape strip.**
- 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 streetlight plan. All other proposed light locations satisfy City code. **Applicant has not provided a streetlight design/cut sheet for City approval. This will be required at submittal of the 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 appears to satisfy these requirements with the exception of the private road. If street trees are to be placed by the builder, Certificate of Occupancy may be withheld until trees are verified in place per code.**

- Setbacks – The applicant is requesting set back waivers on specific lots in the development. These lots are north of the proposed re-aligned Joplin Road. All other lots will adhere to the R-4 setbacks outlined in this report. **The applicant shall provide Council with an exhibit showing which lots in Block 1 are requested to have setback modifications, along with justification.**
- Block lengths – All blocks meet the 750' block length requirement.
- Mailbox Cluster – Applicant has provided documentation from the Meridian Postmaster depicting the approved location for the mailbox cluster for the development. Mailbox clusters shall be covered and provided with lighting.
- Phasing – The development has not proposed a phasing plan at this time.
- Mitigation fees – All future building permits shall be subject to emergency service mitigation fees, as determined by Council.
- Future Home Elevations/Building Permits – The applicant shall meet all future residential building standards associated with Section 8-3B-3J of the UDC. **The applicant has not submitted building elevations for review by Staff and Council. An exhibit shall be submitted to Staff and Council prior to the public hearing.**

## DEVELOPMENT AGREEMENT

Through the Development Agreement process, the applicant is proposing to work with the City and neighboring property owners 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;
- Private Road Maintenance;
- Private Road Study Every Three (3) Years;
- Setback Waivers
- Street Trees
- Compliance With Weed Abatement Code
- Mitigation Fees
- Future Residential Building Elevations

The Development Agreement may also contain additional items as directed by the City Council as part of the review and approval process.

H. *On-Site Features:*

- ✪ Areas of Critical Environmental Concern – No known areas.
- ✪ Evidence of Erosion – No evidence.
- ✪ Fish Habitat – No.
- ✪ Floodplain – No.
- ✪ Mature Trees – Several existing mature trees.
- ✪ Riparian Vegetation – None.
- ✪ Steep Slopes – None.
- ✪ Stream/Creek – None.
- ✪ Unique Animal Life – No unique animal life has been identified.
- ✪ Unique Plant Life – No unique plant life has been identified.
- ✪ Unstable Soils – No known issues.
- ✪ Historical Assets – No historical assets have been observed.
- ✪ Wildlife Habitat – No known sensitive wildlife habitat observed.

I. *Agencies Responding:*

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

ITD	May 13, 2024
Star Fire District	July 29, 2024
DEQ	May 10, 2024
Ada County Development Services	May 15, 2024
ACHD	June 14, 2024
Transportation Committee	August 8, 2024
City Engineer	July 22, 2024

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

No comments from the public have been received.

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

**Comprehensive Plan:**

8.2.3 Land Use Map Designations:

Neighborhood Residential

Suitable primarily for single family residential use. Densities in the majority of this land use area are to range from 3 units per acre to 5 units per acre. Densities not exceeding 1 to 2 units per acre are to be encouraged in areas of the floodplain, ridgeline developable areas,

hillside developable areas, and where new residential lots are proposed adjacent to existing residential lots of one acre and larger where those existing larger lots are not likely to be subdivided in the future.

