

Meridian Planning and Zoning Meeting

February 1, 2024.

Meeting of the Meridian Planning and Zoning Commission of February 1, 2024, was called to order at 6:00 p.m. by Chairman Andrew Seal.

Members Present: Commissioner Andrew Seal, Commissioner Maria Lorcher, Commissioner Jared Smith and Commissioner Enrique Rivera.

Members Absent: Commissioner Patrick Grace.

Others Present: Tina Lomeli, Kurt Starman, Bill Parsons, Sonya Allen and Stacy Hersh.

ROLL-CALL ATTENDANCE

_____	___X___	Maria Lorcher
_____	___X___	Patrick Grace
___X___	___X___	Jared Smith
_____	___X___	Enrique Rivera
_____	___X___	Andrew Seal - Chairman

Seal: Good evening. Welcome to the Planning and Zoning Commission meeting for February 1st, 2024. At this time I would like to call the meeting to order. Commissioners who are present for this evening -- evening's meeting are at City Hall and on Zoom. We also have staff from the city attorney and clerk's offices, as well as the City Planning Department. If you are joining us on Zoom this evening we can see that you are here. You may observe the meeting, however, your ability to be seen on screen and talk will be muted until the public testimony portion of the meeting and, then, you will be unmuted and, then, be able to comment. Please note that we cannot take questions until the public testimony portion. If you have process questions during the meeting, please, e-mail cityclerk@meridiantcity.org and they will reply as quickly as possible. With that we will begin with roll -- roll call. Madam Clerk.

ADOPTION OF AGENDA

Seal: All right. First item on the agenda is the adoption of the agenda. We have Farmstone Crossing Subdivision, File No. H-2023-0045, will be opened for the sole purpose of continuing to a regularly scheduled meeting. Be open for only that purpose, so if there is anybody here tonight for -- to testify for that application, we will not be taking public testimony on it this evening. Can I get a motion to adopt the agenda as presented?

Lorcher: So moved.

Rivera: Second.

Seal: It's been moved and seconded to adopt the agenda as presented. All in favor, please, say aye. Opposed nay. The agenda is adopted.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

CONSENT AGENDA [Action Item]

1. **Approve Minutes of the January 18, 2024 Meeting of the Planning and Zoning Commission Meeting**
2. **Findings of Fact, Conclusions of Law for Daily Fit Body (H-2023-0060) by Joseph Daily, located at 1600 N Linder Rd.**
3. **Findings of Fact, Conclusions of Law for Sulamita Church (MCU-2023-0008) by MMGC Sulamita, located at 4973 W. Cherry Ln.**

Seal: Next item on the agenda is the Consent Agenda and we have three items on the Consent Agenda. Approval of the minutes of the January 18th, 2024, meeting of the Planning and Zoning Commission. Findings of Fact, Conclusions of Law for Daily Fit Body, H-2023-0060. Findings of Fact, Conclusions of Law for Sulamita Church, MCU-2023-0008. Can I get a motion to accept the Consent Agenda as presented?

Smith: So moved.

Lorcher: Second.

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

MOTION CARRIED: FOUR AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Seal: All right. At this time I would like to briefly explain the public hearing process. We will open each item individually and begin with the staff report. Staff will report their findings on how the item adheres to the Comprehensive Plan and Unified Development Code. After staff has made their presentation the applicant will come forward to present their case and respond to staff comments. They will have 15 minutes to do so. After the applicant is finished we will open the floor to public testimony. Each person will be called on only once during the public testimony portion. The clerk will call the names individually of those who have signed up in advance to testify. You will need to state your name and address for the record and you will have three minutes to address the Commission. If you have previously sent pictures or a presentation for the meeting it will be displayed on the screen and you can run the presentation. If you have established that you are speaking on behalf of a larger group, like an HOA, where others from that group will allow you to speak on their behalf, you will have up to ten minutes. After those -- all those -- all of those who have signed up in advance have spoken we will invite any others who may wish to testify. When you are finished if the Commission does not have questions for you, you will return to your seat in Chambers

or be muted on Zoom and no longer have the ability to speak and, please, remember we generally do not call people back up. After all testimony has been heard the applicant will be given another ten minutes to come back and respond. When the applicant has finished responding to questions and concerns, we will close the public hearing and the Commissioners will have the opportunity to discuss and hopefully be able to make a final decision and recommendation to City Council as needed.

ACTION ITEMS

4. Public Hearing continued from January 4, 2024 for Farmstone Crossing Subdivision (H-2023-0045) by Bailey Engineering, located at 820 S. Black Cat Rd.

- A. Request: Annexation of 33.893 acres of land from RUT to the M-E (Mixed Employment) zoning district. B. Request: Preliminary Plat consisting of 6 buildable lots on 27.59 acres of land in the proposed M-E (Mixed Employment) zoning district.

Seal: So, with that I would like to open file number -- or open the public hearing for File No. H-2023-0045, Farmstone Crossing Subdivision, for a continuation to the date of February 15th, 2024.

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: Mr. Chair, I move that we continue Farmstone Crossing Subdivision for February 15th to allow additional time to revise their plans.

Smith: Second.

Seal: It's been moved and seconded to continue File No. H-2023-0045 for Farmstone Crossing Subdivision to the date of February 15th, 2024. All in favor, please, say aye. Opposed nay? The file is continued.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

5. Public Hearing continued from January 18, 2024 for Pathways (H-2023-0061) by Mussell Construction, Inc., located at 965 E. Ustick Rd.

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

pedestrian and bikeway access between the neighborhood and the school site.

Seal: I would like to open File No. H-2023-0061, Pathways, and we will begin with the staff report.

Allen: Thank you, Mr. Chair, Members of the Commission. A little recap from the last hearing. This application was continued from the previous hearing on January 18th in order to obtain the ACHD report for consideration in a motion to consider the impacts of a one-way driveway along the eastern boundary of the site on the buffer to residential use to the east and the internal site circulation. Since that time the applicant has submitted a revised site plan, as shown there on the right, that shows two accesses via Ustick Road, with a one-way driveway through the site, which provides better traffic flow through the site, with queuing for up to 18 vehicles and a safe drop-off area for students. With the revisions to the site plan the buffer to residential uses along the west boundary now meets the minimum width standard of 20 feet. A reduced buffer width of six foot eight inches to eight feet, approximately, is now requested from Council for the buffer along the eastern boundary. The traffic study associated with the public school checklist is in the process of being updated and should be submitted to ACHD for review first of next week. ACHD did provide an update for their review of the school site checklist as follows: The new site plan with the enter and exit only driveways, on-site vehicle queuing storage and a dedicated student drop off and pick up area is a significant improvement. ACHD is still waiting for the applicant's engineer to provide an updated school site checklist, which includes an on-site cueing analysis, but does feel that they are making progress in a positive manner. The applicant is here to speak tonight and that's all staff has, unless you have any questions.

Seal: None so far. Would the applicant like to come forward?

Mussell: Good evening.

Seal: Good evening.

Mussell: I will state my name and address again.

Seal: Thank you.

Mussell: It's Kent Mussell. I'm with Mussell Construction and my address is 3516 South Bartlett Way here in Meridian. When I was here two weeks ago I presented a different version of the site plan for this project. Emphasize the importance of the work that Pathways in Education is doing and expressed why we think their campus is a good fit for the area. I explained Pathways operating model and how it involves assisted homeschooling and that the students come to the campus for testing and tutoring, which makes it a very different operation from other schools. We listened carefully to your feedback, as well as the feedback from the neighbors, and we have returned with what I think is a greatly improved plan. We have addressed the suggestion that we improve

on-site circulation and the impact that would have on the area's traffic. Our efforts since then have targeted those concerns and we are very pleased with the result. You can see the differences between the two plans on the screen. In our original design we had a single access to the site. Vehicles were to enter along the west drive aisle, park for drop offs, then, leave via a three point turn. Our new design improves this in a number of ways. We now have -- we are now proposing two accesses from Ustick Road, with one way circulation through the site. Vehicles enter on the east and circle clockwise through the property, exiting on the west. This provides 31 parking spaces and enough queuing space for at least 15 vehicles, plus loading space for four vehicles. For the safety of students and efficiency of drop offs, signage is proposed to require vehicles to complete drop offs along the west sidewalk. I realized that part of the reason for continuing this vote was to wait for ACHD's report. After our last hearing we revised our traffic study and submitted it to them. They requested additional information from us and, accordingly, we still do not have a report from them. However, we have made significant progress with ACHD. The report that Sonya just listed from them was at my request, because I wanted to get a sense of their feeling for the project in advance of this meeting. I'm going to read it again with the highlights. It says: I just wanted to give you an update on where ACHD is with the review of the application for Pathways Charter School. The new site plan with the enter and exit driveways is a significant improvement. We are still waiting for the applicant's engineer to provide on-site queuing analysis, but we are making progress in a positive manner. Working with ACHD's requests for additional information has taken time, but it has resulted in a much stronger traffic study and has led to improvements to our plans. Their e-mail to our planner identified their core consideration and alludes to how it is being resolved. Their core question is this. How do we know that drop-offs -- that the drop-off queue won't extend into Ustick Road and they want a specific kind of answer to that question. They want statistical modeling predicting the length of the drop-off queues during peak hours. We now have that information, but we have not had time to submit it to ACHD and I think you will find the information that we obtained reassuring. ACHD is aware of the approach that we have taken, which is why they were willing to write the positive message that we just reviewed. I would like to review our queueing analysis now and explain why it is likely to satisfy ACHD. We hired a second traffic engineer to complete the queueing analysis, Kittelson and Associates. We hired them to complete this analysis, because they have worked with ACHD on a number of local school projects and ACHD has found Kittelson's modeling methods to be helpful and accurate. I believe ACHD's positivity regarding our progress is largely because we hired Kittelson, whose work they appear to trust and be familiar with. Let's review what these graphs show. The red line represents our site's processing ability. This is how many cars can drop students off without the need for a queue. The dotted green line predicts that -- the cars that will be arriving to the site. If you look at our 8:00 a.m. sight drop offs, you can see that the cars are processed as they arrive and no queuing is expected to occur. How is that reflected in the graph? The dotted green line remains below the red one and the blue line, which represents the drop-off queue stays zero throughout the peak hour of 8:00 a.m. Now, let's look at the other two graphs. As you can see, our peak activity happens at 9:40 a.m. That's because this period involves some late student pickups, at the same time that students are being dropped off for the second session.

So, what happens at this peak time? For a brief ten minute interval, a queue will form behind the loading zone. At that time Kittelson predicts that at worst there will be four cars loading while five cars queue. This graph also shows why that won't be a problem. We have capacity for 15 cars to queue. This graphic shows our worst case queue. At 9:40 a.m. we predict at maximum there will be four vehicles loading and unloading, while five cars are queuing as shown. Kittelson's calculations are conservative and represent the worst case. It assumes the school is at max capacity with 120 students per day. This will not occur for several years. It assumes students will abruptly be dismissed at 9:45. In fact, they will end their sessions at various times between 8:45 and 9:45. I would now like to switch modes before I end. I think it's helpful to put the traffic load of this project into perspective. Yes, this project might in several years help 120 students per day. That produces about 170 vehicle trips per day. But we can understand that number in more helpful ways and I would like to illustrate that through a couple of comparisons. Here is a recently approved project in Meridian in 2021. It has a very similar -- similar footprint to ours at 7,900 square feet. It has two office spaces. One for a dentist's office and another shell space intended to be used as office space. I pulled ACHD's report on this project and there they estimated 177 vehicle trips per day. Recall our project creates about 170 trips. Here is another project I was able to find some data for. This has a smaller footprint and occupies only one half of an acre. The building is occupied by a Foot and Ankle Clinic, a dentist's office and an insurance company. In ACHD's report on this project they estimated traffic generation at 170 trips per day per acre. While this project is only half an acre. This gives us an indication that light office use on a typical day produces about 170 vehicle trips per acre. About the size of our project. That brings me to my final point. Compared to other uses, this project has some significant advantages. The project has no evening or weekend activity. It has no impact on the evening rush hour. More than two-thirds of the students arrive or leave at non-peak traffic hours and all student activities are indoors and for short durations. Thank you for allowing us the opportunity to make these improvements to our plans. I hope the information we presented has built confidence in our on-site circulation and that it's clear that we have adequately addressed ACHD's input on the project. It's important to us to be eager partners with the community and I hope that the progress we have made over the last couple of weeks shows that. Because this project is anticipated to be operational for fall 2024, I would like to request that the Commission vote on our application today. Although ACHD has yet to produce a final letter, my hope is that the information we presented just now will give you enough confidence to make a recommendation to Council. And I will take any questions that the Commissioners might have.

