

Fitzgerald: Sonya is nodding. Okay. So, Commissioner Seal, that's B and C. Would that be your revised motion?

Seal: My revised motion will be for A-3-B and A-3-C. That is correct.

Fitzgerald: Does the second -- second agree with that?

Grove: Second. Yes.

Fitzgerald: Okay. Second's seconding. I have a motion and a second to recommend approval of file number H-2020-0005, Landing South, with modifications. All those in favor say aye. Any opposed? Motion passes. Thank you. Appreciate it, Mr. Jewett. Good luck.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

- 7. Public Hearing for Spurwing Sewer Easement Annexation (H-2020-0087) by Shari Stiles, Engineering Solutions, LLP, Generally Located North of W. Chinden Blvd./Sh 20-26, Northeast of N. Ten Mile Rd.**
 - A. Request: Annexation of 0.60 of an acre of land with an R-4 zoning district.**

Fitzgerald: The last item on our agenda for this evening is the public hearing for Spurwing Sewer Easement and Annexation, file number H-2020-0087. Before we get started I need to check in with my fellow Commissioners. I live in Spurwing and I will be honest with you and tell you I have -- people have asked me about this thing and I have given some information about what I thought it was, mostly before when it was in front of Ada county. I haven't given anybody my opinion, but I told them what I -- what they saw on the notifications they got in the mail. I don't think that puts me in a place where I should recuse myself, but I will let the Commission make a combination -- or that call. So, I think I can be impartial on this discussion, but I also want to give that -- I have provided some information when people ask me about the application that was in front of Ada county. So, if that is an issue with anybody I'm happy to step away, but want to give that -- that opportunity for you guys to comment -- or any comments you might have.

McCarvel: I'm good.

Fitzgerald: Okay.

Seal: I was going to say, being that you are chair and you can't make the motion, I think we are safe.

Fitzgerald: That's probably a good call. Commissioner Yearsley, any concerns?

Yearsley: I'm good.

Fitzgerald: Okay. Well, we will start with the staff report and I will turn it back to Sonya. Are you ready to go, ma'am?

Allen: Yeah. Just a second here.

Fitzgerald: Is Bill breaking your computer again?

Allen: Yes. Alrighty. Sorry about that, Mr. Chair, Commissioners. The next application before you is a request for annexation and zoning. This site consists of .6 of an acre of land. It's zoned RUT in Ada county and is located north of West Chinden Boulevard and State Highway 20-26. Adjacent land use and zoning are single family residential properties in Spurwing Subdivision, zoned RUT in Ada county, and single family residential properties in the development process in Olivetree at Spurwing Subdivision, zoned R-4 and R-8 in the city. And the Spurwing Golf Course, zoned RUT in Ada county. The history on this project. A lot line adjustment was previously approved by the county in 2007, which included the subject property. The county denied a conditional use permit modification application recently to build an emergency access road. The Comprehensive Plan future land use map designation is low density residential, which calls for three or fewer units per acre. The applicant is requesting annexation of .6 of an acre of land into the city with an R-4 zoning district consistent with the future land use map designation of low density residential. The annexation area is a portion of Lot 2, Block 2, Spurwing Subdivision, which was developed in the county. Typically the city does not annex a portion of a parcel or lot. However, it has been deemed appropriate in this case due to the county's denial of the site modification and the city's requirement for an access to maintain the public utility. The property proposed to be annexed is developed as part of the Spurwing Golf Course and contains a 20 foot wide Meridian sanitary sewer easement with a 12 inch sewer main line and an eight inch Suez water main line. An emergency vehicle access easement is proposed in this area to satisfy the fire department's requirement for secondary emergency access to Olivetree of Spurwing Subdivision. Emergency vehicle access for this subdivision was previously planned via West Chinden Boulevard at the Chinden-Ten Mile Road intersection. However, since the time the preliminary plat was approved improvements have been made to the intersection, which require an alternate location for emergency access. For this reason emergency access is proposed where the sewer easement lies and public access will be restricted through the use of gates at each entrance with a Knox Box as required by the Fire Department or Fire Department access only. This road will also provide access to any manholes within the sewer easement area in accord with city requirements and access to the Suez water main lines. The Olivetree at Spurwing Subdivision cannot develop without an approved secondary emergency access, which the applicant's proposal provides. If Council denies the applicant's request an alternate emergency vehicle access will be required for any development over 30 building lots in the Olivetree at Spurwing Subdivision or the applicant has the option to provide fire sprinklers to any additional homes beyond the 30. The subject property is nonbuildable as it's -- it isn't a legal parcel or lot eligible for a building permit and doesn't meet the minimum dimensional standards of the R-4 district. There have been several letters of written testimony received on the project and I will go through those. Apologies in advance if I

mispronounce your name. Robert Trerise and Gretchen Tseng. Carrie Franklin. Eric and Mary Klein. Qing-Min and Erin Chen. Tom and Andrea Nist. Greg Stock. Steven Leavitt and Rick Mauritzson. The majority of the concern pertains to construction of the street -- a street and public access between Balata Court and North Crantini Way in Olivetree at Spurwing. And just to reiterate, there -- there is no public access proposed or approved with the subject application. This is only for utility easements, as well as emergency access and maintenance of those easements by the city and Suez. Staff is recommending approval with the requirement of a development agreement that states the annexation area is nonbuildable and, as I stated, shall only be used as an easement for city sewer and Suez water, emergency vehicle access and an access road for maintenance of the city and Suez water facilities in the easement area. Staff will stand for any questions.

Fitzgerald: Thanks, Sonya. Are there any questions for Sonya on this application?

Seal: Mr. Chair?

Fitzgerald: Yes, go right ahead, Commissioner Seal.

Seal: Just following along with what I'm reading through all the public comments in there, has -- has Ada county been contacted and where are they at on this parcel? I mean is there a -- is there some kind of legal action that's pending on it for real or is that just something that people are talking about?

Parsons: Mr. -- Mr. Chair, Members of the Commission, yes, there is an active case pending in the county and they are waiting to see what action the city -- city will take on the annexation of this property is what we have been told, so --

Allen: And, Mr. Chair, Commissioners, the -- the county has been copied with the staff report and has been involved with the city's process on this.

Seal: So, follow up to that, I guess where are they going to lie -- lie on this if -- if this goes forward for approval are we stuck in the middle of a lawsuit here or are they looking for us to approve it, so that there doesn't need to be one?

Pogue: Mr. Chair, Commissioners, I think depending on the outcome of the application it could render the substance of the county's litigation moot and the county would have to act accordingly. This -- this lawsuit that -- it doesn't involve the city and won't involve the city regardless of the outcome of this application.

Fitzgerald: Commissioner Seal, did you have any follow up there? Does that help?

Seal: I just wish I understood that a whole lot better. But, yes, it does. Thank you.

Fitzgerald: Okay. Any additional comments or questions for Sonya or the -- the staff at this point?

Grove: Mr. Chair?

Fitzgerald: Commissioner Grove.

Grove: Sonya, just to reiterate, kind of going off of all of the public testimony reference to the original emergency access, it -- is that completely off the table for reasons due to the change of that intersection or is there something else that is preventing that from being done?

Allen: Chairman, Commissioners, if you are referring to the -- are you referring to the emergency access via Chinden at the Ten Mile intersection?

Grove: Correct.

Allen: Yeah. ITD is no longer allowing that emergency access. It's been a significant period of time since that was approved, 13, 14 years ago, something like that, and since that time there -- there have been intersection improvements there and a -- and a traffic signal installed and it's just not conducive to an emergency access in that location any longer.

Fitzgerald: And, Sonya, my understanding is they are going to gate both ends of that with a Knox Box or a padlock, it is only allowed for anyone to access it besides -- or, Sonya, even if Meridian city wanted to come access that road, they would need the chief's key or a firetruck to come access that -- that gate; is that correct?

Allen: That is correct, Mr. Chair. Again, there is a sewer easement through there, so our Public Works Department or sewer department would be able to access that easement as well. But it would definitely not be open to the public and there would not be any keys or access codes or any such things issued to the public.

Fitzgerald: And do they -- what -- do we understand what the gate is going to look like? Is there a -- is it specified somewhere on your -- did I miss that in the staff report?

Allen: Not that I know of, Mr. Chair.

Fitzgerald: Okay. Maybe the applicant could help me there.

Allen: Yeah. I'm sure -- I'm sure Becky can provide you with a lot more information on her presentation, so --

Fitzgerald: Perfect. Any additional questions before the applicant comes up? Hearing none, Becky, are you available in person?

Allen: She is in person, Mr. Chair.

Fitzgerald: Thank you. Becky, thanks for being with us tonight. Please state your name and your address for the record. The floor is yours, ma'am.

McKay: Thank you, sir. Becky McKay. Engineering Solutions. Business address 1029 North Rosario in Meridian. I'm here representing the applicant. The applicant in this matter is Spurwing Limited Partnership, along with Pacific Link Limited Company. What's before you this evening is, as Sonya indicated, an annexation of a .62 acre parcel for the purposes of establishing an emergency vehicle access, sanitary sewer and water maintenance roadway. This is the first Spurwing Subdivision that you see here. This was approved back in 2007. I have been working on this project for 15 years, which is a long time. When we obtained our initial approval, obviously, the recession hit and so we kind of slowed down to -- to kind of wait that out. Can I do the -- let's see. Will it let me do my arrow? But they can see -- there we go. So, the -- the subject property at the time that we annexed and zoned it into the City of Meridian, the utilities were coming from the northwest corner, which was Suez water and City of Meridian sewer. Our pathway of annexation -- dang it. I'm having difficulties with my arrow. Our pathway of annexation was there on the southwest corner at Chinden Boulevard. This was a platted lot. As part of the original Spurwing development it was always intended that -- that it would be developed with some patio homes and as I indicated, once we obtained approval we started working on some of the issues. One of the conditions of approval, as you can see in this staff report issued in February 6th of 2007 from the fire department, was that a secondary emergency access, 20 foot wide, capable of handling 75,000 gross vehicle weight would be required with this project. It also indicated in our staff report that this roadway would have to be equipped with emergency rolling or swing gate and it would have to have a Knox Box and would not be allowed for any parking on that access. So, initially when we obtained our approval we put in for a permit with Idaho Department of Transportation. This is the permit that -- that I submitted back in May of 2008. As you can see in the very low right-hand corner this permit was issued and signed and approved on 6/18/2008 by ITD's district three engineer. So, what we did is we designed an emergency vehicle access and as you can see this screenshot is from Shona Tonkin at Idaho Department of Transportation. We constructed the -- why does my arrow want to disappear? There we go. We constructed this emergency vehicle access. It had certain design criteria that ITD mandates and once constructed they inspected it and approved it and so we established our emergency vehicle access in 2008. However, we did not construct the subdivision, we wanted to wait until the economy improved. Then in 2012 Spurwing Challenge development to the east came to my client and Mr. Anderson indicated that he wanted to extend the sewer from down the golf course and through our subject property and you can see the -- the patio homes located right here and so they -- they submitted and were approved design plans and extended sewer all through our project and over to the Spurwing Challenge development. My client granted an easement to the City of Meridian for that sewer extension and as you can see Mr. Anderson constructed a 12 -- a 14 foot wide all weather gravel access roadway for that sewer line and the sewer came out of Spurwing Greens, it came down and across over and down. In 2014 I was contacted by Dave Splett, who worked at district three, and he indicated that due to the Walmart that had been approved by the City of Meridian and ACHD at the intersection of McMillan and Ten Mile, one of their conditions of approval was to expand

the Ten Mile intersection at Chinden and to install a traffic signal. He indicated to me that this would -- this improvement would basically -- they would have to remove our emergency access in order to expand the intersection, install the signal. In this particular letter he said the applicants and the city should be aware that a traffic signal is under construction at US 20-26 intersection with Ten Mile. The new site approach is being constructed, but the signal design does not include facilities for any southbound traffic from this subdivision and so they -- they basically made our permit, which we had completed and had installed the emergency access, null and void and they removed our access. This gives you a picture of -- of what that intersection looked like after the improvements. As you can see, the emergency vehicle access that we had installed was removed and in its place is that signal pole. Here is another picture of that, the existing improved intersection there at Ten Mile and State Highway 20-26. In my conversations with Mr. Anderson he stated that they had installed ribbon -- concrete ribbon curb and, then, they had installed a gravel base and, then, a perma bark cap over the sewer line right here. You can see the manhole here. He indicated to me that, then, they laid gravel down here and through our sight. He said over time that gravel sunk into the -- the soil as the years passed -- as you can see this is 2016 -- and basically disappeared through here. When we got ready to develop the Olivetree at Spurwing patio home project we were required to come up here and to extend Suez water. There is an eight inch sewer water -- Suez water main that we extended into the project and, then, looped that back onto Balata Court. The sewer was already a 12 inch sewer line, was already constructed and ran through our project and out and over to Spurwing Challenge. We were required by the City of Meridian to install a 14 foot all weather gravel surface over that sewer and water easement and so we submitted plans to Public Works, to the Planning Department. We also had to do a modification of our final plat application, because we had to modify the landscape plan to accommodate that access. The Fire Department -- we got -- obtained approval from the Fire Department. This is a letter that Warren Stewart, the city engineer, provided to me stating that for many years the City of Meridian has required water and sewer infrastructure to be installed in easements and to have a gravel access road to accommodate regular operation and maintenance activities. The sewer lines and manholes must be regularly cleaned in order to function properly and minimize odors and he also stated that it -- if the city is to continue to provide sewer service to its customers on this line, we must have the ability to properly operate and maintain the infrastructure and this requires a gravel road that will support the vehicles necessary to perform the work. This is a picture that Mr. Stewart sent to me that shows a vac truck that they regularly use and it weighs -- it is full of water and it weighs a lot and he said we need it to be able to hold 75,000 gvw. This is their TV truck where they go through and TV the lines on a regular basis as far as properly maintaining the facilities. This is what we started to construct out at the site, since we had Fire Department approval, Public Works approval, Planning approval, Council approval and so we came in and we cut in and put in a base and that's when we received a stop work order from Ada county and Ada county indicated this access is in the county and you do not have any permits from Ada county. We submitted them all of our city approvals, our approved construction plans, and they said, well, then, you need to apply to Ada county, we don't care that the City of Meridian has approved anything, where this sewer-water lies and where this emergency access is proposed lies within the county. So, they asked that we submit a traffic and development

plan modification of the original 1994 approval of Spurwing Subdivision. They also asked that we submit a grading and drainage plan for this facility. We did comply with all their requirements. We submitted it. It was a staff level review. The staff reviewed it and, then, the staff denied our request to construct this. So, we asked what -- what is our recourse. So, they said your recourse is to appeal staff's denial to the county commissioners. So, Mr. Terry Copple, the attorney for my clients, submitted an appeal to the county commissioners. So, we did go to the county commissioners hearing. We submitted all of our documentation and the county commissioners said, well, we feel that you have other alternatives. We told them we don't have any other alternatives for emergency vehicle access. This is an issue, a life safety issue. It is also an issue of these utilities and proper maintenance. We submitted this letter to the county from the Spurwing. Mr. Anderson signed it, stating that he will not allow Pacific Link to have any emergency access across the golf course and out to Chinden Boulevard, because it would interfere with development of the golf course and its functioning. Also another issue is ITD is expanding Chinden Boulevard. They have also been acquiring additional right of ways and so that particular green will -- or fairway may become narrower and he said that any other impediments that we were to put on there would severely impact the functionality of the golf course. We did meet with Mr. Wagner. Mr. Wagner has a couple of acres at the corner of Chinden. Mr. Wagner supplied a letter stating that -- that under no circumstances is he in a position to grant any emergency access out through his property and to Chinden. He said I'm fearful that adding any access or encumbering my property could impair its future marketability and use and you must find an alternative access for your property. There we go. So, this is what we -- was approved by the city staff. This is what we showed the county commissioners. This is a 20 foot wide gravel surface. It has ribbon curb on each side, gravel underneath, and, then, it would have a perma bark cap over the top of it, which is like that landscape type rock. So, it blends in, would not look, you know, like a typical gravel road. It would have a gate at the north end here and, then, a gate at the south end. The gate -- whoa. There we go. The gate would be a swinging gate. This is what -- this standard is an emergency access gate. According to Meridian Fire Department this is their -- these are their specifications and what they would require of us. It would have a Knox Box that would only be used by emergency services or for the city Public Works Department or Suez water to maintain it. I will wrap up here. This is the Fire Department approval that we received by Perry Palmer and I also received a letter from Joe Bongiorno supporting the emergency vehicle access to the north. So, basically -- and that's a Suez letter. Basically what we are doing is we are coming to the city to, obviously, protect city services and the county commissioners looked me straight in the eye and said, well, if Meridian has facilities here and they want a gravel access road, then, maybe you should annex into Meridian and so that is why we are here this evening annexing into Meridian and I asked that the Commission support this application to, obviously, protect the emergency access and maintenance road, which is one and the same, and there is no adverse impact on these adjoining properties. This is all at grade and there is significant landscaping between us and the adjoining properties and this is -- lies solely upon the golf course. Thank you. And I will answer any questions.

Fitzgerald: Thanks, Becky. One question I have is -- is your plan going to return it back to the original picture you showed with the ribbon curb and black covering that's -- what's like on the other side of that course there? Is that the plan is to make it look similar?

McKay: Mr. Chairman, that -- that is correct. We will emulate exactly what has already been installed to the manhole on the west side with the ribbon curb, the gravel underneath and, then, a perma bark concrete cap so it blends in.

Fitzgerald: Thank you. Are there additional questions for Ms. McKay? Hearing none, Becky, we will let you close after we hear from public testimony.

McKay: Thank you, sir.

Fitzgerald: Madam Clerk, I would guess we have folks who would like to testify. Do you want to start in chambers and go from there or wherever you go.

Weatherly: Sure, Mr. Chair. I have Greg Stock first.

Stock: My name is Greg Stock. I live at 2915 --

Yearsley: Can you speak into the mic. Sorry.

Stock: My name is Greg Stock. I live at 2915 West Balata Court. I stand here in opposition to this. But I would like to make two points of order before I begin. First, I would like to -- I can't remember the name -- I missed the name of the Commissioner who lives in Spurwing and I would ask that he recused himself. I think it's inappropriate that he's involved in this. The second thing I would ask is another point of order, is that the council -- or the committee is flexible with those of us here as attendants on the time as they are with Ms. McKay, who ran over her time by a minute and a half. So, having said that -- I don't know if it's appropriate we stop and let you decide those two points or I should go on.

Fitzgerald: Mr. Stock, go right ahead. We are pretty flexible in the time frame.

Stock: Okay. It's impossible to tell who I'm talking to, but we will go from here.

Fitzgerald: Yes, sir.

Stock: Okay. Having read the staff report this afternoon I'm concerned and I'm concerned that, number one, even in the staff report it mentions it was made up -- or it was decided on based only on the narrative input from the applicant. We were told on October 8th, City Council, that we would have our input in 72 hours in advance, so that it could be included and reviewed by decision makers. I can only hope that you have read that -- that material now or you will before you take a vote. I go into a lot of detail and a lot of different facts. But there are several facts that are right off the bat inaccurate. First off, the county's denial of the site modification only included the emergency access. It did

nothing to the City of Meridian's easements and, in fact, the lawsuit would return that property to its actual pre-July 4 state and return the access that's now been 15, 17 months since the applicant essentially destroyed it. Secondly, ITD did not completely reject the applicant. I have in this package I can give you a copy of a letter that's December 19th -- December 9th, 2019, where ITD said they would understand and they would stand -- back up. I can give the exact language. They would approve access -- shared joint access with Mr. Wagner into that access that was originally approved. Point being part of that access that Mr. Wagner is now denying is an easement that the applicant granted him sometime in the past. As far as the letter from Spurwing that they won't allow the access across the golf course, that's a matter of aesthetics and the truth is is that Spurwing, the golf course, is a tenant of the applicant. The applicant owns the property and under the law I don't believe a tenant can refuse a landlord access to his property for reasonable improvement and if a fire access road is not a reasonable improvement I don't know what the definition would any longer be. I would like to go on real quickly now and get through a couple of these things. This annexation request is really about two issues, sewer and water maintenance, which can be kept and the fact that at this point the city needs nothing. Rejecting this application or not acting on this application gets the city back the access that they need and the question, then, is where is the fire access. Nobody's questioning the need for it, but it's appropriate where it was originally approved. The impact is less on the neighborhood and it's -- that's the right thing. I -- it appears here that -- that the applicant is attempting to manipulate the city into helping him avoid the jurisdiction of Ada county court and I hope that the city is not that easily -- easily manipulated that they would allow that to happen to themselves. I sincerely hope that's not the case. I would ask that this annexation request be judged on the impact, the negative impact of the neighborhood, and that other alternative routes do exist. The applicant does not want to use them and that's his problem, not ours. I appreciate your time. I will answer any questions. I would only ask, again, that you do review the material that's been passed to you via the Council -- or the City Clerk's office. Thank you.

Fitzgerald: Mr. Stock, we appreciate you being here tonight. We do appreciate the information you provided. We had those in our packet last night -- or earlier this week and have reviewed them. It was a significant amount of information. We appreciate that. Any questions for Mr. Stock? Thank you. Madam Clerk, who is next on the list?

Weatherly: Mr. Chair, that would be Gretchen Tseng.

Tseng: Hello. My name is Gretchen Tseng and I live at 3075 West Balata Court. I have also put some information in that I hope you review, but just wanted to quickly go over this. Throughout -- throughout this long -- very long process with both Ada county and now the City of Meridian, I have been very disheartened by Engineering Solutions mistruths and hope that you have been able to communicate with Ada county about all the history of this road. The fact that once the application was finally submitted to Ada county they denied the road and, then, when once Mr. Hewitt appealed he lost his appeal and was ordered to restore the road to its original condition. He's refused to return it to its previous condition and is now being sued by Ada county as you are aware. It would be very disappointing to have Meridian city allow the annexation and ignore the fact that

Ada county has already determined twice that this emergency road is detrimental to homeowners and it would only serve to reinforce Mr. Hewitt -- to Mr. Hewitt and others that they can go ahead and do what they want regardless of the law. The original plans for Olivetree development showed the emergency road connecting between the southwest corner, as you guys all know, and I do want to reiterate that we do have a letter from ITD saying it's still an option. You guys brought up the possibility of sprinklers. I hadn't heard about that. If sprinklers being installed in each of these homes is a viable option, then, why not go that route, since Ada county has already denied this road -- denied this as detrimental to homeowners. I bought a home directly on a golf course and now have a 25 -- 20 foot wide road next to it. Prior to the -- I just want to make it very clear to you guys that prior to the construction of this unapproved emergency road there was never a gravel road next to the length of my home. I have lived there for seven years and there has never been gravel next to my home. It's been grass from my home to the golf course. As far as the sewer access on the other side of the golf course is what was next to my house before, just stub roads, grass, and, then, stub roads and I mean that's -- that's sufficient over there, it should be sufficient over here. We -- we have letters also from the sewer saying that it's not required to have a road. She's trying to combine an emergency road with this and they are two separate issues. I want to make it clear that just so that you know the detriment -- like I said, I bought a house on a golf course and I am not kidding you, all day long -- that is an access for people to walk -- to walk their dogs, to ride their bikes. Cars have driven down it. This has become a thoroughfare for people that walk by and we actually did the responsible thing and had to rehome a dog, because for his entire life there was no one walking by and having people walk by made him start to get aggressive. So, we were responsible and I have lost a dog in this situation as well. Please do the right thing and do not reward Mr. Hewitt for his actions of building this unapproved road. Ada county has spoken. Please just -- I just ask you to review everything and be conscious of this. It's been pretty horrible.

Fitzgerald: Thank you, ma'am, for being here tonight. Madam Clerk, next on the agenda -- or next on the list of --

Weatherly: Mr. Chair, I'm not sure -- Mark, did you want to speak? Thank you. That brings us to Rick Mauritzson.

Mauritzson: Hello. Can you hear me? All right. Commissioners, my name is Rick Mauritzson and I live at 3028 West Balata Court and I am a resident of Balata, as well as a member of the Spurwing homeowners board of directors. I have a few highlights I want to highlight from my submitted statement. So, I strongly urge the Commissioners to rule in opposition to the staff's recommendation and to reject the developer's request for relocation of the previously approved emergency access road. Furthermore, the city should not entertain annexation of the parcel of land in question until the land has been returned to its original condition, including the sewer access stub roads, which Ada county has already demanded, and not to rule until any active Ada county litigation has been settled or wait until any active litigation has been settled. So, my arguments against the relocated emergency access road or the proposed new road, as Gretchen Tseng said, will have a significant negative impact to her property and the adjacent properties. The

neighbors directly adjacent to Tseng's purchased a home on a fairway, not a home on a 20 foot wide gravel road. If this new road were to be approved they would lose their pristine view of the fairway. Also the proposed road is not required for either sewer or water access. At least not a continuous road is not required. The previously existing stub roads from both the north and the south are sufficient for sewer access and these stub roads are exactly what Ada county is demanding the developer restore. The proposed road was partially constructed by the developer unlawfully without Ada county approval and has been denied twice by Ada county development and the Ada county commissioners. In regards to the original road location, the originally approved location between the Olivetree Sub and the Chinden-Ten Mile intersection is the best, most reasonable placement for the emergency access road. It provides the quickest, least redundant secondary access to Olivetree Sub and does not retrace 60 percent of the primary access route that's being proposed by the developer. The developer has submitted a letter from the Club at Spurwing stating they will not allow the road in it's original proposal occasion. However, the Club at Spurwing has no authority on this matter as they are the tenants and leased the property in 2011 with knowledge of the planned emergency access road as a public record since 2006-2007 time frame and it was in the final plat approval in 2008 by Meridian city. So, the tenants knew this. The developer let his original ITD permit for the original emergency access road approach connecting to Chinden and Ten Mile to expire in June 2009. You did not hear that from Ms. McCabe and the developer has made no effort since then to renew it. In December of 2019 ITD reiterated that an option to connect emergency access road to Chinden and Ten Mile still exists. I implore you to go look at my exhibits three and four of my submitted public testimony and you will see the letter from ITD there. In summary, annexation is not required for the developer to meet his requirements for water and sewer access or emergency access. All requirements were met with the pre-existing stub roads in the original 2008 approved plat map. The request by the developer to annex this strip of land is only a means to circumvent Ada county's twice denial of the proposed road and to null and avoid the act of litigation that's now pending with the county. Thank you. Any questions?

Fitzgerald: Thank you, sir. We appreciate it.

Weatherly: Mr. Chair, next we have Carolyn Mauritzson. Carolyn has chosen to pass on her time. So, that would bring up Tony Tseng. He is also choosing to pass. His neighbors have said everything that the -- that he agrees with. Tom Nist.

Nist: Good evening. My name is Tom Nist. I live on 2932 West Balata and I'm opposed to the annexation. Am I -- is it possible for me to yield time to someone who has already spoke?

Weatherly: No, sir. It's one person per -- unless the chair -- unless the chair has another opinion on that. Thank you.

Nist: Rick and Greg have done a lot more research on this than I have. However, I just want to point out and have a request -- a request that you really take time to review what

was submitted in the public testimony and really do your own research in the facts. It's very dangerous to take the developer's narrative at face value, because they have had a history of not telling things -- inaccurate things and, frankly, lying and we heard tonight Becky here -- let me just give you one example. Becky said that the ITD was not a solution when, in fact, it is. I'm looking at a letter in 2014 where that's entirely not accurate. So, I just would urge -- because there has been a history of things like that where they are literally saying things that are not true, I would just ask that you really take time to review all of the public testimony and take into consideration that it's been denied twice from Ada county. So, thank you for your consideration on that.

Fitzgerald: Thanks, sir. We appreciate it.

Weatherly: Mr. Chair, that is all the signups we had.

Fitzgerald: Okay. Thank you. Is there anyone in the audience or online that would like to testify that hasn't so far? If you would, please, raise your hand online.

Yearsley: There is a gentleman that wants to testify in --

Fitzgerald: Sir, please, state your name and your address for the record and the floor is yours.

Wagner: My name is Rod Wagner. I'm at 3240 West Chinden. That's where I reside. Just -- I just wanted to say the crazy thing about all this -- it looks -- sounds like there is a lot of emotions here it looks like, I can feel it, about moving this thing over towards my property. So, this road -- my thoughts are this road does not have any impact on anybody's actual yard property. It's -- it's away -- you know, it doesn't impact any of theirs. One thing I have never gave anybody permission to -- back in 2008 or whenever it was, I never --

Seal: Mr. Chair, he's incredibly hard to hear. Could we have him step up to the mic?

Fitzgerald: There you go. Thank you, sir.

Wagner: I wanted to -- I heard that I was -- they -- they said that I had given permission to access my property or use it for this easement road, which is untrue. I never have. I would like to see a documentation that says that. But I have never -- I have always supported all this development. I have been there for 35 years. I have got documentation that shows that I have had -- that property's been there for 126 years, the house that I live in. When all this development came around to my -- near my property I never opposed any of it. I supported it. I belong to the irrigation district that they get water out of. I have been president of that lateral. I support everything they have ever done -- always done. So, it's kind of crazy, they want me to give up some of my property for this road when this is not even impacting any of theirs. So, I just -- and, again, I'm just denying any access on my place for this road.

Yearsley: Thank you.

Fitzgerald: Thank you, Mr. Wagner. We appreciate it. Is there anyone else in the audience or online that would like to testify? If you are online and would like to testify, please, raise your hand via Zoom. Commissioner Yearsley, is there anyone else in the audience that would like to testify?

Yearsley: Mr. Chairman, there is one gentleman that wanted to testify. He signed up, but he -- he earlier recluded. Do you want to allow him to come up?

Fitzgerald: Yes, sir.

Yearsley: Okay. Please come on up. Name and address for the record, please.

T.Tseng: Hello. I'm Tony Tseng. I live at 3075 West Balata Court. I just want to point out something that was brought to my attention -- that was just stated by Mr. Wagner and this is part of public record where Ms. McKay has -- and I can submit this to you guys -- where she says -- I'm going to read what was -- it's down on paper and so this is in her words. So, we worked with -- so, we -- dot dot dot -- we worked with -- with some traffic engineers and came up with a solution. I did Olivetree at Spurwing. The patio homes over here at Spurwing golf course. So, I went to Jock Hewitt and Rod -- Rod Wagner. Also talked to Jock and we asked him would he be willing to give us access and an easement, so that we could align with the future expansion of Ten Mile intersection. They will -- they will come along with Costco that will -- that will -- and it's written they will -- but that will come along with the Costco development. He has agreed. Came to office said draw up the paperwork. That's fine. We went to ITD, reported back to them, took the site plan. ITD said the only thing that we ask for -- for you is for the traffic engineer to prepare a turn analysis. So, I'm just using this as a time to bring that point up. Part of this whole situation that's just -- is disturbing is there is a lot of lying going on. We had a community meeting, everyone came out, and she started the meeting with just to let everyone know this has been approved and it was just -- there is so much deception and misleading going on in this whole process and us as homeowners -- yes, it's emotional, because we sit there and we feel powerless. We feel we don't have the ability to -- we are not sitting here lying. You know, it does impact us. There wouldn't be ten grown adults here to oppose this if it meant nothing. If it didn't impact us why would we be here, you know, and there is -- it's very emotional, especially for me and my wife. We are impacted the most and -- and I want to thank my neighbors and everyone to sit there supporting us and the whole street, because there is multiple issues in Spurwing where the developer, Mr. Hewitt -- we had a cul-de-sac -- it's no longer a cul-de-sac. I know that's not part of this meeting, but it's one thing after another. They do what they want. I know Idaho is growing up. It's different now. But it's -- parts of it doesn't feel that it -- it feels like a good old boys network. They get to do it without permit on the 4th of July. We were out of the country and luckily our neighbors would look out saying there is a road being built literally in our backyard and we have pictures of cars and it's -- it's a traffic zone and it's in my backyard. So, yes, it's emotional, because it impacts our livelihood every day. So, thank you.

Fitzgerald: Thank you.

Parsons: Mr. Chair, may I just try to clear up some -- I think some confusion in the room, if you would allow me maybe three minutes to talk about that access to Chinden and how that got established. So, if you can see this exhibit here before you, you see the C-C zoned property right next to the -- the point of where Spurwing -- or Olivetree at Spurwing was contiguous with city limits. Mr. Wagner came through the city in 2019 and annexed that property. At the time of annexation he had a concept plan that showed an access to Chinden for his property, but in order for it to align up with the intersection improvements at -- and make it a safe access for his property, we asked him and Becky to work with Jock Hewitt, the applicant, to make that access in the right location, so it aligned properly at that intersection and that's where some of the mis -- the mis-information that's coming from. So, yes, if Mr. Hewitt is going to develop the property consistent with his annexation plan, we are going to want that access to align and those property owners to work. That's how ITD is saying we support an access there, because they -- those are the discussions we had with them during the annexation of that property. So, can that still work today? Absolutely. But as Mr. Rod Wagner testified, he lives there. It's not a commercial development. He is still a single family residence. So, if he is not willing to further develop his property, the city just can't make him grant access to this owner if he is not willing to work with him until he's ready to develop his property consistent with his agreement with the city. So, I just -- again, I just wanted to go on record, clean that up, that, yes, that access in theory is approved there when Mr. Wagner develops and works with the adjacent property owner to get that access built. So, I just want it to be on the record to -- to at least let you know what those conversations were and -- and it goes to the testimony that the gentleman was just referring to and reading into the record.

Yearsley: Thank you.

Fitzgerald: Thanks, Bill, very much appreciate it. Are there questions for Bill? Hearing none, anyone else -- last call on opportunity to testify that haven't spoken yet, either via Zoom or in the audience. Commissioner Yearsley, seeing none --

Yearsley: I see no hands.

Fitzgerald: Okay. Are there any questions or additional comments or questions for the staff? If not, I would entertain a motion to close the public hearing.

Yearsley: Do we want Becky to respond to --

Fitzgerald: Oh. Sorry. Yes. Thank you, Commissioner. Becky, do you want to come up and close, please, ma'am?

McKay: Thank you, Mr. Chairman, Members of the Commission. We are going to do kind of a two pronged rebuttal here. I just want to make a couple of statements that have been made. I have been doing this 30 years. I have been coming before the city -- the City of Meridian for 28 years. I have never misconstrued, lied, or said anything that was

not true. There are no easements -- no signed easements between Mr. Hewitt or Mr. Wagner. What we had hoped to accomplish we did not. Mr. Wagner is still living in his house. His property did not develop as a C store. As far as removal of the improvements, I called the city engineer and I said they are telling me we have to remove all of the gravel improvements that we put in and Warren Stewart's comment to me was, no, you are not. So, I was caught between a rock and a hard spot. He said we need access over our sewer. I have a letter from Suez saying we want access. So, access over those utilities is critical. It is important. And when we tried to -- when we got our final approval from the city -- I have an e-mail here from Bruce Freckleton to Sonya saying let's make sure the required compacted gravel access road over the sewer main is in place, please. I mean it's not just an issue of an emergency vehicle access, it's an issue of access over utilities. It's a dual use. It's going to be there one way or the other. This is the only way I can satisfy my conditions of approval and I have tried to reason with these people, I -- I have been called names, obscenities, dang near hit with a golf cart. It's been kind of a little -- a little raveling on my end, too. I will turn this over to Mark.

Freeman: Good evening, Mr. Chairman, Commissioners. My name is Mark Freeman.

Yearsley: Speak into the mic. Pull it up. There you go.

Freeman: Mark Freeman is my name. My business address is 953 Industry Way in Meridian. Foley and Freeman Attorneys. I represent the applicant. A couple comments. There is -- obviously there is some emotion here, which is not uncommon and that's the tough job that you all have to do as Commissioners to deal with that type of emotion. This is not a -- this work did not occur in the middle of the night on a July 4th while someone was out of town. This work on the easement, which was stopped by Ada county, occurred after my client obtained the approval of the City of Meridian to -- to -- the construction plans were approved. The Fire Department was contacted, as you have seen. The letter is in the record. There was approval obtained. So, this is -- it is not -- my client is, unfortunately, being tagged as this big good old boy who pushes people around and -- and the actual facts are quite different than that. He applied with what he thought was appropriate and Ada county put a stop to it. It's interesting, because we have learned from the City of Meridian engineer that there are a number of other locations in the -- in the county where there are similar gravel easements for sewer and water which do cross between the city and the county and -- and we haven't ever heard of that situation occurring where -- where that kind of work was stopped by the county. There has been a comment that the -- the applicant lost -- lost two appeals or -- and there has been some question by one of the Commissioners about what's the status of the issue with the county. The county did file suit to have the property restored. The applicant originally appealed the decision of the commissioners to deny the original application, but decided based partially upon the recommendations of Commissioner Visser that they should proceed to this -- this is a City of Meridian issue, it's a City of Meridian sewer, it's a city of Meridian -- Meridian's required easement access, that they should go there. So, the applicant actually chose to dismiss its appeal and proceed this way through the City of Meridian. You know, I think it's clear -- I was going to talk quite a bit about the fact that there really is no other emergency access available. There just is not. And I appreciate

staff's comments. Unless Mr. Rod Wagner changes his mind, which he has indicated he is not inclined to do, frankly, I understand that. If he owns the property and he thinks it's going to be somewhat detrimental to some potential purchaser, why would he agree to do anything. But there is no other access. So, that's the bottom line. There is no other emergency access available at this property. It has to come somewhere else and this location is the best place for it to come and, really, the only place it can come for this subdivision to be developed as it was originally proposed. Other than the access to fully develop this Olivetree Subdivision requires an emergency access and the city approved it previously, but the -- the other issue is this access was not lost, it was not due to inactivity. It didn't disappear. The access that ITD granted was not lost, it was taken away by ACHD -- or, excuse me, by ITD. They -- they removed it. They took it away. So, any comment that -- that the applicant was lax or allowed it to be taken or didn't proceed in the appropriate manner is just absolutely incorrect. This was taken by ITD, which resulted in my client having to look for another location for access to the property. There has been discussion about what was there before. Somewhat relevant, somewhat maybe not relevant. Again, I think Becky made the point -- these improvements are at grade. This is nothing that sticks up. And there is -- and there has been since, oh, 2000 and -- I think the existing sewer easement -- the original gravel road -- or excuse me. I'm calling it a gravel road. I should call it a sewer easement with gravel on top of it. Has been there since 2012 or '13. Yes -- and you can see it on the exhibit that Becky introduced. It existed. It was there. It may have not been there all the time -- I mean it's been there apparent for a number of years. It's gravel. It's sunk in. It has deteriorated over time, but there is and has been gravel -- a gravel roadway in that exact same location and there has been comment about people using it and even cars driving on it. Well, the -- the actions of Ada county actually prevented my client from improving it and putting the barricades and lock boxes up, which would actually have prevented these people from using it. So, it's not designed as public access, it can't be public access, it never will be public access and what's the difference between the use before this application request came through and after if it's granted, the difference is that in addition to vehicles owned by the City of Meridian or Suez water to do maintenance on their sewer and water lines respectively, the only other people that are going to use this easement are going to be emergency vehicles and they are going to have to open that Knox Box either way to get in or out. That's it. There is nobody else going to use it. So, that should take care of the issue of people riding their bikes on it or cars going across it. I think that's basically a moot point when that happens. Finally, the -- I have got some time. The -- there is already a public dedication. There is already an easement on this piece of property. Yes, it's owned by my client, but it's subject to an existing easement -- two easements, actually. One to the city -- or one to the City of Meridian for the sewer line and presumably one to Suez water for the water line. These easements, like most easements of this type, require the property owner to refrain from doing certain things with their property. So, in other words, my position is that there already is, in essence, a public interest in those parcels. Mr. Hewitt can't plant trees in the middle of those easements. You can't put bushes there. There is a lot of things he cannot do because it interferes with the city's rights in the property and by granting and agreeing to allow the emergency access at this location, what it does is it -- it will actually, in some respects, provides the city with not only

emergency access, but better access for its sewer and -- and -- and also to Suez water. I think I'm done. Thank you.

Fitzgerald: Any additional questions for the applicant? Commissioner Grove, go right ahead.

Grove: Mark, question for you. On this -- just pulling out some of the stuff from the staff report and from one of the public testimony, in regards to the option for installing the fire sprinklers in the homes above -- that go beyond the 30 home limit, is there a reason that that is not something that has been discussed in this forum?

Freeman: It's -- it's an expensive option. It increases the cost of each home. It doesn't solve the emergency access issue that will be there anyway, regardless of how many homes are constructed in the development. I don't know exactly what the cost of -- the additional cost is per home, but that's the reason.

Fitzgerald: Commissioner Grove, do you have follow up?

Grove: Not at this time.

Fitzgerald: Okay.

Yearsley: Mr. Chairman, I have a couple of questions if you don't mind.

Fitzgerald: Go right ahead, Commissioner Yearsley.

Yearsley: So -- so, my understanding, the easement's already there. It was gravel at one time per city code. Is that a requirement per code or -- and maybe the city can help with that. I don't know. So, you could -- you could put the gravel -- replace the gravel to get it back to city code without a fire access is kind of what I'm -- I'm kind of playing Devil's advocate on this, because, again, I understand the concern of the neighbors and it was in the staff report that if you have over 30 homes you could sprinkler without having a fire access, if I'm not correct. Is that correct?

Parsons: Yeah. Mr. -- Mr. Chair, Members of the Commission, that -- that is correct. That --

Yearsley: Okay.

Parsons: -- comes right from the fire chief saying that if they go -- so, if you also saw in the staff report you know the city is also monitoring the amount of permits that are being issued in that development until we get this issue resolved. So, as of today there is 22 permits that have been issued out there in that development, so they are approaching their 30 before they are needing either to fully sprinkler the homes or provide that secondary access per the fire code.

Yearsley: Okay.

Parsons: And we did discuss that with the applicant at the pre-application meetings early on is that would be the -- our preference, so that we could avoid some of these discussions in front of a public forum, because there are other ways to do it. So, I hope that the neighbors know we hear you, we understand your concerns and -- and we as staff tried to vet all options with the applicants. But, ultimately, they have the right to go through the process and go the way that --

Yearsley: I'm not -- I just want to just clarify a couple of items.

Parsons: Oh. I wanted to also just kind of chime in on the gravel road, too, so -- I -- I did a lot of these projects out here, so I'm very familiar with the history and I'm very familiar with a lot of these neighbors, because I have talked with them about the other road situation as well. But just to clarify, there wasn't a gravel road that went through the golf course, there was gravel -- or improved surfaces to provide manhole -- access to the manholes. So, if there was no manholes it was still vegetated and did not have any disturbance of the ground cover. It was only a gravel or that perma bark over to the manhole cover. So, if you look at old photos -- Google photos you will see how it was developed, but -- so, that's -- that's kind of the premise of what the commission wanted -- the Ada county commissioners wanted them to restore back to the original approval back in 2012 when it was run through. But the portion that Becky showed you it was gravel through the Olivetree portion, because they were going to put a public road over the top of it at some point, which they have now.

Yearsley: So -- so, I know being on the Commission before -- and I realize that this is my first time -- day today -- a lot of times Public Works with sewer easements or water, they would prefer that be paved, is that not the case?

Parsons: Yeah. Mr. Chairman, Members of the Commission, you are correct. If -- they do require -- even through common lots they will require that gravel road through the city's common open space lots as well --

Yearsley: Yeah.

Parsons: -- to get to those manholes and sometimes -- again, there is always circumstances, but majority of the time, yes, that is a requirement. A 14 foot compacted gravel road.

Yearsley: Okay. Just -- just kind of wanted to make sure I can wrap my head around this to make sure I understand. I guess -- I don't know if I have a question now, since I have -- the city's answered that. So, I don't know if you have a comment with what my comments were.

Freeman: Yeah. Mr. Chairman and Commissioner Yearsley, I do have a comment. First is Becky informed me that the cost of the fire suppression in the -- in the individual homes

increases the value -- or, excuse me, increases the cost of the home by about 12,000 dollars per -- per home -- per unit. So, it's a substantial cost and I -- not to belabor the point, but on this issue of what was there, that entire line -- entire line was graveled over the top and was gravel for a period of time, not -- not just to the manhole, but all the way through -- all the way over to where it connects in the roadway on its way to the Challenge course at Spurwing. So, that -- so -- and that's what you see. I acknowledge when you look at those aerial photographs you don't see just a gravel road, what you are seeing is the remnants of a gravel road that some grass has grown -- is growing through, if that helps at all.

Yearsley: Okay. Thank you.

Fitzgerald: Any additional questions for the applicant at this time?

Grove: Mr. Chair?

Fitzgerald: Commissioner Grove.

Grove: Just out of curiosity, are -- are the homes that are going into this subdivision planned to be like entry level priced homes?

Freeman: I'm probably not the best -- excuse me, Mr. Chairman and Commissioner Grove, I'm probably not the best one to answer that, but I would say -- because I have seen them, they are definitely not entry level homes, they are patio homes, and they are not inexpensive and they are not entry level homes.

Grove: Thank you.

Fitzgerald: Any last call for questions? If not, I will entertain a motion to close the public hearing when the Commission is ready.

Seal: Mr. Chair, just -- the width of the path, the -- whatever is being proposed to be put in here, what -- what is the -- the width of that?

Freeman: Mr. Chairman and Commissioner Seal, the -- the width is 20 -- the easement is 20 feet. The old easement that's in existence today is -- is 14 feet, I believe -- 14 feet of gravel. Fifteen feet. So, the width is 20 feet of the emergency access, if this recommendation is made to approve it.

Seal: So, the -- so, the gravel that will be put on top will be 20 feet wide?

Freeman: Yes. There is a -- again, there is a ribbon curb to hold the gravel in and there is a perma bark cap on top of the gravel, which is basically identical to what was previously located in the -- the north portion of this property that's subject to the annexation, between West Balata and the first manhole.

Fitzgerald: Bill, can you roll back to those aerials or do you have those? So, I think that -- so we can look at that -- so the Commissioner can see that. Is there -- was that in -- or was that in Becky's presentation?

Parsons: Yeah. Sonya will try to pull it up, Commissioner.

Fitzgerald: Okay.

Parsons: Can you see that, Commissioners? That's -- that's what it looked like 2012 -- what was it -- 2012 was probably when it went in.

Fitzgerald: Commissioner Seal, does that help?

Seal: It -- it does. Part of what I'm trying to formulate here is what -- if this were to go in what would make everybody happy and -- I mean if it were a pathway instead of a gravel road maybe everybody would be happy about it, so -- and I don't know that for sure, but I mean it's pretty obvious that something was put in there at some point in time. You know, what that was or how significant it was we will never know, but --

Freeman: Mr. Chairman, Commissioner Seal, as you -- if I can -- maybe I can't do this, but I should be able to. I can't. The -- the -- the northern portion, let's call it, from the sewer line to the road is similar to how this will look. We talk about a gravel roadway. It is gravel, but it's going to have the perma bark cap on it, just like this black portion that you see up above on the property and it will have the curbs along the side. I can't represent you that what's there is exactly the same width, because I think that's the -- the sewer easement, which is like 15 feet, and this is going to be 20 feet. But that's how it's going to look when it's done. It will not just be gravel and the perma bark keeps the dust down. The curbing keeps the gravel and everything in place and, again, it's all at grade, if that helps.

Yearsley: So, Mr. Chairman?

Fitzgerald: Commissioner Grove, go ahead. Oh. Commissioner Yearsley. Sorry.

Yearsley: So, this little piece here that's already there, they are going to take it out and widen it to 20 feet for the fire access; is that correct?

Freeman: That will become part of the fire access. I -- I think it may have already been taken out, but I -- in anticipation of being replaced that's where the problems with the county came up.

Yearsley: Okay.

Freeman: After all the approvals were obtained from everybody, except the county.

Yearsley: Right. Okay. Thank you.

Fitzgerald: Commissioner Grove, go right ahead, sir.

Grove: Mr. Chair, thank you. Question comes from what Commissioner Seal kind of mentioned is was this ever -- is this -- was this considered a pathway at any point? Because I know that -- I mean that's what it looks like from the image that we see, like I mean instead of using gates, using bollards. I don't know how -- if that's possible or not. I'm just curious.

Freeman: Mr. -- Commissioner -- Commissioner Grove -- or Mr. Chairman, Commissioner Grove, this has never been a pathway. Before the development of Olivetree to the south of what we are looking at here -- you can't really see it -- it was just a field there. I can't tell you that nobody ever walked on the golf course. It's a golf course. But you can see -- what you see there that you -- that appears -- you class -- you categorize it as a pathway, it's really what's left of the gravel road that was put over the sewer line. That's what you see. And over time, again, that has degraded, there is no question about that, and -- and to grant this approve -- this recommended approval -- this -- this pending application will result in an improvement to some degree in the nature of what -- what's up to the north. The -- when it's complete it will have lock boxes -- Knox Boxes and gates, so it won't be able to be accessed by vehicles, bicycles, people -- the general public is not allowed on the golf course, but sometimes people do walk across the golf course and they are not authorized to do that and that potentially could happen here, like it could happen anywhere, but there -- there won't be any interconnectivity, if I can say it that way, that's public between Olivetree and the road that these neighbors live on that they have been testifying about.

Fitzgerald: And, Commissioner Grove, I think the neighbors are hoping -- they don't want to have access, because that would connect the Olivetree to that road on the -- that's to the north I think is what they were saying before, if I'm explaining that correctly.

Grove: Yeah. I didn't know if that was solely pertaining to vehicles or if it was also to pedestrian traffic as well.

Seal: Yeah. Mr. Chair, on my previous remark by -- by -- what I meant by pathway was simply everybody likes a pathway. You can ride a bike on it. You can walk on it. It looks pretty -- sometimes there is nice things that go along with it, but, you know, a little gravel road back there is maybe off putting to some people. So, at any rate, whatever is put back there would, you know, need to be limited to pedestrian and bike traffic on the norm and, then, any kind of vehicle accesses as described in the application. So, again, I mean when I -- I will -- I can -- I will have more comments since we close the -- the public hearing part of this.

Fitzgerald: Commissioner McCarvel, did you have any questions or did you come off of mute for --

McCarvel: No. I think I will wait until our discussion. I don't have an actual question, just a comment.

Fitzgerald: Okay. Well, Mark, I think we are good. So, thank you very much, sir. I appreciate it.

Freeman: Thank you.

Fitzgerald: With that can I get a motion to close the public hearing?

McCarvel: So moved.

Seal: Second.

Fitzgerald: I have a motion and a second to close the public hearing on H-2020-007. All those in favor say aye. Any opposed? It sounds like we are good and motion passes.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

Fitzgerald: Anyone want to lead off?

Seal: Mr. Chair?

Fitzgerald: Commissioner Seal.

Seal: A few things in here. I think there is other things that could happen on this. I'm -- I'm kind of leaning towards a continuance on this to explore some other options. One is to have a formal application to ITD to at least explore the option of what would happen with trying to do a joint access with Wagner Farms. We have already heard from Wagner Farms that they are not going to do that, but, basically, it will put that to bed. If -- if that was the deal. Because they are -- they are not going to move the signalized intersection to accommodate this. If they don't do that there is not enough room for the road. I mean I can see that by simply looking at the street view on Google Earth for this, so -- but it is a question that's been raised. It's something that could possibly happen, so maybe if they go down that path something might happen with it. I highly doubt it, but it might be worth looking at. The second, you know, reason I would think a continuance might be in order is just because instead of doing, you know, a gravelized access road, maybe a pathway type system is something that would be better served here. So, I don't know if they can do a pathway system and still allow a 75,000 -- or 75,000 pound vehicle on it. I have doubts about that as well. But, basically, give a little bit of time to explore every option that's out there and, then, if those do not come to fruition, then, I mean it makes total sense to me to go ahead and, you know, allow this to annex in. Personally, you know, I mean putting sprinklers in all the homes is -- I guess if I were a homeowner and I had to choose between looking at a gravel path and as far as I can tell it's not out the front of anybody's home, it's to the back of them, or somebody else's safety, I would choose somebody else's, you know. So, I would choose somebody else's safety over, you know, any objections that I had to something that's purely aesthetic. But that's -- that's where I'm at on it. I understand both sides of it. The simple answer is just put the thing in and let it go, but since there is a lot of people that are involved with this that are -- you know,

are saying that they are going to be impacted by it and that there are other alternatives, then, I think there is time to explore the other alternatives and if they don't pan out, then, they come back before us and we look at it from that perspective again.

McCarvel: Mr. Chair?

Fitzgerald: Commissioner McCarvel.

McCarvel: Yeah. I think there was definitely a gravel road there -- a gravel path at one time. I -- I disagree that we want to explore the option of it being a walking pathway. I don't -- I mean on the fairway of a golf course. That's not where you want people randomly walking and I think that's what the homeowners are -- around there are trying to avoid is having more people walking back there. I would say if -- if this is something we consider, that there is actually signage that this is not public access. But I can see where -- I mean that -- that has been gravel in the past and it's just looking to improve it and the -- having the perma bark and everything on it I think would improve the look of what was there and, obviously, keep the dust down from the exposed gravel. But I think making it a pathway along a fairway is not where you want people walking.

Yearsley: So, Mr. Chairman?

Fitzgerald: Commissioner Yearsley.

Yearsley: First of all, I want to address the -- one of the person's comments about you recusing yourself from this testimony or our decision. I have no personal problems with it, but I don't want to give it an option for a reason for an appeal I guess and I would look to counsel for direction on that.

Pogue: Mr. Commissioner, Mr. Chair, at the top of the action the chair did put it on the record and, you know, stated he could be objective and neutral and he asked Commission -- the body if they had any concerns and they did not. So, the matter was addressed at the top of the agenda -- at the top of this action when it was opened. So, that's all that's required at this point.

Yearsley: Okay.

Pogue: So, I don't have any concerns about it.

Yearsley: I appreciate that -- that counsel, just to make sure we -- we have addressed to the applicant -- or to the gentleman who gave the testimony. So, I'm kind of torn, because my guess is it was never a gravel road or a gravel pathway, what it was is they just never restored it after they put in the sewer line is what it looks to me and it's just grown back from what has been done before. But on the city side, knowing what the city has and what they do, they would more than likely like some way to get through there if they actually have to go work on it by any means. So, as a city side I think to protect our interest it would be behoove us to -- to annex it and to at least let the applicant put that

gravel pathway in to protect the city's assets. Do we allow that to be a fire access -- at that point it becomes a moot point to me that, you know, there is -- the likelihood of them using it is slim to none, but they always want to make sure that they have a second way out if -- if something happens. So, how do I say that. So, I -- at this point I think I would recommend -- because I -- I can almost guarantee the homeowners are not going to want -- they don't want a gravel path, they are not going to want an asphalt path behind their house so -- and, to be honest with you, they are going to put gates on it, but the likelihood that someone could walk underneath the gate and get through it is -- is if they want to do a loop or something like that it's going to happen. They can't stop that. They could stop the vehicles or the bikes become a lot harder from the one side to get their bike underneath the gate, but those can happen and I don't know what to do about those. People are people. We can put no trespassing signs or whatnot. So, at this point I'm in favor of moving forward and allowing and recommending we annex this property.

Grove: Mr. Chair?

Fitzgerald: Commissioner Grove.

Grove: When I first read this I thought this was going to be -- before I got into all of it it looked super simple on paper, nothing to it, like -- yeah. Like just reading the -- you know, the narrative and kind of going through the staff report it seemed pretty straightforward. Reading everything else and listening tonight, I have gone back and forth on like where I'm at on this, understanding both arguments why it should or why shouldn't isn't. Still somewhat on the fence as to not having been shown enough like flexibility in what they presented as options, but there are severe limitations on what their options are. I wouldn't be opposed to approving this to go to Council.

McCarvel: Yeah. Mr. Chair?

Fitzgerald: Commissioner McCarvel.

McCarvel: Yeah. I agree. I think it's in the city's best interest to protect the asset there and so if it's -- you know, there is going to be the significant improvements to protect the asset, you know, I guess what difference does it make if it's the emergency access as well, because you are -- it's rarely if ever going to be used as that. It's -- it's more about the -- getting access to the sewer lines -- sewer and water lines.

Fitzgerald: Commissioner Seal, was there additional information that you think you could gather. I guess that's my question. I generally think, though, with the ITD application is you have to have the interested parties sign an agreement that they are giving their consent to an application. If Mr. Wagner has said he's not giving his consent that application is DOA. It doesn't go forward without a consent. So, that's the challenge with that piece of it. Is there other information that you think you need?

Seal: No. And I understand that, I just -- you know, I think it's something that could be run to ground, basically, was, you know, my point in that. As far as the access, you know

-- and I understand. I mean as far as the access, the access is there. The manholes -- you can access it from either side without having to drive through it. So, as far as anyone from the city mandating that there be anything put on that, they can't mandate it without it being annexed. So, I guess that's the rub for me at this point is I agree that if it needs to be covered in order to provide access, then, it becomes a moot point. That said, I don't think that it needs to be covered in order to provide access, because access is being provided from either side to the manholes that they do access. If they needed to go somewhere in the middle of that, absolutely, then, they are -- you know, that's going to cause issues at some point in time. But, again, that -- if that is Ada county property, then, it doesn't matter what anybody in the City of Meridian says about it, it's not theirs to say at this point. So, that's -- that's the rub that I have with it, so -- you know. And that's -- that's just where I'm at with it. I think there is some things that could be run to ground on it. Again, if it is the only option, then, I'm for annexing it and going forward. But I think a little bit -- you know, just a little bit more footwork could run that to ground and, then, it makes that statement true of there isn't -- there are no other alternatives and if that becomes true, then, people might look at it differently. You know, I know they are looking to develop that as fast as they possibly can. They running up against the numbers as far as how many they can have in there without the emergency access. That said, there has been things that have come through that we have slowed down from even going in in order to do it -- you know, we get one chance to do it, let's do it right. So, I think that a little bit more groundwork on this could prove that out. My personal belief -- you know, and I'm not an attorney and I don't work for ITD or ACHD, I'm not a road engineer. Personally I think that exactly what you lined out will happen. They are going to go to Wagner Farms and they are going to say no and that basically negates any access that's going to be capable of coming through there based on that alone. That said, I think it's something that should happen just to prove that out, show that, you know, everybody has done what they could in order to make something else happen. When it can't happen, then, we move forward with the annexation.

Grove: Mr. Chair?

Fitzgerald: Commissioner Grove.

Grove: Is -- is that something that would be appropriate or possible to put into a condition of approval?

Fitzgerald: Joe, if you want to take that one.

Parsons: Mr. Chair, Members of the Commission, I mean certainly it's annexation. So, if that's something -- I know this Commission on it has regularly moved something forward and given the applicant time to work on those items before City Council. So, you could certainly do that. Or, again, this is annexation and you could deny it and say that you have got an approved access with your plat back in 2007 going through that site or you could also continue this out if you think -- you can almost treat this like a conditional use permit and see if the applicant and the neighbors are willing to work on some additional landscaping and screening or doing something to try to mitigate impacts to the adjacent

property owner and, then, certainly require that signage, that we have no public use over top of that easement, because certainly we do not want -- that is private property and people shouldn't be walking down that emergency access roadway. It is a golf course, they could get hurt. And the other thing that we can't do is -- and I'm not a golfer and I -- but I know golf balls bounce very high off of hard surfaces, so I imagine if you paved it and someone hooked a ball and it hit the asphalt, it would probably end up in someone's backyard at a higher velocity than probably perma bark. So, again, there is a lot of different scenarios here for you. I guess my -- my opinion on really the access -- I'm not ITD, I'm not ACHD either, but we have the applicant -- Rod is only required to provide an access when he develops. So, if ITD would grant that access based on the current location of their path of annexation to Chinden, that's up to IDT to determine that. If that's something that you guys want to move this along this evening predicated on them getting a definitive answer from ITD prior to the City Council, I think Becky would be amenable to that as well. Again, you also have the option of opening up the public hearing and at least talking to the Tsengs and Becky as to what they would like to see as far as the mitigation along their property and, then, make -- you know, see if you want to amend or continue this project for some more additional information. A lot to digest there, but, again, you do have some options. I gave you the PC answer. Sorry.

Fitzgerald: The kitchen sink, Bill. Thanks.

Parsons: Yes.

Fitzgerald: With that information is there additional comments from the Commission? The only other comment, Commissioner Seal, that I want to make sure that we are clear on is if we are -- I mean I don't think it's just access to those manholes that you are worried about, I do think you are actually -- you are worried about protecting that -- that sewer line and that is Meridian property and that is Meridian -- that is a Meridian asset, so we do have to make sure we are protecting something in there. So, we do have a piece of this. It's not just county property, we do have a piece that's running through the middle of it and don't have it -- I mean right now I guess we have a gravel bed that's sunk into the ground, but I think that's what Public Works would like to have is the ability to make sure that they have access for their trucks to get in and clean those things out when they need them, but also to protect it for -- from future issues would be my guess and Commissioner Yearsley could probably explain that better than I can.

Yearsley: Mr. Chair -- and I don't -- I don't want to speak for the city. I know Bill mentioned that they want access to the manhole at least. We might could table it and ask for a recommendation from the Public Works what they want to see on the rest of it. Are they okay with it. You know, that would be an option and that would give an option for Becky to try to work with the adjacent owners for maybe some additional screening, you know, which I don't know if they want -- there maybe some lower shrubs that they can not see the pathway, but see the golf course, you know, as an option as well, to, you know, come back with some additional information.

Fitzgerald: Thoughts?

Grove: Mr. Chair?

Fitzgerald: Go right ahead.

Grove: I -- I think I agree with Commissioner Yearsley and Commissioner Seal for the most part, but I think where I'm landing is sending it to Council with -- with those pieces as conditions before they get to Council to have those discussions and to have the -- that entered into the -- the record for Council. But I don't -- I don't necessarily see this as an issue where I would recommend continuance.

McCarvel: Mr. Chair?

Fitzgerald: Go right ahead.

McCarvel: I would agree with Commissioner Grove. I don't -- I really don't think there is enough here that we would have to see it again. I think we could make recommendations and move it on to Council.

Fitzgerald: Commissioner Seal, Commissioner Yearsley, thoughts?

Yearsley: I'm okay with that.

Fitzgerald: Okay. Somebody want to take a stab at a motion or -- Commissioner Seal, did you have a comment?

Seal: I almost did, but I will just see what the motion sounds like. I guess if I were to make a point, if we recommend approval based on information that would be coming back from ITD or something along those lines and it kind of puts it to where we are now waiting on something to happen. So, I do agree that if ITD comes back and says, no, you can't have that access, there is -- I mean at that point there is no reason for me to see it again, because the option is what we are looking at, which is annexation and putting the path in. So, I guess -- I guess it will all be in how carefully worded the motion is and if you notice I'm not volunteering to make one.

Fitzgerald: I got that.

Yearsley: Mr. Chairman?

Fitzgerald: Commissioner Yearsley.

Yearsley: After considering all staff, applicant, and public testimony, I move to recommend approval to City Council of file number H-2020-0087 as presented with the staff report for the -- for the hearing date of October 15th, 2020, with the following modifications: That Public Works provides description of its -- what recommendations they would recommend to have between the two manholes for a surfacing or what they would prefer. Also to give time for Becky to work with the adjacent homeowners to see if

there are is some additional mitigations that they could do to hide the pathway as best as possible and also potentially if Becky can get a letter from ITD saying that they wouldn't provide access. We already had testimony that Mr. Wagner -- I hope I said that right -- was not going to provide an easement. So, those three things is what I would recommend. And I guess the question for the hearing date -- or no. We approved it. Never mind. That's my motion.

McCarvel: Second.

Fitzgerald: Okay. I have a motion and a second to recommend approval of file number H-2020-0087 with modifications. All those in favor say aye. Any opposed? Motion passes.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

Parsons: Mr. Chair, before we wrap up on that, I just want one clarification on the motion. Would that also include the additional signage for that area? Just to make sure that it's private property and if that's something you want Council to do.

Yearsley: I'm okay adding that condition. Or do we need a revote on that with that condition?

Fitzgerald: Yeah. We need a separate motion on that one.

Yearsley: So, I would -- I would amend my motion to include signage for no -- no public access on the gates.

McCarvel: Second.

Fitzgerald: Second has -- as we revise our motion I have a motion and a second to recommend approval of H-2020-0087 to City Council with modifications. All those in favor say aye. Any opposed? Motion passes.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

FUTURE MEETING TOPICS / DISCUSSION

Fitzgerald: Thank you to everyone involved. Appreciate it tonight. I need one more motion.

Seal: Mr. Chair?

Fitzgerald: Commissioner Seal.

Seal: I move that we adjourn.