8.3 Goal:

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

8.4 Objectives:

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

8.5.3 Policies Related Mostly to the Urban Residential Planning Areas:

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

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

8.5.9 Additional Land Use Component Policies:

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

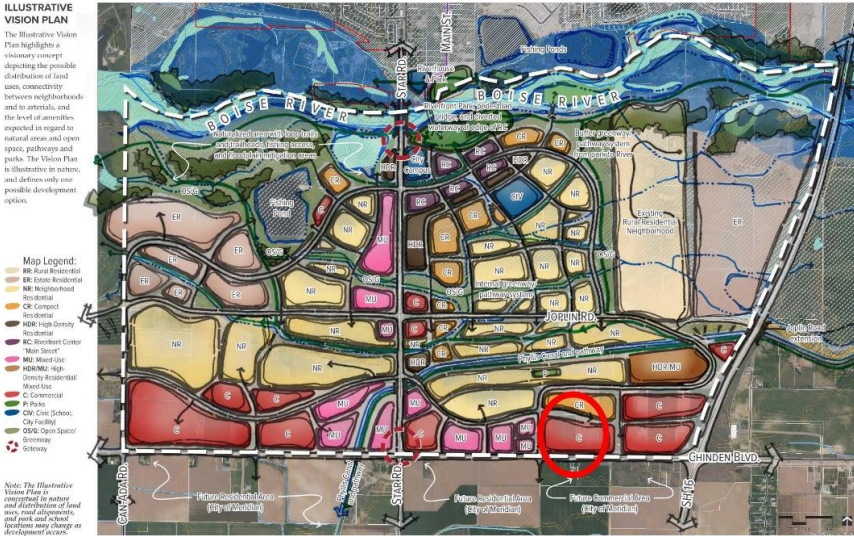
18.4 Implementation Policies:

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.

21.1 – South of the River Planning Area

Refer to the South of the River Area Document

Illustrative Vision Plan – South of the River Planning Area Document



**Unified Development Code:**

**8-1B-1: ANNEXATION AND ZONING; REZONE:**

1. The subject property shall meet the minimum dimensional standards and/or density standards\_of the proper district.
2. The city shall 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, building elevations, including front and rear (when backing up to a collector or arterial street), and concept plan shall be required for any annexation or rezone to a commercial, mixed-use or residential zone or use, or land which

includes steep slope (land over 25%) or floodway. An application for annexation or rezone shall not be accepted until any required traffic impact study is submitted and accepted by the appropriate transportation authority, or a letter from the transportation authority waiving said study is received by the administrator. A hearing date before the Council shall not be scheduled until any required traffic impact study has been approved and the transportation authority has issued a staff report on the development application. The administrator may waive these requirements in certain circumstances.

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

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

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

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

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

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

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

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

**DA DEVELOPMENT AGREEMENT:** This designation, following any zoning designation noted on the official zoning map of the city (i.e., C-2-DA), indicates that the zoning was approved by the city with a development agreement, with specific conditions of zoning.

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

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

<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-4: ZONING DISTRICT DIMENSIONAL STANDARDS:**

Zoning District	Maximum Height Note Conditions	Minimum Yard Setbacks Note Conditions			
		Front <sup>(1)</sup>	Rear	Interior Side	Street Side
R-4	35'	15' to living area  20' to garage face	15'	7.5' <sup>(2)</sup>	20'

Notes:

1. Front yard setback shall be measured from the face of the garage to the face of the sidewalk, allowing for 20' of parking on the driveway without overhang onto the sidewalk.
2. Zero-Lot-Line and reduced front and rear setback waivers may be requested through the Development Agreement process. All other side yard setback requests for detached structures shall not be granted waivers, unless as part of a Planned Unit Development.
3. All setbacks in the CBD, C-1, C-2, LO, IL, PS, RC and M-U zone shall maintain a minimum 15' when adjacent to a residential use or zone.
4. As approved by the Fire District.

**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.

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

- A. Open Space and Site Amenity Requirement (see also Chapter 8 "Architectural Review"):
  - 1. The total land area of all common open space shall equal or exceed fifteen percent (15%) of the total gross acreage of land area of the development. A minimum of 10% of the total gross acreage of the development shall be for useable area open space. Open space shall be designated as a total of 15% minimum for residential developments in all zones with densities of R-2 or greater.
  - 2. Each development is required to have at least one site amenity.
  - 3. One additional site amenity shall be required for each additional twenty (20) acres of development area, plus one additional amenity per 75 residential units.
  - 4. Developments with a density of 1 dwelling unit per acre or less may request a waiver

of open space and amenities to the Council. Developments with a density of 2 dwelling units per acre or less may request a 50% reduction in total required open space and amenities to the Council.