Seal: Thank you very much. Commissioners?

Smith: Mr. Chair?

Seal: Go ahead.

Smith: Thank you. One quick question. So, there are -- question and a follow up. There are three sessions throughout the day; is that correct?

Mussell: Yeah. That's correct.

Smith: So, follow up to that. I know we saw the pickup and drop off for session one and the pickup -- or drop off for session two. Is there analysis on -- I think -- I believe pickup for a session two, pick up and drop off per session three, specifically with the intention of are those -- or can we assume that there will be, you know, a lower impact? Is everything better off in those -- those timelines?

Mussell: Sure. So, yeah, I think to help explain that particular issue, the engineer focused their analysis on the worst case time. So, the first question is what happens during 8:00 a.m. where we have, you know, peak traffic, and, then, we have the kind of highest site activity where we have a slight overlap. We are staggering the sessions. So, the students are asked to finish their on-site session by 9:45. That gives a 15 minute delay before session two begins, but some students are going to get picked up late and some students are going to arrive early and so that's how you get a little bit of overlap. These graphs take that into consideration. So, that's why we -- while we have an identical drop off load at 10:00 a.m., we expect to have a queue at that time, because of the late students leaving at that time. But to answer whether we would have maybe potentially a worse issue between sessions two and three, there is a lunch hour in between those two, so the -- the 10:00 a.m. session will end around lunchtime and, then, the next session would not begin until 1:00 o'clock and so we would expect it to be very similar to the 8:00 a.m. drop off period.

Smith: I do have --

Seal: Commissioner Smith.

Smith: While we obviously don't have ACHD written back or anything else, I don't want to lean too much on kind of my own -- some of the way that -- let's get to this kind of as maybe a middle ground. Does this kind of align with what you have seen from similar projects of -- with footprints with this kind of model. Obviously, nothing is the one to one, but does this -- I guess it's a sanity check, does this kind of check out.

Allen: Mr. Chair, Commissioner Smith, Commissioners, you know, this is kind of a unique project. I don't know that there is any really similar ones that we have reviewed, to be honest with you. I feel pretty good with the revised site plan. I feel it -- you know, it's probably the best design that this site can get. One thing to keep in mind is Council cannot and will not approve this project unless it meets the requirements of state code as -- as determined by ACHD.

Mussell: Can I chime in on that?

Seal: Go ahead.

Mussell: Perfect. If -- if the question is about like confidence in Kittelson's analysis, I think it might help to kind of say how we got here. So, we were working with a different

traffic engineer and we had done a few rounds with ACHD. ACHD sent me an example of a traffic study for INCA. That's another charter school. And I read that traffic study and I found Kittelson's analysis in there and I saw that there was coordination between ACHD and Kittelson in the creation of that analysis and that's why we ended up hiring them to do this for our project.

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

Lomeli: Yes. Thank you, Chairperson Seal. We have Nancy Wilson signed in.

Seal: Good evening, ma'am. Need your name -- oh.

Wilson: Nancy Wilson and I live at 3299 North Boulder Creek Avenue in Meridian. I listened last time to the testimony and, then, went back and listened again. So, the -- what was testified to at that point in time is how I got my figures and at one point in time I remember there was a lady that testified and she said that their goal was to have 250 students and it kind of sounded to me like maybe that wasn't correct. I do believe in charter schools and I think they are important in the right situation. According to their numbers 50 percent of the students will be dropped off -- dropped off by parents. I don't know if you have ever been over when Compass Charter School was over off of Cherry Lane. The stacking of traffic was a block long and, granted, they have more students. So, then, what starts happening is the parents get impatient in waiting and they start picking them off and dropping them -- picking them -- picking them up and dropping them off on the side of the road. It happens -- if you drive by any of the schools around here that happens. So, the stacking -- and especially concerned about the left-hand turns across the two lanes of traffic. It would be nice to have statistics about how many accidents are in Meridian anymore. It sure seems like there is a lot where there is turning -- left-hand turns across two lanes of traffic. It says that they said that ten percent of their students will be walking or biking to school. There is no crosswalk there. It's a ways down the street to the crosswalk and there is a light there. I don't know if you remember that there was a student from Meridian Middle School that was hit and killed by a car, because the kids were running across the street. I was by there just the other day and they have two crosswalks and the kids are still running across the street and that -- that scares me. The speed limit on Ustick Road is 40 miles an hour. Rarely does anybody go 40 miles an hour. There is a lot of drag racing up and down that road. We call it the Ustick International Speedway, because it is just the -- traffic is just out of control. So, with all of this I total -- I totaled that this -- these are from what I had statistically from their testimony last time and I figured that there would be 276 trips a day. That's with the parents going in and out to pick up and in and out to drop off and, then, if they went to 250 students that would be close to 600. There has been no talk -- and I don't know if there is plans for a 20 mile an hour speed limit through there, since it is a school. I'm not sure. And, then, my other concern was emergency vehicles. Is there room to get emergency vehicles in and out of there in case there is a fire or medical emergency. Thank you.

Seal: Thank you very much. Appreciate that.

Parsons: Mr. Chair, before we go on with public testimony, I just want to remind the Commission that we actually continued this item to just to discuss revisions to the site plan and get ACHD's comments. So, if we can just keep that testimony to those two topics tonight I appreciate that. Thank you.

Seal: Okay. Thank you, Bill. I appreciate the reminder on that. Madam Clerk, do we have anybody else signed up?

Lomeli: No one else.

Seal: Does anybody else in Chambers want to come up and testify? We will call you back up. We will get you back up here and -- actually, if you want to come back up. Any closing comments that would be great.

Mussell: So, I just thought it would be helpful to address a couple things on that. So, to clarify the difference between the 200 and -- it's actually 240 students is -- is the maximum capacity of the school, but that is assuming that they are split into two groups that are Monday, Wednesday and Tuesday, Thursday. So, on a given day, the traffic load is 120 students. So, I just wanted to clarify that point. And -- and, then, to address the emergency vehicles, I did talk to fire consultants, that's Meridian's contractor for reviewing our fire plans, and what we have designed here is emergency vehicle access on both ends of the drive aisle. The requirement is just that we get -- that a 150 foot fire hose can reach any part of the building measured around the perimeter and we have -- we have actually got that displayed on the site plans here for you guys to review, so --

Seal: Commissioners, any other questions for the applicant? Commissioner Smith, you look like you were going to go for it there.

Smith: I was.

Seal: Go ahead.

Smith: But I guess I can ask regarding -- regarding the purpose of the continuance being about ACHD -- including ACHD's study. Is there a requirement that we have that study for moving forward with this given that?

Starman: Mr. Chairman, Commissioner Smith, so the short answer is no. So, it was the -- the hearing was continued for two weeks to allow for additional information from ACHD. You do have some additional information. Not their complete response, but a partial response and, of course, you have the update from the applicant here today as well. So, it's really the -- it's the Commission's prerogative -- if you feel the need to wait for the ACHD report I think that's within your purview. If you choose to vote on this issue tonight and make a recommendation to Council you are able to do that as well.

So, you are not precluded from making a recommendation for Council tonight if you choose to.

Seal: Okay. Thank you. Go ahead.

Smith: I apologize, I did think of a question for the applicant. On my mind regarding -- I don't know how to phrase this as more of a layman, but the stacking that naturally occurs -- in cross-traffic, is there any study that's done actually -- or best practice, general estimate how long that process can take on a road like Ustick and what the stacking effect might be, even if -- even if the queue has plenty of capacity post entry, just do the waiting for approximately --

Mussell: I see. So -- I mean I have to qualify this with the -- I'm not a traffic engineer, but the -- sorry. I think the question involves like what happens if maybe the processing ability of the site is restricted, because Ustick Road is too busy to be able to make a turn. Is that --

Smith: More or less, yeah. There is oncoming traffic.

Mussell: So, Kittelson's analysis should, as a professional in this industry, should take into consideration those factors. I assume that it has. But it's important to remember that our 8:00 a.m. drop off profile looks really good. It has no queuing at all. And so our issue is really at a non-peak time. It's at 9:40 a.m. when we are passed the rush hour, and, then, at the evening rush hour, we have no -- well, the site is closed completely.

Smith: Thank you.

Seal: Thank you, sir. Appreciate it. I do have a quick question for staff and it was actually brought up by the financing. On -- as far as -- if this were to be -- to be determined a school zone and the lights and everything were put up for that, who makes that determination?

Allen: Mr. Chair, I believe ACHD does.

Seal: Okay. So, that might be part of what may be coming in the report. Okay. That was a -- that was a good question. Okay. And if there are no further questions, no -- no one else wants to testify that's in the audience? So, only one person online and I don't see him raising their hand. So, I will take a motion to close the public hearing for File No. H-2023-0061 for Pathways.

Smith: So moved.

Lorcher: Second.

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

MOTION CARRIED: FOUR AYES. ONE ABSENT.

Seal: Who wants to go first?

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: I know that the full ACHD report is not available as requested by this committee, but the changes that they have made for the in and out have been a good -- a good improvement and as long as ACHD proves both approaches I think you will be fine. I think there is an overestimated impact that -- this is an alternative school for high school students. It's a testing center with tutoring. It's not like they are in from 8:00 o'clock in the morning until 4:00 o'clock in the afternoon. It's not a traditional school. That's the whole point of having a small building for these students, because they are not acclimated towards the social requirements of other high schools; right? So, they need a quiet place to be able to take their tests, be able to graduate, be able to come into this building in a safe space, take their test, get instructions and move on. Having more than four in a queue I would be highly surprised even at full capacity. So, I think your site design is great and thank you for making those improvements. I would approve that -- I am going to motion that this gets approved based on your design and even though we don't have the ACHD report.

Seal: Commissioner Smith? Commissioner Rivera, go ahead.

Rivera: Just --

Seal: Hold on just a second.

Starman: Mr. Chairman, a point of clarification. So, the way you worded that. Commissioner Lorcher, was -- was that intended to be a motion or you intend to make a motion later?

Lorcher: Later.

Starman: Thank you.

Rivera: Just -- I'm in full agreement with Commissioner Lorcher. I appreciate the improvements that were made in the presentation today to the queue. I think it just makes it that much better. Like I stated before, I'm familiar with this impact that the school brings in an existing school in Nampa and it's great for -- you know, for the community, but I think they have addressed -- done a good job of addressing the queue and the cars coming in to avoid traffic on -- off of Ustick. Again, Ustick it's -- it's a wide road, so that it helps with this as well. So, I am in agreement with Commissioner Lorcher to make the recommendation to go to City Council.

Seal: Okay. Commissioner, Mr. Smith, go ahead.

