

MINUTES OF PUBLIC HEARING AND SPECIAL MEETING  
SUGAR CITY COUNCIL  
HELD AT SUGAR-SALEM HIGH SCHOOL AUDITORIUM  
WEDNESDAY, MARCH 6, 2019

Presiding: Mayor David D. Ogden

Meeting Convened at 6:30 p.m.

Prayer: Brent Barrus

Pledge of Allegiance

Quote by Councilwoman Joy Ball:

Dr. Seuss's Butter Battle Book about conflict between the "Yooks" who eat their bread with the butter-side up and the "Zooks" who eat their bread with the butter-side down which leads to an escalating arms race resulting in the threat of mutual assured destruction. An analogy is drawn to the conflict and division to Sugar City residents and neighbors over the development of Old Farm Estates. She said: "I fear our community has turned into a place of Yooks and Zooks. Name calling, finger pointing, and suing have created destructive bombs just threatening to be dropped. I'm not sure I have the answer of what will heal our community, as feelings of distrust and even hate seem to abound. My wish tonight is that the bomb dropping cease and that we try to be civil in our interactions with one another."

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Assistant Deputy Clerks Shelley Jones and Sharon Bell; Councilors Brent Barrus, Vaun Waddell, Joy M. Ball, and Bruce King; City Public Works Assistants Cody Cureton and Jon Turner; Madison County Captain Cameron Stanford; Chairman Dave Thompson of the Planning and Zoning Commission; Design Review Chairman Paul Jeppson; City Building Inspector Cliff Morris; City Attorney Dylan Anderson; Hearing Moderator Attorney Trent Grant; Attorneys Michael W. Brown and Jeffrey D. Brunson for Jeff and Ryan Lerwill; Developers Jeff and Ryan Lerwill; *Standard Journal* Report Lisa Smith; Sugar-Salem School District Superintendent Chester Bradshaw; Sugar-Salem High School Principal Jared Jenks; and several citizens listed below.

**PUBLIC HEARING (Old Farm Estates Division #3 Amended Zone Change):** Mayor Ogden welcomed everyone and brought the public hearing to order. He then introduced Attorney Trent Grant as the hearing officer for this public hearing. Mr. Grant stated that he doesn't have any interest in this matter, so he is a neutral party. A recording is being kept as required by law. The request is for property located southwest of 3rd South, known as Old Farm Estates, Division #3. He then presented a brief review of the procedure for the public hearing to more than 154 citizens, who assembled in the Sugar-Salem High School Auditorium. Mr. Grant then introduced the purpose for the public hearing: the proposed zone changes for Old Farm Estates, Division #3.

Citizens were reminded to treat all with respect, be civil and courteous. No name calling, cheers, boos, hisses, amens, etc. would be allowed. The City Council will take comments from the public and can also ask questions of the public, but the public will not be allowed to ask questions of the council. Public testimony will be limited to 3 minutes each.

Mr. Grant asked the council if there had been any ex parte communication or conflict of interests.

Councilman King answered, No, “and I am enjoined by the district court from participating in discussions, deliberations, and voting on issues tonight.”

Councilwoman Ball reported that she had talked with the mayor and with the attorney; also to Grant Johnson and his wife.

Mayor Ogden said he has no conflict with the issue. He has tried to be as neutral as possible. He has had people ask to see the maps.

Councilman Barrus said he has had people ask him when the public hearing would be held and the purpose of the public hearing.

Councilman Waddell answered, No. He then recused himself from deliberations and voting on this matter and stepped down from the podium.

Councilman King also stepped down from the podium.

Clerk-Treasurer Wendy McLaughlin reported that all required notices to the public and political subdivisions were notified, published, mailed, and posted in a timely fashion as required by law.

Several items were made part of the record:

- Public Hearing Notice
- Hearing Publication Affidavit
- Zone Applications (10-14-15 and 12-20-16)
- 5-10-17 Planning and Zoning Findings of Fact
- Development Agreement
- Legal Descriptions and Maps
- Jeff and Ryan Lerwill Memo
- Idaho Transportation Department response to notice
- All written testimony

The names of those submitting prior written testimony were read into the record: Bruce Arnell, Connie Bird, Joyce Cromar, Harold Harris, Grant and Linda Johnson, Ray McDougal, Bill and Kathy Whittington. The testimonies of Arnell, Bird, the Johnsons, McDougal, and the Whittingtons were all in support. The testimonies of Cromar and Harris were against.

Point of Order – Councilwoman Ball - State Statute 67-6509, local land use says notice of intent to adopt . . . should be sent to all political subdivisions within the plan . . . prior to a public hearing by the commission. Also, recommendations from the Planning and Zoning Commission should be included in the notice. Mr. Grant told her that is a matter for you to discuss with your legal counsel.

A short break was taken for Mr. Anderson, the mayor, Councilwoman Ball, and Dave Thompson to discuss the point of order. During the break Councilwoman Ball’s concerns were addressed, and the meeting resumed.

The owners of the subject property were represented by Attorney Mike Brown, who read the memo submitted into the record from developers Jeff and Ryan Lerwill (see attachment #1). A

summary of the main points are listed below:

#### Background

- Lerwills recognized an opportunity to promote much-needed growth in Sugar City, a community they cherish.
- Since the purchase of Old Farm Estates, Lerwills have invested hundreds of thousands of dollars in engineering costs, worked closely with past and present city officials and donated land to facilitate establishment of a city well.
- Old Farm Estates consists of four separate divisions – 1, 2, and 4 will consist primarily of single-family homes. Divisions 1 and 2 are already underway.
- The rezone of Division 3 to MU-1 and MU-2 to maximize flexibility for both commercial and residential improvements brought well publicized lawsuits.
- Lerwills believed Division 3 rezone would accommodate development opportunities such as residential, medical facilities, professional office space, restaurants, hotels, etc.
- Some community members interpreted rezone request as an intent to fundamentally transform Sugar City by building the maximum number of apartment buildings permitted under the multiple use zones.
- Lerwills agreed to reduce the amount of acreage and cap the number of apartment units in a good faith attempt to address concerns.

#### Amended Zoning Application

- Division 3 considers five different zones – Light Industrial, Commercial Highway, Multiple Use 1, Multiple Use 2, and High Density Residential.
- Amended zones address citizen concerns and strikes an appropriate balance.

Attorney Brown then presented the proposed Findings, Conclusions, and Recommendation as summarized below:

- The Planning and Zoning Commission held a public hearing on April 6, 2017 and presented findings, conclusions, and recommendations to the City Council.
- The Commission found the zone change in accordance with the City's Comprehensive Plan which the City adopted May 25, 2017.
- The action was challenged under Judicial Review, which resulted in the Court remanding the application back to the City Council for failing to provide a transcribable record.
- The applicant brought suit against the City, and two individual council members, claiming that they had bias against the application.
- In an effort to settle all disputes, the City entered into a settlement agreement with the applicant, and the remaining council member.
- The settlement agreement contemplates an alternative option to the original requested zone changes which resulted in a material change to the Planning and Zoning recommendations.
- Another public hearing was held on March 6, 2019 to consider the amended application for zone change.

Analysis of the requested zone change and the City's Comprehensive Plan supports those values

summarized below:

- Central and Supporting Values – promotes health, safety, and general welfare of people, promotes livability and orderly growth, and promotes a safe, clean, prosperous and attractive community.
- Property Rights – supports maximum individual liberty with regards to property rights, balance public interests with the interests of property owners, maintains a regulatory framework ensuring that land use policies, restrictions and fees do not excessively impact property values, and provides for legitimate applications of police power to protect the public interest.
- Economic Development – developments are suitable to various locations and public needs, zoned to provide optimal settings for each sector of use, encourages cohesive and complete residential neighborhoods and vibrant commercial and business districts.
- Land Use – Residential. Lands used primarily for single-family or multi-family dwellings, the Land Use Map is a roadmap for development, the multiple-use zoning district is guided only indirectly by the Comprehensive Plan.
- Housing – Promotes a range of housing types and affordability, ensures smooth transitions between housing types, retains a predominance of single family housing, requires transitional lots as zone boundaries and between land uses, allows a modest range of densities and appropriate clustering, discourages development of large, independent residential areas outside the city or its impact area.

Old Farm Estates Rezoning of Division #3 complies with applicable city, state and federal laws and regulations and approval of the requested zones is in the best interests of the City and its residents.

Citizens who attended, include the following:

Archibald, Sharon	Black, Dan	Dalling, Glenn W.
Ashcraft, Jamie	Bone, Gabriella	Dayley, Glenn
Ball, Christie	Brighton, Christina	Deitz, Walter
Ball, Matthew	Brighton, Becky	Ercanbrack, Gaye
Baker, Charese	Brown, Jesse	Ercanbrack, Scott
Baker, Chet	Brunson, Annalise	Flaig, Jamie
Baker, Kelly	Brunson, Mary	Forbush, Jenna
Barnhill, Bill	Bush, Val	Frogue, Timothy
Barnhill, Leola	Christensen, Matt	Fuquay, Hannah
Barrus, David	Clark, JoAnn	Fuquay, Timothy Bean
Barrus, Jan	Cleverly, Nantalie	Furniss, Vicky
Barney, Mary Louis	Cook, Miriam	Galbraith, Carol
Bates, Michael	Cook, Spencer	Galbraith, Kevin
Birch, Jamie	Cross, Kathy	Galbraith, Kristin
Bird, Dennis	Cross, Ron	Gonzalez, Marianna
Gray, Leslie	Jeppson, Joan	McLaughlin, Bert
Haacke, Clyde	Jeppson, L. Gene	McMullin, Jonathan
Harris, Ganene B.	Johnson, Grant	Meikle, Denae

Harris, Harold L.  
Harris, Jeanine  
Harris, Rhonda  
Hendricks, Kent  
Hobley, Colton  
Hoopes, Necia  
Hoopes, Tyler  
Horner, Caryl  
Horner, Kenneth  
Jackman, Harvy  
Jeppson, Becky  
Jeppson, Jill

Johnson, Linda  
Jones, Kimber  
Kam, Jocelyn  
King, Elaine  
Larsen, Kelton  
Larsen, Mandy  
Lerwill, Alana  
Lusk, Barbara  
Mackay, Glen  
Madsen, Jennifer  
Malstrom, Mayci  
McDougal, Ray

Merrill, Justin  
Morgan, Craig  
Morris, Lori Ann  
Moser, Kerry  
Moss, Jill  
Nielsen, Anderson  
Nielsen, Catherine  
Nielsen, Jade  
Nielsen, Lawrence  
Nielsen, Robert  
Ogden, Pamela  
Oliphant, Judy

Oliphant, Mark  
Petersen, Bradley  
Pinnock, Glade  
Preslar, Elaine  
Price, Vaughn  
Puzey, Diana  
Raty, Janae  
Ricks, Louis  
Ricks, Shane  
Saunders, Brad  
Saunders, Tami  
Simmons, Halee  
Smith, Ron  
Sorensen, Keegan  
Sorensen, Rachel

Stears, Denise  
Stears, Mike  
Stears, Scott  
Stoddard, DeVerl  
Stoddard, Patty  
Strong, Brent M.  
Strong, Karolyn  
Taylor, Bill  
Taylor, Kristin  
Terry, Cindy  
Terry, Matt  
Tillery, Christal  
Walker, Blake  
Walker, Bruce  
Walker, Lewis

Walker, Matthew  
Walker, Susan  
Webster, Marlene  
Webster, Steve  
Whittington, Bill  
Whitworth, Tim  
Widling, Mary Lou  
Williams, Amanda  
Williams, Lex  
Williams, Suzanne  
Williams, Trina  
Hibbert, Kurt  
Searcy, Robert  
Turner, Taylor

Citizens for, against, or neutral were given the opportunity to submit written comments or testify at the hearing.

### **In Favor**

Mr. Grant read those testimonies that support the amended zone changes sent in by Friday, March 1 summarized below:

**Bruce Arnell** – wrote that he supports the settlement agreement with the amended zone changes and although he doesn't like all the components he sees the need to move forward. The city has wasted too much money that could be used for many beneficial things in the community. What is to be gained by the continued fighting and the continued wasteful expenditure of our money? Our property taxes are too valuable.

**Connie Bird** – wrote that she looks forward to the availability of different types of housing such as cottage homes, twin homes and townhouses. She does not want tall apartment buildings going in across the street.

**Grant & Linda Johnson** – wrote that they want to see the division end and go back to neighbor helping neighbor. It is time to grow and progress at a moderate rate. We need to attract businesses to help support our infrastructure, school, and city maintenance costs.

**Ray McDougal** – wrote that he owns property and pays taxes in Sugar City. He supports the proposed zone changes and settlement agreement. It will allow for needed growth. He is saddened by the contention within the city and disappointed that the agreement provides taxpayer money to Councilman King for legal fees while attempting to thwart this development. He is also very frustrated that Councilman King's wife and colleagues, including Councilman Waddell, have cost the city over \$100,000 in legal fees. The money would have been better spent on roads and city maintenance. They have not only cost us money in legal fees but delayed the growth that will bring desperately needed tax revenue.

**Bill & Kathy Whittington** – wrote that they wanted to express their agreement with the compromise and express their excitement about the growth and new developments that are taking place. They support the developers and city officials who worked hard to reach an agreement.

Mr. Grant called for those who support the amended zone changes of the settlement agreement for Division #3 and wanted to testify. Below is a summary of those testimonies.

**Mary Lou Wilding** – testified that she has been a long time citizen and has seen many changes. Some changes have been hard but she has seen many blessings from them. Today there are loud accusations of laws being broken. There is so much involved and listening to some of the rhetoric it is clear that some do not know what really has happened to our city government. Unintentional errors were made which could have been corrected if allowed. We have good men who give a tremendous amount of time and are serving the best way they knew how. We are fortunate to be able to work with the Lerwills who have shown that they are willing to work with the city. If those who choose to find fault would only work to help our public servants we would be able to accomplish so much more. I trust and support our mayor and public servants and thank them. Let us work together and go forward.

**Mike Stears** - testified that Sugar City is a great community where he has lived most of his life and raised seven children. The contention and division caused over the development of Old Farm Estates has been "gut wrenching" to watch. Sugar City will grow - the question is will we have a say in it or not. A bigger tax base will help the community. He admonished residents to be civil to one another and make a place for future generations.

**Harvy Jackman** – testified that we need to work together to encourage more business and growth. By his own experience in public service, he appreciates those who are willing to serve.

**Craig Morgan** – testified that we need more growth to help offset the high utility costs so that "Mrs. Green can remain in Sugar City" referring to a letter sent out earlier in the week depicting an elderly lady unable to remain here and keep her beautiful yard because of rising water costs.

**Kimber Jones** – urged support of the amended zone application. It is a good plan; all have worked together and compromised in order to make it work. It follows the Comprehensive Plan and would allow more types of housing and bring new business. It is time to stop “ the bleeding” and go forward.

**DeVerl Stoddard** – explained how the council is the governing board of the city. The mayor can only break a tie vote of the council. If the city has failed it is because of the council and not the Mayor as accusers have reported. The settlement agreement is a good thing for the city. There are not winners in law suits. Costs go up and families move out.

**Blake Walker** - testified that Sugar City is a special place to raise families. He strongly supports the zoning amendment and testified that it supports the Comprehensive Plan in growth, security, sociality, morality, diversity, stability, and opportunity. He hoped the community would come together and rise above the contention of a few and move forward.

**Justin Merrill** – testified that it is difficult for younger families to buy homes because of the significant higher costs. The city needs different types of affordable housing.

**Clyde Haacke** – testified that he can’t sleep because he has friends on both sides of the controversy. He is tired of the contention and division and wants to support the agreement and go forward.

**Jonathan McMullin** – written testimony was read into the record. He stated that his company was hired to build South Fork Villa. The growth has helped support his family and families of his subcontractors. He has met and associated with many of the tenants of the apartments and they are good people who will positively contribute to the community. Sugar City needs the tax base.

**Bill Whittington** – written testimony which was not read but included in the record. He testified that he supports the zone changes and growth in Old Farm Estates. He is saddened about the delays and costs accrued.

Those in favor who did not testify at the meeting:

Ashcraft, Jamie	Brunson, Mary	Lerwill, Alana
Black, Dan	Galbraith, Kevin	Lerwill, Jeff
Brown, Michael W.	Jenks, Jared	Lerwill, Ryan
Brunson, Annalise	Johnson, Grant	McDougal, Ray
Brunson, Jeff	Johnson, Linda	Ricks, Louise
Ricks, Shane	Taylor, Kristin	
Simmons, Halee	Walker, Bruce	
Sorenson, Keegan	Walker, Matthew	
Sorenson, Rachel	Walker, Susan	
Stoddard, Patty		

**Neutral**

**Jenna Forbush** – Ms. Forbush’s statement was read into the record. She submitted written testimony but did not indicate whether she opposed or favored the proposed zone changes. She has questions about what responsibilities Old Farm Estates has with respect to parks, percentage of liability for the new water system. Does the development agreement require them to contribute to the schools?

Mr. Grant called for those who are neutral to the amended zone changes of the settlement agreement for Division #3. There were no testimonies given.

Those who indicated they were neutral who did not testify at the meeting:

Meikle, Denae  
Whitworth, Tim

### **Against**

Mr. Grant read those testimonies that are against the amended zone changes sent in by Friday, March 1 summarized below:

**Joyce E. Cromar** – thanked the council and hoped they would listen to her opinion. She states that the zoning in Sugar City favors single-family homes and that changing the zones in Old Farm Estates would change the small home-town feeling we have. If you allow more apartments than homes then that will change. Crime will increase and Sugar City cannot afford a police department. The new zoning will allow 540 apartments and as many 4-plexes as the developer wants which will greatly increase buildings, population. and crime. These could add up to 1400 dwellings more than the single family homes now. We can’t keep our small town feel with such a rapid increase in our population.

**Harold L. Harris** – indicated that he wants to testify at the hearing.

Mr. Grant called for those who are against the amended zone changes of the settlement agreement for Division #3 and wanted to testify. Below is a summary of those testimonies.

**Catherine Nielsen** – JoAnn Clark relinquished time to Catherine Nielsen. Catherine testified that the amended zoning application was not in compliance with state law or the city’s Comprehensive Plan.

The city council violates state law if they use Mason’s Manual for rules of order which can only be changed by the vote of the entire city council.

The published notice violates State Code 67-6509 because it contains a material change in the application and notices did not include the Planning and Zoning Findings of Fact. The Comprehensive Plan must change first before a material change. Posted notices on the properties were not readable, not laminated, and placed in areas difficult to get to.

MU1 and MU2 zones are only defined by density which violates State Law 67-6511.

The notice indicates there could be additional supportive documents added before the public hearing which is unacceptable. The Development Agreement should be updated. There

should be updated statements from political subdivisions. There is no impact documentation with the material changes. The proposed amended zoning application violates State Code 67-6502 which states the purpose of this act shall be to promote health, safety and general welfare of the people and avoid undue concentration of population and overcrowding of land. If the original application had been submitted properly we wouldn't be sitting here tonight.

**Submission of Petition** - Catherine wanted to submit a July 2017 petition to vacate the MU1 and MU2 zoning decision of May 25, 2017 that was not able to be filed then. Mr. Grant denied the request to submit the petition into the record because it was not filed by Friday, March 1, 2019. The Mayor, city council, and city attorney can decide whether or not to accept them into the record.

**Councilman Vaun Waddell** – testified of the importance of following the law which is our “rock” to build on otherwise we build on “sand”. If we follow the law Sugar City can remain a refuge from a dangerous and divided world. We are not here to help the Lerwill’s earn some money. The Comprehensive Plan and the State’s Land Use Act are not being observed, citizens are not being heard. Judge Moeller schooled us that the tiniest legal detail must be observed for growth. He is not against growth and wishes the trouble to end as well.

**Mary Louise Barney** – testified that she did not agree that ongoing changes could be made to the application. She questioned the cap of 540 apartments. What happens when the developer sells to another buyer who would then have no caps? Would this ability to change set a precedent for other developments like Toscano and River Bend Ranch? She wants her rights preserved in the Local Land Use Act.

**Lawrence Nielsen** – testified that the application is not complete. The zoning map is different than the original map and should go back to Planning and Zoning. The Development Agreement is dated back to 2008 and should be updated. If the Lerwill’s are allowed to develop Division #3 as planned we would have over 4,000 residents living in apartments which would outnumber the 1,500 current residents.

**Barbara Lusk** – testified that the Settlement Agreement should be included with the public hearing materials. In 2018 she attended a Planning and Zoning meeting where Mayor Ogden tried to force Chairman Dave Thompson to sign the final plat for Division #2. It had been approved by City Clerk Wendy McLaughlin and Planning and Zoning did not have time to review it. I obtained a copy of the plat and Mr. Thompson’s signature is no on the document – he is the only one that has authority to sign for Planning and Zoning. This is a felony. Other changes to the plat should have required that a new plat be filed and that it go back to Planning and Zoning. This violates State Code 67-6509. We are not against growth. We have done our research and looked up legal documents and we know what we are talking about. Our research shows that 1,035 apartments are more real than the 560 cap mentioned in the agreement.

**Submission of Final Plat Division #2 Signatures** - Mr. Grant denied the request to submit the copy of the signatures into the record because it was not filed by Friday, March 1, 2019. The council, Mayor and city attorney can decide whether or not to accept them into the record.

**Kerry Moser** – testified that she is concerned about the MU zoning that it isn't specific enough and could be used for spot zoning. She would like to see a survey go out to the city when a big development such Old Farm Estates so that citizens have a voice.

**Val Bush** – testified that the amended zoning does not follow the Comprehensive Plan because it changes the predominance of single-family residences. The Comprehensive Plan should be changed first.

**Gene Jeppson** – testified that he is for growth but against the way the zoning application was done. Previous activities and agreements were not kept.

**Marianna Gonzalez** – testified that she is for responsible growth. Government should be transparent. Impact fees should be used to offset costs so that citizens aren't paying. Growth should not be a burden to the citizens. You must consider the worst case scenario in zoning. The utility bills have doubled, poor are struggling. We don't have any new businesses moving in. Town Hall meetings should be used to let citizens voice their opinions.

**Nantalie Cleverly** – testified that she is sad that two councilmen cannot participate in the hearing. She has friends on both sides. She does not want the contention to continue but believes that we should not have settled.

**Harold Harris** – Mr. Harris testified that he appreciated the Lerwills for their desires and the city for their public service. He is against the settlement agreement.

**Birch, Dennis** – Mr. Birch's written statement was read into the record. He opposes the zone change because it will change the make-up of the city.

**Birth, Jamie** – the written statement was read into the record. He opposes the zone changes because it does not reflect the will of the community and goes against the Comprehensive Plan.

**Glenn Dalling** - Mr. Dalling's written statement was read into the record. He is concerned that the Development Agreement is not being kept that the developer provide additional water when needed.

**Elaine King** – Mrs. King's statement was read into the record. She is unable to voice her opinion or make comments at this time because of legal counsel.

Those opposed who did not testify at the meeting:

Archibald, Sharon  
Christensen, Matt  
Fuquay, Hannah  
Horner, Caryl  
Horner, Kenneth  
Jeppson, Jill

9:30 p.m. Public comments concluded.

## **Applicant Rebuttal**

Developer Attorney Jeff Brunson: I live in Sugar City. It was a great compromise in coming to a settlement. No one comes away being satisfied. It is intense back and forth negotiations. If the zone application doesn't go forward then the good that will have been done because of the settlement agreement will be lost and we will be right back in litigation. Potentially there will be great harm. If the settlement agreement goes away, the tort claim issue will be back on the table. If this zone application isn't approved, that is right back where we are going to be. \$9 million will be conservative. The current application started in December 2016; it was approved. Then there was a legal challenge. The basis of the legal challenge had nothing to do with not recording the meeting. It wasn't apparent at that time that the meeting wasn't recorded. It had nothing to do with the perceived slights and faults. Truthfully, it we're being practical, if we're being honest, technicalities were being asserted. We are here today to move forward. We are at a critical juncture in our town. This is your opportunity as council members to set this thing right, to do your job as custodians for the Lerwill's property rights. What this is about is a zoning application. That is a very clear picture. If this doesn't move forward at this juncture, it will cause harm to our whole town. The comprehensive plan was brought up and there was a comment made by Ms. Ball about wanting to follow the law. You and I had an opportunity to sit across the table from each other before. I didn't want to be asking you hard questions, but that's where we were. And I'm afraid that's where we're going to be again if we're not able to get this worked out. The comprehensive plan is not a legally controlling zoning law. That is a guideline. That ship has sailed. It is a non-issue at this point in time. When you don't have good facts you go to technicalities. That's what's going on here, and the reason is to cause further delay and further delay is going to harm the city and potentially blow up this agreement and that can't happen and should not happen.

Mr. Brunson said he was impressed with the comments of Mrs. Ball in the newspaper. He expressed appreciation to everyone. The council and workers have tried to be patient. To move forward is the right plan. We want Sugar City to heal. Thank you for your time. Sugar City is full of wonderful people. He then turned the time over to the mayor.

The public hearing concluded at 9:45 p.m.

### **MINUTES OF SPECIAL MEETING SUGAR CITY COUNCIL SUGAR-SALEM HIGH SCHOOL AUDITORIUM WEDNESDAY, MARCH 6, 2019**

Meeting convened at 10 p.m.

Present: Mayor David D. Ogden; Clerk-Treasurer Wendy McLaughlin; Assistant Deputy Clerks Shelley Jones and Sharon Bell; Councilors Brent Barrus, Vaun Waddell, Joy M. Ball, and Bruce King; City Public Works Assistant Jon Turner; Madison County Captain Cameron Stanford; Chairman Dave Thompson of the Planning and Zoning Commission; Design Review Chairman Paul Jeppson; City Building Inspector Cliff Morris; City Attorney Dylan Anderson; Hearing

Moderator Attorney Trent Grant; Attorneys Michael W Brown and Jeffrey D Brunson for Jeff and Ryan Lerwill; Developers Jeff and Ryan Lerwill; *Standard Journal* Reporter Lisa Smith and 60 citizens listed below.

- |                     |                      |                    |
|---------------------|----------------------|--------------------|
| Ball, Christie      | Fuquay, Hannah       | Lusk, Barbara      |
| Ball, Matthew       | Fuquay, Timothy Beau | McDougal, Ray      |
| Barney, Mary Louise | Galbraith, Carol     | Merrill, Justin    |
| Barnhill, Bill      | Galbraith, Kevin     | Morgan, Craig      |
| Barnhill, Leola     | Galbraith, Kristin   | Moss, Jill         |
| Barrus, Jan         | Gonzalez, Marianna   | Nielsen, Catherine |
| Black, Dan          | Gray, Leslie         | Ogden, Pamela      |
| Brunson, Annalise   | Hendricks, Kent      | Ricks, Louise      |
| Brunson, Mary       | Horner, Caryl        | Ricks, Shane       |
| Bush, Val           | Horner, Kenneth      | Simmons, Halee     |
| Cleverly, Nantalie  | Jackman, Harvey      | Smith, Ron         |
| Cook, Miriam        | Jeppson, Becky       | Stears, Denise     |
| Cook, Spencer       | Jones, Kimber        | Stears, Mike       |
| Dayley, Glen        | King, Elaine         | Stears, Scott      |
| Frogue, Tim         | Lerwill, Alana       | Stoddard, DeVerl   |
| Stoddard, Greg      | Terry, Matt          | Whitworth, Tim     |
| Stoddard, Patty     | Turner, Taylor       | Wilding, Mary Lou  |
| Taylor, Bill        | Walker, Blake        | Williams, Amanda   |
| Taylor, Kristin     | Whittington, Bill    | Williams, Suzanne  |
| Terry, Cindy        |                      |                    |

Mayor Ogden welcomed everyone to a special meeting. Since some people have left, another sign-up sheet was passed around.

Councilwoman Ball had a request about parliamentary procedure and which rules apply tonight. The mayor said we have had to use Mason’s Rules. There is a court order. If we can’t get a second, then the chief has the right to call for a vote even without a second. Discussion was had. The mayor said most cities and most legislators don’t have a choice like this. He doesn’t see any other option.

**MOTION:** It was moved by Councilwoman Ball for this special meeting that we use Roberts Rules. There was no second. The mayor called for a roll call vote.

Those voting aye: Councilor Ball  
Those voting nay: Councilman Barrus

**Which resulted in a tie vote:**  
Deciding Vote: Mayor Ogden voted nay

The motion died.

**DISCUSSION OF PUBLIC HEARING ON OLD FARM ESTATES DIVISION #3 ZONE**

**CHANGE:** The council and mayor spent time looking over the documents submitted by Catherine Nielsen tonight. The mayor said the settlement agreement required an upgrade to the development agreement. The letter from the Idaho Transportation Department was read. Attorney Brown said it is based on a concern about access to Idaho Highway 33 and he reported that they are not expecting to use Highway 33 for access. It is irrelevant to discuss at this time. A discussion was had on the tort claim, acreage and density, etc. Changes were made to the Findings of Fact. Discussed the comprehensive plan. Discussed the effect on the schools. Councilman Barrus said he has studied the settlement agreement and findings of fact and we are ready to settle it. We need to make a decision.

11:50 p.m. **MOTION:** It was moved by Councilmember Barrus and seconded by Councilwoman Ball that we approve the Findings of Fact (see Attachment #2). The mayor called for a roll call vote:

Those voting aye: Councilors Barrus and Ball  
Those voting nay: None

Thereupon the motion carried.

**ORDINANCE NO. 337\_2019:**

The mayor addressed a point of order and said that Councilmen King and Waddell were recused, but at the beginning of the meeting tonight we had a full council.

Councilman Barrus introduced Ordinance No. 337\_2019 entitled (see Attachment #3):

**AN ORDINANCE APPROVING PROPOSED ZONE CHANGES AND AMENDING THE ZONING MAP OF THE CITY OF SUGAR CITY AS SHOWN ON THE ATTACHED MAP, PROVIDING FOR THE ADOPTION OF THE AMENDED MAP, PROVIDING FOR REPEAL OF ANY CONFLICTING PROVISIONS OF THE CODE AND PROVIDING FOR EFFECTIVE DATE OF THIS ORDINANCE.**

It was moved by Councilman Barrus and seconded by Councilwoman Ball to waive reading of the ordinance on three different days and to place it upon its final passage. Thereupon the clerk called roll upon the motion.

Those voting aye: Councilman Barrus  
Abstaining: Councilwoman Ball  
Those voting nay: None

Thereupon, the mayor declared the motion to have carried. It was moved by Councilman Barrus and seconded by Councilwoman Ball to adopt this ordinance. Thereupon, the clerk called roll upon the motion.

Those voting aye: Councilman Barrus  
Abstaining: Councilwoman Ball  
Those voting nay: None

Ordinance No. 337\_2019 was thereupon declared by the mayor to have been duly passed. The clerk will publish Ordinance No. 337\_2019 in summary or full immediately in at least one issue of the *Standard Journal*, a newspaper published in the city of Rexburg, Madison County, Idaho.

**DISCUSSION ON COUNCILMAN WADDELL'S TORT CLAIM:** The mayor said there is one other item on the agenda.

**MOTION:** It was moved by Councilwoman Ball that we table this item until another meeting. There was no second. The mayor called for a roll call vote.

Those voting aye: Councilwoman Ball  
Those voting nay: Councilman Barrus

**Which resulted in a tie vote:**

Deciding Vote: Mayor Ogden voted nay

The motion died.

Councilman Waddell stood and gave a brief statement: "I will abstain from deliberation or voting on the matter of my claim for attorney fees, but before deliberations begin, I wish to make a statement on the record. My attorney strongly disagrees with the city attorney's analysis and that is the reason I have filed a Notice of Claim on the matter. Consequences of the mayor's refusal to defend me and Bruce include great financial hardship on each of us, thereby effectively coercing Bruce to settle. I will not be coerced into settlement. That is a reason why I refused to sign the public settlement agreement. With regard to attorney fees, there is no difference between my situation and Bruce's. What is the explanation for agreeing to pay Bruce's attorney's fees but not mine? This discriminates against me and forfeits my freedom of speech rights."

**MOTION:** It was moved by Councilman Barrus not to pay Vaun's attorney's fees at all. Councilwoman Ball said that she had met with the mayor in his office about seeking to come to a resolution of paying a portion of Vaun's fees as a discretionary payment and he indicated he could pursue that. Mayor Ogden said it appears we are not going to get a second. I don't disagree with either of them. But what happened in the litigation was before Vaun was a city councilman. Was Vaun acting within his scope of authority? Much of what he did was before he was on the City Council. He continues to use the same attorney, and he really doesn't come to the council and ask permission to do what he did. Was he acting in his scope of authority? I understand how Brent feels and I also understand how Joy feels. Is there any thought for settlement? The city can't afford to be open-ended about it. We don't know how far this is going to go and have a city liability. There is a motion on the table, but no second. The mayor called for a roll call vote:

Those voting aye: Councilman Barrus  
Those voting nay: Councilwoman Ball

**Which resulted in a tie vote.**

Deciding vote: Mayor Ogden voted aye

**MOTION:** It was moved by Councilwoman Ball to appeal the decision of the chair. There was no second. The mayor said, for the moment, we need an opportunity to sit down with our attorney and find out how to handle the motion. That motion will have to be on another meeting agenda.

Meeting adjourned at 12:35 a.m.

Signed: \_\_\_\_\_  
David D. Ogden, Mayor

Attested: \_\_\_\_\_  
Wendy McLaughlin, Clerk-Treasurer

<b>DATE:</b> March 1, 2019
<b>TO:</b> Sugar City Council, Residents of Sugar City, and other Community Members
<b>FROM:</b> Jeff Lerwill and Ryan Lerwill
<b>RE:</b> Amended Zoning Application for Old Farm Estates, Division No. 3.

### BACKGROUND

When we purchased Old Farm Estates in 2015, we recognized an opportunity to play a role in promoting much-needed growth and opportunity in Sugar City, a community we cherish, while working in the industry we love, real estate. Since we purchased Old Farm Estates, we have invested hundreds of thousands of dollars in engineering costs, worked closely with past and present city officials, including Mayor Merrill and Mayor Ogden, to plan for and install (at our expense) required infrastructure, and donated an approximately two-acre parcel of land to Sugar City to facilitate establishment of a well that will benefit the city and its residents. We have generally enjoyed a very positive experience in working with the city and its officials concerning development of Old Farm Estates, and it has been gratifying to watch some of our best hopes for Old Farm Estates materialize.

There are four separate divisions within Old Farm Estates. Divisions No.1 and 2 consist primarily of single-family residential development that is already underway. Likewise, Division No. 4 will consist of single-family residential homes. It is well known that some members of our community expressed concerns over our application to re-zone Division No. 3 of Old Farm Estates. Those concerns led to two well-publicized lawsuits, the first of which began over eighteen months ago, and the second of which continues today.

One February 14, 2019, the city council of Sugar City approved a settlement agreement into which we entered with Sugar City and councilman Bruce King. The intent of this settlement agreement is to resolve the second of the two lawsuits. We express appreciation to Mayor David Ogden and councilman Bruce King for working with us to find common ground in reaching a resolution. We applaud the city council for taking decisive action and approving unanimously the settlement agreement. We believe the city council can take another critical step toward healing Sugar City by approving the amended zoning application set forth in the settlement agreement.

The amended zoning application is the subject of a public hearing on March 6, 2019 at 6:30 p.m. at the Sugar Salem High School. We refer to this application as an "amended zoning application" because it originated by our filing a zone change application for Division No. 3 in 2016, but its terms have been modified in an effort to compromise with those who have expressed concerns about what would be built in Division No. 3.

Our initial zone change application, which was approved by the city council in May 2017, sought to rezone most of the property in Division No. 3 as MU-1 (Multiple Use 1) or MU-2 (Multiple Use 2). Our intent in seeking these zoning designations was to maximize flexibility for developing both commercial and residential improvements (as both are permitted in Multiple

Use zones). We believed Division No. 3 would be a more attractive destination for stakeholders pursuing development opportunities in Madison County if the zoning could accommodate a variety of different types of development opportunities, such as residential, medical facilities, professional office space, restaurants, hotels, etc.

Some members of our community interpreted our request for multiple use zoning in Division No. 3 as an intent to fundamentally transform Sugar City by building the maximum number of apartment buildings permitted under the Multiple Use zones. Though we *never* expressed any plan or intent to build the maximum number of apartment buildings permitted in Multiple Use zones, rumors concerning the specter of “1,400 apartments” gained traction in the community. It became clear to us throughout the course of the two lawsuits that “maximum possible density” was a deeply held concern by many of those who opposed our original application to re-zone Division No. 3. For this reason, we agreed to reduce the amount of acreage in Multiple Use zones and to cap the number of apartment units that could be built in Division No. 3 at 540 units in a good faith attempt to address concerns about what could be built in Division No. 3.

### AMENDED ZONING APPLICATION

The amended zoning application for Division No. 3 now contemplates five different zones: 1) M1 (light industrial), which will apply to a 2.5-acre parcel west of the railroad tracks); 2) C3 (commercial highway), which will apply to three parcels comprising slightly more than 7 acres and abutting Highway 33; 3) MU-1 (Multiple Use 1), which will apply to a single parcel of approximately 15.64-acres; 4) MU-2 (Multiple Use 2), which will apply to a single parcel of approximately 10.64 acres; and 5) R3 (High Density Residential), which will apply to the remainder of the parcels in Division No. 3. The attached map illustrates these proposed zones.

The amended zoning application is designed to address the principal concerns about the original re-zone application. Specifically, the amended zoning application: 1) reduces the amount of acreage in a multiple use zone; and 2) establishes a maximum number of apartments that could be built in Division No. 3 without requiring another zone change application. We made these changes to the amended zoning application because, while we feel confident about our legal position in the second lawsuit, we, like many others in Sugar City, want to see a resolution of this issue so that our community can move forward. In agreeing to the terms of the amended zoning application, we have sought to balance the economic realities of developing real property with the heartfelt concern of the citizens of Sugar City we have come to understand over the past two years.

We have expended significant resources seeking to find a resolution to the controversy surrounding Division No. 3. While we acknowledge it would be impossible to satisfy every Sugar City resident, we understand the concerns others have raised about Division No. 3, and we have in good faith tried to compromise in a manner that balances economic reality with these concerns. We believe the amended zoning application strikes an appropriate balance, and we urge the Sugar City city council to approve the amended zoning application.

Jeff Lerwill  
Ryan Lerwill

Before the City of Sugar City  
City Council

<b>In the Matter of an Application for a Zone change of the Property Commonly Known as Old Farm Estates and Amendment of the Official Zoning Map of the City to Reflect the New Zoning</b>	) ) ) ) )	<b>FINDINGS, CONCLUSIONS AND RECOMMENDATION</b>
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SUMMARY OF APPLICATION AND HEARINGS

1. The City Council of the City of Sugar City, Idaho, requested, pursuant to *Sugar City, Idaho Municipal Code*, Section 9-13-2 A. 2. that the planning and zoning commission consider a recommendation to amend the zoning of the hereinafter described parcels of real property current zones as R-1 and R-2 to be zoned as M1-light manufacturing, MU1- Multiple Use 1, and MU2 - Multiple Use 2.

2. A public hearing was held at the Sugar City Hall, located at 10 East Center Street, Sugar City, Idaho at 7 p.m. on April 6, 2017 pursuant to Idaho Code, 67-6509. After a finding that the application was complete, all required notices were published, mailed, and posted in a timely fashion as required by law.

4. The Planning and Zoning commission presented findings, conclusions, and recommendations to the City Council.

5. The Council adopted the recommendation, and approved the zone change on May 25, 2017.

6. A Motion for Reconsideration was filed asking the Council to reconsider its decision. The Council did not respond, and the request was deemed denied by law.

7. That action was then challenged under Judicial Review, which resulted in the Court remanding the application back to the City Council for failing to provide a transcribable record.

8. The applicant brought suit against the City, and two individual council members, claiming that they were bias against the application.

9. In an effort to settle all disputes, the City entered into a settlement agreement with the applicant, and the remaining council member.

10. This settlement contemplates an alternative option to the requested zone changes to reflect the zoning map attached to this document.

11. As this is a material change to the recommendations made by the Planning and Zoning Commission, it must be subject to a public hearing.

12. Another public hearing was held on March 6, 2019 to consider the amended application for zone change represented by the attached map, and including M1, R3, C3, MU1 and MU2 designations.

13. After the public hearing on March 6, 2019, the City Council adopts the following Findings and Conclusions of Law:

#### FINDINGS

Based upon the evidence of record, including the application, attached documents and maps and testimony presented at the hearings, and the findings made by the planning and zoning commission, the City Council finds as follows:

1. The applicant has submitted a completed Application Form for a zone change.
2. All required notices were published, mailed, and posted in a timely fashion as required by law.
3. The City needs smart growth and revenue. This proposed zone change will likely provide the City with increased revenue, and help improve infrastructure issues.
4. The City needs to take steps to grow, or runs the risk of being enveloped by surrounding cities.
5. The zoning change complies with all requirements of the City of Sugar City Planning and Zoning Ordinances.
6. The school district, public health department, fire district, sheriff's department, city public works department were all asked for their comments on the proposed zoning. The Idaho Transportation Department did indicate that at this time, no access to Highway 33 had been approved. The school expressed concerns that higher density homes generally vote against school bonds or levies, and higher density properties add more revenue but also more people and potential students. Under this situation, expenditures outweigh revenues. However, Businesses add revenue for the school district without increasing student size.
7. The increased population of the City will improve not only the existing, but future commercial environment, by providing more customers to those businesses.
8. The additional housing will bring increased diversity to the City.
9. New commercial activity in the development will increase employment opportunities in the community and there is a need to provide space for new business ventures.
10. The requested zoning would cause development of more affordable housing that will give younger families the opportunity to live in our city, and provide homes for older couples looking to downsize.

11. The requested zoning will allow for development that will increase traffic, however the increased traffic will be mainly in the new subdivision and streets can be sized for such traffic. In so far as there may be increased traffic in the existing part of town, we regularly have sporting and other events which result in substantial increases in traffic and the current city streets have handled that traffic well.

12. Individual developers have property rights as per the comprehensive plan and state law which must be respected.

## CONCLUSIONS

The Sugar City City Council concluded regarding the application for rezone of the above described property and amendment of the zoning map of the City to reflect the requested change in zoning districts for the above described property as follows:

1. The Council concludes that the property should comply with the land use matrix when adopted by the City Council.

2. After consideration of the testimony and documentation of record in the application and hearing on the application, the City Council finds that the zoning change requested by the applicant is in accord with the City's Comprehensive Plan.

### **Analysis of whether the Requested Zoning is in Accordance with the City's Comprehensive Plan**

Following are excerpts from the Comprehensive Plan that bear on whether the zone change requests are in accordance with the Comprehensive Plan. In order to properly evaluate this issue and the objections made by some commenting at the hearing or in writing, we have to apply the Comprehensive Plan's language as a whole to the zone changes requested. Following is a summary of those portions of the comprehensive plan that, bear on the re-zoning application and our conclusions as to how each impacts this application.

#### **Central Values and Supporting Values**

1. "Promote health, safety, and general welfare of people." In spite of the assertion of one individual that "overcrowded living" can have an adverse impact on mental and physical health and social behavior, we conclude there is no credible evidence that the housing permitted under these zones is overcrowded. We conclude that safe, new housing will provide for types of housing needs within Sugar City which are currently under served and does indeed promote the health, safety and general welfare of the people.

2. "Promote livability and orderly growth." For the reasons stated in 1, above we conclude that the housing permitted in these zones does promote livability and orderly growth in the City.

3. "Promotes a safe, clean, prosperous and attractive community." Upholds justice, education, wholesome recreation, the natural environment and respect for the past. There was no evidence that would cause us to conclude this value is not upheld by the proposed zoning.

### **Chapter 3. Property rights:**

4. "Maximum individual liberty with regards to property rights." The zones applied for are what the property owners believe will best allow the intelligent and orderly development of their property. The zones proposed are the same use as has previously been found to be the preferred use for this land in the comprehensive plan. It would be a serious infringement on their legitimate rights as land owners not to grant them the use of their property the comprehensive plan prefers.
5. "Balance public interests with the interests of property owners." Sugar City has an interest in orderly growth and development. This property within the City is currently used for farming. It adjoins other housing including detached single family homes and a mobile home park as well as residences and commercial properties in the impact area. The public interest is served by allowing the type of use applied for here.
6. "To maintain a regulatory framework ensuring that land use policies, restrictions and fees do not excessively impact property values." There was not evidence presented that the use applied for would, in any way impact the property surrounding it. There is already mixed commercial, residential and industrial use either adjoining or very close to the land being considered for rezoning. It is our conclusion that newly constructed residential and commercial development may enhance local property values while adding significantly to the tax base of the City and school district.
7. "Provide for legitimate applications of police power, which may restrict land use without paying compensation when deemed necessary to protect the public interest." We conclude no such addition to the police power is necessary. See the discussion in 5., above.

### **Chapter 5. Economic development:**

8. "Encourage economic developments that are suitable to various locations and public needs." There are many ways this property can be developed that could be detrimental to the City and would not be suitable, this is not one of those. We conclude the better evidence clearly established that this development is suitable to its location and is something to be encouraged by the City.
9. "Zone so as to provide optimal settings for each sector of use." This property is outside the core of town. It is virtually a blank slate. It is an ideal place to have multiple use development as is requested in the application.
10. "To encourage cohesive and complete residential neighborhoods and vibrant commercial and business districts." This property is phase three of a development that already has detached single family homes and which is zoned for additional single family homes and lower density multiple family housing. The zones requested will allow for commercial and medium density and high density housing in appropriate mixes. The actual development will be subject to design review by the City in which the appropriateness and quality of a particular project can be assessed.

## **Chapter 6. Land Use:**

11. "Residential. Lands used primarily for single-family or multi-family dwellings." The zoning permits multiple family housing mixed with commercial uses. It is our conclusion that this zoning supports the use City land should be primarily used for.

12. "Land Use Map is a roadmap for development." The land use map designate this land for multiple use. This application requests zoning that is what the land use map of the Comprehensive Plan provides for.

13. "The multiple-use zoning district in the city ordinances, however, is *guided only indirectly by the comprehensive plan*. Lands are designated for multiple use on a case-by-case basis as directed by ordinance, consistent with values and goals in the comprehensive plan. Multiple use may involve lands in any land use classification(s) on the land use map." For the reasons stated above this application's request that the land be zoned for multiple uses is appropriate for multiple use zoning because of its location, existing surrounding uses and such use is consistent with the values of the comprehensive plan as enumerated above.

## **Chapter 11. Housing:**

14. "Promote a range of housing types and affordability." There is very little multiple family housing in the City. The requested zoning will allow for additional multi-family housing to be developed and will not detract at all from the development of additional detached single family housing in the city. It is obvious that multiple-family housing and cottage style homes all will allow for more affordability for families who are unable to afford to own traditional detached single family housing.

15. "To ensure smooth transitions between housing types." The location of these properties is such that it is not directly adjacent to any existing neighborhood in the City. As noted before, the closest existing neighboring uses are for mixed commercial and residential, mobile home park and industrial. This zoning allows for appropriate transitions to more traditional City neighborhood and the downtown commercial area.

16. "Zone to retain a predominance of single family housing." This is the single item in the comprehensive plan those opposed to the rezone application pointed to in support of their claim that the requested zoning violated the comprehensive plan. Dave Thompson argued eloquently that, although predominance is not defined in the comprehensive plan or City Code that it required that at least 51 percent of the residences in Sugar City had to be single family detached houses or the zoning would violate the comprehensive plan. Unfortunately, there are some flaws in this analysis. We believe it just as likely that "predominance of single family housing means the area of the City or number of acres of the City zoned R-1, single family housing, compared to all other uses (not just multiply family housing)? Counting theoretical maximums if property is built out in a certain way is speculative and no such outcomes are supported by our experience. We conclude that if one considers the comprehensive plan in its entirety there is no violation of the comprehensive plan by the proposed zoning.

17. "To require transitional lots and/or buildings-or buffers- as appropriate at zone boundaries and between land uses." Buffers, if and when appropriate, can and should be addressed by the Design Review committee as each project in the development is reviewed. These zones provide plenty of space for such buffering if it is required.

18. "To allow a modest range of densities and encourage appropriate clustering." The requested zones do allow a modest range of densities as provided for the in the City Code. The applicants have not requested any clustering and none is shown on the preliminary plat.

19. "To discourage development of large, independent residential areas outside the city or its impact area." A real concern of the City is that, if development of some medium or high density multiple-family homes does not occur within the City, developers will seek to develop land just outside the City's area of impact, close to the Super Wal-Mart and the developing retail shopping area around it. The City would have no voice in such development and it may well result in a significant impact on the City, the School District and the residents of the City without increasing the tax base of the City and detracting from the quality of life in Sugar City. We conclude it is important that the City allow for the development of this area to maximize the benefits to the City while managing any potential adverse impacts in the way that best benefits the City.

Additionally, we conclude that the rezoning proposal complies with applicable city, state and federal laws and regulations and that approval of the requested zones to the City Council is in the best interests of the City and its residents.

Signed and Dated this 6<sup>th</sup> day of March, 2019.

By:

\_\_\_\_\_  
DAVID D. OGDEN, MAYOR

Attest:

\_\_\_\_\_  
WENDY MCLAUGHLIN,  
CITY CLERK-TREASURER

(Seal)

**ORDINANCE NO. 337\_2019**

AN ORDINANCE APPROVING PROPOSED ZONE CHANGES AND AMENDING THE ZONING MAP OF THE CITY OF SUGAR CITY AS SHOWN ON THE ATTACHED MAP, PROVIDING FOR THE ADOPTION OF THE AMENDED MAP, PROVIDING FOR REPEAL OF ANY CONFLICTING PROVISIONS OF THE CODE AND PROVIDING FOR EFFECTIVE DATE OF THIS ORDINANCE.

WHEREAS, the land hereinafter described is within the City of Sugar City, Idaho and is currently zoned R1 and R2, and is requested to be zoned as M1-Light Manufacturing, R3 High Density Residential, C3 Highway Commercial, MU1- Multiple Use 1, and MU2 - Multiple Use 2 as follows:

**PARCEL REQUESTED TO BE ZONED M1:**

LIGHT MANUFACTURING AREA- M1:

LOT 1 BLOCK 18 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668

**PARCELS REQUESTED TO BE ZONED R3:**

HIGH DENSITY RESIDENTIAL- R3:

1) LOT 9 BLOCK 11 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

2) LOT 7 BLOCK 11 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

3) LOT 3 BLOCK 17 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

4) LOT 4 BLOCK 17 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

5) LOT 5 BLOCK 17 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

6) A 135 FOOT WIDE PARCEL OF PROPERTY GENERALLY LOCATED IN A PORTION OF THE NW ¼ OF SECTION 9, TOWNSHIP 6 NORTH, RANGE 40 EAST OF THE BOISE MERIDIAN, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE EAST 135 FEET OF LOT 3 AND LOT 4 LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF SOUTH 3RD WEST, BLOCK 15 BETWEEN THE SOUTH RIGHT-OF-WAY LINE OF WEST 3RD SOUTH AND THE NORTH RIGHT-OF- WAY LINE

OF WEST 4TH SOUTH EXTENDED WEST OF SOUTH 3RD WEST OF THE RECORDED PLAT OF OLD FARM ESTATES, DIVISION NO. 3 RECORDED MAY 25, 2018 UNDER INSTRUMENT NO. 416668, CONTAINING 1.57 ACRES MORE OR LESS.

SUBJECT TO A 20 FOOT ACCESS AND UTILITY EASEMENT ALONG THE WEST LINE OF THE ABOVE-DESCRIBED PROPERTY; and

7) THE EAST 135 FEET OF LOT 4, BLOCK 15 LYING WEST OF THE WEST RIGHT-OF-WAY LINE OF SOUTH 3RD WEST, BETWEEN THE SOUTH RIGHT-OF-WAY LINE OF WEST 4TH SOUTH EXTENDED WEST OF SOUTH 3RD WEST AND THE NORTH RIGHT-OF-WAY LINE OF WEST 5TH SOUTH OF THE RECORDED PLAT OF OLD FARM ESTATES, DIVISION NO. 3 RECORDED MAY 25, 2018 UNDER INSTRUMENT NO. 416668, CONTAINING 2.23 ACRES MORE OR LESS.

SUBJECT TO A 20 FOOT ACCESS AND UTILITY EASEMENT ALONG THE WEST LINE OF THE ABOVE-DESCRIBED PROPERTY.

**PARCELS REQUESTED TO BE ZONED C3:**

HIGHWAY COMMERCIAL- C3:

1) LOT 1 BLOCK 15 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668;

2) LOT 2 BLOCK 15 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668; and

3) LOT 3 BLOCK 15 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668.

**PARCEL REQUESTED TO BE ZONED MU1:**

MULTIPLE USE 1 AREA- MU1:

LOT 4 BLOCK 15 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668

LESS AND EXCEPTING THEREFROM THE EASTERN 135 FEET.

**PARCEL REQUESTED TO BE ZONED MU2:**

MULTIPLE USE 2 AREA- MU2:

LOT 8 BLOCK 11 OF OLD FARM ESTATES DIV. 3, MADISON COUNTY, IDAHO, AS PER THE PLAT RECORDED MAY 25, 2018 AS INSTRUMENT NO. 416668.

WHEREAS, the City Council has amended the recommendations from the Sugar City Planning and Zoning Commission, and, after public hearing on the amended application; and,

WHEREAS, the City Council has approved and adopted the findings of facts and conclusions of law for the amended application, for the property described above.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SUGAR CITY, AS FOLLOWS:

The parcel requested to be zoned M1 as described above is hereby rezoned as M1, Light Manufacturing.

The parcels requested to be zoned R3 as described above is hereby rezoned as R3, High Density Residential.

The parcels requested to be zoned C3 as described above is hereby rezoned as C3, Highway Commercial.

The parcel requested to be zoned MU1 as described above is hereby rezoned as MU1, Multiple Use 1.

The parcel requested to be zoned MU2 as described above is hereby rezoned as MU2, Multiple Use 2.

Section 1. The Zoning Map for the City of St. Anthony is hereby amended as shown on the attached map.

Section 2. The attached map is hereby adopted as the official zoning map of the City of St. Anthony.

Section 3. All provisions of the Sugar City Code in conflict herewith are repealed in so far as they are in conflict with this Ordinance.

Section 4. This Ordinance shall be in full force and effect from and after its passage, execution and publication in the manner provided by law.

ENACTED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 6th day of March, 2019.

CITY OF SUGAR CITY, IDAHO

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DAVID D. OGDEN, MAYOR

ATTEST:

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WENDY MCLAUGHLIN,  
CITY CLERK-TREASURER

(SEAL)