5. For multi-family developments, see Section 8-5-20 for additional standards.

B. Qualified Usable Area Open Space: The following qualifies to meet the useable area open space requirements:

1. Any open space that is active or passive in its intended use, and accessible or visible by all residents of the development, including, but not limited to:

a. Open grassy area of at least fifty feet by one hundred feet (50' x 100') in area;

b. Qualified natural areas, as determined by the Administrator;

c. Ponds or water features where active fishing, paddle boarding, or other activities are provided (50% qualifies towards total required usable area open space, must be accessible by all residents to qualify. Ponds must be aerated. All ponds shall be provided with safety floatation devices (rings) located at reasonable distances, as determined by the administrator;

d. A plaza.

e. Common lots that include a pathway providing local or regional connectivity that is a minimum of 20' in width.

f. Irrigation easements/ditches when a pathway is included (to be measured from the center of the ditch to the property line of the common lot).

2. Additions to a public park or other public open space area.

3. The buffer area along collector and arterial streets may be included in required overall common open space for residential subdivisions.

4. Parkways along local residential streets with detached sidewalks that meet all the following standards may count toward the common open space requirement:

a. The parkway is a minimum of eight feet (8') in width from street curb to edge of sidewalk and includes street trees as specified otherwise herein.

b. Except for alley accessed dwelling units, the area for curb cuts to each residential lot or common driveway shall be excluded from the open space calculation. For purposes of this calculation, the curb cut area shall be a minimum area of twenty-six feet (26') by the width of the parkway.

c. Stormwater detention facilities do not qualify to meet the common area open space requirements, unless all of the following is met:

1. Must be at least fifty feet by one hundred feet (50' x 100') in area;
2. Specifically designed as a dual use facility, as determined by the administrator, to include minimal slopes, grass throughout, and guarantee of water percolation within 24 hours of storm event.
3. Is located in a development that has a second usable open space area that contains a qualified site amenity as herein defined.

5. Visual natural space, including open ditches, wetlands, slopes or other areas that may not be readily accessible to residents, and is provided with open style fencing, may qualify for up to 20% of the required open space total, as determined by the Administrator.

C. Qualified Site Amenities: Qualified site amenities shall include, but not be limited to, the following:

1. Clubhouse;
2. Fitness facilities, indoors or outdoors;
3. Public art;
4. Picnic area; or
5. Recreation amenities:
  - a. Swimming pool with an enlarged deck and changing and restroom facility (pools shall count towards 3 required site amenities).
  - b. Children's play structures.
  - c. Sports courts.
  - d. Additional open space in excess of 10% qualified usable space.

- e. RV parking for the use of the residents within the development.
- f. School and/or Fire station sites if accepted by the district.
- g. Pedestrian or bicycle circulation system amenities meeting the following requirements:
  - (1) The system is not required for sidewalks adjacent to public right of way;
  - (2) The system connects to existing or planned pedestrian or bicycle routes outside the development; and
  - (3) The system is designed and constructed in accord with standards set forth by the city of Star;
- h. Pond and/or waterway amenities including, but not limited to docks, shade structures, ADA access, and fish stocking.

#### 6. Community Gardens.

D. Location: The common open space and site amenities shall be located on a common lot or an area with a common maintenance agreement.

E. Maintenance:

- 1. All common open space and site amenities shall be owned by and be the responsibility of an owners' association for the purpose of maintaining the common area and improvements thereon.

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

J. Additional residential standards applying to all new residential subdivisions:

- 1. Residential Elevations:
  - i. Building elevations for all residential uses shall be submitted with any development application and will be included as part of any preliminary plat, development agreement and/or any other condition of approval.
  - ii. Single-Family Residential Building Front and Side Elevation Minimum Standards. These standards shall be reviewed for compliance with all submitted residential building permits under the Building Zoning Certificate process. Council may adopt these standards as part of a development agreement or preliminary plat approval. The following minimum standards shall be applied to all new residential structure elements in all zones:

1. Exterior finishes shall be primarily horizontal/vertical wood or wood product siding, brick, stucco, stone, or other decorative masonry product. A minimum of three (3) architectural elements shall be provided for all single-family residential structures. These elements shall include, but are not limited to, shingled, horizontal or vertical siding, stone or brick highlights, garage door windows or hardware, colored window frames, or other architectural treatments deemed appropriate by the administrator.