Smith: Mr. Chair. I'm generally the same agreement and I have no illusions that this is, you know, the perfect plan or the end all be all, zero things wrong, or zero things that my, you know, perfect location for this charters school, but I think this is -- this is probably -- especially when he is stating this is essentially an in-fill project. This is honestly probably one of the best pieces I think for both this location and for this charter school, just given a timeline, given the other -- the rest of how Meridian is developing and the problems that are going to be inherent really anywhere trying to fit this kind of parcel. Yeah, I think I would have probably liked to have seen the other session data just -- again, it -- that's especially in lieu of ACHD report -- the ACHD report, but I -- I imagine that that won't be as much of a problem for Council, just kind of -- as I do intend to vote for this, but just some -- some feedback around things that could potentially make this a little bit -- just more of a -- you know, more of theory. Yes, but I think this is a net good for the community, for the students. I think they have done a great job at taking the feedback from the previous hearing and incorporating a lot of the -- a lot really solid improvements to the site design. Yeah. And I think -- I think my only real like outline concern is a little bit of that cross-lane stacking that just kind of -- stacking that happens when you are able to cross the lane, but that's not relying on the site plan itself, that's just based off of where Ustick and how traffic on Ustick flows. So, all in all I think this is net positive and I fully intend on supporting this. Just for some feedback for -- if I try to put my City Council hat on.

Seal: Okay,

Lorcher: Mr. Chair?

Seal: Go ahead.

Lorcher: After considering all staff, applicant and public testimony, I move to recommend approval to City Council of File No. H-2023-0061 as presented in the staff report for the hearing date of February 1st, 2024, with no modifications.

Smith: Second.

Seal: Okay. It's been moved and seconded to approve file -- or recommend approval of File No. H-2023-0061 for Pathways. All in favor, please, say aye. Opposed nay? Motion passes. Thank you very much.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

6. Public Hearing for WaFed (H-2023-0068) by WP5 Meridian, LLC., located at 3423 E. Ustick Rd.

- A. Request: Conditional Use Permit for a drive-through establishment within 300-feet of another drive through facility and a residential use on 0.76 acre of land in the C-G zoning district.

Seal: All right. With that, I would like to open File No. H-2023-0068 for WaFed and we will begin the staff report.

Allen: Thank you, Mr. Chair, Members of the Commission. The next application before you is a request for a conditional use permit. Oops. Let me get on the right slide here. This site consists of .76 of an acre of land. It's zoned C-G and is located at 3423 East Ustick Road. This property was annexed back in 2003 with the requirement of a development agreement, which was later amended in 2007. The Comprehensive Plan future land use map designation is mixed use regional. A conditional use permit is requested for a drive-through establishment for a financial institution within 300 feet of two other drive-through facilities, ICCU bank to the west and Culver's Restaurant to the east and existing residential uses to the southeast. The existing development agreement also requires conditional use approval of all uses on this site in the overall development area. Compliance with the specific use standards for drive-through establishments listed in UDC-11-4-3-11 is required. Staff has reviewed the proposed site plan for compliance with these standards. The stacking lane appears to have sufficient capacity to prevent obstruction of driveways, drive aisles and the public right of way by patrons. There is a separate stacking lane from the circulation lanes needed for access and parking. The stacking lane is not located within ten feet of any residential district or existing residence. An escape lane is provided and the drive through is located on the west side of the building visible from Ustick Road. Compliance with the specific use standards listed in UDC 11-4-3-17 for financial institution is also required. One ATM is located on the west side of the building visible from Ustick Road and two other ATMs are located on the south side of the building, visible from the adjacent north-south driveway via Ustick Road along the east boundary and from the residential uses to the southeast. These areas are required to be well lit and should have security cameras. The police department has reviewed and approved the proposed site plan. Access to the site is proposed via the north-south driveway along the east boundary the site from Ustick Road and other existing internal driveways within the subdivision. A cross-access easement exists between all lots in the subdivision. Off-street parking is required in accord with UDC standards. Based on the square footage of the building at 3,100 square feet, a minimum of six spaces are required. A total of 16 spaces are proposed exceeding the minimum standards by ten spaces. A bicycle rack capable of holding at least one bicycle should be provided. Street buffer and sidewalk along Ustick Road was installed with development of the subdivision. Parking lot landscaping in accord with UD stand -- UDC standards is required with development. Conceptual building elevations were submitted as shown for the proposed structure. A single story building is proposed that incorporates a mix of materials consisting of stucco with stone veneer accents and metal awnings and canopies. The final design shall be consistent with the design standards listed in the Architectural Standards Manual. Written testimony has been received from Andy Neff,

the applicant's representative, in agreement with the staff report. Staff is recommending approval with the conditions in the report. Staff will stand for any questions.

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

Neff: Andy Neff. Representative for WP5 Meridian, 14 Corporate Plaza, Suite 120, Newport Beach. 92660. Chair and Commissioners, thank you for doing this project that staff has presented. It's taken us a while to get to this point, but appreciate staff's input. It is the last remaining portion of Gateway Marketplace that we need to develop, laid out to help with the entire development. So, it was important to us. We agree with the staff report and any questions?

Seal: Commissioners, do we have any questions for the applicant? None? Madam Clerk, do we have anybody signed up for -- to testify?

Lomeli: No one has signed up.

Seal: Anybody in Chambers want to come up? Might make this short for you. And he is not raising his hand, so -- okay. If we don't have any -- anymore questions, nobody wants to come up and testifying, is there anything else you want to add? No? All right. Thank you very much. Appreciate it. With that I will take a motion to close the public hearing for file H-2023-0068 for WaFed.

Smith: So moved.

Rivera: Second.

Seal: It's been moved and seconded to close the public hearing for File No. H-2023-0068 for WaFed. All in favor say aye. Opposed nay? The public hearing is closed.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

Seal: I can go first on this one. I mean it's pretty straightforward. The only interesting thing I find about it is right next door to another bank, but --

Lorcher: They know that.

Seal: They know that. Yeah. I was going to say everybody knows that. I am happy to see that there is extra parking, because I go to Le Peep for breakfast there, so good to know that there is going to be more -- more parking around there. But it's pretty straightforward. I mean it's -- I think it's a good location for all of this. A lot of activity in that area. So, the more buildings that we have that are a lot of commercial uses the better.

Lorcher: Mr. Chair?

Seal: Go ahead.

Lorcher: After considering all staff, applicant and public testimony, I move to approve File No. H-2023-0068 as presented in the staff report for hearing date of February 1st, 2024, with no modifications.

Rivera: Second.

Seal: It's been moved and seconded to approve File No. H-2023-0068 for WaFed. All in favor, please, say aye. Opposed nay? Motion passes. Thank you very much.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

7. Public Hearing for Stonehill Church (H-2023-0041) by Stonehill Church, located at 799 W. Amity Rd.

- A. Request: Development Agreement Modification to the exiting Development Agreement (H-2015-0019, Inst. #2016-007090) to allow for the development of a church on a portion of the property and removal of that property from the original agreement for inclusion in a new agreement.
- B. Request: Rezone of 13.49 acres of land from R-4 to R-8 zoning district.
- C. Request: Conditional Use Permit for a church on 13.21 acres of land in an R-8 zoning district.
- D. Request: Preliminary Plat consisting of 4 building lots on 65.43 acres of land in the R-4 and R-8 zoning district.

Seal: And with that we will open File No. H-2023-0042 for Stonehill Church and we will begin with the staff report.

Allen: Mr. Chair, Members of the Commission, the next application before you is a request for a rezone, preliminary plat, conditional use permit and development agreement modification. The DA modification only requires action from Council, so a recommendation from the Commission is not needed tonight. This site consists of 65.43 acres of land. It's zoned R-4, located at 799 West Amity Road on the south side of Amity midway between Meridian and Linder Roads. This property was part of the area included in the south Meridian annexation area in 2015. A development agreement exists for this property that requires an amendment to the agreement prior to any future development on the site. The Comprehensive Plan future land use map designation is low density residential. The applicant is requesting a modification to the existing development agreement to allow for the development of a church on the northeast portion of the property and removal of that property from the original

agreement for inclusion in a new agreement just for the church property. The remainder of the property will continue to be governed by the existing development agreement. A rezone of 13.36 acres of land is proposed from the R-4 to the R-8 zoning district for the development of a church as shown on the exhibit there on the left. Church uses do require conditional use approval in the R-8 zoning district. A preliminary plat is proposed consisting of four building lots on 65.43 acres of land in the R-4 and R-8 zoning districts for Stonehill Crossing Subdivision. The preliminary plat is proposed to develop in one phase. The main reason the property is proposed to be subdivided at this time is to create a lot for the church to develop. The remainder of this site, except for the lot where the existing home is located to the south of their proposed church, is proposed to be resubdivided in the future prior to redevelopment. So, I will just point out here this is -- again, this is the large lot here where the church is proposed. This lot here is for the existing home. There is another existing home proximately in this location right here. Transportation improvements proposed with this subdivision consist of construction of the collector street from Amity Road to the southern boundary of the site and a roundabout at the Amity collector street intersection in accord with the master street map and the widening of Amity Road. The church is proposed to develop on Lot 1, Block 1. The existing home on the east side of the proposed collector street is proposed to remain on Lot 2, Block 1. Lot 3, Block 1, which is this lot right here, and Lot 1, Block 2, which is all of this area on the west side of the collector street, are proposed as mega lots to be further resubdivided in the future prior to development. As I mentioned, there is an another existing home on the west side of the collector street that's proposed to remain for the time being on Lot 1, Block 2. Access is proposed for Lot 1, Block 1, the church, via two driveway accesses from the collector street and an emergency only access driveway from Amity Road. The existing home on the east side of the collector is proposed to be accessed temporarily through the church property and that is from this access easement that you can see indicated right there. Subsequent access is proposed from a local street at the east boundary via a flag. So, currently this does not show this, but the applicant did submit a concept development plan that shows a flag right here to this future local street and cul-de-sac here. So, that's what the applicant is proposing. The UDC limits access point to collector and arterial streets to improve safety and to ensure that motorists can safely enter all streets unless otherwise waived by City Council. Further, the UDC requires all subdivisions to provide local street access to any use that currently takes direct access from an arterial or a collector street. For this reason staff is recommending a local street is provided between the church and the existing home -- and that would be in this location right here -- to provide access to both uses and the accesses via the collector street should be removed. The applicant requests approval of a waiver from Council for the two proposed accesses from the collector street. A temporary access is proposed via a collector street for the existing home on the west side of the collector street, since no development is proposed on that lot at this time. If that home was retained with the future resubdivision, local street access should be provided at that time. The Calkins Lateral lies on the western portion of this site -- and that's this shaded area right here -- within a 56 foot wide easement and the Bell sub lateral lies along the east boundary of this southern portion of this site and that's the shaded area right here -- within a 50 foot wide easement, 25 on each side from centerline. A 25 foot wide street buffer is required along Amity Road

and a 20 foot wide buffer is required along the collector street, landscaped per UDC standards. A ten foot wide detached sidewalk is required within the buffer along Amity Road and a five foot wide detached sidewalk is required within the buffer along the collector street. A ten foot wide multi-use pathway is required along the Calkins Lateral in accord with the pathways master plan. The applicant requests deferral of several improvements typically required with a subdivision until such time as Lot 3, Block 1, and Lot 1, Block 2, are resubdivided in the future as follows: Street buffer landscaping and a ten foot wide sidewalk along Amity Road west of the collector street -- and that's again on this this lot right here that's proposed to be resubdivided in the future. Also the multi-use pathway along the Calkins Lateral. The open space and site amenities for the residential development and piping or improving the laterals that cross this site as a water amenity or linear open space. Staff is amenable to this request. However, if Council does not approve deferral of these items, the applicant does want to request approval of a phasing plan, which would essentially defer these items through future final plats. A conditional use permit is proposed for a 52,000 square foot church on 13.09 acres of land in an R-8 zoning district. Compliance with the specific use standards listed in the UDC for church uses is required. The church is proposed to develop in two phases as shown on the phasing plan. The first phase will consist of approximately 40,000 square feet and the second phase will consist of approximately 12,000 square feet. Access to the church will be determined with the associated preliminary plat by the city and ACHD. Off-street parking is required in excess of -- excuse me -- is required per UDC standards and parking is proposed in excess of UDC standards. A minimum of 104 spaces are required. Approximately 710 spaces are proposed to build out. Conceptual building elevations were submitted for the proposed two story structure as shown. Building materials consist of a mix of stucco, vertical rough sawn Nichiha architectural wall panels and corrugated painted -- painted metal panels and horizontal orientation. These elevations have not been reviewed for compliance with the design standards in the architectural standards manual and are not approved with this application. Review will take place with submittal of a design review application with the certificate of zoning compliance application prior to submittal of a building permit application. Written testimony was received from John Rennison, Rennison Design. That's the applicant's representative. The applicant is in agreement with the staff report, except for Condition No. 2.1G, which requires a local street to be provided between the church property and the existing residence, i.e., between Lots 1 and 2, Block 1. Instead of a local street, the applicant requests a Council waiver for the two accesses from the collector street and a temporary access to the church property for the existing home. Upon resubdivision of Lot 3, Block 1, the temporary access would be removed and local street access would be provided via the future cul-de-sac from a flag at the east boundary of Lot 2, Block 1, that I showed you earlier. Staff is recommending approval with the conditions in the staff report and the applicant is here to present tonight. Thank you.

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

Rennison: John Rennison at 2025 East Riverside Drive in Eagle. So, thanks very much for hearing us. Sonya, thank you. Excellent presentation. Not a whole lot to cover, but there -- we had the one exception that -- that I want to just discuss in a little bit more detail. But, first, just step back in time for just a second. So, really why we are here is in dealing with all these applications is that what happened was the original landowner made a donation to the church for a piece of land and so, really, what happens is there is kind of an illegal split that happened there and so the plat is about cleaning that up and so in this case there isn't a developer in the room here really. It's just the church trying to get a church built and we are assisting them with that from a planning perspective and so forth. So, some of those deferred improvements, right, along Amity and so forth, you can understand they are not -- that we are -- we are going to let the next developer come through who wants to build out the -- the housing development, you know, take care of those improvements. That's really kind of our approach and our ask. So, we want to do -- take care of the minimum amount of things that we can do to address all the other city planning concerns, so we can get the church built. Okay? So, that's -- that's really kind of what's going on here and, then, we needed to do these couple of different applications here to fulfill all the requirements, including doing a rezone of just this parcel to this, to a zone that would accommodate the church by a CUP. So, that's -- that's how we did that. Sonya has been with us here the whole way guiding us and coaching us along on what to do, so that the city could get us to a point where you can approve us. So, we just had one exception that I wanted to talk about and that's this little exhibit here, that's in the lower right-hand corner. So, there was a request that came to basically build a road between the existing home there, the primary residence on the whole property, and the church and so this is something we do feel pretty strongly about that we are just kind of don't like the road there. That wasn't really our design intent and I think that our idea here is to really address the concerns that came up with this alternative access, so that we can really -- we are not having to build a road between -- right next to the house -- in front of the house that's -- that's that and the church. Really, this is our core -- core ask of you. So, I just wanted to explain that a little bit more. So, Sonya did a great job. I'm just going to repeat it, so make sure you guys understand and if you don't I would love to receive any questions. So, the home is there on the -- on the red sort of rectangle and right now it's access generally leaves to the -- to the northwest quadrant of that red -- red square. So, that just happens to be where the primary -- one of the primary accesses to the church would be. So, what we are planning here is when we build the -- the residential collector road and we build the church, that will take access through the church parking lot onto the church driveway and, then, on to the collector road. So, really, what we are trying to do is minimize or reduce the number of access points to the residential collector road. That's kind of the core concern here. So, that's how we take care of access until the subdivision -- you know, the rest of the property gets developed and it will. We know that. And so at the city's request we did this very conceptual plan here, but it's just a very actionable plan and so the Street K-- again, we are not -- there is not an application here to deal with that subdivision, but in general we -- we are planning for it relative to access to the existing home. So, when Street K would go in, then, they would set this -- set up this lot, because it would basically be a flag lot that will take access off the Street K, when that was -- was platted at the time and so at that

point in time the access -- the temporary access out through the church to the collector road would -- would sunset and -- and that -- that home would -- would take access to Street -- Street K. So, that's the thrust of our -- our one exception that we would like to make to it. Any other comments that I can -- I can -- or questions that I can field?

Seal: Commissioners?

Smith: Mr. Chair?

Seal: Go ahead Commissioner Smith.

Smith: Question for staff. On its surface this looks like a revision. Are there any concerns or is there any preference regarding -- are there any issues that you see with this that are significant?

Allen: Mr. Chair, Commissioner Smith, Commissioners, staff cannot support the proposed access because of the UDC provisions that require access to be taken from a local street, unless otherwise required by Council. So, that's -- that's the reason for the recommendation of a local street. If Council approves the waiver I think that the access to the single family home that they are proposing is a -- is a good alternative.

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

Lomeli: Thank you, Chairman Seal. We have a Doug Connolly. Not sure if he wants to testify, but --

Seal: Anybody else want to testify on this? I have got to ask, so it looks like we are making a lot of exceptions to put a church in where a subdivision is supposed to go that will support having the church in there and having everything adequately provided for that church to be able to function correctly with the homes that currently exist. So, I guess my concern is in this is, you know, just more timing than -- than anything else. I mean is there any timeline at all on when the rest of it was developed or is that just kind of in the wind?

Rennison: Well, let's -- good -- great question. Appreciate that. You know, one of the -- let me step back just a couple -- couple steps here to make sure you understand what we are doing. Okay? What is being -- what is going to be improved. So, what's Oak Briar Way, that's the north-south collector road, substantial improvement; right? We are -- that's a major improvement. So, it wasn't really planned, but we would be doing that to build the church, but that is what's -- what's required in order to fulfill the city requirements, so -- and, then, the frontage improvements along -- along Amity in front of the church, those all be completed. So, really, from our view, if you pull up to this project, it will look like a completed subdivision. When you go to the other side of the canal -- so, the west side of the canal, that will not be completed. It will look like a project that needs to come forward still. One other note that I would add is that, you know, presently sewer is not quite available there so -- and I'm not -- I'm not really

current on -- on the sewer situation there, but that's one of the things that needs to happen over there and that just happens to go to a different sewer shed. So, this project -- the church project will drain to the -- to the east sewer wise and, then, the property on the west side of the canal will drain to the west. So, we have -- we have kind of -- we just happen to be right on the sewer shed. That's been a topic that we have been working on for a couple years trying to figure that out. We finally have our path to the sewer figured out for the church and we are not able to come up with a solution readily for the -- for the west side of the property. So, that's another sort of impediment to it's going to -- to be developed; right? So, that will come is what I would say. That's going to come and I think when that comes that -- that's when you will see the improvements on that frontage. That's really the core piece that we are asking for deferment on, just the frontage improvements on Amity. I mean there is a couple other small things, but they are -- the significant one that I think you would see from the street driving by would simply be the Amity -- Amity Road improvement.

Seal: Okay. Thank you.

Rennison: Does that answer that? What do you think?

Seal: It's an answer.

Rennison: Okay.

Seal: Commissioners, anybody else? Or anybody else in the audience want to testify? No? All right. Thank you very much, sir. Appreciate it. With that, I will take a motion to close the public hearing for File No. H-2023-0042 for Stonehill Church.

Lorcher: So moved.

Smith: Second.

Seal: It's been moved and seconded to close the public hearing for File No. H-2023-0042. All in favor, please, say aye. Opposed nay? The hearing is closed.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

Seal: I will start. Like I said, the only concern I have here, just because it is a little bit removed from everything, is just -- it -- I just don't know that it's going to be serviced well without the other developing, you know, with it around it, so -- and I just think it's going to kind of monopolize whatever else is going to be able to go in there as well, so -- but that's my concern. I mean we -- you know, a church goes in there, you have the existing home site, there is just a lot of things that need to happen in order to allow that to happen first and, then, the subdivision to come in around it. So, that's my concern with it. Outside of that I mean it's -- you know, I'm sure it's going to be a -- you know, a fine -- a fine place of worship and, you know, it's not just a bunch more houses on there either. So, good and bad. Anyone else?

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: On kind of what we are talking about here -- on a lot of things here. There is a little bit of an aspect where it's far out to where I feel like it might not be serviced well, but I also think that -- that gives me a little bit more concern for -- for the applicant and I guess the surrounding community of time to fill in. It's kind of the opposite. You know, when you see kind of larger projects or projects with houses, there is always kind of consideration -- in the back of my head at least -- that is like, okay, is there maybe some room for us to face this little bit for us, but I agree with you, it would be nice to be able to kind of do it all here, but I think at the end of the day, you know, that the timing is right. I think that is something you have to deal with. I don't know. There -- there is a small fear of like when does, you know, this west side get developed. Is there concern of it eventually becoming kind of in-fill when the surrounding area develops. But I think for me I guess on net, that is less of a -- less of a huge concern and more of kind of a -- maybe a pebble in the shoe. I think on the access side of things I -- like I said, the staff -- and in my question is, yeah, I -- assuming Council has -- you know, Council approved it, I have no issue with it. It looks directionally like -- it seems fine. But I'm no traffic engineer. I'm not an expert on the UDC either, so -- but -- but I tend to really support the -- unless there is a significant issue that I'm missing I guess is what -- where I'm getting at is I think this is generally a good project and, yeah, there is -- there is a little bit of heartburn there, but I -- not just --

Seal: I mean my concerns are just from the experience I have had here where we have something like this happens and it kind of puts conditions on the next -- you know, the remainder of the development that's going to happen. So, that's kind of where I'm coming from. It's just -- it -- sometimes unfairly it does that and, then, you have an applicant in here that says, well, because of this and this, you know, we are kind of -- we are reigned in to having to do these things. So, that sometimes dictates what can go in there, what will go in there. So, that's -- that's where I'm coming from and maybe that's just because I have been up here too long. Bill, did you have something to add?

Parsons: Yeah. Mr. Chair, Members of the Commission, I think it's important to note here, although we use the term deferral, the applicant -- or at least the remaining property that is part of this plat is still subject to the existing DA that was approved in 2015. So, it was always anticipated that this property would further redevelop. So, that DA is still going to remain intact and whoever buys these mega lots will still have to do that regardless of whether or not this project goes forward. So, I just want to make that clear to the Commission. Yes, typically with subdivisions we require a lot of those frontage improvements, but keep in mind the DA is -- the church is asking to remove themselves from that 2015 DA in order to enter into a new DA, which gets us some of these other improvements that the applicant talked about tonight. So, either way the DA is in place and something is going to happen there. So, that's why we wanted to at least share that with your attention, that we do support that, because we know the DA requires something in the future.

Seal: Okay. Thank you. Appreciate the clarification on that. Commissioner Lorcher.

Lorcher: So, for Stonehill it's such a blessing to be able to be given this land, but you are put in a situation where you are in the middle of nowhere and nothing else -- else has been built and -- but where you build they will come. So, I -- you know, I -- the one example that kind of sticks in my head a little bit is Ten Mile Christian when they built their big church over at Ten Mile and Franklin and at the time there was nothing there; right? And now they are surrounded -- not directly, but they are -- they are surrounded by multi-family housing and -- and we deal with in-fill all the time and so whomever chooses to develop this, whomever chooses to buy this, they are fully aware of the situation that they are walking into, otherwise, they just wouldn't buy it. I also, you know, feel for the parishioners of this particular church is that they want to spend their money on the church and not necessarily building up the city and that's the developer's portion of it. So, you know, if you guys are ready to go now and you want to build your -- your church, I would be happy to support recommending it to City Council when -- and, then, they are more of experts who can say whether or not it's a good fit for our city.

Seal: Commissioner Rivera, anything to add?

Rivera: No.

Seal: Okay. Anybody else? Go right ahead.

Smith: I had a question. It was on 2.1G. I was going to ask regarding any changes to that, but it seems like that's contingent upon Council granting a waiver. So, would that just be the recommendation for them -- would the recommendation be to grant them a waiver or would it be to amend that to the applicant's ask of the subject --

Seal: No. I think -- I think that's -- again, it's -- it's a good point that the applicant has requested -- or basically is not in agreement with 2.1G. So, if you wanted to address that you could or just pass it without a modification and let City Council handle that. So, it is in the staff report and, again, the applicant is -- is not in agreement with that one. But, again, we don't necessarily have to act on it unless you want to put that into a motion. Commissioner Lorcher, go right ahead.

Lorcher: Taking the easy way out on this one. After considering all staff, applicant and public testimony, I recommend -- wait a second. Okay. That's right. I recommend approval to City Council of File No. H-2023-0041 as presented in the staff report for the hearing date of February 1st, 2024, with no modification.

Seal: Do I have a second?

Rivera: Second to approve the motion.

Seal: It's been moved and seconded to approve File No. H-2023-0042 for Stonehill Church with no modifications. All in favor, please, say aye. Opposed nay? Motion passes. Thank you very much.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

8. Public Hearing for Avani Neighborhood (H-2023-0049) by Conger Group, located at Southeast of Franklin Rd. and Black Cat, North of I-84.

- A. Request: Annexation of 35.086 acres of land from RUT to the R-15 (Medium High Density Residential) zoning district.
- B. Request: Preliminary Plat consisting of 256 buildable lots and 25 common lots on 33.71 acres of land in the proposed R-15 zoning district.

Seal: All right. Thank you all very much. And with that, we will open File No. H-2023-0049 for Avani Neighborhood and we will begin with the staff report.

Hersh: Good evening, Mr. Chair and Commissioners. The applicant has submitted applications for annexation and preliminary plat for Avani Neighborhood. This site consists of 33.71 acres of land, currently zoned RUT in Ada county, located southeast of Franklin Road and Black Cat, north of I-84. History on the property is none. The comprehensive FLUM designation is medium density -- medium high density residential. The applicant is -- proposes to annex 35.214 acres of land with an R-15 zoning district, which is listed in the zoning district compatibility matrix in the Ten Mile Area Plan as one of the best choices for the zoning in the high -- medium high density residential designation. The property is designated medium high density residential -- residential on the future land use map and is located within the area known as the Ten Mile Interchange Specific Area Plan. Medium high density residential areas are recommended to develop primarily with relatively dense multi-family housing types, such as row houses, townhouses, condominiums and apartments. Not all single family and attached and detached homes as proposed by the applicant. These are -- these areas should have a mix of housing types that achieve an overall average density target of 12 dwelling units per acre, with densities ranging from eight to 15 units per acre. The proposed development incorporates a mix of single family attached, single family detached, resulting in an overall gross density of 7.59 units per acre, consistent with the target density desired in the medium high density residential FLUM designation in the Ten Mile Area Plan. Townhouses should be included in this development to be more consistent with the plan. However, the property to the east has approval to construct a 550 unit -- unit multi-family development to offset the need for additional multi-family in the area. Mixed employment areas are also entitled or in the development process to the west, south and southeast. So, it is conceivable that this development may provide additional housing options for these employment areas. Background on the Ten Mile area was intended to look like and feel and function differently than a typical residential

subdivision. It operates as a form based specific area plan where the design of the built environment is the primary review element is intended to work in conjunction with land use and zoning designations. These design elements should not be treated as a checklist, but used to implement the overall vision and support a traditional neighborhood designed desired by the plan. Out of the 256 single family units only ten are alley loaded. The others are all front loaded with living area either at the same plane or behind the garages away from the street. A few of the units have usable porches that might meet the guidelines. No porches are proposed on the side. All units have single two car garage doors, not separate garage doors. The proposed elevations do not meet the design criteria that encourage building entrances to be situated close to the street, primarily due to the garage dominated nature. Elevations for the alley loaded units were not submitted with the application, making it difficult for staff to determine if they comply with these guidelines. Staff believes that the plat should incorporate more alley loaded lots. However, the applicant believes that there isn't a market for this type of housing and has elected to limit the number of alley loaded -- alley loaded homes to ten, which is inconsistent with the plan. Shorter block lengths and narrow streets help with a greater sense of the community in a traditional neighborhood design. As proposed these lots are narrower and garage dominated, creating more driveways and less tree lined streets along the primary street, which contradict the Ten Mile -- or which contradicts the traditional neighborhood principles. More alley loaded homes would enhance the streetscape for this development and ground the front porches to the primary street per the plans. Some of these design elements are not required by the UDC as envisioned by the plan. Therefore, the applicant requests the Commission and Council to allow some deviations to these design elements. A preliminary plat is proposed, again, consisting of 256 lots. Ninety-five are single family attached. As mentioned prior, ten are alley loaded and 151 single family detached building lots are proposed. Twenty-five landscape lots are proposed. Six common driveways, two alley and one nonbuildable lot on 33.707 acres of land in the R-15 zoning district. The lots range in size from 2,436 to 5,357 square feet. The average lot size is 3,584 square feet. The subdivision is proposed to develop in three phases as indicated on the preliminary plat. The applicant is -- is currently collaborating with the property owners directly to the south and east to complete the collector street connection to Black Cat. The city desires to have the street dedicated and constructed before residents occupy the homes in this development. The site amenities provided a minimum of seven points of site amenities are required based on the area of the single family residential development. Qualified amenities should include features listed in the UDC, a large park that includes a children's playground with a play structure, swings, climbing rocks, a climbing dome, seating benches with a safe fenced area, two pickle ball courts, a fenced dog park, are proposed, which meets the minimum standard. The ten foot wide regional pathways along the Black Cat Road and Vanguard Way consists of approximately 2,500 linear feet. Additionally, there is a micro -- five foot micro pathway running north-south on the east side of the property that spans approximately a thousand linear feet. Overall, the proposed amenities do exceed the minimum standards required. Written testimony is none. Staff recommends -- is recommending denial of the -- of the proposed annexation and preliminary plat as proposed. The project does not align with the purpose and intent of the Ten Mile Interchange Specific

Area Plan as outlined in the analysis in the staff report in accordance with the findings. The applicant has been made aware of staff's concerns and has elected to forego some of the staff's recommendations to change -- change and gain a favorable recommendation. However, the Commission and Council should rely on all relevant information when determining if this project is consistent with the plan and open to allowing deviations from the design elements as desired by the applicant. That concludes staff's presentation and I stand for any questions.

Seal: Thank you very much. Would the applicant like to come forward. Good evening. Name and address, please.

Clark: Hi, everyone. Hethe Clark. 251 East Front Street in Boise. Representing the applicant. And do we have my PowerPoint available, Stacy? Maybe. Thank you. Okay. So, we are here tonight to talk about the Avani Neighborhood and as you heard in the staff presentation, there is going to be a fair amount of conversation about what the Ten Mile Interchange Specific Area Plan means and does and how we actually satisfy the Comprehensive Plan. But first I wanted to give you a little bit of history. You might be wondering what site plan that is that's on your screen. This is not the site plan that we are talking about tonight. This is a site plan from a project that was approved by the city nine months ago, just a little bit north of here, also in the Ten Mile Interchange Specific Area Plan -- or I'm going to call it the Ten Mile Plan, because that's way too much of a mouthful. It involves the same issues we are going to be discussing tonight, which is how to reconcile the required density in the medium high density residential designation with the design elements that staff has talked about tonight. That project was approved in spring 2023 with a positive P&Z recommendation and, again, the same issues were present. So, as we look at the project that's actually before you, Avani, the -- you can see that it's located just north of the freeway in the -- excuse me -- and east of Black Cat in the Ten Mile Plan area. You can see the property here against the land use designations that are included in the Ten Mile Plan. Again, it's planned medium high density residential or MHDR, which has a density band of eight to 15. When staff says there is a target of 12, the approved band is eight to 15 and 12 is a target for the larger area. Under the code we round typically to the nearest whole number, so our 7.59 dwelling units per acre means we are holding on by our fingernails to try to get high enough density to satisfy what's in the Ten Mile Plan. It is true in-fill. It's a priority growth area. City services are available and it will complete the transportation network that's shown on the Ten Mile Plan. So, I'm going to start by talking about the project itself and, then, go from there into the Ten Mile Plan issues. So, again, the site is 33.71 acres, 256 single family homes proposed. I think an important detail is that this is for sale product, which the -- a lot of the product that's going in around us, including the apartments to the east, are not. They are -- they are rental product. So, it adds to the -- to the variety of uses there. The dimensions and the density are consistent with R-15 and, again, we meet that R -- the density band for the medium high density residential. This also completes the area transportation -- transportation network by providing the mid mile collector, which you see here that's Vanguard Way. That is a collaboration amongst the three developers that are working in that area and that is planned to be completed later this year. As we look at the site, we have proposed 19.8 percent

qualified open space. There is additional open spaces that's not qualified that's shown in the lighter green on this map. In addition we have the 3,500 feet of paths and regional paths, as well as numerous amenities that is typical for these -- for this developer attractive landscaping. As noted in the project we are providing ten foot wide multi-use pathways at Black Cat and Vanguard. So, on the west and on the -- on the south and we also exceed the -- the amenity requirements, but I want to be clear about when we say we exceed the amenity requirements, we blow them out of the water. The amenity requirements are seven points. We are at 24.5. That includes a community pool, which is, obviously, a significant investment. Again, the pedestrian -- pedestrian pathways. You can see the regional pathway in blue. In terms of the housing proposed -- and this is a point I'm going to introduce now and, then, we will come back to later. We do have ten ally loaded lots and I want you to note the depth of those ally loaded lots, as that -- as that's an issue that I'm going to return to in a moment. Those are by far the longest or deepest lots in the project. In addition, we have the 95 two story attached, 102 story detached and 51 single story detached and this is what they look like. Here is the single story detached, the detached two story and the two story attached. So, that's the project. And now let's really dig into the staff recommendation. So, I would summarize the staff report like this. I would say as -- as I reviewed the staff report, it says there is not an issue with the UDC; right? It meets all the R-15 standards. The staff report doesn't cite any issues with the city's overall comprehensive plan. But what -- but what it does say is that there are issues with the Ten Mile Plan as that we don't meet the mandatory -- and I'm putting mandatory in quotes, because there is nothing mandatory about a comprehensive plan, and we don't meet the target density. Those are the two issues. Design elements and target density. So, next time I teach a land use law class I'm actually going to include this staff report and the reason I'm going to is because it illustrates an important principle and that is the relationship between the comprehensive plan and the zoning code. So, a comprehensive plan is not legally controlling zoning law. It's a policy document. It's a guide to local government agencies. We can't treat it like a zoning code. But it's -- because it's not written like a zoning code. It's a collection of policy objectives that, then, need to be translated into code in order to be functional. So, in the meantime, if the governing body is charged with determining if a project is in accordance with the Comprehensive Plan, it makes a factual inquiry based on the specific circumstances of the project. So, let's be clear, a comprehensive plan is a Rorschach. You guys have heard enough conversations about comprehensive plans to know that people pick -- cherry pick whatever they want out of a comprehensive plan, some things will be supported in the project, other things will not. A zoning code is where we take the comprehensive plan, we actually dig into the details and, then, we translate those goals into bulk standards and into setbacks and other controlling zoning requirements and that process is important, because you work through the kinks to identify the issues and these issues are important in this case. That hasn't happened in the case of the Ten Mile Plan and that's why staff is in a tough position with this report. They want to uphold the Ten Mile Plan, but the city hasn't translated these design elements in such a way to figure out if you can actually implement them in the higher density zones and so I'm going to show you what I mean here in a moment. So, as we look at the Ten Mile Plan, it's most useful to look at the density and, then, the design elements; right? So, let's look first at the density. This is

the language from the plan. The Ten Mile Plan calls for a mix of housing types in the MHDR category. It is not the list that Stacy mentioned. It includes multi-family, but also allows for single family as well and I will show you that on the next slide. The density range again is between eight to 15, with a target of 12. We are on the very low end of the density range at -- at just below eight. So, if we look in more detail at the MHDR zone and its requirements, there is only -- only one possible choice as you can see with the checkmark, that's the possible choice, which is R-15. R-8 is the only other one that gets any sort of consideration and it's a marginal choice and in the uses that are identified -- as you can see here are single family detached townhouses and two family duplex. In other words, R-15 per the plan is the only possible choice in the area. We are just at the bottom edge of that density band and we provide the exact housing types that are identified in the -- in the Ten Mile Plan. That includes the alley loaded product. So, that was density. So, let's talk about the design elements, because I think that's where -- the kind of the rubber meets the road. Those design elements are described in the Ten Mile Plan as recommendations that should be adopted by the city in code. There is other language that speaks to them being mandatory, it's inconsistent with the description of them as recommendations. It's also inconsistent -- when we say that it's mandatory, that's inconsistent with how a comprehensive plan should be treated. Excuse me. Those design elements include things like usable porches at 30 percent of the front facade, with a recommendation of a higher percentage than 30 percent and to have the porches on two sides. In addition, alley loaded garages are to be used, quote, when possible, again, not mandatory, but when possible and setback garages are to be, quote, no less than 20 feet behind the primary facade, which all sounds great, but in order to do that you actually have to implement it into code, so you can work out the kinks in an otherwise aspirational document. The Ten Mile Plan has an action plan that's -- you can see it here on the screen. It calls for amendments to the zoning code and it calls for a set of design guidelines specific to the Ten Mile interchange area and that hasn't happened. So, the vetting that I'm talking about -- talking about hasn't -- also hasn't happened, which leads to the tension that's in the staff report. As I mentioned, staff is in a tough position. I'm not mad at staff, I know I'm -- I'm up here lecturing a little bit, but, you know, we always get along and I understand that they are trying to uphold the planning document for the area when they take the positions that they have taken in the staff report. But, ultimately, what happened here is that the staff report elevates the comp plan -- the Ten Mile Plan above the zoning code and it fails to acknowledge internal inconsistencies within the Ten Mile Plan and in the staff report itself. So, here is what I mean. Staff recommends denial because we fall short of the target density of 12 dwelling -- dwelling units to the acre and because we -- excuse me -- lack specific Ten Mile plan design elements. So, again, the density band is eight to 15. That's a target of 12, but it's eight to 15 and we are right at -- right at eight. But, ultimately, what's happening here is staff is criticizing the application for lacking density, while requiring design elements that would further reduce density and that includes the alley loaded lots, the shorter block lengths and the porches. So, let me show you what I mean. If we look at ally loaded product, this is a diagram that I showed this group in -- in connection with the New -- the Newkirk application. You have two blocks right next to each other. Both include 95 foot deep lots. Ally loaded blocks require an additional 20 foot minimum, which pushes the block this direction and reduces density. In addition to

these other factors that I have mentioned, one really important thing and that goes to the marketability of these lots, is that they don't provide for private open space or front private outdoor space and the only way you get that private outdoor space is to do it in the side setbacks. So, not only do you push the blocks out this way, you also push them out this way, losing density and, again, we are holding on by our fingernails to try to hit eight. With regard to porches -- or excuse me. Let's go back to block length. Staff wants shorter block lengths, but here is the problem. We are already well below the UDC requirement of 750 feet. What is the preferred block length in the Ten Mile Plan is not defined. If we want a different block length, that's fine, but we need to specify what that is and, to be clear, we are well below this -- the allowed block length as permitted in the UDC and let's also be clear, the shorter block lengths, what does that do? Adds roads, adds maintenance, reduces density. With regard to porches, you know, we find that they are not going to be used by the residents, but if you are going to include a porch, what are you going to do, you are going to widen the lot. You -- if -- you are going to go with the UD -- or, excuse me, the Ten Mile Plan's recommendations and have it on two sides, you are going to widen the lot even further and so that is also going to reduce density. Now, I want to point out on the porch question -- I don't know why that's an annexation question. That's ultimately a design review question. So, I don't think it's actually relevant. But I just want to point out why we have a concern about the -- that direction that we have more porches. And, then, recessed garages. That's pretty simple. If you recess the garage you increase the lot depth, you reduce the density. So, to summarize, you know, the staff report in our view elevates the comp plan above the code. It acknowledges that we meet the R-15. The only issues that it identifies are in the Ten Mile Plan and the staff recommendations that -- you know, that we were asked to take on in order to get to a positive recommendation, all they do is reduce the density further. That's the -- that's the tension. The -- you know, this -- this is the -- it illustrates the issues that were created because the Ten Mile Plan hasn't been incorporated in the code. If you work through these items, you translate them into code, you translate them into bulk setbacks or bulk standards and setbacks, we get the issues figured out. But what we have discovered as we have been looking at it is that these design elements might be possible in the lower density zones; right? If you don't have to hit a certain density band you can put in the porch, you can put in the alley load, but at the medium high density residential designation to say that you have to have that as the predominant feature on all of these lots isn't impossible if you have to also hit the density. But I do want to point out that just like at Newkirk, our application includes alley loaded lots. We don't -- we didn't want them. We are -- if I'm going to be a little bit sarcastic about it, we are placing them on the sac -- you know, our sacrifice on the altar of the Ten Mile Plan with those alley loaded lots. We do have block lengths that are well below code. We have the variety of housing types and we have provided the density at the medium high density range. So, just like at Newkirk, you know, we think that we have satisfied the Ten Mile Plan where we can and while still providing the plan density and just like at Newkirk we are asking for this group's recommendation of approval. So, I appreciate you all hanging in there with me. That was a little bit of a technical discussion, but I'm happy to answer questions.

Seal: Okay.

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: Yeah. So, I think one thing that mentally is creating a significant difference between Newkirk and this is my memory -- Newkirk met a lot of conditions and a -- and a lot of -- a lot of what was kind of required and desired, but especially pertaining to the ally load, there was kind of not really a way to make it workable in the plan while maintaining the density. It seems to me here that a lot of the same issues arise there, but we are also not even in kind of the ballpark of the target density and -- and I mean that in a sense that to me, technically meeting the minimum doesn't really seem to align with kind of where the goal is and the -- and I understand, but I prefer to follow the guide. So, my question with all that in context is does it not make more sense or is there a reason that you are -- while Newkirk felt like you maybe sacrifice some of the -- similar to this, you kind of prioritize the ones, either that you are -- you are, again, not really fully meeting or any kind of targets that were --

Clark: Commissioner Smith, thank you. If I understand the question, so it -- Newkirk -- it was a little different into something in some ways in the sense that that was a TN-R designation and so we had multi-family on the east side that pulled up our density somewhat; right? We did include -- we have one block of alley load and, then, the rest of it was not alley load. So, that was another internal block in all of the outer ring was -- so, in this case we don't have the benefit of being able to push up our density with some multi-family on the east side like we did at Newkirk. So, we are already just barely at the density that is required for the medium high density. So, that's where we feel like we are put in a difficult position of saying, okay, we want you to use ally loaded lots predominantly through the whole thing, which will knock our density down significantly. Like it won't -- it won't -- I don't even know if it will be in the sevens. It's probably less. And -- but still being asked to hit a medium high density residential density band, that's an impossible position and, then, when you are asking us to do it with -- with the type of product that we don't think people want, that -- it starts to become an ask that is, essentially, too much. Now -- but we have included it and we have included it at the entry of our project. So, it's predominant, but it is not the majority of the lots by any means.

Smith: I guess my question -- and this can also be a question for staff. Is there anything excluding this application from taking more of an approach like a Newkirk where there was maybe a pocket that's more similar to kind of your higher density that can offset some of the decreased density that would be created by incorporating some of staff's plan? Is there anything that's preventing them from building more dense multi-family in a pocket and, then, offsetting that with incorporating those plans? That seems to me to kind of fit within a little bit more of the spirit of what we are going for here, which is, to me, why I was more in support of Newkirk than this. Or anything other than just kind of the desire of the developments preventing kind of an orbit of density offset by alley and those things that would reduce density elsewhere.

Clark: Commissioner Smith, I'm not sure I understand your question. I mean are you asking if -- if we would -- if we could do like multi-family in a portion of the project?

Smith: Yes. So, essentially, in Newkirk you had multi-family that hit was denser that offset some of the less dense single family created by the alley load and some of those other design elements that were desirable. Is there a reason that you can't do that here, given that, like you are talking about, there are somewhat similar scenarios, similar limitations, but the application is vastly different to what we saw in Newkirk.

Parsons: Mr. Chair, Members of the Commission, I will start on the topic and, then, let the applicant rebut as well. But, no, there isn't. The R-15 -- it would require redesign for sure and we are -- because of it is R-15, instead of the TN-R, like the Newkirk project, it would require them to also submit a concurrency CUP. What we tried to do in the staff report is make the argument for the applicant that additional multi-family wasn't required on this property, because of what we have already entitled to the east and so we were trying to give -- when we met with them and discuss some of these issues, we were like we are fine with something other than multi-family here, but can we get closer to these design concepts? And, like I said, we got to the ten alley loaded lots, but we were hoping it would go further than that. But to your initial question, no, they could have proposed multi-family as part of this development and, to be honest with you, in current -- in early discussion with the applicant their land plans did include that, they just elected to remove that, because of what they are seeing in the area already that's entitled. That's why they -- they wanted to provide something different than has already been provided in this area.

Clark: And, Commissioner Smith, yeah, I would just -- to further elaborate on that, immediately to our east is already entitled 500 apartment units; right? So, you know, the -- the idea of the Ten Mile Plan and the way I read the Ten Mile Plan is not that you are looking at each project, project by project, you are looking at the overall area to see, okay, what kind of product is out there? What -- what kind of -- of homes are -- are on offer and, then, in addition, that target of 12 is also spread across the area; right? So, the project immediately to our east pulls up that area -- that area density. Meanwhile, we are trying to just keep ourselves within the medium high density residential band and -- but still have a project that's viable when you got -- you know, it doesn't make sense to do additional multi-family there when you got 500 units that are just -- have just been approved.

Smith: Thank you.

Seal: Commissioners, anything else? Madam Clerk, do we have anybody signed up to testify? There are only two other people -- three. Sorry. Three other people in here. Sorry, sir.

Lomeli: Catrina Waddell.

Seal: No. Anybody else?

Lomeli: That's it.

Seal: Anybody else want to testify?

Smith: Mr. Chair?

Seal: Go ahead.

Smith: I guess a question for staff or the applicant, whoever. Is there a rough idea, you know, looking at it less as a plot by -- or plot by plat, kind of project basis, looking at kind of more of the total area. I guess that's where I'm still struggling and might be one of the few people in Meridian who might be opposed something because it's not dense enough. But I -- I think that's where I'm getting at is one of the key things is, you know, that -- we are not kind of meeting really any of the goals here and so it seems to me -- and I don't want to put words in your mouth -- it seems to me that like maybe hitting slightly lower density here would be somewhat amenable, that if it meets more of the design concept. So, my question is around the density of the overall area, around including -- including this project and the other projects that are kind of within that -- I don't know -- within the relevant transitions, if anyone has any thoughts or numbers on that?

Hersh: Mr. Chair, Commissioner Smith, so we did have conversations with the applicant about that and so staff is amenable to a lower density if there were more design elements that met the plan. Definitely. And we did have multiple conversations about that.

Parsons: Mr. Chair, Members of the Commission, just to elaborate a little bit more, it's -- to the applicant's point, it is -- it is a difficult topic. We are both kind of backed into a corner trying to defend our position and we never want to be in that predicament, but the facts are we really don't have code to support us, but this is annexation. That's the difference here, is it's -- they are requesting the annex into the city. We are not forcing them to do anything that -- that -- that wouldn't be -- they are asking, hey, we want to come into your city. If I look at the definition of in-fill in the UDC, this does not meet the definition of in-fill. So, I would be hesitant to say that this is a ripe and true in-fill project. But with that being said, the comp plan isn't parcel specific, like this property. So, yes, we would concede on some of the density if they can make it work. Where Stacy and I have a hard time telling you whether or not density would change if they changed their project and had more alley load or diff -- or adding more townhomes, we can't tell you that, because we haven't seen a plan to -- to let you know if that would work or not. But to Commissioner Smith's point, Newkirk was offset by the multi-family and there was a significant less amount of single family or attached and townhome lots than there was on this particular project. This one has 256 detached homes and attached homes, where the other one had 64 and that's a huge difference here and that is a completely different side of the road here. So, you can see here if you look at the applicant's graphic here, you are looking at Baraya, you can see they have a mix of zoning designations, they have townhomes in there, they have single family, they have alley

load, they have multi-family, all in keeping with the spirit -- spirit of the plan, even though the plan wasn't adopted at the time that they got their entitlements, but they were required in the development agreement to meet specific design criteria and that's why you see that developed here. So, everyone that we have met with on this significant -- or this section of town or in the Ten Mile area, we are holding as much as possible to those design elements and so we don't want the -- the applicant to think that we are not supportive of this plan. I think -- I love the open space. I like the amenities. It's -- it's -- it's a good development. Unfortunately, it's hard for Stacy and I to support that when it misses the mark from the design elements in the plan. The zoning matrix that is in the -- in the Comprehensive Plan isn't to specify what's allowed to go in there, it just -- it's just to show you what the code -- what is allowed in that zoning designations for example. So, if someone came in with an R-15 those are permitted uses in the R-15 zone. So, when we say it's consistent with the zone, it is because single family attached and detached and townhomes are principally permitted uses in those zones. It doesn't mean it's the right use for that land use in the Ten Mile Plan. It just references -- if this is your land use designation, here is the preferred zoning and these are the uses allowed in that zone. So, it's not meant to be a guide or a thou shalt do these uses in the Ten Mile Plan, we are going let the zone control -- to the applicant's point zoning controls everything and over the years we have made some modifications to the UDC after the adoption of the plan. So, we did add the MU zone to our code and the AC zone, which are commercial designations, and, then, we have also modified our TN-R zoning standards to reflect some of these design concepts, but not all of them. So, that's why Stacy and I put it in our recommendation to you is, you know, obviously, you are hearing both sides of the story here and I think that's where we left it off with all of you, because it's really -- the plan is a visionary document and the -- the code is -- is the tool we use to implement the plan. So, I can't fault the applicant in their argument, it's just the fact that we are at annexation, we had asked for a little bit more, we did not get that, the applicant wanted to move forward with their plan and we were very straightforward with them and said if you don't incorporate some of these other additional items we can't -- we can't recommend -- make a favorable recommendation on the plan and that's why we are in front of you tonight.

Seal: Thank you, Bill. Appreciate that.

Lorcher: Mr. -- oh, go ahead.

Starman: Mr. Chairman. Can I -- let's see if I can -- I want to just say -- I want to add this in a very kind of abstract high level way, so I don't want to participate in the policy discussion, that's your job and staff is doing -- planning staff is doing a fine job. I do want to comment about a legal topic that Mr. Hethe discussed and Bill's comments touched upon and that is ethics. I think we are conflating some issues and, Mr. Hethe, you are welcome to rebut if you think I'm off base, but I think it's important to recognize you have multiple requests before you today that you are making recommendation -- recommendations on. One is an annexation and with that, if we go down that path, becomes the initial zoning and, then, secondly, is the preliminary plat and so Mr. Hethe is quite right where courts have consistently held that a comprehensive plan is more

aspirational, provides guidelines -- you can't ignore it, but it's not law either. That's more applicable under -- those rulings are under the Local Land Use Planning Act. That's our preliminary plat category. Annexations are under Title 50, something different than LUPA and it says -- Mr. Parsons, which is pointing toward and talking about annexation is a little bit different animal and so in that instance, you know, clearly you can look at the bigger picture in terms -- does this annexation request before the city fit the vision of the community and what we are trying to accomplish and so, ultimately, you make a recommendation and the City Council makes that decision as to whether annexation is in the city's best interest or not. But we are not confined to those LUPA decisions relative to -- that Mr. Hethe was describing earlier. So, I just wanted to -- I don't want to conflate those two issues. We have an annexation request, which stands on its own and is a little bit different animal and, then, we have the other part of this request before you, which is those parts of the preliminary plat in particular that fall within LUPA. Does that -- does that makes sense? And if you think I'm off base let me know.

Clark: I think what I would clarify is absolutely on the preliminary plat side of things; right? That's -- you know, you can't -- you can't conflate the two. When it comes to the Comprehensive Plan, it's a factual evaluation based on the specific circumstances in this case; right? So, you -- yeah, is it generally in accordance with -- yeah, then, that's what that means is generally. You have to look at it as a policy matter and not as a technical detail matter and that's why we are asking in this case for you to look at it from the perspective of there are inconsistent requirements within the Ten Mile Plan. You can't hit the density band and include the design elements that we are talking about. That's -- really, that was the discussion that we had with everyone on the Newkirk. That's why all of these projects that you see on this plan up north, many of them are garage dominated. There is a mix of alley loaded, but there is a lot of garage dominated up there as well and, you know, that same request was made. These projects were all still approved, because I think that -- as people have looked at this they have realized, okay, we have to try to look at these goals together and if we are going to try and get the density that we have contemplated in the Ten Mile Plan, then, we are not going to be able to have all the design elements that the Ten Mile Plan speaks to.

Seal: Commissioners?

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: Staff, is the R-15 required for the Ten Mile interchange?

Hersh: Mr. Chair, Commissioner Lorcher, so that is actually the zoning that was on the Comprehensive Plan FLUM designation was medium high density residential for this area.

Lorcher: And so is R-8 an option or no?

Hersh: They would have to apply for a comp plan amendment. They could do so and they would have bigger lots. I don't know if the applicant is amenable to that or not, but that is an option.

Clark: Now, as we look at the Ten Mile Interchange Plan, this is what's called for is R-15. The -- the -- the plan specifically says your -- this is -- R-15 is actually the only designation that gets the regular checkmark that means it's a possible choice. R-8 is the only other one that gets any sort of a checkmark and it's a marginal choice and, as Stacy mentioned, that's going to require a comp plan amendment. So, it's -- it's -- it's a multi-step dance to get to an R-8. If we are trying to uphold the Ten Mile Plan, we should be doing R-15.

Lorcher: Right. But you are -- everything's falling short of what the city wants and what you want for R-15. I mean they are -- they are not -- they are not meshing, so did you have a conversation about R-8 at all or that wasn't even on the table?

Clark: Not on the table, because it's -- again, it's not -- it was -- it's not consistent with your comp plan. What your comp plan calls for is R-15. So, we are trying to be consistent with the planning that's been asked for -- you know, that the city has identified in this case.

Lorcher: But you also mentioned that you are looking at the overall entire area and you already said there is 500 units being -- for apartments or townhouses already. So, even though the designation is R-15 and you already have that, you don't want that product, you want to have single family in your area, but now there is conflict between density and space and all those other things. So, yes, in and of itself it's R-15, but like you pointed out, now you have to look at the whole area. It's not marketable for you to add more townhouses or apartments to your density plan, because there is already going to be 500 right next door. So, how do you resolve when you have all of these things kind of happening around you, yet you are trying to fulfill the need of the zoning in the first place. I mean right now I think we are all still kind of here. You know, you are trying to -- you are trying to fit it in and the city is saying, well, yes, if you are going to do that, then, this needs to be happening, but in your argument you are saying, well -- but that's already happening over there, so, therefore, we shouldn't do it over here. So, how is -- I don't -- I mean I'm struggling with how is that in the best interest of anybody for you to be able to sell a product that's not already replicated next door and to be able to fulfill the -- the Comprehensive Plan or the future land use map of what the city is trying to do? So, I think that's kind of part of the crux of it, too.

Clark: Well, Commissioner Lorcher, I mean I think the -- the clarification I would make to that is that that tension is not one of our making; right? That tension is inherent in the Ten Mile Plan itself, because the Ten Mile Plan says this spot should be R-15. R-15 has as permitted uses single family detached townhouses, two family duplexes. We want you to get from eight to 15 dwelling units, but we also want you to have porches and alley loads and that's the tension. That's the problem with treating this -- and, you know, to -- I almost said -- when -- just first name with Kurt, but the -- you know, to your

attorney's point, that's my concern with the way this is being treated is that that -- that interlocking between those design density standards is being treated like a zoning code question, when, in fact, it's a Comprehensive Plan question and the only way you can reconcile it is by saying something's got to give; right? And something gave at all of those projects that I showed you there north of us and that the -- and that the city has approved throughout the past couple of years. This is the first time I have seen a recommendation for denial on this question and so that's where my concern comes from, is that we didn't create the tension, we are caught in the tension and we are trying to resolve it in a way that makes sense to us and we are already just below that density band, but being asked to make changes they are going to push us further down.

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: I hear what you are saying, but it is -- and to Commissioner Lorcher's point and with respect -- and not as a personal thing, but it feels a little bit like trying to -- like it's all the other ones -- there is a tension and something did get -- it feels like you are -- everything's -- there is not -- your direction that we are taking this, we are just kind of failing to meet the requirements all across the board evenly and that is not there to say where it will -- or be at the density requirements a lot more clearly, you missed some of the design elements, but that was a compromise that happened. It feels like we are missing across the board and that's -- that's my -- my issue here. You talk about the requirements and hitting none of them, but it's not really -- but --

Clark: Yeah.

Smith: -- missing the ones regarding the -- the -- specifically the sign elements and the density, you are not really hitting -- and so between those requirements, yeah, they might be just one another, but -- but to my mind there is -- like I am just searching for a reason that we are not either choosing -- we are not choosing either of them working with staff to clean up the -- I don't want to put words in your mouth of staff, staff just kind of seemed okay with lower density -- with lower density here for meeting more design elements. Seems like they have kind of given you a direction for what to -- what might be able to give and it's not being taken. So, it's just -- there is not a clear single sentence question there, but I just -- I'm struggling to wrap my head around why -- it feels like they are kind of saying, hey, this area can budge a little bit and you are not --

Clark: Yeah. I don't -- I don't know that that's a fair characterization of it. I guess I was -- is my response. You know, first of all, we do have shortened block lengths as compared to UDC. We do have -- we did add the alley loads. Like I said, we would love not to have any ally loads, but we have got -- we have got ten ally loads. You know, we have provided the same -- I just showed you the chart of what types of structures are permitted in the R-15. We have those structures and, you know, when you round -- in which we do in the -- in the city code, we round from -- to the nearest whole number up or down, then, we are at the bottom of the density scale. But when it

comes to this concept of, you know, staff's okay with a lower density, you know, again, that -- that begs the question of like, you know, what are we doing here? You know, if staff can just say, well, yeah, it's eight to 15, but, you know, we think you are okay with five if you -- if you include three quarters of it as -- as ally load, what are the standards -- the objective standards that an applicant has to look at to be able to understand where that came from; right? Ultimately, what we are talking about here is trying to balance the density with the design elements and we have proposed what we think is an appropriate balance, but I understand that there is a disagreement on that.

Seal: Well, yeah, I was going to say I think -- it reminds me of a buddy of mine. Loved to go to the prom in jeans, so -- wasn't appropriate, wasn't allowed to go. So, rules were set. He knew that. Showed up anyway, so -- and as far as Newkirk and Aviator, I mean, you know, I remember those applications. I remember being lenient on them and I remember things going through, as we negotiated through some of those and I had a feeling at that point in time that was going to come back and bite us in the butt and here we are. So, I mean the comp plan is really what's going to hold it R-15, not the Ten Mile Plan. Okay. So, the UDC is going to determine your plat. The Ten Mile Plan is going to be to the design elements. So, we have managed to -- with other applications we have managed to reconcile all of that in a way that we thought fit best for the city and that's I think all the staff is trying to do here and I do agree -- that there is just too much to it. So, I don't think staff is saying, yeah, go ahead and put in five, you know, let's -- that's what we need to meet for density, as long as you meet this other stuff. I don't think that's what's happening here. We have had a lot of applications that have come in and they have -- they have asked for a comp plan amendment to reduce, you know, the density. So, in fact, we have had one tonight that was part of the application that comes in. So, that is available to you to do here. Does it fit in with the rest of the Ten Mile Plan? I don't know. Is there a plan that can go along with that? We haven't seen one. But we do know that it's not meeting the spirit of the Ten Mile Plan. Again, you know, I mean it kind of showed up to the location in the wrong attire. So, yeah, all of this was known and I understand that there is some tension and that you are trying to navigate it, it's just in my mind it doesn't hit the mark. So, the Ten Mile Plan is the Ten Mile Plan. If you don't want to adhere to the Ten Mile Plan, don't build in that area.

Clark: And I guess my question in response would be how do you adhere to the Ten Mile Plan in the -- in the medium high density residential area? That's the rhetorical question that the city has to ask.

Seal: Sure.

Clark: Because there are conflicting goals in that policy document that have got this to a point where if you try to adhere to all of them you can't adhere to any of them and that's -- you know, that -- you know, to -- with the prom metaphor, you know, we came to it knowing what the Ten Mile Plan says and knowing the tension there and tried to address that by, you know, presenting something that gets as close to that density band is possible, but you just can't do it with everything that staff's asked for.

Seal: Okay.

Smith: Mr. Chair?

Seal: Commissioner Smith.

Smith: One -- one thing I want to add. I know we looked at the comp plan slide a few times. It feels like we are focusing laser target on those permitted uses and not really even discussing this conditional uses and that's something to my mind where conditional uses are there for a reason and I don't know if that -- if those -- I'm not trying to be prescriptive on what it should look like, because, you know, I'm not staff, I haven't seen any of -- I'm not you. I'm just saying there -- there are -- there do also seem to be other areas to flex, it just also, you know, holding in tandem like, well, there are -- these are these policy -- policy documents, but they are constraining this excessively. There is -- there is an inconsistency from where the code -- the code is kind of pushing you, there is also an inconsistency and to me I would -- I would personally prefer -- and I personally feel more comfortable, you know, like in Newkirk where, you know, staff had some asks and we didn't quite -- you know, there was -- there was negotiation and I think to your point we were a little lenient, but even, then, there was still a lot of discussion and consideration and pushing and trying to -- and it only kind of went through after it was clear that like this is really kind of the best we can get in this kind of configuration. It just feels like we are not there and so I just -- I struggle with, you know, to what staff was saying about there initially being some multi-family or initially being some other areas and now that has been removed. I'm sure there was a reason for it. I don't know that that's necessarily relevant to tonight. I just think that there is -- I look at those -- those things as areas that flex and I look at other instances of them being kind of flexing and push and prodded and massaged to build a better project. I just don't think we are at the level of those other projects. So, again, I don't know what that looks like. I just -- you know, there is -- there is the -- the old saying, you know, I know it when I see it and I can't remember who originally said it, but, you know, it just -- it just doesn't get that -- the obscenity litmus test I guess.

Clark: Yeah. Different -- different context. Yeah.

Smith: Yeah. I think that's just where I'm wrestling personally. So, I don't know if you wanted to respond to that in the process here. Maybe I'm missing something in that whole process of how we kind of massage it, that was really the best solution here. I just -- I want to give you that opportunity and I'm wrestling with that a lot and I'm also wrestling with, you know, Newkirk and that's coming to bite us a little bit here, you now, if we approve this, you know, if you give a mouse a cookie, you are not saying you are the mouse here.

Clark: And I don't know that that's -- you know. And I hope I don't sound offensive, but I don't know that that's a fair characterization of Newkirk.. Newkirk, we -- we had a long conversation about, okay, here is what you can do, here is what you can't do and, ultimately, the conclusion that everyone arrived at was, okay, do the alley loads here.

Do the single family detached here. You know, we think that even though it's not perfect, it addresses enough; right? That -- that was the conversation at Newkirk and there wasn't any special variance or, you know, waivers that were given. What happened in Newkirk is what is exactly what should happen on every comprehensive plan question. You have to look at the policies and decide which ones control and ultimately in Newkirk it was -- that was enough to be able to get to the density and still have the design elements. So, otherwise, I -- you know, I don't know if -- I would probably just be repeating myself, Commissioner Smith, so -- but, you know, appreciate your comments and, you know, we obviously would take all of that into account, you know, in a recommendation and decide what to do next.

Seal: You looked -- you looked like you were going to go for it.

Lorcher: I will make sure it's --

Seal: Commissioners, all good? Anything for closing?

Clark: No, I think -- I think I have done enough damage here tonight.

Seal: Thank you very much. Appreciate it.

Clark: Thank you.

Seal: And with that, I will take a motion to close public hearing for File No. H-2023-0059 for Avani Neighborhood.

Lorcher: So moved.

Smith: Second.

Seal: It's been moved and seconded to close the public hearing for File Number H-2023-0049. All in favor, please, say aye. Opposed nay? The public hearing is closed.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

Seal: Further comment?

Lorcher: Mr. Chairman?

Seal: Go ahead,

Lorcher: So, I struggle on this for a couple different reasons. We can't ignore staff comments, but we don't -- and I don't want to ignore the applicant's comments either and it just seems that the compromise of being able to make this work doesn't seem to be there. I really see it as kind of a square and a circle and I know it's probably not part of the Ten Mile Plan, but I would like to see less density over there, but that's just me,

because with everything else going on over at that corner -- or that, you know, between Ten Mile, Black Cat, Franklin and the interchange with Farmstone being industrial and who knows what the heck's going across the street with Ada county over there, they have, you know, more high density housing on a corridor that's really going to be designed for a lot of manufacturing, brings me pause as a parent and as a subdivision, because now you are not only competing with high density, you are competing with trucks and manufacturing and light industrial, but that's not your problem, because that's not your project. This is your project. And the other thing is is that one of the reasons why we look at every application individually is that they are based on the merit of the application in front of us and, yes, we can use other applications and approvals as guidelines, but in and of itself this should stand alone. So, you have a good memory. I don't remember Newkirk and I'm sure I was here, but, you know, it just doesn't seem like the city and the applicant are close enough with a design plan to warrant annexation at this time. I think conversations need to keep going. Now, that doesn't mean you can't go to City Council, because they may see it completely different than we do. They do these more than we do. We are just a recommending body, we are not the decision makers. So, with that in mind, knowing everything else that's going around, I appreciate the fact that you don't want to do multi-family housing there and I also appreciate that you don't want to do alley loaded, because you said that's a product that people don't really necessarily want to buy. So, you want to be able to sell these individually as opposed to have rentals. So, that part I like. But at the same time you are not also considering looking at other zoning opportunities to be able to fit that in a different way. So, that conversation hasn't happened and you didn't consider it. So, I just think right now for me, the city and what's in the best interest of the city, which is what we are charged to do and what you are proposing as an applicant are too far away.

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: Yeah. I'm contrasting this a lot of the time. I won't go into the specifics of the -- all the reasons why. I think I have covered that a lot already, just be repeating myself. I'm just thinking contextually like there are a lot of times when there is opposition to a project that you are from the community or from, you know, some -- some well-meaning individual that, you know, on net it still is kind of the best project for the area for the city and my -- my thought at that time -- a lot of the time is -- is I feel for them. I get where they are coming from. I think on that it just still is -- is a better project and he is still on that good for the city. I think here is the inverse. I would not want to be in your shoes. I think this is a tough position and I'm glad that I'm on this side of the dais tonight, so -- and I fully -- I totally any -- any -- any characterizations that are felt as unfair are totally, you know, not intentional. I appreciate the work you have done in this area. I just -- I just don't think this one is -- I feel for where you are at. I get -- I get the different -- the pulls and pushes, I just -- I can't see it for this and so that's where I'm at. Yeah. I think anything more would be beating a dead horse.

Seal: Commissioner Rivera, anything else?

Rivera: Yeah. I'm just -- I felt like the common denominator here was just -- we are just too far apart. We need to come up with something -- maybe add some dialogue -- dialogue and go back and see if there is a -- we can get closer to meeting in the middle.

Seal: And I appreciate everything that was said on both sides and the applicant brought up some very good points. I mean some of this is difficult to reconcile when it's put that way, so -- I mean, you know, I'm -- I'm going to -- you know, my -- my vote is going to go towards supporting staff and, you know, the request for denial, but I do think it's in the city's best interest to definitely try to take some of the information that's been provided tonight and help to reconcile some of that in order to kind of maybe head something like this off in the future. So, if R-15 isn't where it needs to be, it's okay. I mean if that's in the spirit of the Ten Mile Plan, then, yeah, there has to be some other stuff that needs to happen. But, you know, again, at -- I think part of the spirit of the Ten Mile Plan is to provide something different, not exactly the same as everywhere else you are going to see in the city and this has a lot of those characteristics I would say. So, we have -- we have seen, you know, applications like this over and over and over again, where Ten Mile is somewhere where we don't want to see the same thing over and over and over as much as some of it might end up looking like that, so -- but I do appreciate all the dialogue tonight and appreciating everybody staying respectful for certain and with that I will take a motion.

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher.

Lorcher: After considering all staff, applicant and public testimony, I move to recommend denial to the City Council for File No. H-2023-0049 as presented at the hearing of February 1st, 2024, for the following reasons: I'm not done yet. Wait, there is more. Proposed -- for the following reasons: The proposed annexation and preliminary plat I want that which aligns with the Ten Mile Plan and the R-15 designation and the inability for the current preliminary plat to meet those guidelines and not currently consider other alternative solutions for the parcel.

Smith: Second.

Seal: It's been moved and seconded to recommend denial of File H-2023-0049 to City Council, with the affirmation of modifications I guess I should say.

Lorcher: Yes.

Seal: All in favor of denial say aye. None opposed? Motion is recommended for denial.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

Seal: All right. Thanks, everyone. And with that, unless staff has anything else? Nope? Not tonight. I will take one more motion.

Rivera: I will make a motion to adjourn.

Smith: Second.

Seal: It's been moved and seconded to adjourn. All in favor say aye. Any opposed? We are adjourned. Thanks, everyone.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

MEETING ADJOURNED AT 8:15 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS.)

APPROVED

ANDREW SEAL - CHAIRMAN

_____|_____|_____
DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK