

Public Hearing for Cityside Storage (H-2023-0058) by Peter Stuhlreyer, Designhaus Architecture, LLC., located at 2755 N. Eagle Rd.

- A. Request: Conditional Use Permit to allow for a 4-story self-storage facility and increase the building square footage from 32,500 to 135,000 on 2.08 acres of land in the C-G zoning district.
- B. Request: Development Agreement Modification to modify the existing Development Agreement to allow a 4-story self-storage facility and increase the building square footage from 32,500 to 135,000 on 2.08 acres of land in the C-G zoning district.

Lorcher: The second item on the agenda is Item No. H-2023-0058 for a conditional use permit for Cityside Storage and a DA modification to allow a four story self-service storage and increase the square footage of a building on 2.0 acres of land in the C-G zoning district. We will begin with the staff report.

Ritter: Good evening. I'm Linda Ritter, associate planner. Madam Vice-Chair and Commission, this evening the applicant is requesting a conditional use permit for -- and a DA modification to construct a 54.5 foot four story 135,000 square foot self-service storage facility containing 777 units and 15 exterior -- 15 exterior drive-up self-storage units in climate control structures for a total of 792 units with a global footprint of 32,500 square feet on 2.8 acres of land, zoned C-G, located at 2755 Eagle Road. Access to the site is on the existing private road, North Cajun Lane, which is this lane back here. Ustick Road east from North Eagle Road there is no direct access to the property from North Eagle Road. It is required -- there is a total of eight parking spaces that are proposed, which exceeds the UDC minimum standard as parking is based on the square footage of the office space, which is 862 square feet. There is existing a 20 foot landscape buffer, with a ten foot detached sidewalk along Eagle Road. The property owner is proposing an additional ten feet of landscape along Eagle Road that shall be installed per the standards of the UDC. A 25 foot wide buffer -- landscape buffer is required for the residential land uses to the west as set forth in the UDC. There is existing landscaping on the multi-use pathway along the southern property boundary, which was installed with the previous development. There are no existing trees on this site, other than the landscaping along the pathway, which will not be removed and protected during construction. Per the Parks Department multi-use pathways already exist in this area and no additional pathways are required. Pedestrian lighting along Eagle Road is being required with this development and shall meet the UD -- UDC standard for posting. Historical type lighting will be required per the City of Meridian standards. It sets the height of these lightings will be 14 feet. Conceptual building elevations were submitted for the proposed structure. Building materials consist of metal panels and stone pattern tiles. Final design is required to comply with the design standards of our architectural standards manual and the recorded agreement. The site plan depicts the stucco wall, enclosing the property as fencing for the property. As you can see this is like renderings for the proposed structure. This is an aerial of the site and it's surrounded by residential

on the west side and on the south and this is commercial along Eagle Road here and across the street on the east -- on the east side this is a commercial area and this area is -- sorry -- are filled with apartments. So, this is a zoning map showing what is surrounding the property. And this is looking west on the property. And this is looking east. And this is looking north. So, the development agreement -- the existing development agreement only allows users, such as retail, restaurant and office. A storage facility is not considered office nor retail and is defined -- and retail is defined as the use of a site that offers merchandise to the public for monetary compensation. The use includes, but is not limited to, convenience stores, food stores, apparel and accessories stores, books, computers and music stores, electronics, appliances, floors, furniture and home furnishings, general health, personal care stores, hobby, office supplies, stationery, gift stores, specialty stores, sporting goods and used merchandise stores. So, as you can see our code does not define storage as retail. Existing development also has a maximum square footage of the building in the C-G portion of the project shall not exceed 32,500 square feet. So, the applicant's request is almost four times the square footage for the proposed storage facility being allotted to the existing commercial business within the subdivision. The new DA will add storage facilities as a use. It will increase the building square footage to 135,000 square feet, with a building footprint of 32,500 square feet. So, this is the comparison table that I did showing what the square footage of the existing retail services are out there and the height of the different retail services and residential areas. Staff is recommending -- because of the type of -- because of the development agreement that is there staff is recommending the applicant enter into a new development agreement as there are too many elements subject to the previous agreement. The new DA should also include parcel number R0945580265, which is -- is another parcel that is owned by the applicant, along with the revised concept plan and commercial/office building elevations showing future development of this parcel. A provision in the new DA will limit the height of all the buildings to a maximum height of 35 feet. Staff is requesting that we received this 15 days prior to the City Council hearing -- hearing. The applicant should provide a revised concept plan, commercial office building elevation and legal description of the property that will be subject to the new DA. And, again, the comparison tables that I showed you is a valuable tool for assessing the proposed development impacts of neighborhood where it has visual harmony and overall character. So, a 64 percent increase in height compared to the tallest building in the immediate area is a significant difference and that warrants careful consideration. Again -- let me go back to this one. Sorry. The applicant stated that the scale of the building will make the project much more economically feasible, since the high cost of the land can be spread across more units. The applicant can also state that the proposed height of 54.5 feet conforms with the existing C-G zoning allowance of 65 feet, which was a significant consideration in the developer's decision to purchase the land. Although the applicant has put forth several arguments in favor of the proposed location building scale, emphasizing the transition with the existing residential area, economic feasibility and adherence to design regulations, it is important to remember there is an existing development agreement that regulates the use -- the uses and square footage of buildings on the property. It is also crucial to consider the visual and architectural harmony within the surrounding context. So, this picture provides a snapshot of the height difference with the existing structure and the proposed self-storage facility. So, as you can see there is a significant difference

in the height that's been requested and the height of the buildings that are along Eagle Road there on that west side. So, staff feels that the proposed height will not be harmonious with the adjacent residential and commercial uses and will impact these uses as it may lead to overshadowing of neighboring structures or altering the character of the area, which are a concern. So, the visual impacts to this portion of the height of the building may disrupt the visual harmony of the surrounding areas, it could potentially create lines or clash with the existing aesthetics. It could create overshadowing -- the height of the building might cast shadows over the neighboring structures and impact the natural light and potentially their functionality. And, again, the character of the neighborhood, the proposed development, may alter the character the neighborhood or area, maintaining compatibility with the existing function is crucial -- crucial for preserving overall aesthetics and functionality of the neighborhood. So, staff feels that the storage facility would not meet the dimensional standards for -- would meet the dimensional standards for setbacks, landscape buffers and parking requirements. However, the development agreement does not allow for storage facility as a use -- as a use without an amendment to this agreement -- to the existing DA agreement. And, furthermore, in doing research on this, the CUP that was approved in 2006 limited the building -- where did my page go? The water conditions added to the development agreement based on -- now I can't find -- they were concerned about the compatibility of the residential -- the commercial area with the residential area, so they added -- made sure that they would add something to the development agreement that the -- the nonresidential buildings would have a max square footage of 65,000 square feet, but only one -- the maximum square footage of one single building they cannot exceed the -- half of the maximum request, which is 65,000 square feet. So, staff also finds that the proposed storage facility, if approved at the request of height and square footage would not maintain compatibility with the existing structures, which is crucial not only for, again, esthetics, but also functional integration with the new development community. Therefore, staff recommends that the building height not exceed 35 feet in height, which is consistent with the adjacent structures in the area and staff is -- but staff is not opposed to additional square footage as long as the applicant will keep the structures at a maximum height of 35 feet. There was no written testimony for this. And, again, staff will recommend approval of this proposed modification to the development agreement and conditional use permit subject to conditions and the findings outlined in the -- in our staff report. And at this time I would stand for any questions that you may have.

Lorcher: Would the applicant like to come forward.

Hosac: Thank you, Linda. Appreciate it.

Lorcher: Hi. Can you, please, state your name and address for the record, please.

Hosac: My name is Ken Hosac and I'm the CEO from of Hosac Ventures and the owner of the property and developer of the property.

Lorcher: Could you also list your address, please?

Hosac: My home address is 1403 West Camelback Lane in Boise.

Lorcher: Okay.

Hosac: I put it on the sign-up sheet as well.

Lorcher: Okay. Thank you.

Hosac: All right. So, Madam Chair, Members of the Commission, my name is Ken Hosac, again, I'm CEO of Hosac Ventures. I'm the owner of the property via my ownership entity, which is called HV55, Hosac Ventures 55, and, then, I am also a -- the developer of the property via a development entity that I call Hosac Ventures and happy to be here. Linda, thank you very much. You did a great job on the staff report. I wanted to also introduce my team, if I can go there. The architect Designhaus Architecture. So, Peter Stuhldreier and his team had been working on these concepts with me for over a year now. Probably close to two years. And, then, I have bought -- as land use consultants I have brought in Rodney Evans and Ben Semple. And, obviously, we have been having a lot of exchanges with them over the last few days in preparation. The -- this site should be very familiar to the City of Meridian, both from the standpoint of planning staff, P&Z, City Council, both current members and former members, because this has been up in front of you guys for 20 years -- last 20 years. It's -- it's a very very challenging -- you know, from a development perspective it's a very very challenging site to develop and I will go into the details on that. So, if you look at the two photos -- and I shifted everything 90 degrees to the left, so on this north is now to the left, so that you can see the full property, but the -- our application was for the big lot, 2755, and, then, staff asked that I actually show my concepts what I'm thinking about for that back lot. So, I will be talking about that. The other thing is that dotted yellow line right below the text of the right line, that was the former property line and it just didn't make sense, so I worked with Pat Tealey, we did a lot line adjustment and we shifted the lot line right to that access road, Discount Tire, because that's an easement and it was a natural break between the two lots. So, from a -- you know, when I bought this three years ago I knew that this was going to be a challenge to develop. The access to this site is incredibly poor. I mean it's horrible. Without access to Eagle Road any traffic from the site has to go through either that residential street, which is Cajun Lane, North Cajun Lane, or it has to go through the commercial parking lot that you see where those red lines are and the red line where it crosses into the parking lot, we have an easement there. We gave -- we took that easement in exchange for giving Discount Tire that easement and when I say they, I'm talking about all the people before me. What makes this even worse is that it's bordered by residential on two sides and so you see to the right, which is the south, is Carol Subdivision. People that live on Leslie -- East Leslie Drive and, then, on the bottom, which is actually to the west, all these you know, townhomes part of the Bienville Square Subdivision No. 3. Are there any neighbors here? Okay. That will be good. That's the first neighbor feedback we have, so --

Grace: Madam Chair and Ken, I hate to interrupt you. I'm sorry. I'm just having a hard time hearing you. I'm online here. I wonder if you could just put that microphone just a little closer, sir.

Hosac: Okay. How about this?

Grace: That's perfect. Thank you.

Lorcher: We have one Commissioner online.

Hosac: Okay.

Grace: Thank you.

Hosac: That's Commissioner Grace?

Lorcher: Yes.

Hosac: Okay. So, anyway, it's a challenging development. If I could -- and, hopefully, this is better. And thanks for letting me know, because a lot of my team is online virtually, when you ask -- wondering who those people were, I have a lot of my -- my team on there. I have -- my wife Lori is here. My brother. My nephew, so I have all the support I can, so -- but, anyway, if I could -- let's see. I'm a PowerPoint expert, but this has me befuddled. And you said there was going to be a delay, so maybe that was it. Okay. So, if I could wave my magic wand what I would do is I would -- it's just really -- I would add access to Eagle Road. I would create a right-in, right-out intersection there exactly opposite the existing one on the other side of the street and I would take advantage of the existing deceleration lane that goes into Carol Subdivision. I would just extend that and that would make this site very usable. But apparently I'm the only one that wants to do that and I know that staff doesn't. I know this -- the Commission doesn't. I know City Council doesn't. I know ACHD doesn't. I know ITD doesn't. So, relax, I'm not asking for it. But that's just the fact. But what I wanted to do is recognize that -- you know, I read through the staff report. There is a lot of common ground in that and I'm very happy that the project has been approved with the condition of the height. I mean that's -- that's a big deal, but I think it recognizes that this location is a very sensitive area when you are transitioning from commercial to residential. You know, traffic -- you know, for self-storage, the use of self storage has low traffic counts, low parking conflicts, less noise. Neighborhood compatibility is pretty high. There is no neighborhood objections -- and I will add the word to date, because, you know, we will find out in ten minutes. Yeah, we don't agree -- self storage is not retail and I agree with Linda on this, because UDC gets to call that, but you talk to real estate -- commercial real estate brokers that specialize in self-storage, everyone in the industry considers it quasi retail and I'm not going to try to make that point to argue not doing a DA, but I just want everyone to understand that it actually is a good compatible fit for that area. We agree on access parking, sidewalks, landscaping, fencing, outdoor lighting, utility, dimensional standards and I think everyone is relieved we are not actually asking for access to Eagle Road. So, the only issue we

have is the proposed condition of height doesn't work and so I will just go through that. So, I look at the key discussion items between the staff -- the applicant and the staff, it really boils down to three things, use, height and square footage and, really, the key thing is the height. The height is what drives the square footage, but also I want to go through the background of use, because I want to explain my pass -- my thought process for getting to this self-storage use, because, frankly, it wasn't my number one pick. I didn't even think about it when I bought the site. So, I read -- and as part of my due diligence, I looked at the zoning, which, you know, obviously, it's C-G, let's me go up to 65. I looked at the current DA, which limits us to office, retail, restaurant and I thought great, I had worked with John Price when he helped my father develop the CitySide Lofts in downtown Boise, a 77 unit condo project, right at the edge of the connector. John Price, 15 years ago did a fabulous job. So, I called up John. He is retired. But -- so, he basically connected me with the folks in the office and I said, hey, I want to do some concepts and so the first concept they did was commercial, exactly what the DA wants. Office. Retail. Restaurants. It's about 20,000 square feet across three buildings with access -- I had two -- two versions, one with access to Eagle Road and one without and, then, I reviewed it with my commercial real estate broker, who is Jim Hosac, he is in the room and -- but more importantly I reviewed it with my banker and my banker now is chief credit officer at one of the local community banks and I do all my banking with them. She is fabulous. And they both said that without Eagle Road access this project is dead on arrival and my banker actually went to the next step and said, look, I love you, Ken, we bank with you all the time, but I don't think the bank would finance this as a dead-end project. It's literally at a dead end and she said if you were to try to fill that up with restaurant users, retail users, office, you would have to lower the lease rate so much that it would be below your cost to compete with all the people that do have access. It made me sad, because that's why I bought the property. That's kind of what I was looking at. So, then, my father, who is a real estate developer, he would -- he had a civil engineering firm here. He has done a ton of projects here in Meridian, west Boise, downtown Boise, the Highlands. He offered to take a stab and so he took that project and he took all seven -- he took -- created one subdivision with seven lots and I liked it, because from a risk standpoint I can phase that, I can do retail, office, restaurant. I can do build to suit. Build to spec. And I can really reduce the risk. But he said it just doesn't work without access to Eagle Road. So, if this -- and, by the way, I already said this. Staff had asked me to show my concept for the back lot, that other lot, so, you know, again, that's the one to the north of this lot adjacent to him. So, it's a simple seven story -- or, excuse me -- seven story. Single story, 7,000 square foot office building with a separate parking lot, just to try to make it easy. So, there is nothing fancy back there and I -- the reason Linda wanted me to include this is I think the concept is we do one DA modification that covers both, so we don't have to come back here. I also -- so, at this point it became really clear that even though I wanted to, the retail, restaurant, office wasn't going to work on this and there is a reason this is the last undeveloped lot in that commercial subdivision. So, I had the architect look at smaller things. Vertically integrated residential. I mean this is -- there is a housing shortage and so we did two concepts, one that was 36 units, one that was commercial 8,000 and, anyway, did that, did a podium story -- four story podium with 56 units. It actually -- the next thing is it's a permitted use, so I don't need a conditional use permit. I don't need to come here for that and -- but I would have to look at the development agreement to see

-- if there is a commercial element of this that might meet the standards for the development, but it's another discussion, so -- so, looked at garden style apartments, with access to Eagle Road, et cetera. Looked at self-storage. Did a single story, 28,000 square feet across nine buildings. At that point that's when I brought in the team at Designhaus -- Designhaus, because they are self-storage experts and we are kind of multi-family design and that's where we got this design. So, the reason I'm going through these concepts with you is I really wanted to do retail, office and restaurant. That's what I thought I could do. It's not possible at that space without -- without access to Eagle Road and, you know, if I can't -- if I'm unable to make this work and I sell the project, you are going to be dealing with this for years. So, I did go get a lot of neighborhood feedback. A hundred percent positive. They would rather see -- and I met with representatives of each of the two HOAs to the east -- or to the west and they were a hundred percent supportive. So, I took a long time on this and there are a lot of benefits that are in the narrative, but the bottom line is there is a high neighborhood happiness factor for doing self-storage and I don't think staff questions that. So, let me just go into a couple of the other key things -- and looking at that clock. The issue is the building height. I'm zoned at 65. We proposed 55. Staff came back at 35. I was only aware that the 35 requirement was going to come out about three days ago. So, I really -- I think there are some options that we have to negotiate on this. We don't have to be at 55, but I wanted to walk through -- you know, a walk through the neighborhood to kind of see some of these pictures, so I'm going to do this quickly. So, on the -- first of all, retail -- this is the retail mecca of Idaho, when you combine Fairview and Ustick, there is no doubt that even compared to Boise Town Mall this is better. If you look to the west, one thing you notice about the townhomes -- and they are 30 feet. It's garages, blank walls, and small windows that are opaque that go to bathrooms and the reason for this is the same developer did this subdivision that was doing the commercial subdivision, Cory Swain. Cory Swain envisioned that there were going to be tall buildings and he designed these buildings specifically so that it wouldn't affect them, if you will, and here is the view from across the street. And, again, this is the full 55. I think we can go much lower and -- and my presentation just went down. Is there any way to pause the clock until I get it back?

Lorcher: We will add a minute.

Hosac: Thank you. Time out. And who is running the timer?

Lorcher: The city clerk is. She will --

Hosac: Okay. If you are okay with letting me have an extra minute, then, what I would suggest is let it -- give me two minutes and, then, start the timer again. I -- it is distracting, but I also need the time to kind of walk through these pictures, if that's okay with you guys. Okay. So, I do need to go -- before you start it I do need to go back to where I was, though. Okay. This is not letting me go back.

Lorcher: It looks like we ended with number 43.

Hosac: Yeah. Here is where I was. I was on 30.

Lorcher: Oh. Okay.

Hosac: All right. So, I will go through these quickly. This is the view -- if you look at the view from their sidewalk at the building, yes, it is tall. I think there is some compromise we can do to get that down. If you look to the south, which is Carol Subdivision, this is -- I'm standing in the middle of this lot. I took it yesterday. There is -- they have been planning for tall buildings here for years. I mean these homes were built -- they have been through all the Cory Swain DA modifications. I was surprised that no one from Leslie Lane was here, because there were a ton of them here -- if you look at the top you can see that there are basically three lots that are directly south and they all have a ton of trees. My architect did a rendering from the backyard one of those and you can see that, you know, they are out building in the trees. They are not even going to see the project. We purposely massed the project away from the residential area and that's why we wanted the extra height, so that we can put it towards Eagle Road, towards Commercial Tire and away from the rest of the project. Discount Tire -- I reviewed the plans with their headquarters in Scottsdale. They loved it. We had proactively stepped the building back ten feet from -- from the boundary and all they wanted was the northbound traffic on Eagle Road to see their -- their side of the building. They are really happy with it. And this is the view from the southeast, again, where the neighbors are. So, I walked across the street -- not literally. This is what's being built. It's -- everything is four stories. So, this is directly across the street. This is a little bit to the southwest. This is the view down below of a self-storage project that was approved here at Planning and Zoning and by City Council. I will talk about that later. Just directly across the street. The application was 50 feet -- 42 to 50 feet. This -- walking down the street, the Boise Co-op, I thought this was an interesting point of how you are able to put four story buildings right next to two story buildings and make them look good. I don't think anyone argues that this is an issue. So, on the renderings, again, I kind of mixed these through. This is across the street from the west. This is the full 54 feet. If we get that down it will be less of a contrast. But, again, we didn't know that we had to. So, what's typical for self-storage? I looked at three projects. The U-Haul project on Franklin, the U-Haul project on Overland and the box storage project across the street. Fifty for four story, 39 for a three story, about 50 for -- you know, 42 to 50. Here is the U-Haul. Here is the other U-Haul. Here is the box storage and this is the box storage application with the Mayor's signature. So, one thing about economic feasibility, I wanted to just go through as -- the revenue is directly proportional to the number of floors, but the construction cost is not. The construction cost is a fixed element in a variable element and what that means is as you -- and I did this chart. As you reduce the stories it's basically cutting, you know, from four to three to two, is cutting -- cutting it to 75 percent of revenue, 50 percent of revenue. But the cost, because of the fixed costs of land, the landscaping, the foundation, the site plan, the utilities, you are spreading it across fewer floors. So, one more thing. As -- as a developer we have strong incentives for reducing the height of each floor and reducing the height of the building. It's -- it's more costly to build and it's more costly to operate, because you are heating extra space. If you shrink the space it's less space. So, we are all for bringing this down. So, anyway, I think the path to compromise on this is to recognize that this is a subjective nature of determining neighborhood fit and based on

the renderings I showed you, based on the compatibility, based on talking to the neighboring HOAs, they do not see it as incompatible. They are so relieved that it's not, you know, thousands of cars a day with drunk drivers trying to get to their apartment. They recognize -- you know, but I think everyone recognizes the project is not feasible without four stories. I hired two feasibility consultants, 70 grand -- or seven grand each, and they basically said four stories. So, we understand the city wants to reduce the height. There is no neighborhood objections. We -- you know, we want to recognize zoning height. So, what we are proposing is a compromise of 48 feet. It's less than the 55 feet that's in there. It's higher than 35, but 45 -- or 48 is the least heights that we wouldn't get to and still be four stories, because this project doesn't haunt for four stories. Nothing I want to say is -- for square footage, in my 20 seconds left, with 32 -- the maximum of 32,500 is building footprint. I have always known that. The way these are created is -- and this is how -- you know, look at that floor area ratio with a lot, they look at all the lots and they want to see how much is the building footprint versus this. The DA wasn't there, so I called Cory Swain, the developer, and his recollection was that was the building footprint and I only had three days to research it, so -- I will stop there and I understand I may have another ten minutes as a rebuttal? Thank you. So, do we turn it over to comment or do you have questions for me now?

Lorcher: So, the next step is we will take public testimony and, then, we will ask you to come back up and if there is other questions we could ask you at that time.

Hosac: Thank you.

Lorcher: Okay. Madam Clerk, is there anybody signed up for public testimony?

Lomeli: Thank you, Madam Chair. I have Veda Ballard.

Lorcher: If you can, please, state your name and address for the record, please.

Ballard: Veda Ballard. 646 West Sedgewick here in Meridian. I'm pleased with the idea that it's coming down in height. That excites me. My interest in this whole thing is I own three properties that are across the street from this building. Two directly across on North Cajun. I'm a little bit concerned. We go from a hundred -- or excuse me -- 32 50 -- 32,500 square feet, so that doesn't just include one -- one level. It includes the other -- the other building that he is talking about that I -- I have never seen. Is that true?

Lorcher: No. The building -- the footprint of the building would be 3,250. It would be like the size of the actual building, but, then, the actual volume of the building he is suggesting as 135,000 square feet.

Ballard: That's a big jump.

Lorcher: It a big jump, but he is -- he has suggested in this presentation that it would go from 54 -- 54 feet down to 48 feet.

Ballard: Yeah. I'm excited -- I'm excited about that. I saw the original plans. They sent them to me and I'm quite thrilled with them. I'm delighted and I don't have a problem with that. It's the idea that we have this huge giant up there and I guess I don't have a chance that I'm going to talk against the giant across the street in a very pretty residential neighborhood and I note the setback and it's kind of a park-like area in front of it and I'm thrilled with that. I'm just concerned with the height. It just takes -- it's like all of a sudden the homes are downtown, instead of being out in residential, nice neighborhood of Meridian. It's just going to make all the difference in the neighborhood if they are that height. So, that's my concern and I don't mind telling you about it.

Lorcher: Thank you very much. Is there anybody in Chambers that would like to testify?

Lomeli: Madam Chair, no one else has signed up online or anybody here. If anybody online would like to raise their hand they may.

Lorcher: All right. The applicant may come forward.

Hosac: Okay. So, I just want to say that -- that's very courageous if you need me to come up and be able to do that. So, thank you very much for the feedback. Yeah. This is a -- again, this is a very, very difficult piece of land to develop and, again, you know, when I talk about feasibility -- actually, let me go back to the original intent of the sub -- of this subdivision. So, Cory Swain, when he -- when he had that -- had the entire Bienville Square area, which now consists of Bienville Square Commercial, it consists of the Bienville Square -- Bienville Square Subdivision No. 3, which is where she has three of the units. A majority of the -- of the units in that area are owned by investors, by the way. It's just -- it's well over 50 percent, if not closer to 70. And, then, Jackson Square, and, as you know, these -- this is a very vocal neighborhood. You know, these are the people that came in here for the Oasis Nightclub. These are the people that have come in here for the -- for Villa Sports Center that you guys had discussed. These are the people that are coming in for the massive apartment building that replaced it. This is the only neighborhood feedback that I have gotten around this and I wish -- and, again, I know Linda is doing a great job on this. We could -- if we had known -- because this didn't really come up in our last two pre-application meeting. Linda asked about three floors. We discussed it verbally. But it wasn't in the staff report. So, you know, if I had known a little bit earlier, we might have been able to negotiate something a little bit, but at this point in the game it's just -- it's a really tough time to do this. The other thing I would say is on the square footage, again, I think -- I'm glad that you have counsel. I think it's worth looking into. I reached out to -- like to determine this building footprint issue, which you brought up and so I'm addressing it as part of my -- especially after that. I really believe that it was 32,500 feet, but the DA was written so poorly it didn't really decide that. But that's what architects do is they limit the building footprint and, then, you control the heights through zoning and other things like that. I called Cory Swain -- or I sent him an e-mail and he came back and -- last night confirmed that his recollection is that it was the footprint. I reached out to our good friend Bob Unger, who -- and thankfully he is retired and living in France, but he has been helping for the last couple of years. I wasn't able to get him. I reached out to Idaho Mutual Trust, which also on this property during the

turmoil, their real estate attorney at the time Ben Slaughter, just by coincidence, happens to be my current real estate attorney and so I reached out to him and he said this is so long ago he can't be for sure, but to him it made sense that it would be the building permit. He reached out to Dan Bureau at Idaho Mutual and Dan said I have no idea. So, I think the intent there is that it would be the building footprint. You control it. But I think there is work -- if -- so my recommendation, you know, kind of in closing, is that, you know, obviously, we are seeking approval from the Planning and Zoning Department and if I were to write the motion -- and I understand that that's a very -- you know, I'm trying to be humble about this, but if I were to suggest a recommended motion I would recommend that we lower the maximum height to 48 feet. I would like to actually keep it at 54 or 50, because I think it's in our mutual best interest to have some discussion around the parapet at the top and trying to get some vertical articulation in it and -- but if we were to -- if we were to approve 54 or -- or 50 I would give you my personal commitment that I would do everything possible to get this as low as possible and maximize that height per floor. The first floor we are a little constraint, because we want to keep the noise inside the units and the first floor needs to be a little higher for us to have indoor loading trucks. Need a little bit of height to be able to back a truck in there and keep it inside. But every floor above that would be the bare minimum and, you know, we might be able to get it down to, you know, 44 without the parapet, but, then, again, it's -- it's -- you know, you don't want that U-Haul look where you have a flat line that goes across a city block. I think there is some opportunity to articulate it. In fairness to the neighbors, we don't need to do that on the back side of the project at all. I mean if we are going to have that height it's possible you get that height on the Eagle Road side and maybe, you know, start with a 45 foot building and you do two feet, get it up there to 47. But, anyway, that's why I'm recommending that -- that we consider at a minimum approving 48 feet. It -- as you walk through the neighborhood I think I'm -- hopefully I was able to convey through all the renderings that we did -- looking at the way that the subdivision was designed, the way Cory Swain designed it, knowing that there were going to be tall buildings and -- and, then, I just -- you know, if we are going to modify the DA, just make it clear by adding the word footprint. It just makes it clear. I opened Pandora's Box by trying to specify the gross square footage and I should have never done that. And, then, you know, consider -- I don't know how important vertically integrated residential is to this commission, but consider adding -- making sure that that specific is -- is a use in the development agreement. It might be considered already in there, because it's got that commercial element, but if that's something you want to work on that's something to do, too. I would say the -- one other thing on the height is it is incredibly important to me that the development agreements say that that only applies to self-storage, because if I can't do it -- if the numbers don't work and I can't do a project and I have to sell that land, I can't have that -- I need to let someone else fight that battle, not me, and so I can't artificially constrain to a certain height. On the CUP no changes. I mean a lot of those conditional use -- but, you know, the color -- I think Linda made a comment about, you know, that's not really compatible. I'm not a color guy. The architect said what color do you want and I said my favorite color is green. So, it's green in there. But the reality is when we get serious about this it's going to be compatible with the neighborhood. Compatible with -- it's going to be a lot more neutral, probably with the surrounding environment. What I'm hoping that you hear from me is -- I have no issues working with staff to make this a great

project, but I need four stories -- or I should say the project needs four stories to be viable and I will do everything I can to minimize the height of those four stories. Let me just look at one last thing. Okay. Yeah. Like I said, I'm a PowerPoint expert, but I always -- there it is. I at least have the mouse button go back. Yeah. So, this is -- this is the slide I wanted to talk about. It's the -- you know, keep the maximum building footprint at 32,500. I think that's adequate. Reduce the height to 48 or maybe a little higher if we want to work out that vertical articulation. Only for self-storage. Reserve the right to build a conforming use for a permitted use. And, you know, we can look at what the DA -- it's supposed to be about building footprint and we do change it as necessary, which is a -- so, I think that the last thing I would say, just to kind of recap where I came from, this is over the last three years I have put a lot of time, effort and money into trying to get this development. I really wanted to do retail and restaurant and office. I -- I own office buildings around here as investment property and it's a great time to own office, by the way. But that was my original intent, but it does not work without Eagle Road access and whether you are working with me or anyone else, it's got to be a use that's feasible and right now the numbers don't haunt with any of the other alternatives, except for self-storage and the reason the neighbors like it, again, you have got maybe 20 cars a day versus hundreds of thousands of cars. You have no parking conflict. The people that go there are not going to park in other people's spots, they are going to their unit to get -- you know, unload and load, and that's important to the commercial folks. They were very clear and that's one of the reasons that they support it. You are not going to have noise. You have internal units. Internal loading docks. You are not going to have incompatibility with neighbors. You are not going to have in-fighting -- what you get when you put in any other use there. People are always fighting across the street it seems. HOA battles and stuff like that. It's a very very easy, compatible use for the neighborhood and -- and it really is -- I think after looking at this, after hiring consultants, feasibility consultants, and all the work I have put on this, this is the ideal use for the transition from commercial to - - to residential and I respect your feedback. But I -- the -- the representative from the HOA, Leann, also lives across the street and she is the -- she is on the board of the HOA for that complex and she is the one that basically said, look, compared to all the other uses this is the one we want, so -- questions?

Lorcher: Commissioners, do we have any questions for the applicant?

Grace: Yeah. Sorry, Commissioner Sandoval, you can -- you can go if you had a question. I didn't mean to interrupt you.

Sandoval: Okay.

Hosac: With Commissioner Sandoval I know where to look.

Sandoval: Yeah. My -- my question is for the applicant. So, there is a lot of conflict between what's in the staff report and what you are proposing. Would you prefer a continuance so you can talk about that? I know you mentioned several times that you haven't had a lot of time to prepare, only a couple days. Would that be in your best interest?

Hosac: You know, I -- really, if I get a recommendation right now for 48 feet and maybe clean up the language to support that, we are done. I have to present this to City Council regardless, because it's a development agreement modification and so this is -- I mean this is going to -- whether it's an appeal or whether it's a -- you know, just quick one to basically support the recommendations -- the updated recommendations, I don't know which one it's going to be, but I don't think I need a continuance. I do know that if I do have to appeal this to City Council that I'm going to have to have counsel with me. My old tennis partner Joann Butler was my favorite person and it's so sad that she is not with us anymore, but, you know, I have to have someone like Jeff Wardle or someone like that, because the absolute fact is this doesn't work without four stories. I have paid 15,000 for market feasibility, they look at demographic -- demographics, competition. They look at development cost. They look at the unit mix. They look at revenue. This is not a subjective thing. It's very very objective and for this location it's got -- it has to be four stories. So, you know, right now the -- the 35 feet to me -- I can only do two stories, because you have to have that extra high first floor to get the trucks inside and, then, you get -- you need a floor and you need some articulation. At that feet you can stand up on the -- on the townhomes on their roof and look down on the roof of my building. So, I think, you know, with them at 30 feet and with us at 48 feet, given that that 48 is actually the Eagle Road side, not the back side, and given that we massed the building all the way to Eagle Road and we are using our courtyard where people drive in as a buffer to the residential, we are presenting -- it's an L-shaped, so we are presenting the end of an L to that neighborhood. So, this -- to answer your question, I don't think I need a continue, I just need an approved with 48 was kind of what I had put on there and maybe clean up some of the language to support it or a denial and I will take it to City Council.

Sandoval: Thank you.

Lorcher: Any follow up or are you good?

Sandoval: I'm good.

Lorcher: Commissioner Grace, did you have a question?

Grace: Thank you, Madam Chair. Yes, I had a couple. So, Mr. Hosac, do you say that 48 feet is your absolute minimum that you can -- that you can go to?

Hosac: Yes, if you count parapet -- that parapet as part of that. If -- and that's another way of approving it is if you approve to the roofline -- I will tell you exactly what I need. I need 12 feet for the first floor, 11 feet for the next three floors, so that's 45 and, then, a parapet and if you can approve the roof height at 45, give or take a couple of inches, and -- and let staff kind of look at different concepts for how high the parapet would be based on what is something that you need to make it fit the nature and character of the environment, not make it look like a flat haircut across the brow.

Grace: Okay. Thank you for that. So, can you tell me a little bit more about -- some of the residents -- and, then, the only comment we received is not in favor of this, can you -- can you just give a little more explanation as to why -- what -- what you did to talk to the residents, what you did to reach out to the neighbors?

Hosac: Yeah. I went to the Idaho State Business entity website. I printed down -- I printed out the annual reports that list the officers for HOAs, both of them -- both BS No. 3, as well as Jackson Square, and I went out and reached out to all of them and met with them. I met with the Jackson Square -- actually attended a different neighborhood meeting for that big massive apartment complex that was going to replace Villa Sport and met -- and, obviously, there were a bunch of the Jackson Square folks that were involved in that and I met with them personally, showed them the renderings. They love the fact that you don't have drunk drivers driving through there at night like -- like any other use would. And, then, you know, I didn't mention this, but I'm president of the Commercial Owners Association and it's a master association that also includes the -- the residential. BS No. 3. It's really complicated and bizarre and I have agreed with Leann -- I have been negotiating with her to basically give them their independence, so it doesn't roll up into our commercial association. I don't think it should. But it's conditional on getting a shared use permit, but -- so I have reviewed this with Leann. She has been keeping all of the other board members in the loop on that, but there are two big informational signs sitting in front of the park -- you know, the project right now. There is a mailer that we sent out for our neighborhood meeting. We had zero attendees. We had a mailer sent out for this meeting and we had one brave soul that chose to show up here. It's because they don't see it as an issue, frankly. And -- and, again, the neighborhood happiness factor, which is this proprietary matrix that I created personally to measure neighborhood opinion -- actual opinions of, you know, how they feel about traffic, parking, noise, compatibility, the neighborhood happiness factor on this is very very high. So, I -- I just don't think that's an issue. In fact, the only objection I have heard tonight was to the height and I'm proposing to lower it significantly. I mean I -- you know, they -- I would just like to go back to that -- my path to compromise chart which shows that.

Grace: Yeah. Okay. I --

Hosac: So, yeah, I'm -- I propose right now the proposed height of 55 is 85 percent of what's allowed in the C-G zone. Staff was asking for 54 percent of what's allowed in the C-G zone and, again, that would be two stories. That, frankly, is -- that's a taking. I mean if -- if you look at that, but I'm not going to go there now. But the proposed compromise -- I'm trying to get it to 74 percent of what's allowed in the C-G zone and --

Grace: Can I -- can I just stop -- interrupt you. There is an existing DA, though; right?

Hosac: Yes. Yeah. In fact, the only reason I'm here is the DA does not talk about height whatsoever. It has a building footprint of 32,500. The only reason I'm here is because self-storage is not considered retail by the UDC, even though the rest of the commercial real estate world views it as quasi-retail. I mean we have people in the front office, we are selling boxes, we are trying to sell a product. Our product is the self-storage unit.

Everybody for self-storage -- they are looking for areas heavy in retail, with high visibility, which is perfect on Eagle Road. So -- but, yeah, the development agreement does not say retail and I would argue that I just made a very good case why with the development agreement that you can't develop anything there.

Grace: That may be so. I mean I don't know, but -- I don't know. I guess I just -- maybe I just take issue with the -- with the idea that -- that it's a possible taking at 50 -- at 54 percent. There is an agreement in place for -- for what needs to occur there and -- but, anyway, I -- I appreciate your answers. Thank you for indulging me. I didn't -- I don't want to take up all of the conversation and -- and that's all I have, Madam Chair.

Hosac: And I would just say, you know, the current -- the current DA, the current zoning, if I could -- with the -- with the building footprint, if I can get the parking inside the building, I can build, what, a four story, five story, six story office building there. I would probably have to have the first two floors of parking. I wouldn't need a DA. I wouldn't need a conditional use permit. The neighbors would hate me and that's the thing I want you to consider is the neighbors do not want me to do the permitted use -- what's allowed by the DA, what's allowed by the zoning, and do what I'm supposed to do. It doesn't work, because the way that you can get in and out of that parking garage is through that North Cajun Way or through the -- the commercial lot, but that's what I'm allowed to do. So, that's why I'm not -- if I'm being steered towards doing retail, office, restaurants, it's going to be a really hard project. It's going to need Eagle Road access. I'm going to have to fight ITD to get it. It's going to be multi-year project. So, yeah, I -- if you want me to come down from 65 feet to be able to do self-storage, I'm -- I'm agreeable to that and I think I'm just asking to have us meet in the middle and be able to access and have to fight it if you want me to come down 65. Whichever.

Lorcher: Commissioners, are there any other questions for the applicant? All right. Thank you very much. At this time I would like to take a motion to close the public hearing.

Garrett: So moved.

Sandoval: Second.

Lorcher: It's been moved and seconded to close the public hearing. All those in favor say aye. Any opposed? Okay. Public hearing closed.

MOTION CARRIED: FOUR AYES. THREE ABSENT.

Lorcher: Commissioners, we have heard a lot of information tonight. I wanted to ask the city attorney what our purview is tonight, because we are not the deciding factor here, this goes to City Council for the DA modification; correct?

Starman: Yeah. Thank you, Madam Chair. So, this is a little atypical. Oftentimes the Commission is the deciding body with regard to conditional use permits. In this instance, however, the conditional use permit is linked to the request to modify the development

agreement and for that reason the Commission is not a deciding body tonight, you are making a recommendation to the City Council relative to the development agreement modification request, as well as the conditional use permit. So, you are making recommendation tonight on both topics and, actually, really under the city's code or even development agreement it is really a department director recommendation, but I know staff has asked and is interested in hearing the Commission's recommendation on that. I'm sure the City Council is as well.

Lorcher: Okay. Well, I guess I just have a few comments. I wish there was at least some written testimony from the neighbors to support the project, because right now we have one neighbor who likes the idea of self-storage, but doesn't like the height and all of the other comments that you have made or are -- are from you and not directly from them. I'm not saying that that's not true, but we can't really get a pulse for what's happening in the neighborhood. I guess in sense we can, because nobody's made any comments, whether it's positive or negative. But, you know, the HOA presidents, you know, aren't here to be able to corroborate based on what you are saying. The second thing is with the height -- height there is a DA modification in place and I think as a Council we are limited to that based on the application in front of us. It doesn't mean that we can't add to the -- to the motion tonight, but we are not the deciding body what the height should be, except what's written in the DA modification and -- and the UDC says it's -- it's 35 feet and its intended uses are not self-storage. So, those things are already written. So, I feel like a little bit in that sense our hands are tied, but when we do make a motion we can kind of make some recommendations to City Council on that. So, Commissioners, what other things would you like to say?

Garrett: Yeah. I have a comment. I am -- I am in agreement with the gentleman, that I think 48 feet is acceptable, given the fact that I understand the economic necessity of four stories. I think that makes it a viable project and the fact that it's a storage use, as opposed to other uses. So, I would support a modification to the -- by staff to 48 feet from the 35. As they said, I think that's completely acceptable. I'm not saying that the lack of HOA is here, but I think that's a -- if they were adamant about it on the negative side, I'm sure they would have been here. So, I think it's a positive sign that they are not here.

Lorcher: Commissioners, any other comments?

Grace: Yeah. Madam Chair. I would -- first, I would -- I want to thank Mr. Hosac. I appreciate his testimony about the feasibility, the economics involved, and I appreciate the things that he has tried to do to make this, you know, amenable and reasonable with -- with the surrounding community in terms of pushing the building as far as you can toward Eagle Road and having more of the office building on the north lot, but I -- I'm not sure I'm in favor of any modification of the -- of the staff's recommendation to this. I heard a lot of testimony tonight, but, honestly, I have to say it was -- it was really all about what's in the best interest of the project and the developer and I didn't hear anything about what's in the best interest of the city and that -- that concerned me a little bit and I do appreciate the work that went into this and what he -- what the -- what Mr. Hosac is trying to do to make it, you know, less intrusive to the neighborhood. I guess respectful to my --

Commissioner Garrett, I guess I would look at this as -- as I would -- I would probably move this forward as is and -- and maybe let the -- the City Council have to, you know, sort of go through that again and -- or maybe -- maybe what's a better idea is that the recommendation is for the applicant to get with staff and try to figure something out here that works. I do agree with Mr. Garrett, if there was a lot more disapproval of this from the neighbors' side, I would like to think we would have heard those folks and we didn't. So, I do think there is room to work here. I do think there is some negotiating room here between -- between the applicant and how high this building is and I think height is probably the only issue. So, I would prefer to move this through as is. So, that's -- that's -- that's where I'm at with this. Thank you.

Lorcher: Commissioner Sandoval, do you have any comments?

Sandoval: I do. Looking at this more -- looking through the lens of consistency with the neighboring property heights, the visual impact and I just don't see it being there. Personally I think we should recommend denial just based on the height and the applicant being not able or really willing to work with staff very much on the height or ask for a continuance, but that would be my course of action.

Lorcher: Well, I think the applicant indicated he would not like a continuance and understanding that we are not the deciding factor here and that it gives you time to be able to work with staff on the DA modification and the conditional use permit, we are not in a position -- I do not believe we are in a position to change any heights of anything, because the DA modifications are already in place. That DA -- that development agreement would have to be changed in order for that to happen; correct?

Starman: Yeah. Thank you, Madam Chair. So, I will expand upon that a bit in the sense that though there is an existing development agreement in place, I don't believe that development agreement contains an explicit height limit. What's being discussed this evening -- and we have a request to amend or modify that development agreement and the staff recommendation is that if the City Council entertains an amendment, one aspect of that amendment should be a height limitation and the recommendation from staff is 35 feet.

Lorcher: Okay.

Starman: So, that's sort of the lay of land there and while I have the microphone let me just for the record -- I wanted to clarify there was a comment made -- I'm paraphrasing now -- that the -- in reference to the UDC and -- that it has a 35 foot height limit. That is -- that's not the case. As the applicant mentioned, the actual -- for this zoning district the height limit in the city's zoning ordinance is 65 feet --

Lorcher: Yeah.

Starman: -- but because we are dealing with a development agreement and a request to modify, the recommendation from staff is that -- as part of that modification that that -- the 35 foot limit be part of that modification, so --

Lorcher: And as well as the usage currently under the DA does not allow storage; correct?

Starman: Yes. Thank you, Madam Chair. So, that's another proposed modification to the development -- the current existing development agreement is that right now, self-storage is not an allowed or permitted use, so part of the modification is to modify the permitted uses to allow self-storage as well.

Ritter: Madam Chair, if I may. So, the applicant is saying that he is unclear about the 32,500 square feet, saying whether it's the total square footage or if it's the building footprint. The DA is very specific that it's the overall square footage for the building. So, it's not the footprint. The developer Cory Swain who developed this site in the March 14th, 2006, presentation to the City Council, the planning director stated that the developer requested the max -- maximum square footage. So, he suggested that condition, basically because of the close proximity of the existing and future residential uses and he wanted to ensure that when this property was developed it was in a fashion that is consistent with the Comprehensive Plan destination and not negatively impact nearby properties.

Lorcher: Okay. Thank you.

Starman: And, Madam Chair, one last clarification for the record while there was some - some comments I think from the applicant if I recall about sort of there is a denial this evening, for example, by the Commission, that there would be an appeal to City Council and I sort of addressed this earlier in a different way, but that's -- that's not quite the case. What -- really, as I mentioned earlier the Commission is making -- is not making a decision at all, you are making a recommendation to the City Council, so there is no decision to appeal, you are making a recommendation. The Council will make a decision and that - that decision would be potentially appealable, but you are not making a decision, you are making a recommendation.

Lorcher: A recommendation. Okay.

Grace: And, Madam Chair and Council, if we -- if we move to recommend approval as written, sort of -- sort of with the staff comments and conditions, that's how it would be approved, but we could offer modify -- recommended modifications to it; correct?

Starman: Madam Chair and Commissioner Grace, that is correct. So, part of your recommendation could be to say, as you often do for applications of this nature to say, you know, a motion could potentially be, just hypothetically, you know, a motion to approve the staff recommendation, but with change X, Y and Z. In that case it would be a recommendation to Council. But certainly the Commission has the ability and the

prerogative to deviate from what staff recommended and make a recommendation that would be slightly different or drastically different for that matter.

Grace: Sure. Thank you.

Lorcher: Any other comments from Commissioners? A possible motion?

Grace: Madam Chair, I will throw one out just to see if it's -- if it's something the rest of the Commission is -- is tracking with, but this is File No. 0058; is that correct?

Lorcher: Correct.

Grace: After considering all staff, applicant and public testimony, I move to recommend approval of File No. H-2023-0058 as presented in the staff report for the hearing date of March 21, 2024, with no modifications.

Lorcher: Do I have a second?

Starman: So, Madam Chair, if there is no second that motion dies and you can entertain a new motion.

Lorcher: Okay.

Garrett: Okay. I will propose a motion that after considering all staff, applicant and public testimony I move to recognize the approval to the City Council of File No. H-2023-0058 as presented in the staff report for the hearing date of March 21st, 2024, with the following modifications: That the height be set to no later -- no greater than 48 feet and same footprint of 32,500.

Lorcher: The footprint -- the entire -- okay. So, the footprint of the building, but the square footage to be the 135,000 or --

Garrett: That is correct.

Lorcher: Do I have a second?

Starman: So, Madam Chair, if there is no second to that motion that motion also dies and you may entertain another motion.

Lorcher: Okay. So, we are just making a recommendation to City Council. The DA in place is very specific that the maximum square feet of the building should not be greater than 32,500 square feet and the height being 35,000 square feet.

Starman: So, Madam Chair, sorry to interject, but just for clarity, the -- I may have misheard what you just said, but I just want to clarify. To the best of my knowledge -- we

will ask staff to confirm -- but the existing DA, to the best of my knowledge does not include a height restriction today.

Lorcher: Oh, no height. Oh, the condition -- the usage. Okay. I will start again. Thirty-two thousand five hundred square feet is the building size in the current DA and currently storage is not an approved use for this space, even though the zoning says 65 feet, but this already has a DA on it; correct?

Starman: Yes, ma'am. Madam Chair, that's accurate.

Lorcher: Okay. So, we need to put a motion -- or recommendation together for City Council with those two items in place, intended use and building footprint based on the current application that we have in front of us.

Grace: Madam Chair, if it helps at all, I'm not opposed to the intended use. I don't think the staff was either. I think the intended use is fine. I will rely on the applicant that the neighbors will probably prefer something like that than maybe a busy restaurant or something. I don't have any issue with that. I don't have any issue with the footprint necessarily either. It's -- it's sort of the height is the issue for me and maybe the -- maybe the recommendation to City Council should be that P&Z -- if anyone feels this way, but the P&Z, you know, approves it, but there has got to be some discussion and negotiation with regard to the height. Staff's -- staff's looking at 35, applicant needs a minimum -- minimum of 48. I would like to believe there is some -- some elegant solution to that. I don't know. I'm not a developer. I understand the economics involved as the applicant described, they are razor thin, but I would like to find a way to get to where maybe both parties want to go. I'm not sure if that helps at all, Madam Chair.

Lorcher: Our -- our motion needs to -- I think address those two items on whether it's a denial or approval to City Council, because either way they are going to look at those things; right? The -- the DA needs to be the -- the intended use is not there, so it needs to get there and the square foot is there and he wants to increase it. Currently there is no height restriction in the DA, but there is a square footage and an intended use. So, those two items need to be whether it's approved or deny, the -- in the verbiage of our motion.

Sandoval: Madam Chair?

Lorcher: Commissioner Sandoval.

Sandoval: So, correct me if I'm wrong, but isn't the height based on staff's findings inconsistent with the Comprehensive Plan specifically 3.07.00? That's a question for staff.

Ritter: Even for the allowed uses? Is that what we are --

Sandoval: For the height. You spoke to the visual impact not being harmonious with the existing area, overshadowing character site design, and overall inconsistency with Comprehensive Plan 3.07.00.

Ritter: Yes, I did.

Sandoval: Okay.

Ritter: So, basically, based on where this is located -- it's like an in-fill development and what is around it is not the same height that they are proposing and that's why we are saying it doesn't fit in on the west side of Eagle Road with what's actually there. So, basically, the way staff sees it is that it is inconsistent with the Comprehensive Plan, because it does not fit in with the surrounding area and it will create all those issues that are outlined in my presentation.

Sandoval: Thank you.

Starman: So, Madam Chair, this -- I'm always reluctant to kind of go this next half a step. I'm going to do so in an effort to be helpful, but if I'm not being helpful and if I'm stepping out of my lane, just smack me, but -- so two thoughts where one is clearly there is some different opinions amongst the Commissioners present this evening, so two -- two potential ideas for you. One is you can reopen the public hearing and continue the item until you have more Commissioners present. Those Commissioners would have to review the record and be prepared to get up to speed and be prepared to act, but that would be an option if you are not able to -- you know, if there is not sufficient votes to reach a decision tonight. That's an option for you. The second is this would be a very artful motion, but I will put it out there and it's really -- I'm sure the City Council would appreciate a more specific and concrete recommendation, but an artful form of a motion could be to say you recommend -- the Commission recommends approval in terms of the proposed modifications to the development agreement in terms of the additional use of self-storage, maintaining 32,500 square feet as a footprint and the recommendation to Council is that the height be less than 54.5 feet as determined by the City Council. Or something of that nature. That would be very artful way to do it to get you to -- potentially to a decision tonight. It doesn't give great input to the Council in terms of what that height ought to be, but that's an idea for you as well.

Lorcher: Commissioners, any thoughts? So, if we want to wait for other Commissioners, it would be a continuance, then, for us?

Starman: Yeah. Madam Chair, if you -- if you decide you would -- you are not able to make a decision and you need your additional Commissioners present to do so, my recommendation would be to reopen the public hearing and continue it to a date certain and, then, have those -- the Commissioners that are absent that will participate next time review the record thoroughly and be prepared to act and, then, you can act at that point in time.

Lorcher: Okay. The applicant did indicate he wasn't interested -- really interested in a continuance, but we need the Commissioners to -- can we discuss that as Commissioners?

Starman: You may, Madam Chair. Yeah. And that's -- really at the end of the day it's -- if you need additional time to gather information or to consult with all the Commissioners and that would provide value to the discussion, really it's your decision -- it's really your prerogative if you choose to continue. Certainly we try to be very deferential and respectful to applicant's wishes, but ultimately at the end of the day is if the Commission needs more time and more information and you are not -- don't have sufficient information this evening to make a decision, at the end of the day it's your decision if you needed to continue the meeting for two weeks -- or the hearing.

Lorcher: Commissioners, do you feel like we can do a motion or should we reopen the public hearing?

Garrett: I could live with that artful recommendation where there is no specific height, but a cap on it.

Grace: Madam Chair, I -- I agree. I -- you know, in the end what we are giving is a recommendation to City Council. They -- they have the authority to do what they feel is best in this situation. I feel like we probably would only be hurting the applicant if we -- if we kicked it down the road to add a couple more Commissioners to the -- to the discussion who may or may not end up with a motion that the City Council likes or doesn't like. We just don't know. I think it's open to some reasonable interpretation and I'm guessing the City Council may have -- may also have some differing opinions. So, with that said I tend to agree with Commissioner Garrett that maybe we -- we tell the Commission what we do think is okay in the modification to the DA, but with regard to the one sticking point we simply say no more than this number. It's up to you to decide what you feel is reasonable. How we say that in a motion, though, is --

Lorcher: Want to try?

Sandoval: Madam Chair?

Lorcher: Commissioner Sandoval.

Sandoval: Okay. I'm in agreement. I think we can get to a decision tonight here really specifically -- maybe mentioning that recommended maximum height and -- I would likely be in favor of that.

Lorcher: All right. Commissioners, who would like to give a motion?

Garrett: Well, I can step in and if I'm not good at the end of it on the recommendation, so I will need some assistance, but after considering all staff and applicant and public testimony I move to recommend the approval to the City Council File No. H-2023-0058

as presented to the staff report for the hearing date -- for the hearing date of March 21st, 2024, with the following modifications: That the height limitation would be capped at 48 feet and -- what was your remainder?

Starman: So, Commissioner, so my -- the -- I will put air quotes around this -- the artful motion that I mentioned earlier would be -- the last part of the motion simply would be to say to recommend to the Council as presented in the staff report, but with the modification that the height be less than 54.5 feet as determined by the Council.

Garrett: Okay. Okay. I will modify my recommendation that the height would be less than 54 feet as recommended by the Planning and Zoning Committee.

Grace: Can I clarify that the motion would also approve the -- the modified use as a storage facility and that would keep the footprint of the -- of the facility at 32,500 square feet?

Starman: Madam Chair and Members of the Commission, I will defer to the motion maker as well, but that's how I would interpret the motion, because the motion was to make the recommendation consistent with the staff report and those items that Commissioner Grace just mentioned are all incorporated into the staff report. So, I believe the motion does capture those items.

Grace: Okay. Great. Thank you.

Lorcher: Okay.

Grace: So, I will second that, then, if that's the motion.

Lorcher: Let me recap really fast then.

Grace: Sure.

Lorcher: So, it has been moved to approve File No. H-2023-0058 as a recommendation to the City Council with the modifications that the height be less than 54.5 feet, that the -- the footprint of 32,500 feet of the building and to consider self-storage as an intended use. Is that what -- was that it?

Garrett: Yes.

Starman: And, Madam Chair, just one quick note for the record. So, I -- those last two items are embedded in the staff report, so you are accurate -- your summary of the motion I think is accurate. I thought I heard you say 3,000 --

Lorcher: Thirty-two thousand --

Starman: -- 32,500.

Lorcher: -- five hundred feet.

Starman: So, I just wanted to clarify that particular.

Lorcher: All right. Do we all have it or do you need me to say it again?

Garrett: No.

Starman: We are good.

Lorcher: All right. All those in favor say aye. All those opposed?

Sandoval: Nay.

Lorcher: So, we have two with one and so --

Starman: So, Madam Chair, we will need -- because there is four members present this evening you need a majority, so three -- it requires three affirmative votes. The Chair is permitted to vote. I know sometimes Mr. Seal does not, but you are permitted to vote, so I would -- I will leave it at that.

Lorcher: All right. I will cast my vote as yes. So, we have three in favor and one not in favor.

Starman: So, the motion does carry. You have finished that item.