**8-3B-3 - FIGURE EXTERIOR ARCHITECTURAL ELEMENTS:**



2. Two-story residential dwellings should provide a minimum of one, second story side window per side elevation, when appropriate.
3. A minimum one (1) foot overhang shall be provided on all roof overhangs. Administrator may approve deviation from this standard.
4. Dwellings backing up to collector or arterial streets shall have rear elevations and/or architectural designs that provide depth and dimension, avoiding the flat-wall appearance. These elements must be functional and may not be minimized or created solely for the purpose of compliance with this provision.
5. Additional landscaping buffers may also be required.

2. Dwelling Unit Design. Building styles shall be spread throughout the entire development (including all contiguously owned and phased properties). Nowhere within the development shall any fewer than 5 different exterior elevation styles

and/or floorplans be located adjacent to each other. The number of different dwelling styles within a development shall be as follows:

- a. 1 to 50 units = minimum of 5 architectural styles and/or floorplans
  - b. 51 to 100 units = minimum of 7 architectural styles and/or floorplans
  - c. 101 and over units = minimum of 10 architectural styles and/or floorplans
3. Homeowners Associations. All subdivisions shall be maintained by a Homeowners association with appropriate Conditions, Covenants and Restrictions (CC&R's). CC&R's are not enforceable by the City and are private contracts between the developer and the property owner.
4. Irrigation and drainage ditches shall not be covered, tiled or re-routed as part of any new residential development unless specifically approved by Council and the applicable irrigation and/or drainage district. Perforated piping may be considered as an option if tiling is allowed.

**8-4A-21: MAILBOXES:**

All mailbox clusters shall be approved by the postmaster prior to installation. All clusters shall be covered with an architecturally designed cover, to be approved by the Administrator prior to final plat signature. All covers shall be provided with lighting and shall be stained/painted and kept in good condition at all times. The administrator may issue a letter of violation to the HOA when any mailbox cluster or cover falls into disrepair. Maintenance shall be included in the CC&R's. A turnout shall be installed adjacent to the mailbox cluster to provide community access, if approved by the transportation authority and postmaster. The design shall be included as part of the preliminary plat submittal.





### **8-6A-3: PRELIMINARY PLAT PROCESS**

A. Preapplication Conference: The applicant shall complete a preapplication conference with the administrator or designee prior to submittal of an application for a preliminary plat. The purpose of this meeting is to discuss early and informally the purpose and effect of this title and the criteria and standards contained herein.

B. Neighborhood Meeting: Applicants are required to hold a neighborhood meeting, in conformance with Section 8-1A-6C to provide an opportunity for public review of the proposed project prior to the submittal of an application. The applicant shall provide a summary of the meeting, including questions and concerns of the neighbors and how the submitted application addresses those issues.

C. Application Requirements: A complete subdivision application form and preliminary plat data as required in this title, together with fees shall be submitted to the administrator. At the discretion of the administrator or city engineer, appropriate supplementary information may also be required to sufficiently detail the proposed development within any special development area, including, but not limited to, hillside, planned unit development, floodplain, cemetery, manufactured home parks, and/or hazardous or unique areas of development. When possible, any unresolved access or traffic generation issues related to ACHD/HD4 or ITD regulated roadways should be resolved by the applicant prior to acceptance of any application. The administrator may require a letter from the appropriate transportation agency or servient property owner to be submitted with the application.

D. Required Information and Data: The contents of the preliminary plat and related information shall be in such a form as stipulated by the City Council, however, additional maps or data deemed necessary by the administrator may also be required. The applicant shall submit to the administrator at least the following:

1. Two (2) copies of the preliminary plat of the proposed subdivision, drawn in accordance with the requirements hereinafter stated. Each copy of the preliminary plat shall be submitted on good quality paper, be professionally drafted, shall have the dimensions of not less than twenty-four inches by thirty-six inches (24" x 36"), and shall be drawn to a scale of not less than one inch to one hundred feet (1"=100') and contain a drafting date and north arrow.
2. For hillside developments, one (1) bound copy of the preliminary engineering plans (not meant to be cross sections or detailed designs) showing streets, water, sewers, sidewalks, and other required public improvements, together with preliminary site grading, drainage and irrigation plans of the proposed subdivision. Such engineering plans shall contain sufficient information and detail to make a determination as to conformance of the proposed improvements to applicable regulations, ordinances and standards.

3. Two (2) copies of a landscape plan showing all open space, common areas, amenities, street trees and development signage;
4. Additional information on the preliminary plat and separately submitted information to include the following:
  - a. The name of the proposed subdivision, as approved in advance by the Ada County Engineering office;
  - b. The name, address, telephone and email of the applicant, developer, engineer and surveyor or drafter who prepared the preliminary plat;
  - c. The names and addresses of all adjoining property owners and recorded plats within three hundred feet (300') of the external boundaries of the land being considered for subdivision.
  - d. The land use and existing and proposed zoning of the proposed subdivision and the adjacent land;
  - e. Streets, street names, rights of ways and roadway widths, including adjoining streets or roadways;
  - f. Lot lines and blocks showing the dimensions and numbers of each, together with area of each lot in acres and square feet;
  - g. Contour lines, shown at five-foot (5') intervals where the land slope is greater than ten percent (10%) and at two-foot (2') intervals where land slope is ten percent (10%) or less, referenced to an established benchmark, including location and elevation;
  - h. Any proposed or existing utilities, including, but not limited to, power poles, storm and sanitary sewers, irrigation laterals, ditches, bridges, culverts, water mains and fire hydrants;
  - i. Any flood zone information including FEMA FIRM panels;
  - j. The legal description of the boundary of the property being subdivided with the seal of the surveyor of record;
  - k. Phasing plan showing all proposed phases of the development;
  - l. Preliminary irrigation analysis showing availability of water rights and distribution of irrigation to the lots within the proposed subdivision, or waiver request;
  - m. One (1) copy of a site report of the highest seasonal groundwater elevation prepared by a licensed engineer;
  - n. narrative, signed by the applicant, fully describing the proposed subdivision, including such information as number and type of uses on the lots (residential single, two or multi-family, commercial, etc.), common lots and the proposed uses of those lots (open space, parks, playgrounds, landscaping, or other uses) and any other information deemed necessary to explain the intent of the development including how it relates to other concurrently submitted applications (annexations, rezones, PUD's, CUP's, etc.).
  - o. Neighborhood meeting information including sign-in sheet, copy of meeting letter, copy of mailing labels, and detailed summary of neighbor questions and

- concerns and how the development has been designed to address those concerns;
- p. A vicinity map showing the relationship of the proposed plat to the surrounding area (1/2-mile radius);
  - q. Deeds, affidavit of legal interest, address labels, postal service location approval, ACHD traffic study review status, electronic copies, or any other required information deemed necessary by the administrator to allow for proper review of the application;
  - r. A conceptual site plan shall be submitted for any non-residential developments showing building locations, parking and loading areas, traffic access drives and traffic circulation and trash enclosure locations;
  - s. Any additional required information for special area of developments including, but not limited to hillsides, wetlands or as further specified in this Title.
5. Additional information in the application as determined by the administrator may include the following:
- a. Building elevations, including multi-family uses, non-residential uses, clubhouses, well houses, or other elevations deemed necessary to assist the Council in their decision regarding a development;
  - b. Colored site plan and renderings of a subdivision detailing residential lot locations, open space and common areas, buffers, roadways, waterways and irrigation ditches, fencing, signs and landscaping.

E. Acceptance: Upon receipt of the preliminary plat, and compliance with all other requirements as provided for herein, the administrator shall certify the application as complete and shall affix the date of acceptance.

F. Decision: A decision on a preliminary plat for a parcel of land is made by the City Council after receiving a recommendation from the administrator and a public hearing is held.

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

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

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

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

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

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

*The Council finds that the residential purpose statement states that the purpose of the residential districts is to provide for a range of housing opportunities consistent with the Star Comprehensive Plan. Connection to the Star sewer and water district is a requirement for all residential districts, when available. Residential districts are distinguished by the allowable density of dwelling units per acre and corresponding housing types that can be accommodated within the density range. Council finds that this request is consistent with the statement.*

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

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

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

*The Council finds that the City has not been presented with any information from agencies having jurisdiction that public services will be adversely impacted other than traffic, which will continue to be impacted as the City grows. Emergency services were reviewed and mitigation recommended by the Star Fire District.*

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

*The Council finds the majority of the property is already annexed. The annexation and rezone request proposed is reasonably necessary for the continued, orderly development of the City.*

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

1. The plat is in conformance with the Comprehensive Plan;  
*The Council finds that the Preliminary Plat, as originally submitted and accepted meets all requirements associated with Section 8-6A-3 of the UDC and is consistent with the Comprehensive Plan and will meet the intent of the Land Use designation. Further, the*

*property is required to develop under the guidelines of the Comprehensive Plan and requirements of the Unified Development Code.*

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. The City has not received notice that public services are not available or cannot be made available for this development. Emergency services were reviewed, and mitigation fees will be required to serve the Police Department and Star Fire District.*
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 finds that the City has not been made aware of any known detriment that will be caused by this development. Residential uses are a permitted use and are compatible with other residential uses in the immediate area.*
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. The property has been in previous agricultural production.*

#### **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;

*Council finds that the private street proposal meets the requirements of the Code as submitted.*

- 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

*Council finds that the construction of the private street would not 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 approval of the private street will not be in conflict with the comprehensive plan or the regional transportation plan.*

### Public Hearing of the Council:

- a. A public hearing on the application was heard by the City Council on August 20, 2024, 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:
  - Shawn L Nickel, City Planning Director gave Staff Presentation
  - Emily Mueller
- c. Written testimony in favor of or opposing the application was presented to the City Council at the hearing by:
  - None

### Deliberations and Conclusions of Law:

The Council reviewed the particular facts and circumstances of this proposed annexation and preliminary plat application in accordance with the City of Star Title 8 (Unified Development Code), deliberated on the matter, resulting in review of the record, including the staff report, and discussions on the annexation and platting of the development. Review and discussion included development layout, access and street configuration, density, setbacks, open space, grading, pathways and irrigation. The Council accepted staff's recommended conditions of approval on the application in the development agreement and preliminary plat. Council concluded that the Applicant's request, as conditioned, meets the requirements for annexation and preliminary plat. Council hereby incorporates the staff report dated August 20, 2024 into the official decision as part of these Findings of Fact, Conclusions of Law.

### Statement of Compliance:

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

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

- **The Preliminary Plat approved by Council dated 8-20-24 is approved for a maximum of 48 residential lots.**
- **The Council approves the requested rear setback waivers for Lots 2, 3, 4, 11 & 12, Block 1 of the approved preliminary plat dated 8-20-24.**
- **Council approves a 27' width for the private street with no sidewalks adjacent to private street.**
- **The Applicant shall provide 8' planter strips along the detached sidewalks and a 10' multi-use pathway on Joplin Road per ACHD standards.**

- **The Applicant shall be responsible for payment of all emergency services mitigation fees and ITD Proportionate Shares.**
- **Building elevations presented by Applicant shall be included as an Exhibit in Development Agreement.**
- **The Applicant shall provide an Exhibit showing compliance with Section 8-3B-3J-2 of the UDC regarding Dwelling Unit Design.**
- **All future building permits for single family dwellings shall be reviewed for compliance with Section 8-3B-3J, including exterior finishes, dwelling unit design and rear elevation design along collector roadways.**

#### CONDITIONS OF APPROVAL

1. The approved Preliminary Plat for the Joplin Rim Subdivision shall comply with all statutory requirements of applicable agencies and districts having jurisdiction in the City of Star.
2. **The applicant shall enter into a Development Agreement with the City, agreeing to proportionate share assessment by ITD regarding impacts to the State Highway System. These fees are currently being calculated at \$1,000.00 per residential lot. These fees will be collected by the City of Star, by phase, prior to final plat signature.**
3. **The applicant shall pay all required emergency services mitigation fees to the City, as determined by City Council.**
4. **The private street has been approved by Council with a minimum street width of 27'** and shall otherwise be constructed to ACHD standards, unless otherwise approved by Council and the Fire District. The private street shall meet all requirements of the Star Fire District.
5. **All sidewalks and planter strips shall be built to UDC standards, unless otherwise approved by Council.**
6. **The Applicant/Owner shall submit a private street maintenance plan, including future funding, in compliance with Section 8-4D-3C of the UDC, with the submittal of the final plat application.**
7. **The Applicant shall provide approval for all street names from the Ada County Street Naming Committee and all names shall be correctly depicted on the final plat prior to signature.**
8. **The applicant shall comply with the Residential Standards for all new houses, as required in Section 8-3B-3 of the UDC.**
9. Streetlights shall comply with the Star City Code and shall be of the same design throughout the entire subdivision. Streetlights shall be continuous throughout the subdivision and shall be maintained by the Homeowners Association. **Streetlights shall be installed and energized prior to issuing of building permits.** Design shall follow Code with requirements for light trespass and "Dark Skies" lighting. **Applicant/Owner shall submit a streetlight design prior to Final Plat approval. Streetlights shall comply with the Star City Code regarding light trespass and "Dark Sky" initiative.**

10. Street trees along the private street shall be installed per Chapter 8, including Section 8-8C-2-M(2) Street Trees. If the trees will be installed by the builder, Certificate of Occupancy may be withheld until trees have been verified, they are installed per code.
11. The property associated with this approved Preliminary Plat, in addition to the property of all future phases shall be satisfactorily weed abated at all times, preventing a public nuisance, per Star City Code Chapter 3, Section 3-1-1 through 3-1-7.
12. The property associated with this approved Preliminary Plat, in addition to the property of all future phases shall be properly maintained at all times, including throughout the construction process to include trash picked up and trash receptacles emptied with regular frequency, streets swept and cleaned weekly, including any streets used to access the property and all debris shall be prevented from accumulating on any adjacent property or public right of way and shall remove all debris from public way at least daily. This shall also include, but is not limited to any trash, junk or disabled vehicles during any portion of the development process. The site shall be properly mitigated from fugitive dust at all times, including during construction, as determined by the Zoning Administrator. Failure to comply with any of the above may result in a stop work order being issued until the violations are remedied, and/or revocation of preliminary plat/final plat approvals.
13. All signed Irrigation District Agreements with the Irrigation Districts shall be provided to the City of Star with each subsequent Final Plat application.
14. Pressurized irrigation systems shall comply with the Irrigation District(s) and the City of Star Codes. Plans for pressurized irrigation systems shall be submitted to, and approved by the City of Star Engineer, prior to installation.
15. A plat note supporting the "Right to Farm Act" as per Idaho Code Title 22, Chapter 45, shall be shown on the Final Plat.
16. A copy of the CC&R's shall be submitted to the City of Star at Final Plat.
17. A form signed by the Star Sewer & Water District shall be submitted to the City prior to the signature of the Final Plat stating that all conditions of the District have been met, including annexation into the District.
18. A plat note shall state that development standards for residential development shall comply with the effective building and zoning requirements at time of building permit issuance, unless amended in the Development Agreement or CUP conditions.
19. Development standards for single family residential units shall comply with effective building and zoning requirements at time of building permit issuance, or as approved through the Development Agreement or as stated herein.
20. All common areas shall be owned and maintained by the Homeowners Association.
21. The applicant shall provide a sign, to be located at all construction entrances, indicating the rules for all contractors that will be working on the property starting at grading and running through home sales that addresses items including but not limited to dust, music, dogs, starting/stopping hours for contractors (7a.m. start time). **Sign shall be approved by the City prior to start of construction.**
22. A sign application is required for any subdivision signs.



**Council Decision:**

The Council voted 4-0 to approve the Annexation, Development Agreement, Preliminary Plat and Private Street for Joplin Rim Subdivision on August 20, 2024.

Dated this 3<sup>rd</sup> day of September, 2024.

Star, Idaho

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

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