

Public Hearing continued from January 16, 2025 Newkirk East (H-2024-0043) by Laren Bailey, Conger Group, located at in the SE 1/4 of the SW 1/4 of Section 10, Township 3N, Range 1W, parcel: S1210346850

- A. Request: Preliminary Plat for 95 single family lots on 10.08 acres of land zoned Traditional Neighborhood Residential (TN-R).
- B. Request: Development Agreement Modification to revise the concept plan to remove the 216 multi-family units and replace with 95 single-family attached homes.

Smith: And, then, last on the agenda I would like to open the public hearing for Item No. 6, Newkirk East, request for preliminary plat and development agreement modification. We will begin with the staff report.

Ritter: Good evening, Commissioners. So, tonight we are here before you for a development agreement modification and a preliminary plat. This is for a site that consists of ten acres of land. It's zone TN-R. It was -- there was a preliminary plat for this that was approved by City Council on April 25th, 2023, and it was 22.667 acres of land that was annexed in and zoned. The original plan included 63 building lots, 44 of those were single family attached homes, 18 townhomes and one multi-family development with 216 units. It had eight common lots. It was supposed to be developed in two phases. So, phase one has already been -- the final plat has been approved and it should be recorded here shortly. Already had the city's engineer signature and is at the county waiting to be recorded. So, what the applicant is proposing is for phase two, Newkirk East, is to remove the multi-family and provide 95 single family attached homes and I think seven of those will be townhomes with alley loaded and there were some things that occurred with this project that there was some issues or some waivers, but -- and working with the applicant we kind of got all these things worked out, but the Kennedy Lateral is on the northeast side of the property, which is not annexed into the city at this time and there is an out layer parcel that is not contiguous to this plat. It was part of the original preliminary plat, but it is not part of it this time around. The Kennedy Lateral portion is owned by the Nampa-Meridian Irrigation District and so this parcel that is bisected is owned by the developer, but it cannot be part of this plat because of the parcel -- the Kennedy Lateral parcel that has not been annexed, so it's not contiguous. And that is compliment -- we received confirmation from the county on that. And, then, although with the reduction of the number of units the Ten Mile Area Plan requires a target group of 12 units per acre, but the TN-R requires six units per acre. The applicant meets the TN-R requirements, but as you can see from this table not too many of the developments around this meet that requirement. So, we are okay with them having the density that they have for this development. So, staff is -- staff has no issues with that. Another thing that we had with this project is that a couple of the block lengths were exceeded and we have been working with the applicant. They have found a way to reduce this to meet the maximum 500 feet length in the TN-R district. It is a maximum of 500. They would have to get an acceptance from the City Council. So, they will be able to meet this -- the requirement on here. But

this one they will be asking for an acceptance from the City Council for this one, because of the terrain here and staff did put in -- in our staff report Condition No. 3. We asked for some open space, pedestrian connection through here, but based on the terrain there are like four feet retaining walls along here and, then, the grade difference for some of the homes that will be there that's impossible, so staff has no issue with removing that condition, because they will be asking for an acceptance from the City Council. And another thing that we had were through streets, double block frontage, Lots 2 through 8. We have worked with the applicant on this and they will be revising their plan to show common open space over here. So, you won't have street frontage. This will become an open space and access to these lots will be taken from this side. So, that will meet our requirement for that. So, the design elements for the properties within the TN-R area, they -- the applicant submitted the same designs that they did with phase one. Council made some acceptance to some of the standards for the design. So, these plans -- since the designs were previously approved with phase one, staff has no issues with the design and they will meet the standards that they were approved with with phase one. Because they are attached family homes they have to go through design review and meet the standards of our architectural manual. They provided open space with the phase one. The amount of open space was like 34 percent. They did add open space with this phase also and added two amenities with this. They were -- it was a dog park with a seating area and a waste station to this, but this phase will have access to the amenities within phase one, so the applicant has indeed exceeded their amount of open space required. And as you see there is plenty of pedestrian circulation throughout this application. They are looking for a modification of the development agreement to remove all the language that talked about the multi-family. Staff has no issue with that. They will be changing the language on one of the conditions, so it will be maximum 95 single family units, instead of 216 multi-family units and staff is asking the Commission to recommend another condition to the development agreement regarding that outparcel that's not contiguous. We are asking that that particular parcel be deed restricted as unbuildable and either be owned and maintained by the property owner, the homeowner's association, or transferred to the Nampa-Meridian District. We would like to have written documentation provided to -- prior to the city engineer's signature on the final plat. We did provide some revisions that will be needed on the plat before going to the City Council and we have been working with the applicant to get those revisions done. They did provide a letter responding to our staff report that was uploaded in the public portal. So, they are working on those. They have that ready prior to City Council public hearing. And with that I will stand for any questions that you may have.

Smith: Would the applicant like to come forward.

Clark: Hethe Clark. 251 East Front Street representing the applicant. So, I had a -- call it a six or seven minute presentation and I'm going to try and make it like a two minute presentation, because I think we are in pretty good shape here in terms of being on the same page as staff. I just kind of want to give you a little bit more background on a couple of items. So -- so, this is the project. As Linda mentioned this has a prior entitlement, but the area in general is under development. City services are all available. It's -- it's an area that's well underway. Our phase one is under construction and what we are talking

about is modifying phase two, which is the east half of the property. This goes to one of the block face items. So, I think it's worth talking about for a little bit. So, as sites go it's a little bit of a complicated site. We have development on three sides, including apartments on the left -- on the west and on the east. Those apartments feed our collector in and that collector starts on the east at the bottom and works its way all the way up to the -- the other collector on the west side. So, that kind of eats up a big chunk of the project down there and then -- but that collector is already constructed and was done with the first phase. But also because it's tucked back there it means that it doesn't have good visibility for an apartment -- an apartment project and it's also got competing apartment projects on each side. So, I will talk about that in a little bit in terms of what -- why we are asking for these changes. So, as I mentioned the collector is in and this is the general location of it. This is the original plan. Linda already walked through all of that. I think the main thing is just that there was 216 apartment units on the east side and the challenges that we ran into is that there is not enough visibility for an apartment project and, then, it's also competing with the apartment projects that are there that are highly amenitized and you need a critical mass of apartment units to compete with that and 216 just wasn't going to do it. So, as a result of that we asked to revise this to do single family. We are going to keep it at TN-R. We have a mix of types with the 88 attached homes and, then, the seven single family townhomes that are rear loaded that -- that Linda mentioned. Those are here in the -- in the top left side. One of the nice things about this is that before when we had the apartments and the single family they basically were going to act like two independent subdivisions. Now they will be combined. So, the original project had the large one acre park. Our residents will have access to that and, then, the phase one residents would have access to the large dog park that we are doing. Total amenity points are 14 and a half when four are required. Total open space is 24 percent. Fifteen percent is required in the TN-R as you know. We -- I know parking always seems to come up, so I wanted to give you the count of the additional on-street parking. That's the 48 spaces that would be beyond what code requires. Linda already showed you our housing examples and those were reviewed with the first phase by the City Council. So, in terms of our homework, the rear loaded access, we have updated that drawing to show the common strip that Linda mentioned, so that's already done ready to go to Council. We did provide the exhibit showing the location of the housing types. And, then, with regard to this block length on Wolfsburg, this is the one that we can -- we can get rid of five -- of eight feet that we are over on that one and that will be done before Council. This one I did want to talk to you a little bit more, add a little bit to what Linda said about why we are going to ask for the -- the exception on the block face here. So, part of our challenge with the site is that it slopes pretty hard as you go north to south and west to east and so as you look at this collector, the collector's already been constructed and it's been constructed with a four foot retaining wall and as you go down there you are going to have between eight and ten feet difference in grade between the collector level and the pad level, by the -- as you -- as you move along that roadway. So, as a result of pedestrian connection really doesn't work in that location. So, that's why we are asking for the exception on the block phase. So, with that I think the only thing that we would modify would be that condition A-3 and, again, this is something the Council's got to approve, but we would ask as part of your recommendation to give us some grace on that, adding that ped connection on Milford Way -- or Midford Way. With that we are

otherwise in agreement with all the conditions of approval that staff has identified, including the new one dealing with the development agreement and the requirement for the triangle out piece to be deeded and so I think -- I think that covers it, so I'm happy to answer any questions.

Smith: Any questions for the applicant or staff?

Grace: Thanks, Mr. Chair. Can you just -- I'm just a little confused. Maybe you can provide some clarity.

Clark: Uh-huh.

Grace: So, in the -- in our kind of staff report notes with regard to the noncontiguous parcel it sort of indicates that we need to annex that first or --

Clark: Sorry, Commissioner Grace.

Grace: No. No. Go ahead. So, the straight -- yeah. So, this is -- is -- I think some of the confusion comes from the fact that we had an original application and now we are back doing this one. So, the original application included it as property that was going to be annexed. I think the issue was staff was trying to resolve what do we do with that property now in terms of the preliminary plat and in our investigations with the county -- and I think staff's investigations are revealed the same thing -- is that the county surveyor's preference is not to include it, because of its -- that triangle out piece is separated by the Nampa-Meridian Irrigation District property that they own in fee there. So, oftentimes Nampa-Meridian has an easement, so it's not as big of a deal, but when they have fee ownership, then, that does create a little bit of an issue for planning and the other point that I would make is that the purpose of planning is to create parcels for conveyance and that parcel is already created. It's on the outside of the Nampa- Meridian Irrigation District parcel. There is really no reason to include it in a plat. It's not going to be developed. So, the -- the approach that we took was to leave it out of this new preliminary plat. It will just be out there on its own, but it's not being divided up anyway and so -- but, again, it will be -- we will have a development agreement provision that applies to that triangle parcel even though it's outside of the plat that requires us to make sure that it gets deeded appropriately and taken care of.

Grace: Okay. Yeah. And that was my -- Mr. Chair. That was my follow up is that you are -- you are agreeable to that?

Clark: Yep.

Grace: Okay. Yeah. That was my question. Thank you.

Clark: Yep.

Smith: Other questions for the applicant or staff? I do have one question. It sounds like it's a yes, but I know there was some discussion near the beginning of the -- or just prior to the beginning of the hearing. You have discussed the updated, like deed -- the deed restriction and, then, the ownership maintaining potential transfer to NMID if they -- yeah.

Clark: Yeah. Mr. Chair, we are -- we are in agreement with -- yeah, I think it was the red language on staff's slide and they would have a new DA provision that requires that transfer of the triangle parcel and we are in agreement.

Smith: Wanted to note that. Thank you.

Clark: Yep.

Smith: We will move on to public testimony.

Clark: Thanks, everyone.

Smith: Madam Clerk, is there anyone signed up?

Lomeli: Thank you, Vice-Chair. No one has signed up.

Smith: Do we have anyone on Zoom or anyone in the room who would like to testify? Great. Would the applicant like to come back up at all? Okay. So, with that I will take a motion to close the public hearing.

Rust: So moved.

Grace: Seconded.

Smith: All those in favor say aye. Any opposed? Motion carries.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

Smith: Discussion?

Grace: Mr. Chairman? Sorry.

Rust: No. Go for it.

Smith: Commissioner Grace, go for it.

Grace: Yeah. No. I'm always -- I mean not always I should say, but I -- I'm -- I certainly favor the reduction from apartments to the single family that we are -- we are looking at now. Maybe for the record or for the benefit of the -- of the Council on a couple of these points that if they were interested to know my opinion or our opinion I guess, I'm okay with the explanation on the reduction of the block -- the block -- the block face length. Seemed

reasonable to me. I have no issues with that. I was comfortable with the -- with the applicant indicating how they are going to, you know, handle that noncontiguous parcel. The modifications to the DA I -- some of them made a lot of sense given that the change from the multi-family to the -- the family units, the bike -- the bicycle rack and the off-street parking. I think that was -- that was sort of all the -- all the nuances to this. But, no, I -- I -- it looks like a -- kind of a strange little piece of land there that -- that I think will be -- this project will fit in there nicely and it's a continuation of the -- of the original on the east side. So, I support it.

Rust: Mr. Chair?

Smith: Commissioner Rust.

Rust: Yeah. It's very rare that you see stuff going this way. Normally we are talking about up zoning, but coming down -- it does make a lot of sense. Visibility is so important for apartment communities and the way that this is sandwiched between -- as I was doing my homework ahead of time it's -- like I think that's probably why -- why that's happening as confirmed during testimony. I agree with the conditions. I also agree with the applicant's request to delete A-3. I think that degree of grade difference is going to make it pretty challenging. A lot of the folks that are going to end up in these homes are going to be older. There is going to be some ADA issues potentially in navigating that grade and so I would agree with the applicant's request to delete condition A-3.

Sandoval: Mr. Chair, after considering all staff, applicant and public testimony, I move to recommend approval of File No. H-2024-0043 as presented in the staff report for the hearing date of February 6th, 2025, with the following addition to the development agreement. The parcel S1210346890 in the northeast corner of the development north of Kennedy Lateral shall be deed restricted as unbuildable and shall be neither owned -- or either owned and maintained by the property owner, homeowners association or transferred to the Nampa-Meridian Irrigation District. Written documentation shall be provided prior to the city engineer's signature on the final plat.

Grace: Second.

Smith: I have a motion and a second for discussion. I know there was a request for the deletion of Condition A-3. I wanted to see if that was an intention of the motion that we missed or if you didn't want to. We can include it or, Rust, you can modify it if the second stands. I think that's all we need is just for the second to agree.

Starman: I think if the maker of the motion is -- if you are receptive to the idea I would just -- I would probably suggest that you amend your motion and have the second concur.

Sandoval: Mr. Chair, motion and add the second comment --

Smith: Deletion of --

Sandoval: Deletion of A-3.

Smith: Cool.

Grace: Yeah. I will second as amended.

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