

Meridian Planning and Zoning Meeting

January 18, 2024.

Meeting of the Meridian Planning and Zoning Commission of January 18, 2024, was called to order at 6:00 p.m. by Chairman Andrew Seal.

Members Present: Commissioner Andrew Seal, Commissioner Maria Lorcher, Commissioner Nathan Wheeler, Commissioner Enrique Rivera, Commissioner Patrick Grace and Commissioner Jared Smith.

Members Absent: And Mandi Stoddard.

Others Present: Tina Lomeli, Kurt Starman, Bill Parsons, Sonya Allen, Linda Ritter and Dean Willis.

ROLL-CALL ATTENDANCE

<input checked="" type="checkbox"/> Nate Wheeler	<input checked="" type="checkbox"/> Maria Lorcher
<input type="checkbox"/> Mandi Stoddard	<input checked="" type="checkbox"/> Patrick Grace
<input checked="" type="checkbox"/> Enrique Rivera	<input checked="" type="checkbox"/> Jared Smith
<input checked="" type="checkbox"/> Andrew Seal - Chairman	

Seal: Good evening, everyone. Welcome to the Planning and Zoning Commission meeting for January 18th, 2024. I had that wrong in my notes. At this time I would like to call the meeting to order. The Commissioners who are present at this evening's meeting are in our at City Hall and on Zoom. We also have staff from the city attorney and clerk's offices, as well as City Planning Department. If you are joining us on Zoom this evening we can see that you are here. You may observe the meeting, however, your ability to be seen on screen and talk will be muted. During the public testimony portion of the meeting you will be unmuted and, then, be able to comment. Please note that we cannot take questions until the public testimony portion. If you have a process question during the meeting, please, e-mail cityclerk@meridiantcity.org and they will reply as quickly as possible. With that we will begin with roll call. Madam Clerk.

Seal: All right. And this evening we have a little bit of business to take care of here. So, every once in a while we have people come in and we have people leave the Commission. This evening we have Commissioner Nate Wheeler. This is his last hearing. We are going to miss his -- his perspective and insight for certain and we hope to -- or wish him many good endeavors down the road. So, hopefully, he will not be a stranger to us and we will see you come in on different applications and different times.

Wheeler: Thank you. Thank you very much. Yeah, I have really enjoyed it very much. I'm not getting off because I don't like this, I'm getting off because there is other things that are -- that are starting to constrict around my other responsibilities and I need to step down from it. All good. Everything's beneficial, all that, but it's been a delight for the last three years and I also want to say a big thanks to the City of Meridian for allowing me to and, then, I know that when I was selected I was at, you know, some

military school and they said, okay, we will let you start a little later, even though we will select you for that position. So, the graciousness of the city, the Commission, the City Council has been really humbling and I have really enjoyed getting to know staff and all the work that you guys put into it for sure and being in the development world I will probably be on that side a little bit more moving forward on that. But, yes, I hope -- I hope -- I wish this the best and I know that the way that you have led as the chairperson I think has been fantastic. You give equal weight to everyone's input and try to stay neutral and encourage here and there. You don't see that usually from people in chairs and I really was appreciative of that -- your leadership on that, so -- and also, of course, counsel very much. Really appreciate on -- keeping me on my right and left limits when we started to stray or to remind us what is before you tonight, Commissioners, is this -- to bring us back around to what's really the matter at hand and thank you so much for all that. So, I'm glad that I just had an opportunity to serve the city in this capacity and I can tell you for sure that it's in good hands.

Seal: Thank you very much. Appreciate the kind words and we do have a certificate from the Mayor. We were going to see if you wanted to chair tonight, just -- you know.

Wheeler: Are you kidding me?

ADOPTION OF AGENDA

Seal: All right. Well, thanks again. And with that we will keep the meeting going. It looks like we got plenty of people in here tonight. So, the first item on the agenda is the adoption of the agenda. For File No. H-2023-0056, Rosalyn Subdivision, that will be open for the sole purpose of continuing -- continuing to a regularly scheduled meeting and it will be opened for that purpose only. So, if there is anybody here tonight to testify for that we will not be taking public testimony. Can I get a motion to adopt the agenda as presented?

Wheeler: So moved.

Grace: Second.

Seal: It's been moved and seconded to adopt the agenda. All in favor, please, say aye. Opposed nay? All right. Thank you very much.

MOTION CARRIED: SIX AYES. ONE ABSENT.

CONSENT AGENDA [Action Item]

1. Approve Minutes of the January 4, 2024 Planning and Zoning Commission Meeting

Seal: Next item on the agenda is the Consent Agenda. We have one item on the Consent Agenda and that is to approve the minutes of the January 4th, 2024, meeting

of Planning and Zoning Commission. Can I get a motion to accept the Consent Agenda as presented?

Wheeler: So moved.

Grace: Second.

Seal: It's been moved and seconded to adopt the Consent Agenda. All in favor, please, say aye. Opposed nay? Motion carries.

MOTION CARRIED: SIX AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Seal: At this time I would like to briefly explain the public hearing process. We will open each item individually and begin with the staff report. Staff will report their findings on how the item adheres to our Comprehensive Plan and Unified Development Code. After staff has made their presentation the applicant will come forward to present their case and respond to staff. Comment -- sorry -- respond to staff comments. They will have 15 minutes to do so. After the applicant has finished we will open the floor to public testimony. Each person will be called on only once during the public testimony. The Clerk will call the names individually of those who have signed up in advance to testify. You will need to state your name and address for the record and you will have three minutes to address the Commission. If you have previously sent pictures or a presentation for the meeting, it will be displayed on the screen and you will be able to run the presentation. If you need assistance you will just need to ask the Clerk and you will be assisted. If you have established that you are speaking on behalf of a larger group, like an HOA, where others from that group will allow you to speak on their behalf, you will have up to ten minutes. After all those who have signed up in advance have spoken we will invite any others who may wish to testify. When you are finished if the Commission does not have any questions for you you will be able to return to your seat in Chambers or be muted on Zoom. You will no longer have the ability to speak. Please remember we generally do not call people back up. After all testimony has been heard the applicant will be given another ten minutes to come back and respond. When the applicant has finished responding to questions and concerns, we will close the public hearing and Commissioners will have the opportunity to discuss and, hopefully, be able to make final decisions or recommendations to City Council as needed. Are we all good? Okay. Just wanted to make sure. It's not often that you get up and go somewhere else, so --

ACTION ITEMS

- 2. Public Hearing for Rosalyn Subdivision (H-2023-0056) by Givens Pursley, LLP., located at 200 E. Rosalyn Dr.**

- A. Request: Annexation of a 0.014-acre of land from RUT in Ada County to the R-8 zoning district including the remaining portion of E. Rosalyn Street cul-de-sac right-of-way.
- B. Request: Combined Preliminary/Final Plat consisting of 7 residential building lots and 1 common lot on 0.733 acres in the R-8 zoning district.
- C. Request: Alternative Compliance to deviate from the common driveway standards in the UDC 11-6C-3D1.

Seal: All right. So, at this time I would like to open -- excuse me. Like to open the public hearing for Item No. H-2023-0056, Rosalyn Subdivision, for continuation to March 7th, 2024.

Wheeler: So moved.

Grace: Do you need a motion or --

Wheeler: Do we need an official motion?

Seal: Yeah. Let's do an official motion, so --

Wheeler: I would like to make a motion that we move Rosalyn Subdivision, H-2023-0056, to the date of March 7th, 2024.

Grace: Second.

Seal: It's been moved and seconded to continue File No. H-2023-0056 to the date of March 7th, 2024. All in favor, please, say aye. Opposed nay? That was continued.

MOTION CARRIED: SIX AYES. ONE ABSENT.

3. Public Hearing for Daily Fit Body (H-2023-0060) by Joseph Daily, Daily Fit Body, located at 1600 N. Linder Rd.

- A. Request: Conditional Use Permit to operate an indoor recreation facility (personal training facility) from Units 1, 3 and 5 for a total of 6,283 square feet in an existing 20,203 square-foot industrial building on 1.41 acres of land in the I-L zoning district.

Seal: Next I would like to open the public hearing for Item No. H-2023-0060, Daily Fit Body, and we will begin with the staff report.

Ritter: Good evening. I'm Linda Ritter, associate planner for the city. So, tonight we are here for a conditional use permit request to operate an indoor recreation facility,

which is a personal training facility, from tenant Suites One, Three and Five, for a total of 6,283 square feet in an existing 20,203 square foot industrial building located at 160 North Linder Road and it's on 1.41 acres of land, zoned I-L. So, this business is by appointment only, as it is a one-on-one training and not open to the general public. There may be a maximum of five individuals at any one time working out at this facility. The applicant has been given six parking spaces and an additional six flex spaces to share with the other businesses in the complex. This property has gone through multiple reviews by the city and they include a Comprehensive Plan future land use map amendment to change the future land use designation from mixed use community to industrial and it was annexed into the city in 2021. A property boundary adjustment was also approved for this site in 2022 to combine Lots 8 and 9 of the Heifers Acre Subdivision and, then, this property has also gone through a certificate of zoning compliance and design review in 2022 for the construction of the existing building. There are additional -- even though this is not considered an industrial use, there are other uses that have been reviewed for this site that are -- there is a JV Core Exchange that has gone through review, tenant improvement, and AAA Bait, which is a tackle shop. Sticker Mafia, Legacy Garage and Simply Style. So, on the screen is the site plan for the existing building and the landscape plan that has been approved with the certificate of zoning compliance. These are the elevations for the existing building that was approved with the design review. These are Suites One, Three and Five that the applicant will occupy and these are just aerials and, then, a picture of the existing building. So, this is 116 North Linder. So, at this time I will stand for any questions that the Commission has.

Seal: Thank you very much. Would the applicant like to come forward? Good evening. I need to have your name and address for the record, please.

Daily: My name is Joe Daily. I live in 1729 Trestle Drive in Meridian.

Seal: The floor is yours.

Daily: So, we currently have an existing building at 1756 Cherry Lane that we are using. I needed more space and so we are bringing in equipment -- brand new equipment and assemble it and sell and deliver it. So, part of this is still going to be warehouse space. The other thing that we do -- is my wife -- in the back here, who is the brains of the operation, we train people one on one. We are not like a regular gym where we try to get tons of people in and hope that maybe 50 of them don't show up -- 50 percent of them don't show up, so I can keep taking money. We work with individuals and build relationships. We work on nutrition, as well as mind, body and our physical strengths. We refer to doctors for -- we have a doctor that works closely with us to help people with medical needs and our individual training is usually my wife and I and up to two clients a piece at one time. So, six of us. And most of the time we have one car, so six spots are plenty, so we don't add that much traffic in less than a month.

Seal: All right. Commissioners, do we have any questions for the applicant or staff?

Wheeler: Mr. Chair?

Seal: Go right ahead.

Wheeler: So, Joe -- so, are we -- are you selling them product out of this, too, then? Is that what I'm hearing?

Daily: So, if people order the product here, I put it together for them and they have to pay the company. They pay the company. Somebody sends it to me, I put it together.

Wheeler: Okay. So, it's not like it's -- it's like a distribution side warehouse thing, it's more or less like on a one off or somebody wants to get something?

Daily: Yes.

Wheeler: Okay.

Seal: Anybody else? Questions for staff or the applicant? All right.

Grace: Mr. Chairman?

Seal: Go ahead.

Grace: I got a -- I have a quick question for maybe staff. Sorry. So, if it's -- if it's zoned industrial and it's approved for commercial, does that -- is that just some flexibility, built into that, that -- that that -- that authority to accept that or does that preclude, you know, in the future -- I'm trying to think about potential longer term ramifications of putting in the commercial and it's something that's zoned for industrial and if there is any downside to that, basically.

Ritter: Correct. So, it's a flex building. It was designed as a flex building, which would allow for commercial use to go into that flex building with the approval of a conditional use permit. We understand that we are limited on some of our industrial areas and space. Until there is a change in the code this is allowed.

Grace: Okay. And it sounds like it's been difficult to get agents for this particular --

Ritter: It seems that way.

Grace: Yeah. Okay. Thank you.

Parsons: Mr. Chair, if I can just add a little bit to that -- the conversation and answer the question a little bit differently -- is this use is allowed. It's allowed through a conditional use and if this gentleman were to -- and a conditional use permit runs with the land, so, technically, yes, once it's established if this gentleman's business were to be replaced with a different gym it would be considered the same use and transfer of that CUP

would not have to occur. So, again, it -- the only time the commercial use would cease is if this gentleman vacated the space and a new use went in there. So, that's -- I think that was going to some of your question, too, is that if we approve commercial it's going to be commercial until it changes at some other date.

Grace: Okay. Right. I didn't want the applicant to be adversely affected if for some reason it was -- yeah. Okay. Thanks for that clarification.

Seal: Any other questions? Madam Clerk, do we have anybody signed up to testify?

Lomeli: Yes. There is a Nancy Wilson that signed up online. If she is here. I don't have anybody else on like Zoom. If that person is physically here.

Seal: That was Nancy you said?

Lomeli: Yes.

Seal: Don't see Nancy online. Sorry. Did I misunderstand? I thought she was -- she -- I thought she was online? No?

Lomeli: She signed on the city website on the sign-in sheet.

Seal: Oh.

Lomeli: Nancy Wilson. So, if that person is physically here. Don't show anybody on Zoom.

Seal: Oh. Got you. Sorry. I misunderstood that. Is Nancy here? It does not look like Nancy is here or wants to come up and testify. So, with that are there any other questions from the Commissioners? Okay. Is there anything that you would like to add?

Daily: No. Thank you. Thank you guys for your time.

Seal: All right. Thank you very much. Appreciate it. Okay. And with that I will take a motion to close the public hearing for File No. H-2023-0060 for Daily Fit Body.

Grace: So moved.

Wheeler: Second.

Seal: It's been moved and seconded to close the public hearing for File No. H-2023-0060. All in favor, please, say aye. Opposed nay? The public hearing is closed.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Seal: Discussion? Motion?

Wheeler: For me this is just kind of a -- oh, excuse me. Mr. Chair?

Seal: Yes, sir. Go ahead.

Wheeler: For me this is just kind of -- this flex space or incubator space, as it's called, just seems to fit right in this area and for me it's kind of a simple one to get behind.

Seal: Yeah. I was going to say, I will add a little bit to that, but the concerns that I had for the space were, you know, kind of parking, but knowing a little bit more about the business, where there is going to be only a few people there at a time, less of a concern on -- the road's pretty improved there. So, people coming in and out -- it's pretty good. And there is a lot of industrial in that area. So, good to have a couple of other little things in there with it in my opinion.

Grace: Yeah. Mr. Chairman, that was going to be my comment. That contributes to the kind of a good diverse mix of uses and it does sound like from the staff report that they have had some, you know, issues getting somebody in there. So, this is something hopefully positive for the area.

Seal: Okay.

Grace: Mr. Chair, I would like to make a motion.

Seal: Okay. Any other Commissioners have any comments before we do that?

Smith: Mr. Chairman, I --

Seal: Go ahead.

Smith: I mean I just echo everything that's been said. Very straightforward. Just one-on-one training. There is no -- no parking concerns or no occupation concerns or anything like that, so --

Seal: Thanks very much. Commissioner Wheeler, go right ahead.

Wheeler: Okay. After considering all staff, applicant and public testimony, I move to approve File No. H-2023-0060 as presented in the staff report for the hearing date of January 18th, 2024, with no modifications.

Grace: Second.

Seal: It has been moved and seconded to approve File No. H-2023-0060 for Daily Fit Body. All in favor, please, say aye. Opposed nay? Passes.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Wheeler: Best of luck, Joe.

**4. Public Hearing for Sulamita Church (MCU-2023-0008) by MMGC
Sulamita, located at 4973 W. Cherry Lane**

- A. Request: Modified Conditional Use Permit (H-2018-0110) to allow one of the existing structures on the site to remain for an additional two (2) years beyond the date of issuance of the Certificate of Occupancy permit in order to continue the operation of a food pantry in the building.

Seal: All right. With that we will -- we would like to open file MCU-2023-0008 for Sulamita Church and we will begin with the staff report.

Allen: Thank you, Mr. Chair, Members of the Commission. The next application before you is a request for a conditional use permit modification. This site is located on the west side of North Black Cat Road, just south of West Cherry Lane, in the R-8 zoning district. The existing conditional use permit, approved in 2018, allowed a church to develop on this site and allowed the former dwelling and manufactured home to be used as a job shack while the church was being constructed. This structure, along with the accessory structures on the site, were required to be removed prior to issuance of certificate of occupancy of the church. Since that time the use of the existing structure has changed to a food pantry. The Comprehensive Plan future land use map designation is medium density residential. The church is now nearing completion of construction and the applicant requests the structure is allowed to remain on this site for an additional two years after this certificate of occupancy is issued in order to continue providing food to the area families who rely on the support. During this extended period the applicant plans to pursue fundraising to establish a permanent location for the food pantry. A conditional use permit modification is requested to change the use of the existing structure from a job shack to a food pantry and to extend the time period it can remain on the site for up to two years from the date of issuance of the certificate of occupancy for the church. Because the use provides a needed service for the community and a secondary accessory to the church use, staff is supportive of the applicant's request. A site plan was submitted as shown that depicts the location of the structure housing the food pantry, along with the access driveway via North Black Cat Road and that's where the red arrow is pointing and that connects to the church parking lot and parking for five vehicles is provided. Written testimony was received from the Aleks Yanchuk, the applicant's representative, in agreement with the conditions in the staff report. Staff is recommending approval with the conditions in the report. The applicant is here tonight.

Seal: Thank you, Sonya. Would the applicant like come forward? Good evening, sir. Just need your name and address for the record, please.

Yanchuk: I would like to request -- well, I guess we would like to request that you guys grant us the ability to use --

Seal: Sir, we will need your name and address for the record, please.

Yanchuk: Yes. My name is Aleks Yanchuk and for the record 897 West Creekbury Street, Meridian.

Seal: Thank you. Go right ahead.

Yanchuk: We are currently using a mobile home for storage of food distribution locally in the community. When there is food that is used -- well, that is being sold at a lot of local stores and several weeks before the food goes bad most of these stores either discount this food or they get rid of it in order to avoid it going bad and in order for the food not to go to waste oftentimes they donate this food to food banks and we were able to get access to a lot of these for the food banks and distribute the food locally to a lot of community -- to a lot of people in our community from this mobile home, which we use as storage and we want to build a permanent location to continue operating as a food bank. However, right now we are very tight on finances as we are nearing completion of our church and we would like to request that we use this building as, essentially, storage for food where we distributed it from and it's not being used for anything else other than that for the next two years as we design plans to either build on this site a new building that we would use for a food bank or maybe, if we get lucky, we will find a better location to build a new building.

Seal: Okay. Thank you very much. Appreciate that. Commissioners, do we have questions for the applicant? Just real quick I just have one. The operational hours, do you have hours of operation that you are going to be using?

Yanchuk: Every Saturday from 10:00 to about 6:00.

Grace: Okay.

Seal: No other questions?

Grace: Mr. Chairman. So, ideally, you think you would like to build a permanent structure right where this one is?

Yanchuk: Eventually. Or in a different location. We are still -- we don't know exactly where or how we would build it. We want to work with our architect on developing that exact design. We like the location. We are interested in potentially building a new building right next to this building and getting rid of it.

Grace: And just follow up. So, I would assume there is going to be plenty of parking for the church and so is it fair to say that there is probably a smaller chance that there would be any kind of stacking or any kind of traffic along the road there and not for

those who are going to the pantry, whereas they would probably be parking in the parking lot; right?

Yanchuk: We have adequate parking for our church and our church does not hold a lot of activities on Saturdays in the building usually at the church facility.

Grace: Yeah. I'm not -- so, I'm not asking so much about parking as I am the potential that there would be any kind of stacking of cars on the -- on the road. What is that --

Yanchuk: There are two entrances to the parking lot as well. One is from Black Cat and one is from Cherry Lane. It's fairly easy to access the parking lot.

Grace: Okay.

Seal: And just an additional question on it and it's -- the way that he explained it, essentially, will this building be used for storing and distribution of the food or is the food basically going to be stored there and, then, transported to the church and, then, you will have the food bank run out of there?

Yanchuk: It's going to be distributed from this location. We are going to have like two or three people that come and they have just put stuff into boxes. So, say if there is like bananas or whatever, they just put them into boxes and, then, people sign up, they call their number, because people come in order, and, then, just here is your box and off you go.

Seal: Okay.

Wheeler: Mr. Chair?

Seal: Go right ahead.

Wheeler: I have a question. Here -- as I'm looking at like the conditions here, does it already have like city water?

Yanchuk: This building was existing way long ago. It is connected to city water right now. I would have to check on the sewer. I'm not a hundred percent certain. Originally before we started construction on the church this building was existing there and was a residence.

Wheeler: Okay. So, I'm just trying to make sure to see if there is -- if there is a -- what kind of hang ups might happen or something and, then, the other thing was on the certificate a zoning compliance, has that been started and working with staff on this already?

Yanchuk: My understanding is following this meeting that's what we are going to be working on, a certificate of zoning and, then, a building permit in order to change the use from residential to --

Wheeler: Okay. So, then, how -- how long -- or maybe this is a question not only for you, Aleks, but also for staff. So, how long do you see this process taking for those conditions to be met, so, then, you can take the stuff out of where it's currently at, your food, and be able to distribute it from this location? About how long of a time frame or -- are we thinking?

Yanchuk: I guess that's contingent on how long it takes to review and, then, you will need a couple of weeks in order for us to get all the documents in order.

Parsons: So, Chairman, Members of the Commission, if I understand correctly, they are already operating that way, we are just trying to bring them into compliance right now, so --

Wheeler: Okay. I thought that --

Parsons: Yeah. See, they will have to -- as part of their approval these are some of the things they will have to do. So, they are just working with the city to meet the requirements and operate legally from there.

Wheeler: Very good. Okay. I was under the impression it was already at a different location. They are looking to move it here. But they are just trying to get in compliance on this.

Parsons: My understanding is they are storing food in there now currently and so we have been working with them in giving them the right -- helping them along the way to get -- to get occupancy, so that they can help the community.

Wheeler: Okay. Thank you.

Yanchuk: Sorry. I misunderstood.

Wheeler: No. No. It's -- I'm the one misunderstanding, so -- okay. Very good.

Seal: Commissioner Grace?

Grace: Just -- just a quick follow up, Aleks. Is the current mobile home -- is that -- is that on a foundation? Is that affixed to the land?

Yanchuk: Yes, it's on a foundation.

Grace: Okay.

Seal: Commissioners, any other questions? Do we have anybody signed up to testify?

Lomeli: Yes. I have a Doug Kruse.

Seal: All right. Take a seat and we let the public testify. Thank you. Who was that again?

Lomeli: We did have a Doug signed up. Doug? No Doug. Mr. Strock would like to testify if he is here.

Seal: Okay. Is there anybody else that would like to come up and testify? Going once? Going twice? Is there anything further the applicant would like to add? No? He has nothing further, so thank you very much. Appreciate your time. And with that I will take a motion to close File No. MCU-2023-0008 for Sulamita Church. Going to get it right.

Grace: To close public testimony; right?

Seal: Yes. Close the public hearing.

Grace: So moved.

Wheeler: Second.

Seal: It's been moved and seconded to close public hearing for File No. MCU-2023-0008. All in favor, please, say aye. Opposed nay? The public hearing is closed.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Seal: Any discussion on this or --

Lorcher: Mr. Chair?

Seal: Go ahead, Commissioner Lorcher.

Lorcher: I live at the corner of Black Cat and Cherry, kind of kitty corner from this church. It's been fascinating to see their building process. It's a beautiful building. The manufactured home, like he had mentioned, has been there forever and there is good access in and out. The Seventh-Day Adventist Church, which is also kind of at the kitty corner of Black Cat and Cherry operates a food pantry on Saturdays I think from 2:00 to 5:00 or 3:00 to 5:00, something like that. So, we do have a little bit of a history of having some food pantries along that corridor. There is ample access on Cherry Lane and Black Cat on Saturdays to move traffic with the lights. I don't see this as being any kind of detriment to the safety of the community and it's a good asset until they can kind of decide to put their food pantry in a permanent location. We are excited to see their church open.

Seal: Thank you, Commissioner Lorcher. Anything else from the Commissioners? I will take a motion if we are ready for that.

Grace: Yeah. Mr. Chairman?

Seal: Go ahead, Commissioner Grace.

Grace: After considering all staff, applicant, and public testimony I move to approve File No. MCU-2023-0008 as presented the staff report for the hearing date of January 18th, 2020.

Seal: Do I have a second?

Wheeler: Second.

Seal: It's been moved and seconded to approve File No. H -- sorry -- MCU-2023-0008. All in favor, please, say aye. Opposed any? Motion passes. Thanks very much.

MOTION CARRIED: SIX AYES. ONE ABSENT.

5. Public Hearing for Pathways (H-2023-0061) by Mussell Construction, Inc., located at 965 E. Ustick Rd.

- A. Request: Annexation of 1.11 acres of land with an L-O zoning district.
- B. Request: Conditional Use Permit for an education institution that takes access from an arterial street without a safe, separate pedestrian and bikeway access between the neighborhood and the school site.

Seal: Good luck and thank you for the service to the community. Appreciate that. With that open File No. H-2023-0061 for Pathways and we will begin with the staff report.

Allen: Thank you, Mr. Chair, Members of the Commission. The next applications before you are a request for annexation and zoning and a conditional use permit. This site consists of .9 of an acre of land. It's zoned R-1 in Ada county and is located at 965 East Ustick Road. There has been no previous applications with the city on this property. The Comprehensive Plan future land use map designation is medium density residential. The applicant is requesting annexation of 1.11 acres of land with an L-O zoning district, limited office, in order to redevelop the site with a public education institution use. There is an existing 2,259 square foot single family dwelling on this site, which is proposed to be enlarged to 8,000 square feet and converted to a charter school. As noted, the property is designated medium density residential on the future land use map, which typically only allows residential uses. However, the Comprehensive Plan does allow request for office uses, i.e., L-O zoning at the

discretion of City Council if the property only has frontage on an arterial street or section line road and is two acres or less in size. The property does meet this criteria. Although the requested use is not office, education institutions are an allowed use in the L-O zoning district and staff deems the use as similar in terms of intensity of use and impacts to adjacent properties. City Council should determine if the proposed use and zoning is appropriate for this site. A conditional use permit is also requested for a public education institution that takes access from an arterial street, i.e., Ustick Road without a safe separate pedestrian and bike way access between the neighborhood and the school site as required by the specific use standards for such. The proposed charter school will serve high school aged students and educate students in small groups of one-on-one support sessions, which should be low impact on adjacent residential uses. The applicant states that the school features a very low student-to-teacher ratio and no extracurricular or outdoor activities. Approximately 30 students will be there at any one time, with a maximum capacity of 40 students. Student appointments are normally one to one and a half hour in length and occur twice per week. The hours of operation of the school will be from 8:00 a.m. to 4:00 p.m. year round, closed on Saturdays and Sundays. A site plan was submitted as shown there on the left that depicts the existing structure and expansion area, along with associated parking, driveways and pedestrian walkways. Based on the square footage of the building a minimum of 20 off-street parking spaces are required. Thirty-four are proposed in excess of UDC standards. A driveway is proposed to the abutting property to the east for future connectivity if that property redeveloped with a nonresidential use in the future. A turnaround area -- the hatched area right here, if you can see my pointer, is proposed at the southeast side of the site. So, the difference between the site plans you see here, I should point out, is the site plan has been revised per the staff conditions in the staff report. The landscape plan has not yet been revised. It will be revised prior to the Council hearing. Staff asked for these changes so that cars parked along the west boundary could exit their spaces and go out to Ustick Road without having to go around to the south into the site and turn around and, then, go out. A focus traffic study that includes a public school checklist was submitted to ACHD for the proposed development as required by Idaho State Statute 67-605(1)(9). ACHD has not yet completed their review of this study in the checklist, but should prior to the City Council hearing. And 25 foot wide landscape street buffer is proposed along Ustick Road in accord with UDC standards. A 20 foot wide buffer to residential uses is required in the L-O zoning district. Residential uses abut this site on three sides. A buffer as required is proposed along the south and east boundaries of the site. A reduced buffer width ranging from nine to 11 feet is proposed along the west boundary, with the allowance for vehicles to overhang beyond the parking spaces into the buffer up to two feet. Such requests are allowed to be considered by City Council at a public hearing with notice to surrounding property owners. Fencing exists around the perimeter of the site. However, the applicant proposes to construct a new six foot tall aluminum frame vinyl fence around the perimeter of the site. Conceptual building elevations and a floor plan were submitted for the proposed school building as shown. Final design of the structure is required to comply with the design standards listed in the Architectural Standards Manual. Written testimony has been received from Kent Mussell, applicant. He is in agreement with the staff report conditions of approval. Three letters of support from parents of students

currently enrolled in Pathway school have also been received. Staff is recommending approval with the conditions in the staff report. Staff will stand for any questions. And the applicant is here to testify tonight.

Seal: All right. Thank you, Sonya. Would the applicant like to come forward? Good evening, sir. I need your name and address for the record.

Mussell: Good evening. My name is Kent Mussell. I live at 3516 South Bartlett Way, here in Meridian. So, our proposal is -- it involves the transformation of a one acre parcel currently housing a 1970s split level home into an educational space for Pathways in Education. We plan to renovate and expand this building, resulting in a total area of approximately 8,000 square feet. Pathways has an existing campus in Nampa. They are a unique charter school model in that they seek to complement the existing public school choices in the area. That's because they offer alternative education for students who need to catch up on credits. That makes this use more similar to a tutoring center, than to a traditional school. Students complete their work primarily from home and attend the campus twice per week to complete testing and receive individualized education. The aim is for these students to catch up and either return to traditional schools or graduate from Pathways, depending on their individual situation. Pathways often serves students who have fallen behind due to mental health issues, like anxiety, ADHD, or depression. This program is vital for our community, aiding students who require this specific kind of support. As Sonya mentioned, I submitted the three letters of support from parents who have sent their children to the Nampa Pathways. I have a quote on the screen here from one of those letters. This describes one of the student's situations. She was homeschooled by her mother when her father died during COVID. When her mother returned to work she had to switch from homeschooling to public school. The student was grieving the loss of her father and struggling with anxiety and depression and entering public school was not a good fit for that transition. The girl ended up enrolling at Pathways and the letter reports amazing things about the support that she has received there and how that has helped her to thrive. This highlights the need for institutions like Pathways. Our traditional schools need the assistance of programs like this for students who find themselves in similar situations. We are seeking three approvals, annexation into Meridian under the L-O zone, a conditional use permit for Pathways in Education and a reduced landscape buffer along our west boundary due to spatial constraints. This property is in a residential area and is under the medium density residential overlay in Meridian's Comprehensive Plan. So, you might be wondering why we chose to seek an office use for this parcel. In fact, we think that an office use is the only way for this property to be developed consistently with Meridian's Comprehensive Plan. The Comprehensive Plan states the following about our situation: At the discretion of City Council areas with a residential Comprehensive Plan designation may request an office use if the property only has frontage on an arterial street or section line road and is two acres or less in size. We meet both of those criteria. However, I want to add that we found the parcel to be unsuitable for residential development. As a residential development the comp plan -- comp plan seeks three to eight dwelling units per acre. When we first acquired the property we conducted various pre-application meetings with City Planning and

Zoning staff to explore two different residential developments. Any residential development would require mainline water, sewer -- water and sewer extensions from Ustick Road, which would require right-of-way construction and would not be justified unless we were to seek higher densities than are allowed under the Comprehensive Plan. I also want to point out that the use we are proposing is very compatible with the surrounding residential uses. The school's hours are 8:00 to 4:00, Monday through Thursday, but students generally leave the campus by 3:00. There are no extracurricular activities and the students are generally visiting the campus in small numbers. About half of the students are brought to the campus by their parents and there is no bus activity. The majority of the remaining students, about 40 percent, drive themselves and often carpool with other students. We have completed a traffic study and have found the project's impact on traffic to be minimal. There are a number of mitigating factors. As we have just seen, students will generally have left the campus before the evening rush hour. When the first cohort of students arrived during the morning rush they will arrive in small numbers and we have designed the site to keep those cars from having an impact on Ustick. We will restrict the west -- the west boundary spaces as staff only to keep congestion from occurring in that area. That gives the entire 165 foot drive aisle for cars to enter the site before dropping off their kids. Those cars will pull into designated drop-off spaces and then leave. Some students only desire to complete their testing on campus, in which case their appointment will last about 45 minutes or maybe an hour. Other students utilize various degrees of instruction or tutoring, so a student will be on campus anywhere from 45 minutes to one hour and 45 minutes. This naturally staggers site activity, so that we can be sure that vehicle congestion on the site will not become overloaded. On the topic of our landscape buffer, we have designed our site to maximize the landscape buffers, but due to the location of the existing building we need to request a buffer reduction along the west boundary. As you can see on our site plan, the smallest width of landscaping on the left boundary is just over nine feet and this number increases to more than 11 feet on the north side of the property. In October we held a neighborhood meeting to obtain neighborhood feedback. There were five families present and two main issues raised. Our two south neighbors were in support of the project, provided that we install adequate privacy fencing. Our neighbor to the southwest had no objection to the project. The other attendants were concerned about traffic in the area. One of these neighbors resides across Ustick Road and the other resides a few houses away. After discussing different fence options I suggested something like the fence pictured on the screen and we received positive feedback on that plan. So, we have accordingly put that fence into our proposed plans. Thank you for giving me this time and I'm excited about the prospect of bettering our community through this project. I hope you have seen that Pathways in Education is doing important work and that they are a good fit for the area. I'm now going to invite our legal counsel and consultant David Leroy. David Leroy brings a wealth of experience in navigating the intricacies of developments like this. Mr. Leroy is available to address any questions that might arise regarding the legal aspects of our proposal and I will remain available to answer questions also.

Seal: Okay. Sir, we will need your name and address for the record, please.

Leroy: Mr. Chairman, Members of the Commission, Council, Madam Clerk, distinguished staff, I'm David Leroy, Attorney at Law, P.O. Box 193, Boise. Pleased to work with Mussell Construction in this matter. I would make just five brief points and ask for your approval. Number one, as far as I'm able to determine there seem to be no significant legal issues here. Your staff has gone very carefully through and I have tried to cross-check the applicable ordinances and their recommendation of approval with the conditions, so it seems to be fully satisfied and consistent with the Meridian city ordinances. Secondly, it's -- I think if you listen carefully to the description of this particular charter school, a very valuable community asset if it comes to fruition as proposed -- the West Ada School District had to approve the charter for this public school and I think in so doing, as it did, it could envision very precisely and significantly how this kind of school can help reintegrate those who have fallen away from traditional education right back into the system. The school itself is one that the construction company had done in Nampa and the Pathway school there is very successful in terms of targeting these children that need an extra oomph, a little bit of tutoring and the tutoring model that Kent described and bringing them back into the system or allowing them to go forward and get their G.E.D. So, in terms of being a community asset, this is a very useful thing that I think will complement the existing educational structure in Meridian. The third point is that Mussell Construction -- that school under their belt, particularly, is a very can do-will do organization. We have -- they have established a good working relationship with your staff and Ms. Allen and I would expect that to continue as we address the one or two other things that still remain outstanding in terms of presentation to the Council. My fourth point would be -- I believe this to be a very proper evolution of Ustick. The south side is insulated in terms of all of the neighborhoods that face back in there and do not face the road itself. The one or two large pre-existing residences and acreages are on -- between Locust Grove and Meridian Road in this area are eminently appropriate for the office development and this particular site is 1,900 feet east of Locust Grove, about 3,000 feet west of Meridian Road and so will have no impact or problem in terms of turning traffic or other kinds of issues where that five lane roadway, with the fifth lane being the turning lane in the middle, can easily move traffic in and out both directions from and to this particular location. My last point would be that unlike a lot of applications of this nature, there was no significant neighborhood objection or conflict here. Can't describe to you the one neighbor across the street who has a large acreage, who would vigorously prefer not to have any development other than the exigent circumstances there, but in terms of the neighbors that immediately bordered the property we have been very successful in working with them precisely and directly in terms of landscaping and the fencing that will be desirable and significantly your staff has suggested that we stub off of that parking lot the possibility of the next acreage over becoming commercial, as well as it no doubt will be at some point in time. Accordingly, I would suggest that this is a company that is sensitive and eager to work with you, but it is proper evolution of Ustick Road and that the neighborhood is -- generally are more supportive of this particular development than is often the case in these matters. We do still have to work with ACHD, but we expect approval there. We do, as Ms. Allen has said, still need to refine the landscape plan a titch before we appear before the Council, but we would ask you to adopt the staff report and to recommend approval to the Council. Thank you.

Seal: Thank you, sir. Commissioners, do we have any questions for the applicant or staff?

Leroy: Thank you, Mr. Chairman.

Seal: Thank you. Commissioner Grace, go ahead.

Grade: Mr. Chairman. For the applicant, I have a couple, so bear with me if you would. Just -- I heard your -- your -- your comments about the discussion with neighbors over the fencing and which is great. Did you -- I don't know if you -- you mentioned -- were they okay with what you proposed?

Mussell: Yeah. Initially they --

Seal: If you could step forward. Thank you.

Mussell: Initially they had asked if we would put in a CMU wall and that was, you know, a step that would be difficult for us to accommodate and so I proposed the alternative fence. I showed that exact picture that was on -- that's on the slides here and I think the exact phrase I received from the -- from the neighbors was, oh, if you do that we would be fine, so --

Grace: Okay. Thank you. So, I am wondering if you could speak just a little bit to the -- I guess maybe the potential that the school could -- I don't know if phase out is the right word, phrase, but I have -- I have maybe read about or heard about charter schools having a great energy and interests when they are first founded and, then, the potential that they might -- you know, the folks that are involved with children in the school and the students, you know, those students matriculate out and, then, the energy sort of fizzles out and I'm wondering if you have a comment about that. It does seem like a unique type of student, so I'm hoping that might not happen.

Mussell: Can you clarify what -- so, are you -- are you worrying about like the longevity of the institution?

Grace: Yeah.

Mussell: So, we do actually have two representatives from the school here and they might be able to speak better to those -- those worries, but I will say one thing about it. So, the Pathways model for the schools that they have is traditionally to lease their facilities. So, we will -- in addition to being the developer will be the owner of the project indefinitely. So, if something like that were to happen, the zone would be limited office zone and it suits itself well for like a law office or something like that. It would be probably even lower impact than the students.

Grace: Okay. And, then, did the students -- you said that they -- there is the potential they have -- might have some mental health issues and they are -- and they are maybe

trying to find their way back into traditional schooling. Are there any criminal issues with the students?

Mussell: That's something I wouldn't be able to speak to. Really, this -- the model of the school, as I understand it, is to help students who need to get caught up on credits and whatever students would need that kind of support.

Grace: Yeah.

Mussell: But from what I understand there is a misconception about what kind of student that is. It's largely minor issues, like -- like I mentioned, ADHD, depression, anxiety.

Grace: And I -- and I just want you to know I think that's a great -- a very admirable, you know, approach to this and I appreciate that. Just a final question, Mr. Chairman, if I might. So, can people -- can they back out on the -- those that might be parked on the west side of that parking lot? And I understand you said that would be staff, which is -- which is good. Can they back out if the spaces are diagonal? I'm just worried about the potential of people backing up into Ustick Road.

Mussell: We think the staff's recommendation to change into 90 degree parking was a really good recommendation for that exact reason. So, now that wouldn't be an issue with the exact version of stuff.

Grace: Okay. So, I got that wrong. It's actually 90 degree parking?

Mussell: It originally proposed diagonal and, then, staff recommended that we change that.

Grace: Okay. Okay. Thanks, Mr. Chairman. Thank you.

Seal: My questions are going to be more probably centered around selection process and kind of the mechanics of the school itself. So, if there is somebody that can represent that.

Mussell: Leslie is on her way.

Seal: Good evening and we will need your name and address for the record, too, please.

Lehnertz: My name is Leslie Lehnertz and I live in 2118 North Simerly Avenue here in Meridian.

Seal: Okay. I just have questions on my -- I have children that have went to charter schools and -- and just want to know what the selection criteria is and if there -- are there any costs associated with the school or anything along those lines?

Lehnertz: No, we do not have any costs and we don't really have a selection process. So, I'm going to go back and answer your question. We have been going pretty strong since -- for about seven years in Nampa and we are full. We take kids from all walks of life. We have kids who definitely need help, that have fallen behind, but we also have true freshmen that come in who just want to work from home, because of things like -- a lot of anxiety lately. So, anxiety, depression, things like that. But, yeah, we take any kid.

Seal: There is no -- so, when you say you're full, I guess that's when -- like a selection process comes into --

Lehnertz: There is a wait list.

Seal: Have a wait list?

Lehnertz: Yes.

Seal: Okay.

Lehnertz: And for select -- our school in Nampa, Nampa kids get our first -- our first slots and so anybody who is in Nampa gets our first slots there. Here it's going to be the same. So, anybody in Meridian would get first -- first dibs for any of our slots.

Seal: Okay. That answers my questions. Commissioners, anymore questions for the applicant or anyone in general? No? All right. Thank you very much. Appreciate your time.

Lehnertz: Thank you so much.

Seal: Madam Clerk, do we have anybody signed up to testify?

Lomeli: Yes. Steve Swann.

Seal: Good evening, sir. I need your name and address for the record, please.

Swann: Steve and Tawny Swann at 1042 East Ustick Road in Meridian. Mr. Chairman, Planning and Zoning Commissioners, staff, thanks for letting me talk tonight. We were gone on the first meeting. So, this is our first opportunity to speak about this and it looks like we have a lot of people that are really for this in the audience. We live directly across the street from where the school is going to go and contrary to Mr. Leroy's comment about traffic, it's a five lane road and there is a center turn lane. Two times a day, Monday through Friday, we won't be able to make a left-hand turn if there is people in that center lane trying to turn in and out of the school. So, it will stack cars and it will stack people, it will be at best a bigger inconvenience than we already have. You have seen what Ustick traffic looks like for left turns now. It will -- it's just more -- more of that. It looks like there is a lot of concessions in trying to cram a lot into a small space

there. This is the only place in that entire mile that is not going to be residential and I'm wondering -- turning another street into something that's got more commercial impact than it does where we have none now, I question the wisdom of that. It's interesting. I was just reading off of this card. It says a permit for an education institution that takes access from an arterial street without the safe separate pedestrian and bikeway access between the neighborhood and school site -- it looks to me like, you know, there is some -- there is some interesting comments here that, you know, kind of allude to the fact that this site doesn't really fit the proper criteria and Ustick Road -- it's about a 40 mile an hour speed limit there and a lot of people don't do that. It's not a very safe street. It's not a very safe street for anybody and that's the only sidewalk in and out of the school. I would question the safety for the kids with that, too, certainly. See what else I have here to show up for me. You know, I guess in summary I would guess that if anybody lives where we are -- we are right across the street there. We are the road that's setback -- or the house that's setback there. I don't think anybody in this room would trade places with us and find this an acceptable alternative to have across the street from us. It's going to be inconvenient at the very least and it is going to add traffic and it's changing a residential neighborhood into something that I never saw it being attended. We have lived there almost 30 years and use to have horses and colts next door to us and open irrigation ditches and the changes we have seen that are -- are really profound and this is going to be another iteration to that change and I really questioned the wisdom of that. Thank you for your time, Mr. Commissioner.

Seal: Thank you. Appreciate your testimony. Madam Clerk.

Lomeli: Yes. Calvin Tabor.

Seal: Good evening, sir. Just need your name and address first, please.

Tabor: Name is Calvin Tabor. 28277 Country Lane, Caldwell, Idaho. I'm the construction manager for Mussell Construction. I did the work on the Pathway school in Nampa and that was an old grocery store in a strip mall that it didn't seem to impact any traffic at all with -- that used be a grocery store, but it's in a strip mall. There is no -- there is no playground. Kids go there, they get tutored and they leave. So, as far as the traffic goes, it seems to be a very low impact and also, if I believe correctly, the schools are going to have police. I think that -- if I can remember right. Now, I'm not the -- I'm not the top manager of the money, but I think it's like a ten year lease. So, it's not like it's going to be something that goes away. But I have been to that school. I mean I didn't go there, but I saw kids that go there and they seem very devoted to their education, because it is a one-on-one. That's -- I just wanted to say I don't think there is an impact and the long-termness of it -- like this school is full. I don't think it's like a -- it's going to be successful.

Seal: Okay. Thank you very much. Appreciate that. Thank you. Madam Clerk.

Lomeli: We do have a Nancy Wilson that signed up online. I don't know if she's here now for this hearing. I don't see anyone on Zoom.

Seal: Is there a Nancy Wilson? No? Okay. Is that everybody? All right. Is there anybody else in the crowd that would like to come up and testify? Just raise your hand and come up. Seeing nobody. Okay. That's okay. Come on up. That's why we are here to hear from you.

Hajjar: My name is Naomi Hajjar. I live at 940 East Stormy Drive, which is located in the neighborhood directly behind where this is going to go in. I am concerned about the traffic that it's going to cause. On this slide that the builder presented it says 30 to 40 students for each session over three sessions. So, that's about 120 extra people in that little area that would normally just have a residential family in and out and the builder also mentioned that about half of the students are dropped off, so that's, then, twice they are going in and out. So, that is going to have a big impact on an area that is already -- I would agree with the gentleman that spoke earlier -- is seeing a big impact of traffic. I also agree with him that it is a residential area and I have spoken to several of my neighbors in the area and they are concerned as well. So, that's all I have to say. Thank you.

Seal: Thank you very much. Appreciate that. Is there anybody else that would like to come up and testify? All right. Going once. Going twice. Oh, I was going to -- the applicant. I will call you -- I will call you back up regardless. So, come on -- come on up, though. It's your -- it's your turn again.

Mussell: I just wanted to address some of the things that were brought up. I also had noticed that the agenda statements -- you know, the way that it was worded. So, I asked Sonya about that and Sonya helped to clarify. The wording -- I can't remember what it says exactly, but from what I understand the use is a permitted use, unless the -- unless you are missing this feature, that you don't have a dedicated bike and pedestrian access through an adjacent neighborhood and so that's the reason why we need the conditional use permit as this is coming from -- and that's the reason for the wording. So, I just want to kind of like point that out. There is not like a questioning of the adequacy of our proposal. I will say path -- if -- if Pathways has to go somewhere else they are going to be right back here with a very similar application; right? Because they have been approved for this charter from West Ada School District and they need to be open by August and this is the kind of model that they have. I mean they need to be close to where the students are and it's not very likely that we are going to find a site that has this feature of having dedicated pedestrian access through a neighborhood; right? They are traditionally renting -- from like Calvin had mentioned, strip malls is what's -- the kind of thing that they have done in the past. So, one way or two we have got to find a spot for Pathways to go and this seems like a really good area for them to be, given that they are there to serve the students in Meridian. The other -- the other thing that was mentioned was the 30 to 40 students and I want to reiterate that that is the maximum capacity of the school. So, I think Leslie can correct me if I'm wrong, but I -- the anticipated enrollment is 20 students to start and we aren't expecting it to go above 30 in the near term.

Seal: Got a couple more questions. And this -- staff maybe will answer that one. What is the maximum -- maximum occupancy that we can have as far as student enrollment?

Allen: Forty.

Seal: Forty? Okay. Thanks for that clarification on that. Commissioners, do we have any -- Commissioner Grace, go ahead.

Grace: Mr. Chairman. Sorry. So, just to clarify -- because the testimony made me -- made me a little confused on this point. Approximately -- so, the maximum capacity is 40. Approximately 30 students will be there at -- at one time. Does that mean that -- when you said there is 20, there is -- right now there is 20 total students. Is that what your testimony is?

Mussell: May I ask for clarification from Leslie? Do you have these numbers?

Lehnertz: Right now we don't have any students, but how our school runs is we have students that come twice a week, so they have appointments on Mondays and Wednesdays or Tuesdays and Thursdays and they come for approximately -- in this particular location about an hour and a half. So, there isn't that big crossover of traffic when people are leaving and people are coming. So, our hopes -- we are going to have four teachers to begin -- is that we will have 20 students per each session, which would be 60 students a day to start. We would never go over -- I believe 40 students per session. But it will take quite a while for us to even get up to that enrollment. Our maximum capacity of students is between 250 and 300.

Grace: Okay. Okay.

Seal: Now many sessions per day?

Lehnertz: There is three per day. 8:00 to 9:30. 10:00 to 11:30 and, then, 1:00 until about 2:30 or 3:00.

Seal: Go ahead.

Grace: So, Ms. Lehnertz, thank you. And so throughout the day, then, there will be people coming in and leaving at different intervals?

Lehnertz: Yes.

Grace: And no more than 30 -- 20 to 30?

Lehnertz: Well, in the beginning it's going to be really light. I mean we have to build our enrollment. Yes.

Grace: Okay. All right. Thank you for that clarification. I don't think I was appreciating that.

Lehnertz: Absolutely.

Seal: Thank you very much.

Mussell: One thing I wanted to reiterate about that is that the duration of the students on campus is -- it depends on how much they intend to accomplish. So, the bare minimum is that they come and they take their tests and not every student is there to receive instruction and to take their tests. So, there is a -- there is a -- an interval between them. You know, that fastest student who comes gets their testing done in 45 minutes and leaves and, then, the student who comes -- does their testing, sticks around for tutoring for the full session duration and so that's an important consideration also. The students aren't all leaving at exactly the same time.

Seal: Okay. Commissioners, do we have any more questions, concerns?

Wheeler: Mr. Chair?

Seal: Commissioner Wheeler, go ahead.

Wheeler: I have a couple of questions here, Kent. So, if I'm looking at the plans correctly that were submitted, it looks like the -- the access is on the rear of the building; is that correct?

Mussell: That's correct.

Wheeler: And so I'm looking at traffic flow here. So, obviously, it comes in from Ustick, right or left turn in. They are going to come around and, then, this turnaround area -- it looks like it would have to be like a wide turn, pull in, back out and, then, go forward; is that correct? It's not -- it's not going to be big enough for like a circle?

Mussell: That turnaround area is there primarily because it was a recommendation from -- from staff. The -- the actual traffic flow pattern that we anticipate is that the students will -- well, for students who are driving themselves, which is close to 50 percent, are going to come and park and, then, walk into the building. The students who are being dropped off -- but, first, we are talking ten -- ten students per session. They will be dropped off at the front doors in the dedicated drop-off spaces that are there. That turnaround space is there in case the parking lot is at capacity. It just -- it just ensures that nobody's ever trapped in the parking lot, but it's not really anticipated that it's going to be needed on a regular basis.

Wheeler: Okay.

Seal: Anything further? I can see the wheels -- I can see the wheels turning.

Wheeler: Yeah. Yeah. It's just -- it's -- it's -- it's a drop off that's going to be happening to -- where it's not circled through; right? It's going to be a pull in -- it's going to be a Y exit; right? Pull in, pull out, and, then, drive through on that and I'm wondering how that's -- the traffic flow, just vehicular -- I'm just putting that in my head, so --

Mussell: Mr. Mayor. So, we have quite a long drive aisle. It's 165 feet long and this provides for the students to be dropped off and, basically, at the front door. And like I just want to reiterate that it is a small number of students. Approximately ten -- ten cars at this stage and then -- yeah. That's -- that's the way that we have addressed the issue is to provide these dedicated drop-off spaces.

Wheeler: Okay. And, then, it looks like there is about a half an hour break in between the sessions; is that correct?

Mussell: That's what Leslie just -- just told us.

Wheeler: Okay.

Mussell: In the traffic study we -- because originally we had it -- we had just listed the kind of general times as -- as 8:00 to 10:00, 10:00 to noon. And they were concerned about that. So, I brought this to Pathway's attention to ask if they were able to modify their -- their workings and they had said at that time that a 15 minute gap would work and it sounds like that's increasing to 30 minutes based on what Leslie has told us now.

Wheeler: Okay. So, it's not like something's getting done. New ones are starting at the exact same time. There is going to be some space in there timewise to help out with some of the circulation.

Mussell: Exactly. And that -- that actually came from -- like we did receive some requests for clarification from ACHD and that was one of the things they wanted us to clarify in our traffic study.

Wheeler: Thank you.

Seal: Commissioners, any further questions?

Smith: Mr. Chair?

Seal: Go right ahead, Commissioner Smith.

Smith: Yeah. So, I know there was discussion that there is -- there is not pedestrian or bicycle connectivity through the neighborhood, but I do believe there -- I guess a question for staff and, then, a follow-up question for the applicant. I do believe there is pedestrian pathway along Ustick there. Am I right in that understanding?

Mussell: Yeah. There is -- there is a sidewalk on Ustick --

Smith: Okay.

Mussell: -- and a bike lane.

Smith: So, then, follow-up question, I guess, in terms of -- and this might be a question for the Pathways representative, but just curious about composition from students. We have heard about, you know, students driving, dropping off. Is there generally a rough estimate for a number of students that maybe who are close enough to bike or to walk or things like that?

Mussell: Yeah. I had asked this question -- actually just yesterday. The answer I received was that 50 -- about 50 percent of the students are being dropped off. Ten percent are either biking or walking and I just inferred from that may be 40 percent are -- are driving themselves, but they did want to reiterate that it's actually very commonplace amongst students to carpool together.

Smith: Thank you. That's all, Mr. Chair.

Seal: Anything else from our other Commissioners? Anything further from the applicant?

Mussell: Thank you very much.

Seal: All right. Thank you very much. I appreciate it. All right. And with that I will take a motion to close File No. H -- sorry. I will take a motion to close the public hearing for File No. H-2023-0061.

Wheeler: Second -- oh. So moved. Sorry.

Grace: Second.

Seal: It's been moved and seconded to close the public hearing for File No. H-2023-0061. All in favor, please, say aye. Opposed nay? The public hearing is closed.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Seal: Who wants to go first?

Grace: Um --

Seal: Commissioner Grace, go ahead.

Grace: Mr. Chairman, I will take a shot at putting my thoughts on the record. I guess I'm having a little bit of trouble with this one. First, I should say I do -- I do really applaud the effort to try to provide services to maybe different kinds of students. So, I don't want my comments to be taken any other way than it's a great endeavor I think. I really -- I really do. It's a tight space, so -- and so that's what I'm struggling with. I'm

also struggling a little bit with the fact that there -- the traffic study hasn't been completed and I know that -- I think the -- the indication is that it would be done before City Council, but I -- you know, it would be nice for us to see it and I was thankful for some of the testimony, because I wasn't appreciating the potential. I know that right now there is not a lot of students, but the potential for how many students that could be and how many trips in and out of that area that could be. I know that the L-O designation is allowed, but I suppose it's probably not ideal for something that's medium density. So, I -- you know, I'm not opposed necessarily. I -- the way I feel is I'm just having a hard time, because I do think City Council looks to us to review these and they care what we think and they give some deference to what we think. I'm just having a hard time recommending to them that they should approve this and, again, that is not to say that I'm opposed to it necessarily, I'm just struggling with it and maybe -- maybe the traffic study would help in that regard. So, those are my thoughts off the top.

Seal: I will jump in here. I will kind of be straightforward with it. And, Commissioner Grace, I'm with -- with you a hundred percent. I -- again, I have two children that -- one is attending and one has attended very successfully charter schools. So, I see the need for them. I love the idea behind this where it gives an alternative to students that sometimes really don't have any other alternatives. So, as far as that's concerned I hoped that -- no matter the outcome of this application I hope that we have something like that in our community. That said, I just don't think it fits here to me perfectly -- I mean just -- that's as plain as I can -- as I can state it, so -- I mean the idea is you want to operate at full capacity, but, you know, 250 kids, even over the course of a full day, trying to get in and out of here and making all of that work in such a tight space and traversing the entire thing to get people in and out to drop off, even with the -- you know, the gap in between sessions is -- that's a really hard sell for me. So, I just -- I don't -- I just don't think it's going to work here very well, so -- I also realize -- careful what your wish for, you know, and this is kind of to the folks that are concerned about traffic as well. It doesn't mean you are going to get something in here you like, so -- I mean there is plenty of things that have went in that people have argued and, then, it gets denied and, then, the next thing that comes in they are even more opposed to and it succeeds, so -- I mean it sounds like this -- this parcel is going to develop into something. So, you know, quite possibly not residential. But personally -- and, again, I share the same sentiment, we don't have the -- we don't have the traffic -- traffic study information and everything and, really, all this comes down to in my mind is -- is the traffic going to work? I personally don't think it is, but I'm not a traffic engineer and I don't have a report from ACHD or anybody else to tell me otherwise, so -- I don't know. In the past we have continued items in order to get that piece of information in before it goes to City Council, so we can make a more informed decision. You know, that is one of the options before us tonight. You know. I mean if -- if that's something that people want to entertain, you know, if we start going down the path of recommending denial, we can also recommend a continuance to understand that is an option.

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: Does staff know or does the applicant know when the traffic study from ACHD would be available? Are we talking days, weeks, or months?

Seal: Go ahead, Sonya.

Allen: Mr. Chair, Commissioner Lorcher, ACHD does have the study. They are reviewing it right now and they do anticipate having comments back to us prior to the City Council hearing. I do not have a date.

Seal: Okay.

Smith: Mr. Chair?

Seal: Go ahead, Commissioner Smith.

Smith: I think I'm slightly falling on the opposite side of this discussion. Not that I am gung ho for this right out the gate and, then, send this to the City Council, but in the same way that there is maybe some discomfort about recommending it currently, I'm, honestly, a little uncomfortable recommending a denial currently. Just thinking -- kind of doing some math. With this being, you know, in the future land use map is medium density residential -- correct me if I'm wrong, staff, I think doing some mental math, that's somewhere around six to eight houses could be in this area on the -- or dwellings on this acreage, if I'm not misunderstanding something. If we are talking about -- is it eight?

Seal: Three to eight.

Smith: Three to eight. Thank you. So, on the angle of being careful what you wish for, I think that kind of comes both for I think the neighbors, but also for us as a Commission. Like the applicant said, this -- this is going to need to go somewhere and to be frank, when I look at this parcel of land on Ustick on a major road, I don't know that it makes a ton of sense for it to be kind of a lower density object -- or lower density development, near the low end of that three to eight. And I also don't know -- I can't -- again, I'm not saying this isn't necessarily what's before us tonight, but just in context I don't know anywhere else -- and I kind of struggling to think for other areas in -- in Meridian that are necessarily a better location for this. And so, again, I'm not saying that, therefore, we must pass this or we must recommend this to City Council, but I'm just not comfortable denying it based on kind of some -- some general concerns absent traffic studies. So, I personally would probably be most in favor of continuing this -- I don't know if that is to the next meeting or the following one, but that's just kind of where I'm landing at the moment.

Seal: Okay. Thank you. Commissioner Wheeler, do you have something or -- go right ahead.

Wheeler: My biggest thing, as you kind of heard with some of the questioning that had to do with the traffic on this. I was looking at the maximum capacity that something could have, even though it will be starting off a little bit smaller, just like with restaurants, as a kind of build up and everything and I'm just -- I'm just struggling that when it's -- when it's coming together what that traffic is going to look like on that -- on that south end, cars going just in and out and the flow and I'm really glad that there is like a half an hour break, so it's not doubled up with the students coming in and out. It's -- for me it's just the traffic flow is really tough to -- to get behind on my side of things, even though probably only ten vehicles would be in there and you have space for -- it looks like about 35 or so. That's where -- that's where I'm -- it has nothing to do on the educational side and, in fact, that's needed and I -- and I support that and I have encouraged that in other ways. I just -- and when it comes down to traffic on Ustick, just, you know, having a difficult time moving and getting in and out. Welcome to Boise. You know, welcome to Meridian. Welcome to the Treasure Valley. It's just -- we are growing and everything is happening and traffic is just going to get worse. It's just what it is. But for me it's just the internal traffic flow makes it -- makes it tough. Makes it really tough for me to -- to say that this is the best use on -- or a good use on this property.

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: I have a question for -- I'm not sure if it's for staff -- or staff or counsel necessarily. Is it possible and -- or I guess possible and/or could it be prudent to create more of a limited cap on this, you know, so there is not as much of a concern of down the line this becoming, you know, 40, which is the, you know, legal max capacity right now. Would it be possible to maybe create a specific -- a site specific capacity of 30 -- and I'm not saying necessarily that might -- that's preferable for the applicant, but just spit balling ideas here.

Allen: Mr. Chair, would you like me to address that.

Seal: Absolutely. Because I don't want to.

Allen: Commissioners, Commissioner Smith, yes, this is a conditional use permit. You may place conditions on it and that could include reducing the number of students served by the school.

Seal: Yeah. I will -- I mean, to be honest, I kind of want to comment on that. I would rather see this developed in a place where you could have 500 students or, you know, as many students as you needed to accommodate in the future, instead of trying to fit, you know, a boundary around such a tight space. So, again, I just -- to kind of come back to -- it's a really tight space. There are going to be traffic issues with this, like anything that you put in there. So, I mean if you put a dentist office in there that, you know, is -- is going to have more traffic flow, but, you know, better separation of the traffic, you are still going to have traffic problems, because people are going to want to

take a left turn and go out on Ustick. So, that's -- you know, we can't eliminate people taking left turns, unless you are on Eagle Road, and so -- but, you know, I just -- I really struggle with this internally, because, you know, everything is me, as a resident of Meridian, Idaho, is screaming let them put this thing in here, but, you know, in the role that I have on the Commission I just don't see this fitting here very well. I see -- I see problems developing from it, so -- and that's part of our charge here is to make sure that we are, you know, helping to filter some of that through as it makes its way to City Council. So, personally, I would rather see the traffic report come in from ACHD. I don't know that it's going to make a difference in my opinion, but that's -- that's -- you know, I can't make motions, but if I were to make a motion I would move -- I would want to continue it personally until we have that information available, so -- and I don't -- Bill, if you want to comment on that or I just --

Parsons: Yeah. Mr. Chair, Members of the Commission, I think all the points are valid for the discussion today. You are right, we get -- we get one chance to get it right. Right? Right annexation. There is a couple things to really consider here. One, although a conditional use you have the ability to cap the number of enrollment there, it's going to be very difficult to enforce. So, I would -- I would recommend you steer away from things like that, because I don't want to be counting students out on the street, especially on Ustick with the traffic. So, let's not do that -- it would be my recommendation. Two, we have to realize that subdivisions developed around this and we failed to get adequate stubs streets reached to it. So, now we are left with an existing environment, existing condition, on a roadway. Three, we have a comp plan that allows for this to have some limited commercial uses on it and we have deemed that this is such -- one of those uses. So, you look at all those. The other thing is we have been coordinating with ACHD, yes. We don't have the science behind it to look at the study and analyze it, but I know we have reached out to ACHD to get their comments on it, just to make sure we are on solid ground as we bring forward our recommendation and, again, give the applicant time to move forward through the hearing process. But, essentially, their major concern was traffic stacking out onto Ustick and that's why Sonya and I had recommended that they revise their site plan and reorient that parking, because the angled parking created -- from my opinion a significant impact as to how traffic was going to flow in and out of the site and so seeing the revised site plan I think they have addressed some of the -- some of the concern. Now, we all know parents are going to drop kids off at certain -- you can say you have classes from 8:30 to 9:00 -- or 10:30. Parents are going to drop kids off early and at different times. I can't control it. None of us can truly control that. It's just -- that's how schools operate. We all had children. We all take kids to school. We understand the flow. But, anyways, I just wanted to give you some of that context that what you have here -- it is consistent with the comp plan, as long as Council grants that. Again, everything that we are discussing tonight does recommend Council's approval. So, again, as far as the traffic study, I'm not sure it's going to change your opinion of how this is going to work or not, but certainly it's within your purview to do that.

Rivera: Mr. Chairman?

Seal: Was that Commissioner Smith?

Rivera: It's Commissioner Rivera.

Seal: Oh, Commissioner Rivera. Go ahead. Sorry. You two sound alike.

Rivera: So, I just wanted to -- I concur with Commissioner Smith's comments earlier. With the growth -- and Ustick is just getting more and more traffic. There is more and more commercial on both sides of that as the growth continues. With the comp plan and, then, the future of what's working in here, I'm familiar with this -- with this charter school in Nampa and it's been a blessing out there. I think it would be great here for our city, as opposed to, you know -- like it's -- like what was stated earlier, something else is going to go in there, it's going to still cause that traffic. We don't want to see another carwash going there, too, which -- or anything like that, but I think this is as good as it gets for this. I just -- I support this is where I'm leaning or -- or either continuation or support of this project.

Seal: Okay.

Lorcher: Commissioner Seal?

Seal: Commissioner Lorcher, go ahead.

Lorcher: I like the fact that this is not anywhere near Fairview or Eagle Road. I like the fact that this is equally distant, give or take, between Meridian High School, Owyhee High School and Rocky Mountain High School. I think we are overestimating the time that these kids are going to be spending at this facility. Like Commissioner Rivera said, it's a blessing. It's an alternative school for kids to be able to come in, take a test, get a little tutoring and move on. They are only high school students. We are not talking about little ones. We are not talking about middle schoolers. It really just is an alternative way for them to be able to finish their education in a meaningful way. It's an in-fill project, like you have mentioned in the past they are always challenging and it could be ten times worse for the next applicant to come through. The adjustments they have made for their drive aisles to be able to drop off and pick up, the time they are not doing exact rush hour traffic. Ustick Road is going to be busy, because it's an alternative to Fairview and Chinden or McMillan and no matter what you put here there is going to be additional traffic, whether they are apartment houses or more homes, those people go in three or four times a day with two or three cars. I mean it's all going to be about the same and for this service to be at this point away from Eagle, away from Fairview, away from Overland, you know, right here kind of in the park where things are a little bit more quiet, I think will be a benefit to our community.

Seal: Commissioner Wheeler.

Wheeler: Mr. Chair, so it sounds like it's kind of split or kind of in the middle or teetering who knows where. Would it just -- would -- with what our fellow -- or would my fellow

Commissioners be fine with just doing a motion to continue to wait for the traffic study to come in and just let this marinate?

Grace: Mr. Chairman and Commissioner Wheeler, that -- that's a good segue into what I was going to say, which is, you know, we can continue it. I'm not sure in my -- I'm not opposed to continuing it. So, let me just say that. I'm not opposed to it. I'm not sure it ultimately would change my mind, because this to me is about a fit for that area, but I'm -- I'm willing to -- a lot of good comments were made about what else could go in there. Traffic is going to be increased regardless. You know, one of the things that comes to my mind is -- the reality is is you have got high school auto driving -- car driving each people and there is going to be -- there is going to be traffic. There is -- I know that the expectation may be that a lot of -- a lot of the students might get dropped off, but the reality is they are old enough to drive cars in high school and I think that's what concerns me the most about left turns on Ustick right there, is that they are -- they are not seasoned experienced drivers. So, with that said I'm not opposed to that, Commissioner Wheeler. I am willing to keep an open mind and see what the traffic study has to say and I will just leave it at that, that I'm willing to do that.

Rivera: Commissioner --

Seal: Commissioner Rivera, go ahead.

Rivera: Yeah. I just want to say, too, that I think one of these -- why I also am positive that -- and to answer that is that you take -- is -- is that particular area of Ustick is five -- five lanes, where if it was just like two or -- you know, it's five with the middle, so I think that that -- that's a big plus in getting into this and I think we are going to -- like I agree, I think with the -- with the study, once it's done, that -- I don't know if it's going to change much, but I think that's a good thing having that. That's -- like Commissioner Lorcher said, the location and, then, having Ustick being more -- more wider than other streets that it supports this project.

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: I think one thing that we can also consider in terms of continuance is giving the applicant just a little bit more time with staff as well. I don't want to put words in Commissioner Wheeler's mouth, but it seemed like your concern might have been the -- one of your -- like larger concerns might have been with that turnaround space and with the flow there. I don't know if there is anything they can do, but potentially giving them an opportunity to coordinate with staff and see if there is something that they can tweak. If not we are asking them -- you know, at least give them some extra time before going to Council. I think there is some additional things there, not just with the traffic study, but it seems like there are -- there are some -- you know, we are kind of split down the middle and it seems like there is -- you know, I don't know if they are -- I don't know if the traffic study itself will change many opinions, but there could be some additional

tweaking or additional consideration on that by giving the applicant another ability to speak to maybe to how things have worked at other locations with similar -- you know, similar concerns about being near residential or being in kind of smaller locations. I think one thing that I'm trying to balance that Commissioner Lorcher spoke to is it's easy to hear, you know, 240 and visualize 240 people spilling out onto Ustick at the same time or even to hear 30 or 20 and try -- and kind of -- that's the image that is conjured and I'm really trying to -- to make myself understand that that's not necessarily what's happening here and I think just give me more time to address that and address those concerns and speak to that is also potentially in -- even if this -- if this does go through make it a better project or if it doesn't, you know, giving the applicant kind of the full opportunity to -- to kind of take the feedback and go back to the drawing board.

Starman: Mr. Chairman, just a couple of thoughts for --

Seal: Absolutely.

Starman: -- the Commission as a whole, I guess, in no particular order. So, one, why I think the Commission -- certainly it's in its right to continue the -- continue the -- reopen the hearing and continue it, consider the ACHD information in particular. The Local Land Use Planning Act specifically contemplates that this Commission will consider traffic -- it can be for public schools, public charter school is included, and it specifically talks about consulting with the local transportation board. So, I think you can definitely check that box in the sense that you have talked about traffic extensively tonight. We have sought input from ACHD, but not yet received it. So, I think we have complied with the letter of the law, but the spirit of the law is that we receive the input from ACHD, so that you can consider that. So, I think you are well within your right to continue the public hearing until you have that information. That's certainly what LUPA contemplates and you don't have that information today. That's thought number one. So, if you want to do that I think, you know, you would reopen the hearing, continue it, and my recommendation was that you put some limitations on, you know, for what purpose it's being continued. Maybe it's just for traffic or traffic plus internal circulate topics or circulation, things of that nature. That would be a thought. My second thought is that -- however is it you may want to invite -- maybe query the applicant to just -- and this is within the Chair's prerogative, you don't have to do this, but I heard the applicant mention that the intent -- or there is a requirement that they had to be operational by August of 2024 is what I think I heard. That seems awfully ambitious, even if you got a green light tonight and, then, subsequently went to Council and, then, had to build a building from scratch, that seems very ambitious. So, I'm guessing time is of the essence for them and they may prefer just to have the Commission thumb up, thumb down and let the Council make its decision. So, you may want to query the applicant to see if they would prefer just to have a yes or no vote and -- for time considerations. That's my second thought for you tonight. I think I will leave it at that and be happy to answer anything else you might have. I wanted to at least put those two things on the table.

Seal: Okay. Thank you. Always appreciate information. For sure, so -- and with that -- and I will basically kind of explain my -- my thought on the information from ACHD, is that is -- I try to act with all the information that we have available, so to me the information is not available, so I -- if the information comes through from ACHD -- and sometimes I really have to grit my teeth when they say that we are good to go, but if they say we are good to go, they own the streets. So, that -- that is -- they are the authority on that. So, that's something that I can appreciate and I can -- after getting that information it's something that, you know, it's easier to act on. Without the information, you know, we are just kind of guessing. You know, my guess is that it probably is going to impact traffic, you know, just because of the -- the way the traffic surges, so -- I mean you got 20 to 40 vehicles at a time that are going to be going at a time in and out. So, that alone tells you that, you know, traffic is going to stack, so -- you know, I mean that said, it's -- you know, I don't know what else can go in here and what the implications are of anything else and that's, you know, for another hearing, but personally I just -- I would -- I would appreciate seeing the ACHD report and having a continuation to do that. But it's not unheard of. We have done it before. We can reopen the public hearing, we can ask the applicant what their preference is, so -- some -- and like counsel alluded to, some people want to move it along, even with a recommendation of no in the essence of timing.

Wheeler: Mr. Chair?

Seal: Go ahead.

Wheeler: Can we go ahead and ask the applicant to come up and --

Seal: Yes.

Wheeler: -- just kind of get some of his input on some of the things we are discussing?

Seal: I will -- I will need a motion to reopen File No. H-2023-0061 for public comment.

Wheeler: Mr. Chair, I would like to make a motion.

Seal: Go ahead.

Wheeler: I would like to reopen the public hearing for File No. H-20230061 for -- for what would it --

Seal: The public hearing.

Wheeler: Just for the public hearing.

Seal: Do I have a second?

Lorcher: I will second.

Seal: Okay. Excuse me. Moved and seconded to reopen the public hearing for File No. H-2023-0061. All in favor, please, say aye. Any opposed? Motion passes.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Seal: Would the applicant like to come back up, please? And I think the question is -- well, first for clarification, when do you need to be operational?

Mussell: So, my understanding -- and I should confirm with Leslie.

Seal: Leslie, do you want to come on up?

Mussell: August is our deadline, but I do want to reiterate -- we built Idaho Arts Charter School in Nampa and we have built Mosaic public school in Caldwell and charter schools are kind of a thing that we have done a lot of and we traditionally do them in about 90 days. This is a tight time frame. That's true. We have a couple of things in our favor on this. One of those things is that -- because this is a public school the plan review needs to be completed by the state and so we are able to complete that in conjunction with our public hearings. That helps us to save some time. Continuing this would make our time constraints a little worse. I would prefer it be continued to the next -- the next public hearing that you guys have. I think that's two weeks from now. Did I get that right? What I would do in that two week time period is I would check with ACHD, because one of the challenges we have had with ACHD is that information they have given us prior to the time that we actually submitted our plans to them was a little bit misleading. They had told us at that time that they would not permit us to have a dedicated ingress and egress here. So, our preference would have been to -- for the vehicles to enter on the west side and to exit on the east side. I think that that is more of a possibility now than when I initially started the conversation with ACHD. So, during that two week period we would provide our site plan and try to get a recommendation on that revision and, then, we could come back here with both ACHD's report and that revised site plan that I think would help to address a lot of the concerns that are being raised.

Seal: Okay. Madam Clerk, how many -- how many applications do we have in the next meeting? Sorry, I don't -- I usually know that, but I haven't looked.

Allen: Mr. Chair?

Seal: Go ahead.

Allen: Can I comment on something while she's looking that up?

Seal: Absolutely.

Allen: So, I did discuss that ingress-egress option with ACHD and they -- they indicated that they were fine with either -- either option. The way it's currently proposed or with an

access on each side of the site. The issue with that planning wise is that it would require a very reduced buffer on the east side. So, if you guys would prefer either option, it might be good to state that.

Seal: Okay. Yeah. And I -- I can't speak for my fellow Commissioners, but in my mind that's -- I mean it's an option that I would like to see. To see what that looks like. I mean it could -- obviously, I think that would help with circulation, but, you know, if we have to make more exceptions to kind of squeeze this in here, then, that might not be favorable either, so -- Commissioner Grace, go ahead.

Grace: Mr. Chairman. Well, I will leave my editorial out. But what -- what is supposed to be -- so, to the east of that -- of this property is other commercial property and there was a -- there was a comment about potentially removing the fence when that gets developed. Is there some sort of shared driveway or ingress or egress that could be put there or --

Allen: Yes. Mr. Chair, Commissioners, the property directly to east is another property just like this one. It's a single family residential. It has no connectivity to the surrounding neighborhood. Just has access from Ustick Road. I did require them to put a cross-access driveway in, as you can see there on the site plan, to the east boundary with a cross-access easement to that property or if and when that property redeveloped with a nonresidential use or interconnectivity. So, it may not, but I can see it being another situation just like this where they might come in requesting an office zoning and use.

Smith: Mr. Chair?

Seal: Go right ahead, Commissioner Smith.

Smith: For just my awareness in terms of the recommendation to Council. If we were to vote -- and it seems like it might be a three-three vote, what are the -- what is the outcome of that? Does it still go to Council with it just being logged as kind of a standstill? Or what does that process look like? Because I'm also thinking if time is of the essence -- and this is a conversation that we have had, you know, I would prefer to kind of get -- do -- do an extra layer of discussion and deliberation on this. But in speaking to kind of what the -- what the applicant's thoughts are, you know, it could be maybe favorable to them also, assuming that we are -- you know, if this goes to Council with it just being three-three and not a clear recommendation, having that conversation about the difference between -- kind of a circular circulation or this kind of existing wide turn and that -- I was thinking about maybe what would be preferable for the applicant and kind of what that process would look like if we just ended up coming kind of at a standstill three-three.

Seal: I will ask the question of you.

Starman: Thank you, Mr. Chairman. So, my initial take on that is -- always reluctant to answer hypotheticals like that until the vote is cast, but a three-three vote does not pass a motion. So, I think there is -- if there is a three-three vote to either recommend approval of the Council or to recommend denial to the Council, a three-three vote will not be sufficient to pass either motion and you are likely going to have to wait until you have a tie breaking vote to take up the item. So, you may not get there tonight. If you end up three-three you may be continuing this regardless, because you probably can't break your tie and a three-three vote does not pass a motion.

Seal: Okay. I was fairly certain that was the answer. I just wanted to hear from you.

Smith: Thank you. Appreciate it.

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: Isn't there five of us voting tonight?

Seal: There are six of us.

Lorcher: Are you casting a vote?

Seal: I -- I can cast a vote, so that -- that myth has been dispelled.

Lorcher: Okay.

Seal: There was a -- in previous commissions the idea was like a council where the chair only breaks ties. So, that is not correct. So, chair also votes. I just can't make motions.

Grace: Mr. Chairman, it would be my recommendation to my fellow Commissioners that maybe we -- you know, I know -- I know you can pre -- pre-vote before you vote, but, you know, things could be different in two weeks and if -- if the -- if the applicant is willing -- and I know it's not ideal, you would like to get a decision sooner rather than later. You know, let's get the traffic study and see where we are on that and I hate to say this, but, honestly, you know, you don't know the makeup of the commission in two weeks either and so things could be different. So, yeah. So, at the -- at the -- you know, at the risk of -- of trying to push this along artificially -- if there is more discussion that's great and I'm happy to have it, but it sounds like maybe we are all sort of thinking let's -- let's see where we land and -- when we get the traffic study and maybe there could be some revisions to it that would -- that would change people's mind. That's my thoughts.

Seal: Madam Clerk, did you have the -- do you know how many hearings we have? I'm sorry. How many --

Lomeli: I'm counting four for February 1st.

Seal: Okay. And the reason I asked is because -- try not to stack too many in there, obviously. So, that said, if somebody is comfortable with it and we opened the public hearing in order to ask questions and also to do a continuance, I'm comfortable taking a motion at this point to do so, just to see where we land on the vote.

Smith: Mr. Chair, do we need to close the public hearing first I believe?

Seal: No. We keep it open for a continuance.

Smith: Oh. Oh. Well, I'm happy to --

Starman: So, Mr. Chairman and Commissioners, I guess I have answered the question just since you did. So, if there is a motion -- or one of the Commissioners intends to make a motion to continue it, you have to keep the public hearing open and make that motion and take action, however that vote may resound. If you're not -- if the Commission is not going that direction at that point it would be appropriate to close the hearing and take action tonight.

Seal: Thank you.

Wheeler: Mr. Chair?

Seal: Commissioner Wheeler, go ahead.

Wheeler: I would like to go ahead and make a motion then.

Seal: Feel free.

Wheeler: I move to continue File No. MCU -- no. Sorry.

Seal: One off.

Wheeler: I'm one off. Sorry. I move to continue File No. H-2023-0061 to the hearing date of -- would that be February 1st? Okay. To the hearing date of February 1st for the following reasons: To continue discussion concerning the ACHD traffic report, internal traffic circulation and parking and the implications that would have on landscape and buffers.

Smith: Second.

Seal: Okay. It's been moved and seconded to continue File No. H-2023-0061 to February 1st, 2024. All in favor say aye.

Starman: Mr. Chairman, I think -- I just want to make sure that the Commission understands what the vote is. So, my interpretation of the motion -- and the motion maker can confirm -- is that when you reconvene on the 1st, that public hearing will be limited to those topics that were identified by the maker of the motion and only those topics and when you take public testimony or application testimony it will be limited to those topics. I want to make sure the Commissioners knew what they were going to vote on here.

Seal: Okay. Appreciate that.

Grace: Can I ask a question, Mr. Chair? Does that limit the potential that other matters worth discussing could come up that we wouldn't be able to discuss related to this application?

Starman: Mr. Chairman and Commissioners, based on the motion that was made and if that's the motion that passes that would be my interpretation, is that the -- the public hearing would be continued for a very specific purpose and it's for those two specific purposes. Traffic, meaning Ustick and related facilities and internal circulation. So, if the Commission wants to leave more latitude -- or would like to have more latitude than the first, you certainly can do that also. But I would probably recommend that the maker of the motion and the second consider a little -- maybe a modification if that's your -- if that's your desire.

Grace: Mr. Chairman, I just don't want to preclude the applicant's ability to be flexible. I want us to be as flexible as they need to be in case they make any other modifications that we want to consider and might be, you know, in favor of or -- so, I would maybe just suggest -- I don't know. I don't even know what I would suggest, but that we leave that window open, I guess. I don't know how you say it in a motion, but --

Seal: Yeah. I mean historically what we have done is limit, so that, basically, we are limited in discussion, because we have already kind of hashed everything out. You know, folks that want to come in and -- and talk about anything else, then, generally that's -- that's not on the table to discuss, so -- I mean I think of everything that's been discussed, the -- the concern is, you know, we -- we would like to look at the traffic study. We would like to see what's going to happen with the internal circulation. So, I don't think that this precludes us from discussing anything that, you know, would happen in there as far as if the plan that we see changes to allow, you know, an in and out, not -- and -- sorry -- not an In-N-Out. We don't want one of those in here. Sorry. A different -- a different circulation pattern -- ooh, better watch that one. So, I don't think it would preclude that. So, I mean outside of them, you know, putting a helicopter landing pad on it or something to get students in and out. So, I just -- I think that -- I personally feel comfortable with the motion with the way that it's been presented.

Smith: Mr. Chair?

Seal: Go ahead, Commissioner Smith.

Smith: Just as a second -- I think -- and if Commissioner Wheeler can confirm it, I guess if -- if he wants to speak to this. I believe the motion was also -- on the second half, you know, the circulation and implications -- or something to the effect of the implications on the buffer and landscaping. So, I think that does also give us some flexibility if something arises coming from that change in the circulation pattern that isn't inherently related to traffic, my -- my understanding as a second was that it stems from that change in circulation that's also discussable, as we don't know what the plan is in front of -- that would be --

Seal: And that -- that's my understanding. I think -- Kurt, I will let you comment on that.

Starman: Yeah. Mr. Chairman, Commissioner Smith, I agree with that interpretation, that that's how I understood the motion as well and I think that's the correct description.

Seal: Okay. Thank you. Commissioner Wheeler?

Wheeler: That is the intent.

Seal: Okay. All right. So, we go back to it. We have a motion to continue File No. H-2023-00621 to the date of February 1st, 2024. All in favor, please, say aye. Any opposed? All right. Motion to continue passes. Thank you all very very much for listening to us this evening.

MOTION CARRIED: SIX AYES. ONE ABSENT.

Seal: So, thank you, Commissioners, and for the public input as well, so -- and with that -- oh. Go ahead.

Wheeler: I was going to --

Seal: I was going to say -- I was going to ask you to do the last motion of the evening. Commissioner Wheeler.

Wheeler: Mr. Chair, Commissioners, counsel, staff and Madam Clerk, it's been my pleasure. Move that we adjourn.

Grace: Second.

Seal: It's been moved and seconded that we adjourn. All in favor, please, say aye. Opposed nay? We are adjourned. Thanks, everyone.

MOTION CARRIED: SIX AYES. ONE ABSENT.

MEETING ADJOURNED AT 8:02 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS.)

APPROVED

ANDREW SEAL - CHAIRMAN

_____|_____|_____
DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK