

**3. Public Hearing for Ustick Commercial (H-2025-0059 & H-2026-0007) by Hawkins Companies, located at 5900 W. Ustick Rd.**

- A. Request: Comprehensive Plan Map Amendment to change the Future Land Use Map designation on 4 acres of land from Medium Density Residential to Commercial (H-2025-0059).
- B. Request: Annexation of 4.31 acres of land with a C-C zoning district. (H-2026-0007)
- C. Request: Preliminary Plat consisting of four (4) building lots on 4 acres of land in the C-C zoning district for McUstick Subdivision (H-2026-0007)

Smith: Mr. Sandoval, is that adequate -- tracks? Okay. Cool. All right. Great. Well, then, the next item on the agenda is Item No. 3, File Nos. H-2025-0059 and H-2026-0007, Ustick Commercial Comprehensive Plan amendment, annexation and preliminary plat. We will begin with the staff report.

Parsons: Thank you, Mr. Chair, Members of the Commission. The last item on tonight's agenda is the continued item, Ustick Commercial/McUstick Subdivision. Just give you a quick recap of what's transpired since the May 7th hearing. So, I just reorient you. The site consists of approximately 4.31 acres of land, currently zoned RUT in Ada county and is located at 5900 West Ustick Road. Current Comprehensive Plan map designation or FLUM designation is medium density residential and the applicant -- on May 7th we discussed that change from going from MDR to commercial. Along with that, the comp plan amendment, the applicant also submitted a concurrent annexation and preliminary plat application for your consideration. So, they are requesting C-C zoning and their plat consists of four commercial lots and here is their CPAM exhibit that was provided to you and shown to you on the 7th and here is the -- kind of their adjacency to the Durango Subdivision that you saw tonight and acted on recently and here is the proposed concept plan that was, excuse me, shown to you on May 7th as well. At that hearing you did, again, condition -- or continue the item to direct staff to bring back some -- a memo with some conditions of approval for your consideration. As part of that, too, you also wanted to make sure that this project would be heard at the same hearing as the Durango Subdivision. That was something that was discussed at great length. So, excuse me, staff did have the -- one moment. Dry throat. I apologize for that. So, after the hearing staff did have the ability to meet with the applicant. I did inform you at that hearing that we did have some draft conditions of approval, met with the applicant, went through those draft conditions of approval, put that out in a memo to all of you for tonight's consideration this evening, but as part of that memo there were also some other topics that we wanted to discuss and get -- get your comments on. I think the chair did speak to the one about the northern connection point with the residential subdivision. Hearing on -- based on the action you did on that application staff would be amenable to you striking that condition from the staff report -- or from the memo and, then, DA provision two -- one thing that wasn't known at the May 7th hearing that did come to light when I met with the applicant

was hours of operation. So, as we were working through those DA provisions one of those provisions were the hours of operations were going to be restricted between the hours of 6:00 a.m. and 11:00 p.m., unless otherwise approved with a conditional use permit. Now, that provision in code applies when a project abuts a residential use or district. In this particular case the applicant -- this project does not abut a residential use or district currently. It's vacant ground around it and there is roadways. So, technically that provision -- the requirement for a conditional use permit is not required currently by code. So, if they were to get their annexation and zoning approved tonight -- or through the City Council, technically, they could operate a 24-hour use until that residential use -- or zoning came into play. So, the applicant did convey to me that a Lot 1, Block 1, which is this convenience store located on the concept plan, they would like that -- that potential operator would like the ability to -- to operate 24 hours a day currently and so I informed the applicant that I would bring that up with you this evening, because we didn't really have a chance to discuss it at the last hearing, because there were no conditions of approval. So, again, the code doesn't require them to get a conditional use permit at that time. So, therefore, you do have the purview to allow a 24-hour use as part of a DA and the Council does, too. So, if that's something you want to include or provide a recommendation on, that's what staff is asking you to do this evening if you are amenable to just one lot operating as a 24 -- 24 hour use. And, then, also in my discussions with the applicant we also talked about timing for construction. Typically the normal process is when you have a preliminary plat we would like the applicant to go through the final plat process, put in the infrastructure, build everything they need to do, record the plat, and, then develop the lots. Commercial is a little -- treated a little differently. I mean you don't necessarily -- you are not required to subdivide commercial property. They could move forward, annex this and not have to subdivide it and could build multiple buildings on it without doing that and still commence with development without a subdivision. So, the applicant is asking for the Commission's consideration to add a condition of approval to allow them to obtain one building permit prior to certificate of occupancy for the first structure on the site. We have done that historically, so it isn't a new condition, but they would just ask you to weigh in on that topic as well. And, then, last -- at the last hearing we also spent quite a bit of time on the auto-oriented uses on the site, you know, that's -- that was one of the -- the reasons for staff's recommendation for denial of the CPAM was how it was going to integrate and work with the adjacent uses. So, the applicant provided you a new exhibit showing how they are going to buffer the commercial a little bit more -- the commercial portion. That's why you see this new exhibit here. That was also attached to the exhibit and, then, as part of that the applicant and I did discuss the number of drive-throughs on the site. So, you can see here currently on -- on the concept plan there are two drive-throughs and so as you are aware we recently changed our code to tier drive-throughs, so we have a tier one, tier two, tier three drive-throughs. So, if this truly is going to be neighborhood commercial, that's something within your purview that you can limit the number of drive-throughs as part of the annexation request or you can cap the -- the number -- what type of tier you want on -- on the drive-throughs on the project. So, that's something that -- that is part of your purview tonight. So, again, you have the conditions of approval. I don't have a slide or anything showing those, but you do have the memo. If those three items -- or four items you want to address as part of your motion tonight if you are leaning one way difference from staff's recommendation,

then, I would encourage you to add those additional conditions of approval as well and with that I would stand for any questions you may have.

Smith: I do have one question regarding condition two. Kind of hours of -- hours of operation. My question specifically around like noise, noise pollution and things like that. Every time that I have kind of been in at -- you know, at a gas station at, you know, 2:00 a.m. or whatever it's pretty quiet. I'm just curious does the city treat gas stations and C-stores differently regarding commercial? I guess does my perception -- my anecdote, does that track with kind of how the city tends to consider these regarding hours of operation and the noise impact of late night or early morning gas station C-store usage?

Parsons: Commissioner, I think I'm following your -- so, currently the noise ordinance is 6:00 to 11:00, I believe, under the -- the -- I think the portion that the police department enforces is 6:00 to 11:00. But if there are instances like this where there are -- there is a 24 hour exception, then, they allow that to control, because there is -- the development agreement says they can have that. So, there is nothing in code -- so, if you do allow a 24-7 use I mean someone can still file a complaint and that can happen, but -- and the police can tell them to quiet down, but they are -- they are not treated any differently other than the fact that they are open more -- or longer -- beyond those hours that we would typically police either by the UDC or the -- the -- the PD -- Meridian Police Department itself.

Smith: Okay. Cool. Commissioners, are there any other questions for staff?

Perreault: Mr. Vice-Chair?

Smith: Commissioner Perreault.

Perreault: So, Bill, I know you can't comment as to the end use, but I understand that the applicant is considering a drive-through coffee shop and a drive-through fast food facility. Are those both tier one? Are those --

Parsons: Mr. Chair, Members of the Commission, those -- any restaurant use with a drive-through would be a tier two.

Perreault: Tier two.

Parsons: Yes.

Perreault: Okay.

Parsons: And, then, depending on how many ordering windows, how many menu boards would be a more intense tier three use. But, yes, that would require -- those type of tier two uses would require conditional use regardless of its proximity to a residential use and would come before P&Z Commission.

Perreault: Okay. And for the request regarding the building permit being issued for the site prior to the -- recording the plat, is that -- is that a -- do we need to add that as a condition if we are in agreement with that when we make a motion?

Parsons: Mr. Chairman, Members of the Commission, yes, you would need to add that as a condition -- as a DA provision.

Perreault: Thank you.

Smith: Bill, just to clarify --

Parsons: Or a recommended DA provision I guess.

Smith: So, you mentioned that the restaurant is tier two. The coffee shop, to my understanding, would also be tier two, is that --

Parsons: Both would be tier two. Correct.

Smith: Great. Commissioners, other questions? All right. This is be -- it's prudent for the applicant to come back forward; right? Kurt? I know we are -- I'm just trying to remember where -- we are technically in the public hearing.

Starman: So, we just received the staff presentation. Now is the opportunity for the applicant to present his application and, then, we will have public comment after that.

Smith: Okay. Then name and address for the record.

Mansfield: Good evening, Commissioners. Thanks for having me back. My name is Ethan Mansfield with Hawkins Companies, 855 West Broad Street, Boise, Idaho. 83702. So, I will breeze through most of this. I have similar slides mainly for the benefit of Commissioner Sandoval, but he has already reviewed the record. I don't want to -- what is the thing about beating a dead horse? I don't want to beat a dead horse tonight. So, I will go quickly. I did want to just first just really say thanks to KM Engineering for really collaborating with us on this. I mean, as you know, they are our engineer, too, but I think they did a really really fantastic job working with both us and Mark Hess to create some synergies here. When we first looked at this we were really excited, because we saw this opportunity for cross-access and Mark was very very willing -- KM was very willing to like put that exhibit together, help us get coordinated. That was back in June and here we are now with I think a plan that's pretty cohesive. I also want to say thanks to Bill for kind of working through these conditions with us. We did some significant collaboration with Nampa-Meridian Irrigation District to allow us to provide their service drive within our service drive, so we don't have to do a bunch of roads within their easement. They are just willing to use our commercial service drive as their service drive for their canal. So, I think that's a really good use of space. Commissioner Perreault was talking about using space efficiently earlier. It's not recreation space necessarily in this case, but it is kind of a doubling up on multi-use of a, you know, service drive. Just to clarify, the McDermott

bypass access into this commercial development is approved by both -- well, it's approved by ACHD pending the transfer from ITD to ACHD. We have been in touch with Kendra at ITD and she confirmed yet again that process typically takes three to four months and it's been about three weeks since we last spoke, so we are looking at about three months now. Hopefully that all goes as scheduled and that transfer can be completed without issue and that will happen well before we put shovels in the ground. Let's see. What else do I need to touch on here? Yeah. I mean it's just Durango coordination is -- is really critical here. As you can see, as Bill mentioned, we added the landscape buffer and we coordinated with Nampa-Meridian Irrigation District. We will talk more about that. I think we can skip over these slides, but, again, you know, this is why we are proposing it. We have seen a massive amount of public investment in auto centric development and that's why we are proposing auto oriented uses. You know, last time we talked a lot about impacts to the surrounding community. Again, you know, two-thirds of these trips to this development are going to be pass-by trips, which means they are on their way from somewhere to somewhere else and are just stopping at ours. Only a third are either diverted, which means they are going a block out of their way or actually only new trips. Impact fees. We talked about that. Our per acre impact is actually very much on par with a medium density residential development at -- at eight units per acre. So, you know, kind of to sum up that piece, any current or future residents within this box will travel for less time and less distance to access our commercial use than any other commercial use outside the box and there is not really any other commercial uses inside the box right now, so, you know, that's speaking to the pass-by nature of these -- of these uses and how they actually could reduce VMT, pollution, congestion, et cetera. So, just to talk a little bit about our -- the orientation of the single family uses, you know, there was some concern initially from staff that there is a negative impact of -- of the -- of the commercial uses to the residential uses to the north. I think that impact would be -- no matter what - - no matter what this use is, much less than the impact of Ustick Road on residential uses immediately north of Ustick Road. So, that's why this commercial development makes a lot of sense here and, again, with the additional landscaping that's being proposed, as well as -- I think, you know, we are really supportive of having only the sidewalk extending north-south and I think we are all on board with, you know, it's a good thing to not have that additional roadway connecting Durango and this development and just keeping it pedestrian oriented allows for a much more comfortable pedestrian experience and more limited impact to any of the residential uses to the north. So, you know, we can talk a little bit more -- I would like to kind of talk about this in the context of the 24 hour use that we are proposing on the corner and, again, we are only asking for one of these uses to extend beyond the typical 6:00 a.m. to 11:00 p.m. hours and that would be the fuel station. You know, we have -- we have provided extra care to provide a significantly larger buffer than many of the other surrounding -- as you will see soon other surrounding developments to residential and, you know, I think to Commissioner Smith's point, you know, you are right, like when you are -- it's 2:00 a.m. at a convenience store, most people are just pulling in, getting gas, getting out of there. You know, you might go in for a -- for a pop or something. You know, when my wife and I go to a concert at the Ford Idaho Center Amphitheater we are driving back home, we very frequently pass -- we use Ustick and we go back on Ustick, sometimes it's 11:30 or midnight when the shows gets done and we have to get gas, so this is like, yeah, I would hate to not be able to stop and have

to go another two miles, because sometimes we neglect to fill up our gas tank and it's, you know, kind of scary. So, this provides an opportunity for that sort of use and, again, it's important to understand all of these uses are still subject to the noise ordinance that's in code, not necessarily the UDC ordinance about hours of operation, but if there are loud noises coming from this gas station and it's outside the typical hours that the noise ordinance allows, absolutely there can be a violation of that. So, you know, between the buffering, the noise ordinance, I would really humbly request that you -- you approve a 24 hour use for just Lot 1, Block 1. Here is some more perspective on what we are proposing for the landscape buffer, you know, this is the same consultant KM Engineering. Their landscape team is great. You saw the right side of this diagram earlier and now you can see the left side of this diagram. You know, trees are -- as confirmed by Nampa-Irrigation District, not allowed within the easement, so what we have done is we have located these trees outside of the easement. We have some of the lower evergreen screening within the easement, but the trees themselves are located outside of that easement, so that will fly with Nampa-Meridian Irrigation District, which was a critical piece of making this all work. So, here is just some more -- how do the other buffers compare. You know, you have single family adjacent to the Jackson's car wash on Pine and Ten Mile. McMillan and Park Crossing Ave., 38 feet between the single family and the coffee user, 70 feet between single family and the Walmart on Fairview and Venture, you know, and a bunch more here, all, of course, less than our distance of 185 feet. So, it's not like an unprecedented thing. Many fast food users and fuel stations are open 24 hours. In fact, most fueling stations themselves like, you know, when you roll up and fill up your gas tank, those are all 24 hours. I have never seen one that's -- that's not anymore, because you just scan your card and like away you go. But, you know, there is one that's 60 feet from -- from a residential use. So, it's not -- you know, I don't think we are asking for anything out of the ordinary here and we are taking especially deep care to ensure that it's buffered appropriately and there is enough space between them and the Sky Pilot Drain creates a drain -- Sky Pilot Drain creates a wonderful sense of separation and the pathway still allows for connectivity. So, it's kind of like the best of both worlds I think. So, this site really is well suited for this commercial use. So, kind of in summary, you know, this is a great spot to put this, both from an individual impact spot and for an overall community impact, because of the pass-by trips. You know, here is kind of the summary slide. Residential units adjacent to Ustick would be far more negatively impacted by noise, light and odor. If homes were developed on the subject site there would be negative impact to quality of life of future residents and, then, most of the traffic on this site would be pass-by trips. So, to Commissioner Smith's point again, at times when there is minimal traffic on Ustick, there is going to be even less traffic into the site; right? I mean like, you know, you are not stopping everyone on Ustick that goes into the site, it's -- it's a lot of traffic on Ustick at all hours of the day and, then, even fewer kind of use -- use of the site at all. So, you know, from a -- from an impact perspective this is actually probably better than houses going on the corner. So, you know, we have talked about this. Bill I think did a really great job of summarizing our perspective. I did create language to use if you choose to adopt this condition. Obviously feel free to modify, but I think this is the intent that we are looking for and I think it kind of protects both us, as well as the city and kind of gets a nice compromise. The future tenant of Lot 1, Block 1, shall be allowed to operate 24 hours per day, seven days per week. Business hours of operation of additional

tenants shall be limited from 6:00 a.m. to 11:00 p.m., unless extended with a conditional use permit and as we have a -- a known user that wants to operate 24 hours a day, that's what we are asking for. The other users -- there is many who are interested and no leases have been signed, because we are waiting to get an entitlement here, so that bridge can be crossed at a later date if, in fact, there is any interest from those tenants to operate outside of these hours and we can assess those impacts at that time. This is some suggested condition language for the question Commissioner Perreault asked earlier about, you know, what do we need to add to allow it to be -- to allow the site to have site work and an associated single building permit issued prior to the recordation of the plat? This is how I would suggest that we incorporate those. I think it, again, hits everything we need and nothing additional that we don't. So, preparation of the site, including installation of drive aisles, utilities, parking fields, pedestrian walkways may occur prior to recording the final plat. So, again, that's just site work. And, then, condition ten, separate condition, up to one building permit may be issued prior to the recording of the final plat. We are not building the whole thing out, we are just asking for one. One thing we did want to talk about that we didn't really have a chance to talk with Bill about ahead of time -- and I apologize for this, Bill. But we, you know, while we are working to coordinate the timing on the Durango commercial and the McUstick commercial, we -- there is no guarantee that this drive aisle will be constructed at a certain time. I mean it -- it has absolutely considered within phase one of the Durango commercial plat, but if there is no users there, right, there is no real impetus to construct it and that's fine, we are not asking for anyone to construct it early, but what we are asking for is for a right-in, right-out -- a temporary right-in, right-out access to both the McUstick commercial and Durango commercial, right, shared on the property line until such a time that Dayspring Road is completed from Ustick Road and connected to the McUstick Subdivision from the Durango commercial drive aisle. So, we are just simply looking for an ability to get from Ustick to the site without going through that intersection and we think this is actually beneficial to the public as a whole. We actually looked at this in the context of doing a permanent right-in, right-out. ACHD will not allow a permanent right-in, right-out. So, we are seeking a temporary one and if you look at the difference between a Table 16, which includes three accesses, one from Durango, one from McDermott and one from Ustick, it's actually significantly -- both the -- both the signalized -- so, when Ustick and Dayspring are signalized, both that scenario and without that signalization -- again, Ustick will always be signalized. So, we are looking at the speed on westbound Ustick Road in the p.m. It's significantly less delay in terms of travel time with a right-in, right-out access. So, that's where all those numbers mean in the p.m. peak when people are trying to go westbound on Ustick there is significantly less delay when you have that right-in, right-out. So, you know, if that's true in a permanent condition, it's obviously true in a temporary condition, probably even more so when the Durango access is not created yet. Everyone, then, goes through that intersection to access McDermott. So, for that reason we are simply asking for a temporary right-in, right-out access to Ustick until that Durango develops. And I'm done here and I think this one's removed already, so thank you very much and I look forward to a recommendation of approval to City Council of H-2025-0059, H-2026-07 with the updated DA conditions, 1-4, 1-5, nine, ten and the removal of condition two two from the memo and I'm happy to answer any questions, concerns, thoughts, ideas.

Smith: I have one question before we kind of get into the -- the nitty gritty of some of this. One -- one concern I do have regarding noise past the 24 hour, I'm someone who has had to also fill up my tire -- my tire, you know, at 2:00 a.m., unfortunately. Where is that -- is there intended to be a compressed air station? I know some -- and you are not the owner, but if that were is there any intention for that to be -- like any idea where that would go in the application?

Mansfield: Vice-President Smith, that is a fantastic question. I have not -- we have not gotten into the site design of this particular fuel user. I do assume -- I'm going to look at my pal Bronson here. He might know a little bit more about the user's operations, but maybe not. I'm assuming there will be compressed air and -- and I would also assume that we could be a little bit sensitive to the concerns of noise and could locate that in a way that minimizes noise for surrounding users. What's that? Oh, yeah.

Smith: Would that be on the southern side?

Mansfield: Yeah. We could put in on the south side of the building. Yeah.

Smith: Okay. Thank you. Commissioners?

Perreault: Vice-Chair?

Smith: Commissioner Perreault.

Perreault: So, walk me through that -- we will call it a drive aisle from McDermott. A driver is heading north and they make a right turn into that. There is no right turn lane. So, are we stopping -- you know, at this point ACHD is saying they are not widening McDermott Road past three lanes for a significant amount of time. So, is -- is that stopping all traffic there as somebody is waiting to turn right -- hopefully not a long wait turning right. Turning left, however, if -- if they are coming out of there and they are turning left are we creating issues with the property directly to the west? That gentleman came and spoke that, you know, there might be some problems with them having to put the entrance to their property further south than Durango. Just kind of walk me through that. You have -- or the traffic coming south on McDermott and now there is traffic stuck behind them waiting to turn left to get into the gas station. I'm not -- I'm really -- I understand the need for this. I just -- I think that it's going to create a lot of problems.

Mansfield: Commissioner Perreault, I can certainly walk you through. So, I just want to clarify. You are talking about the access onto and off of McDermott?

Perreault: Correct. Yes.

Mansfield: Okay. Yeah. So, I will first start with the kind of planner answer. As a former planner I can kind of recite the ACHD like access shall be taken from a lesser classified street whenever possible. So, that is providing an access onto and off of McDermott bypass, because ACHD is not allowing a permanent right-in, right-out. Their perspective is the property requires a full access and it's a collector and it -- ACHD has approved the

access. So, it -- it technically meets all of ACHD's policy criteria to allow a full access onto and off of McDermott bypass in that location. Now, I guess from another perspective, you know, kind of from a user perspective, which I think is equally, if not more important than the policy manual, but I didn't say that if ACHD is listening. There is a center turn lane on McDermott bypass. So, as you said, it's three lanes. So, two lanes in either direction and, then, a center turn lane. So, you know, I liken it to like -- I was just pulling out of Happy Camper on Chinden Boulevard, right, and Chinden is a much wider street, but it does have that center turn lane. It also has huge amounts of volume on it and I waited for some time to turn left out of my business that I was at Happy Camper. So, you know, certainly it will take longer to turn left out, probably, than it will to take a free right and when we analyzed level of service for that intersection, given the trips from both the future Durango commercial in this quadrant -- not the other not the other commercial on the other side of the public road. Let me go to the -- so, not the commercial on the right side -- on the -- on the east side of the public road, but we did analyze the Durango commercial on the west side, including McUstick commercial. When we analyze that, that driveways level of service, that is the delay that people experience, was not great enough to warrant another access point -- permanent access point. So, ACHD determined -- so, we did look at the experience delay. I do not have the number on me right now, but it does not operate at an E and F, it operates better than that, so -- I think it was a B -- maybe an A or a B level of service, which corresponds -- I can't remember what number of seconds of delay that corresponds to, but that was analyzed and it was assumed to be acceptable based on the traffic volumes using that. So acceptable, in fact, that they would not allow us a full -- or, sorry, they would not allow us a permanent right-in, right-out along Ustick.

Smith: Commissioners, questions? Could you pull up -- I think your proposed nine and ten conditions. There we go. So, actually -- sorry. It's not this one. It is the -- sorry. The temporary access from Ustick. Sorry. I thought that was nine and ten. I want to -- I want to just make sure I'm clear. The intention is this prior to any occupancy for construction purposes and that only or is this also intended for temporary right-in, right-out during commercial activity, like user activity?

Mansfield: Commissioner Smith, great question. Thanks for allowing me to clarify that. This would be a right-in, right-out that would operate potentially during commercial activity for customers and the reason it would be temporary is because it would provide another access point to minimize traffic into and out of that McDermott drive before the Dayspring access is constructed, if that occurs. So, basically, what it allows us to do is construct the -- you know, at least the first building permit -- potentially more, right, but construct what we have constructed, operate certain users without the requirement that that Dayspring Road have -- have been constructed already and so it allows us that temporary access, so that not every single car who is coming into our -- into and out of our development goes to the McDermott access.

Smith: Okay. And, Bill, question -- question for you on this. I know this is something that I guess we didn't have enough time to -- to analyze ahead of time, but I guess as a initial reaction or general kind of approach, does that align with what is appropriate -- like what

staff feels is appropriate in other maybe similar circumstances or what is your early read on it?

Parsons: Mr. Chairman, Members of the Commission, I think this is one where I think the applicant's well aware of our policies, too. It really does take a Council waiver for access to arterials. So, again, I'm -- I'm going to have to stay with code and say we have to prohibit access unless otherwise approved by City Council. So, to me that's -- if that's something that you want Council to take under consideration, you support what the applicant is asking for, you can certainly include that and endorse that. But, ultimately, ACHD has said no access to Ustick and our policy say no access to Ustick. So, that's why we are being very restrictive in the DA saying that you are not getting the access, because they do have a -- they are approved for full access to that McDermott bypass based on ACHD's findings. But I certainly understand where the applicant is coming from in regards to its temporary. Again, I don't -- none of us know the timing for when Dorado gets started -- or when they get started. Again everything along Ustick is going to be waiting on Ustick -- ACHD to widen and sewer to be there. So, it could be a whole other year or two years before we even see anything starting out here. So, that's -- that's really -- it's all about timing and when they can even move forward. So, I think my recommendation would be -- is maybe as we transition to City Council maybe the applicant can maybe get something from ACHD kind of supporting that temporary right-in, right-out and, then, at least have that information for Council, because they are really the ones that have to say, yes, this is good and, then, have -- encourage the applicant to come back with maybe a plan showing how that can be remediated in the future if it does go away, if it is truly going to be temporary in nature.

Smith: Commissioner Stoll.

Stoll: That was going to be my question, whether ACHD has weighed in on the temporary access.

Mansfield: Commissioner Stoll, they have not yet weighed in. However, we are very much aware that they would need to weigh in.

Stoll: Okay.

Mansfield: So, that's kind of on our list of things to -- essentially what the removal of -- or the change of this condition does -- the modification of this condition does is it allows ACHD's decision to kind of be the decision and it -- it -- it allows us to not have to go back -- so, let's say Council requires the condition to remain as is, prohibits access, that means that if we can get ACHD to agree to a temporary right-in, right-out, we, then, have to go back to Council to get their permission for a right-in, right-out and what I would like to do is -- first of all, I would like to try and get ACHD and everyone rowing in the same direction prior to Council, but what it does is -- if I cannot get ACHD to be rowing in the same direction prior to Council, it doesn't mean ACHD gets ignored, it means we still have to talk with ACHD and Council is saying look, if ACHD is cool with it, we are cool with it temporarily. That's all we are looking for here.

Smith: Commissioners, any other questions? I do have one other question regarding these -- these two drive-throughs. So, like Bill said, you know, the coffee shop I believe is generally in tier two, a restaurant is -- can be tier two, can be tier three. Could you -- could you help me understand the intention behind -- I guess what level of drive-through, you know, volume, expectations, et cetera?

Mansfield: Commissioner Smith -- Vice-President Smith. Or vice -- vice-chair.

Smith: Vice-chair.

Mansfield: Vice-chair. Excuse me. I will refer to you as vice-chair from now on. Vice-Chair Smith, yes, I'm frantically clicking to a nice picture of our development here. What we have established with our users -- just -- and just our knowledge of site plan development and shopping center development with the 50 years of development that Hawkins has doing this, is this site, because of its size, there is no way it could support two class three users. It's just -- there is just too much stacking. There is too much, you know, action going on for such a small site. We totally acknowledge that. What we would like to be able to do is say we -- we would be open to restricting drive-throughs to a maximum of one class three use and either another class one or class two if it is in the cards and, again, this is conceptual. We may not have four users here because of a class three drive-through eating up too much space, you know, so we are really really cognizant -- because we have done this so many times we are really cognizant about the customer experience. The user experience. The staff experience on this site. We don't want to create conflict and so for that reason I think that's why we are agreeing to a condition for one class three -- no more than one class three drive-through and the other drive-through has to be either a class one or class two.

Stoll: Just to remind me -- I have a question for Bill. What's -- what's the definition of a class three again? Drive-through?

Parsons: Mr. Chair, Members of the Commission, tier three is basically a restaurant with two stacking lanes, two ordering points, two ordering menus. Just a more intense drive-through, so --

Stoll: Okay.

Parsons: -- what he has drawn here is not going to be anywhere close to a tier three. They are probably tier two. So, again, it's not -- it's -- the Commission doesn't have to add anything. It's just something that you can if you want to. I know recently you guys have been getting into the weeds a little bit more of that and staff has been coming forward with DA provisions that said, hey, we are good with some drive-throughs, but would you think about maybe locking it down to a tier one? So, again, it's -- if you feel comfortable with the concept plan there is a DA provision that says comply -- generally comply with the concept plan and they -- regardless, if it is a tier one or tier three, they are coming back with a CUP. So, it's -- it's just whether or not you guys want to lock down the intensity

of the site or if you feel like you need to build in that extra assurance that it won't be too intense for the future residential -- or the road -- or the transportation network that we know gets a lot of trips on Ustick. We know it is going to have a lot of vehicle trips in that area. So, that's why I just bring it to your attention.

Smith: Did you want to -- was there anything you wanted to add? Okay. Cool. Any other questions? All right. I guess we will go -- Madam Clerk, is there anyone signed up to testify?

Lomeli: Thank you, Vice-Chair Smith. Yes. I have Corey Thacker.

Smith: Okay. And if you could just give us your name and address for the record.

Thacker: Hello again. Corey Thacker. 5900 West Ustick. Property in question. I'm not going to -- I'm not going to go through the -- the same this -- this all sucks to me. The thing that I told you last time. It does. It still does. I can't help but laugh, because it's kind of like, okay, everything that's happening, everyone's talking about how sucky it's going to be to live there. How -- how crappy it's going to be for residential this side or the other. It's like, look, I currently live there and I know, because I'm experiencing it. They are starting to work on Day Spring across the road and I'm just envisioning what's coming and it's like, oh, geez. But the thing that I think that everybody is kind of forgetting is kind of like, okay, when -- when people buy a house in this proposed Durango or now, you know, it looks like it's moving forward -- well, they are buying it knowing what they are buying next to; right? They are not guessing. It will be there and so, then, how do you -- how do you put it? How are you going to sort of take the proposed future stuff into consideration when they are doing it knowingly? I guess that's the thing that I kind of want to bring up. You know, it's like, all right, you talk about noise stuff, all right, so at 2:00 o'clock in the morning I got somebody with a souped up car blowing down the road. Has nothing to do with any commercial property. But, yet, I hear it just fine and so it's kind of one of those things that, you know, you are asking good questions for somebody that wants to move into a neighborhood, but I'm experiencing these things and it ain't even there yet and it's already happening to me. So, I mean as I -- as I kind of told you before, it's kind of the point where it's like, well, I'm cool with Durango going in as long as I get to go out and the conditions would be is, of course, if all this moves forward. I don't want to be there. I had some random person at some point in time come in and cut one of my horse's tails. Just the hair. Like you wake up and say who gave my -- who gave my horse a haircut? And it's only going to get worse, because we are putting in all these extra people and I'm going to get surrounded. So, I would ask you to worry more about the person who lives there and is being impacted, as opposed to the people who are going to pick and choose and have the opportunity to decide that's where they want to live. So, that's all I had.

Smith: Thank you very much. Madam Clerk, is there anyone else signed up to testify?

Lomeli: Thank you, Vice-Chair Smith. No one else has signed up and no one has their hand raised online.

Smith: Is there anyone else in the audience who would like to come forward? If I could get your name and address for the record.

Lindstrom: Thank you, Commissioner. Connor Lindstrom. KM Engineering. 5725 North Discovery Way. I apologize for not signing up to testify given that I was the applicant on the previous application. I just wanted to speak on behalf of the Hess development and Durango that we have been working closely with Hawkins and we are in agreement with what they are -- what they are proposing and their proposed new conditions and modifications. So, just wanted to make that clear. Thank you.

Smith: Is there anyone else who would like to testify? Great. Okay. Great. Can I get a motion to close the public hearing?

Stoll: So moved.

Perreault: Second.

Smith: It's been moved and seconded. All those in favor? Any opposed. All right.

**MOTION CARRIED: FIVE AYES. ONE ABSENT.**

Smith: Someone want to go first? I can give thoughts. If someone has -- all right. I guess I will go first. So, I generally -- for some reason this -- this has been sticking in my head a lot since we first heard it over the last couple of weeks and the more I have chewed on it I think it's -- I think this is appropriate for some automotive oriented uses. I think like a gas station C-store makes sense here. I think the commercial use makes sense. I think -- and to the applicant's point and to the current -- current homeowners point of backing off of Ustick is -- I think is generally a good idea, backing the residential off of Ustick. So, I'm generally in support of this. I'm not comfortable at this time including anything to allow access from Ustick. I think that's something that you can bring to City Council with ACHD. At least, again, this is my perspective. I don't know how the rest of the Commission feels. But I just -- I'm not comfortable including that recommendation at the moment. But it seems like that would be something that you will work on and you can bring up there. The only other thing -- I don't need to add something for the compressed air or anything like that, but I would like -- I do appreciate knowing that it would be on the south side. Again, if the goal is to prevent more noise pollution of the type that the -- you know, the current homeowner is experiencing from Ustick. The only other thing I would say is -- to Bill's point, it seems like there is not any tier three kind of envisioned in the concept plan. I would prefer -- I would feel more comfortable recommending locking that in. If there is a tier three I would like for it to be the only drive-through on the location. I don't know how the rest of the Commission feels about that. But I think if the -- if the goal is to kind of let this commercial also serve as a bit of a transition space, I don't think it makes sense to have a very high volume drive-through in that. But beyond that I generally -- I'm okay with the rest as -- as the applicant presented. Those are just some concerns I wanted to call out. Any other -- Commissioner Stoll.

Stoll: Make sure I got the mic on. I agree on the tier three. I think limiting it to a tier two or tier one is fine. Generally it does seem to fit exactly with what -- how the area is developing. I -- yeah, I don't have a problem especially now that we are not stubbing the road Del Norte through. I'm comfortable with the project as proposed.

Smith: Commissioners, thoughts? Commissioner Perreault.

Perreault: Thank you, Mr. Vice-Chair. So, the -- the entrance off McDermott has given me heartburn. But if the transportation entities have -- are in agreement, then, you know, I wouldn't recommend denial for this application for that reason. I just think this is going to be a really really active corner with a gas station, with folks coming off of Highway 16 and I just see a lot of opportunities here for safety issues with traffic. So, as for the -- the operating hours, I'm -- I'm fine with recommending that to Council with the 24 hour use, because I agree with Mr. Thacker that -- that any future residents will know that that's going to be the case, that there is going to be 24 hour use and so they -- they have full knowledge of that prior to purchasing in that area. I'm also okay with the applicant's request to allow building permit to be issued prior to the recording of the plat. I don't -- I don't know specifically which building permit that -- or excuse me -- which building it's going to be for. I assume it will also be for the gas station, but I'm fine with it as long as it's limited to just one building permit for the entire project and I agree with Commissioner Smith, that if the applicant is in agreement with -- with limiting themselves to having one Tier 3 drive-through max, then, I think that we should just go ahead and make that recommendation for it to go into the DA. I think I have covered everything.

Smith: Any other Commissioners?

Sandoval: Mr. Vice-Chair?

Smith: Commissioner Sandoval.

Sandoval: Yeah. Extending the hours just makes sense. It's a gas station. You don't want to go in there at 2:00 o'clock in the morning and not be able to get a drink; right? It just makes a lot of sense. As far as the class three versus class two versus class one conversation, yes, one class three I think is appropriate or two class twos I would say max.

Smith: All right. Any other Commissioners?

Gelsomino: Mr. Chair?

Smith: Commissioners Gelsomino.

Gelsomino: I will echo the majority of my colleagues on the Commission.

Smith: Well, if there is any other commissioners -- or if anyone would like to make a motion I would be open to that. I can also make the motion. Commissioner Perreault.

Perreault: I will attempt --

Smith: Okay.

Perreault: -- to make a motion. After considering all staff, applicant and public testimony, I move to recommend approval to City Council of File No. H-2025-0059 and H-2026-0007 as presented in the staff report for the hearing date of May 28th, 2026, with the following modifications. Let's see. I recommend that we modify the conditions of approval to remove Condition 2.11 or 2.11 I guess, which is the -- the additional drive that would be added to the north. So, removing that. And, then, allowing for the applicant -- I don't -- I apologize, I don't know the condition numbers that's associated with this. Allowing the applicant to have a 24 hour use on Lot 1, Block 1, and that we make that recommendation to -- to Council. Also allowing the applicant to be issued one building permit for a site prior to the recording of the plat and -- and then -- and adding that as a DA provision. Did we miss anything? Do you want -- should I go back and add those condition numbers in -- numbers and letters? Do we have it all? I don't have them in front of me.

Starman: Mr. Vice-Chair and Commissioners, no, I think your -- your motion is sufficient. We understand what you are talking about. The one thing I would ask maybe the motion maker, there was some discussion about drive-throughs and tier one, two and three, if you want to include anything like that in your motion. That's just a question. I think your motion as it stands right now is -- is fine.

Smith: Would you like to include any language around tier one, two, three or is it your intention to --

Perreault: Yes. I will add to the motion a recommendation to not allow for anymore than one tier three drive-through classification.

Smith: Okay. Been moved. Is there a second?

Stoll: Just a question on the condition -- proposed condition for Lot 1, Block 1, as we are seeing on our screen here, is your intention to limit the other buildings to -- or businesses to business hours of operations between 6:00 a.m. and 11:00 p.m.?

Perreault: I don't know that we need to state that, because it -- that's already what it will be unless they get approval otherwise through a conditional use permit. So, that conditional use permit -- they will need to come before us. So, I don't think it needs to be restated that we leave those hours in place.

Smith: But the intention is only for Lot 1, Block 1, to be 24/7.

Perreault: Correct.

Stoll: Okay. Second.

Smith: It's been moved and seconded. All those in favor say aye. Any opposed? Motion carries. Thank you.

MOTION CARRIED: FIVE AYES. ONE ABSENT.