

**5. Public Hearing Continued from March 18, 2021 for The Oasis (H-2021-0004) by Brian Tsai of Balboa Ventures, Located at 3185 E. Ustick Rd.**

- A. Request: Conditional Use Permit request for an approximate 7,000 square foot drinking establishment, music venue, and nightclub on a portion of 3.26 acres of land in the C-G zoning district.

McCarvel: So, at this time we will continue the public hearing for CUP Item H-2021-0004, The Oasis, and as this is a continuance we have two Commissioners that were not here on the original presentation, I just wanted to verify that Commissioner Wheeler and Commissioner Seal, do you feel you are up to speed and ready to step in on the continuance or -- without going back and redoing the original presentation?

Seal: I feel that I'm up to speed. It's -- there was a lot of information and I read through all of it.

McCarvel: Okay. Great.

Wheeler: Yes.

McCarvel: Okay. Thank you. So, do we have any additional staff report on this or --

Dodson: Madam Chair?

McCarvel: Yes.

Dodson: Thank you. I don't have necessarily any additional comments. I did want to just note that these are the reasons for the continuance, so that everybody understands and is clear what was -- the guidance of -- at the time of Commissioner Holland's motion. I'm willing to answer any questions or I guess just generally speaking -- I will let the applicant speak more directly to all of these, but I will give a brief overview of what I know about what has transpired of these three items. First it is staff's understanding that the applicant reached out to the police department and that they generally do not participate in projects on this level or on the requested level until after they are approved. However, the applicant did create a safety plan and a protocol, which the Meridian Police Department has received from my understanding. That is part of the public record, so I hope that everybody was able to review that. Secondly, the applicant did provide a rideshare promotion plan. The circular -- circulation plan that I have seen is the same one that was in the application submittals and showed the circulation plan for the interior of the Wadsworth site. So, again, this is one of the lots within the Wadsworth site. Lastly on the last point regarding the shared parking agreement, no agreement was obtained and, therefore, that has not been submitted to us for review. Therefore, at this point I don't know what new information, other than the safety plan has been presented. So, I am -- I understand that the public has been adamant about this use, but as noted previously that the public testimony should only be regarding new information and after that I will stand for any questions or let the applicant speak his peace.

McCarvel: The applicant is before us and state your name and address for the record and the floor is yours.

Tsai: My name is Brian Tsai at 3085 Ustick Road in Meridian, Idaho. 83646. I did submit about five images for the presentation -- I don't know if somebody has a copy of those.

Dodson: I can pull those up. Give me just a second. Are you all still seeing my screen? Oh, that's right. I got to stop it and, then, reshare it and -- fun technology. Is that better?

Tsai: Yes.

Dodson: Okay. Brian, you should be able to just click the arrows to go through the pages.

Weatherly: No, that probably won't work, since the presentation is being shared on your screen at -- on your end.

Dodson: Oh, you're right. Well, Brian, let me know whenever you want to change it and I will move on.

Tsai: Okay.

McCarvel: Yeah, go ahead.

Tsai: Okay. I would just like to start out by acknowledging the passing of Commissioner Holland. It wasn't until earlier this week that I had heard the news and the names of those involved with the collision were released. Being the first hearing and the first item on the docket back since that tragic event this is, of course, the first one without her and I would like to express my condolences to her family members that are closest to her that have felt the loss. I can only imagine how the members of this Commission feel as well as you have gotten to know her over the few years and, hopefully, not just as a colleague, but as a friend as well. Having said that, there is certainly no easy way to segue into the matter at hand. When I last brought this project before the Commission I was presented with three action items that the Commission Members felt would make the proposal more cohesive towards an approval as the creation of the rideshare promotion program, addressing the parking issues, and the creation of an additional parking capacity and the creation of a safety plan in conjunction with the Meridian Police Department. In this first slide here that you are viewing is a diagram from the latest site plan showing the right-in, right-out configuration of the parking lot and additional areas of bi-directional parking flow. In the event that there is a sudden increase of parking, either ingress or egress, we have implemented procedures to address this within our safety plan, which I will get to later. Otherwise, I would hope that most people who know how to navigate a regular parking lot, as many people do it without an issue almost every single day. In the second slide, if you can go to that one. We have a rideshare flow plan that is also addressed in our safety plan. I have worked with the developers of this site to create this designated ride sharing area where vehicles can easily get in and out of this parking area without affecting the traffic flow for the rest of the site. In addition to that, we have the plan to promote the

increased use of the ride sharing services, because the spots are only as good as people who actually use them and this page, which I submitted to the record as well, outlines in detailed capacity thresholds at which the certain plan policies will be implemented as part of the safety plan. It also provides discounts on products or tickets, prices used in conjunction with the ride sharing service and providing security staff as needed to direct the rideshare vehicles into the designated rideshare area parking areas, as well as addressing the concerns of potential congestion within the lot itself, as well as during the ingress and egress process. And that's shown within the slide here. It will be designated I believe on that west side of that building where the pickoff -- or the pickup and drop off area is designated. As far as self enforcing our capacity, as mentioned previously, I'm sure that some people nearby will be monitoring our ingress as well to check for an overcapacity situation, but that is not their job, nor should it be required. That's something that's the responsibility of the business to enforce diligently and as a responsibility to the safety of the patrons. Our entrance scanner is a state of the art system that has never been implemented in any venue in the northwest to my knowledge. I think part of the concern is that after seeing the locations in Boise over the past couple of decades, people have been stuck with the idea that a club or venue of any kind looks to be poorly rated or dirty as some that might be found in other places in town. What they don't see are the upscale locations, like those found in other major cities around the country. Some that can charge thousands of dollars for a single table and still have a wait list. Of course we are not planning to the charge rates like that, but it serves as an example of a distinction to which Idaho has never seen. If we can go to slide four, please. Just skip one and go to the next one. We are not able to produce a documented count from Uber or Lyft, because they have never disclosed their use counts or destinations for the use history of either company. However, many studies have been conducted within documented use from occupants and drivers showing on average an analysis of multiple studies, approximately 40 percent who attend -- of people who attend the maximum capacity event will use some type of ride sharing services. Because these same numbers have been documented nationwide, we have no reason to expect our numbers to be any different. That means our previously proposed four-to-one parking ratio would, in reality, become closer to two-to-one with so many patrons using ride sharing or carpooling. Keep in mind that there are many venues around the valley with much higher persons capacities that seemed to operate just fine with absolute zero parking spaces dedicated to their use. And during the last hearing a managing partner of the landowners for Villa Sport called in and offered to work with us on a cross-parking agreement. However, that Friday immediately following the hearing it turns out that was not the case. It was, however, not in their discretion. It was actually within the Villa Sport tenants determination that cross-parking would not be allowed. Despite our best efforts in collaboration with the Land Baron group, the owners of the Villa Sport property itself, we were unable to get the Villa Sport tenants to even consider a cross-parking agreement. In response I entered into discussions with our developers at the Wadsworth Group to add temporary parking at the unimproved sites to the north of our facility. In talking with the city's planning staff I understand we would have to apply for a temporary use permit in order to use unimproved parking, that that would not be counted towards a potential count for permanent parks. A representative of the Wadsworth Group agreed to this use until such time as future pads would be under contract for future developments. In order to meet the requested three-

to-one parking ratio it would require an additional 41 parking spaces. Once the development is finished they expect to add approximately 70 additional spaces to the site. As a matter of course and compliance I voluntarily proposed an additional reduction of capacity to 400, only fractionally above the required number to meet the three-to-one parking requested threshold, using only the currently proposed paved and fully improved parking spaces. Whereas in reality the conjunction of ride sharing and temporary parking we would have a parking capacity far in excess of the requested ratio. I can imagine that this would be the Commission's preferred method as well, as a reduction in capacity would also serve to reduce the potential for any overcrowding and excess traffic. If we can jump back one slide to number three, please. Because the City of Meridian does not have a statute or code requiring specific requirements for parking of this use -- I often learned in my law enforcement career that anything that wasn't illegal was, therefore, legal. Using the most strict parking regulation as required by the City of Meridian only 38 parking spaces are required. In my last presentation I promised 125 parks to meet the four-to-one ratio requested by the planning staff in the original application. Because the city doesn't have an ordinance with parking requirements for venues or event centers specifically, I looked around at ten other cities around the country, many of which are nearby or have similar populations and have found those who have codes that have parking requirement for venues specifically. You can see in this chart that even at the four-to-one ratio that I have used in these calculations we have anywhere from 31 to 521 percent in excess of what is required across the country. That's more than five times the number of required spaces, depending on the comparison. Ever since the very beginning of this process parking has been the foremost concern. I spent a few weeks trying to find a similar location in the valley that I could use as a real world comparison. I found one that was easily recognizable and because I do some volunteer work nearby I'm often in the area -- if we can go to slide five, please. It's the Boise School District's administration building. It's very similar to our layout, as it's bordered by a major road, has primarily right-in, right-out only parking with no left turn egress and roughly the same amount of parking spaces. For the purposes of our proposal we are talking about a relatively small scale space and many of our patrons won't be leaving all at once after a show. So, I sat at this building a few times with a stopwatch and since most of the workers are salary workers they leave at 5:00 p.m. on the dot every weekday and enter into peak rush hour traffic. The lot is completely empty within on average five minutes, with no -- absolutely no additional congestion on Victory Road, which in comparison is only two lanes at that location. So, if the concern is traffic congestion, tens of thousands of vehicles travel through the Eagle-Ustick intersection every single day. Adding one hundred vehicles all at once would not add a discernible difference, especially at off peak hours, as it could be completely cleared for the facility and the parking lot in one normal traffic signal cycle. And I submitted our safety plan for review with the command staff of the Meridian Police Department. Having myself worked in many major stadiums and NFL games, I can say with absolute certainty that our safety plan is one of the best. I challenge anyone to find anything remotely similar in detail or scope anywhere else in Idaho. It was reviewed by multiple members of the Meridian Police, including a lieutenant that specifically deals in safety operations. They stated -- and I quote -- it was really well thought out and detailed. The only recommendation that they could find to make was an addition to add reflective vest to our outside personnel for identification and I agreed, having experience done such

thing and immediately ordered reflective vests and added them to our inventory. The safety plan promotes and enforces policies and procedures to maintain a safe atmosphere that is free from illegal activity to the best of our ability. Now, the recent incident that occurred at Wahooz is unfortunate, but it demonstrates that violence occurs anywhere and as the Meridian police acknowledged in a public statement, these are incidents that come with growth to become a large city. It's not related to any one location or business. The safety plan was created in conjunction with many other venue owners in other states across the country, to include addressing exactly when and how procedures will be implemented, responding to illnesses and injuries, security screening, disorderly conduct, fake IDs, potential drug use and fights. The plan includes portions for physical security, implemental -- implementation of adequate architectural lighting for video illumination, patrols of the sidewalk and outside areas, posting and distribution of security personnel, procedures for identification, employee safety coordination, screening of promoters for any past histories, fire safety, criminal incidents and even an extensive active shooter and terrorism protocol. It also includes a 12 -- a two page 12 action item document that facilitates our good neighbor policy, which will be distributed to our neighbors and posted prominently at the door to include urging patrons that are leaving to respect the quiet and cleanliness of the neighborhood. It includes items such as providing adequate lighting at all times, maintaining proper ventilation so doors can remain closed to mitigate any exterior sound, creating patrols to clean any possible litter that's found in the parking and surrounding areas and providing a cell phone number to our immediate neighbors to be answered all operating hours to address concerns of parking or noise. The good neighbor policy would additionally be furnished to Villa Sport despite their unwillingness to even start a discussion regarding cross-parking. As you can see I'm not here to do something half assed. If it's meant to be done, it's meant to be done right and with the safety of our patrons and surrounding community held as a paramount standard. Commissioner Seal, I'm glad you were able to join us. You weren't here on the previous one. I had noted in a previous speech that you believed in the 80-20 rule, as they call it the Pareto Principle and you are often involved in completing the remaining 20 percent. As you see here we are about 80 percent of the way there and, Commissioner Seal, you are a music supporter and fan yourself. You have attended events at the Egyptian and the Olympic venue and apparently grown quite an impressive beard over the -- over the previous hearings I have watched. So, you can see in the staff reports -- noted that our proposed facility is of a relatively small scale. I just wish I could pick up and go to an alternate location, but in case you haven't tried to lease any commercial space lately, there is already a waiting list just to get space into The Village and we were told by several dozen people before we picked this space this corner was perfectly suited for entertainment, right on the main drag of Eagle Road and situated just north of an existing entertainment hub. What I soon discovered is that the majority -- in fact, almost every single major developer, except for the Wadsworth Group, wouldn't even look at my proposal. They told me in the current state of development for Meridian they would lease exclusively to corporations with a national presence or to chain stores and would not even consider leasing to anyone else. So, you can see it's been a battle just for me to get to this step. But now that I have signed the lease with Wadsworth, I'm bound to this property, including half my liquidity, without even having started our improvements. So, how do we show that this is something that's a long time coming. In the last

presentation I had mentioned e-mail chains from the Meridian City Council Members, then and present, and their advisory boards that have been asking local promoters for over a decade how a venue could be brought to Meridian. Now to date we have over a thousand followers across our social media pages, despite posting no additional advertisements or photos. And we are not trying to squeeze a stadium where it doesn't belong. I wouldn't say it's trying to fit any type of square peg into a round hole, because the zoning has not changed. The zoning has been the same as far as I can tell over a decade, congruent with the City of Meridian's Comprehensive Plan and the reason that the C-G zoning district is being used as intended is the largest scale of any commercial use. As I mentioned in my previous presentation, all I'm asking for is a chance to start a new business that has been much needed in Meridian for over a decade, at a time when hundreds of thousands of bars and restaurants have already been closed for good due to COVID. I have never failed at anything I have aimed to accomplish in my life, but with so much writing on my project, including my home and personal assets, it's an uneasy feeling to have my entire livelihood in somebody else's hands. I have checked all the boxes extensively and diligently, fulfilled all the requests by the city staff, public sector professionals, law enforcement and of this commission and I can only respectfully ask for your approval tonight.

McCarvel: Thank you. Let's see. Do we have any other questions for staff or the applicant?

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: You had mentioned the Olympic and that was one of the things that was kind of on my mind. How -- how does this facility compare to something like the Olympic?

Tsai: I have only kind of breezed through there, so I couldn't tell you specific details, but anyone that's familiar with going to a downtown venue is familiar that there is zero parking anywhere. So, anywhere -- if you want to say just go on a night out or -- or some something that's related to downtown, you know, typically the deal is you allotted 30 minutes or an hour in advance just to park, you know, seven, eight blocks away, it's over on Third Street or somewhere that's closed and, then, you have to walk the remaining seven, eight blocks to get there. Size wise the Olympic is more designed for specifically I guess intimacy, so to speak. The crowds are closer to the stage. They have a lower wattage of a sound system. Similar to us. It's designed for clarity, as opposed to overall sound pressure. So, it's not designed to be as loud as it can possibly be, but -- so, that if you are in the Olympic and enjoying the show, you can see that, but not be -- trying to shout over everybody else. I hope that answers your question, because I'm not overly familiar with the way the Olympic operates.

Seal: Well, just in terms of -- I mean overall parking and size and scale. That's more what I'm after. Because to me it seems like this, in my mind anyway, has a lot of similarities to the size and scale of what you are trying to deploy and to me I'm kind of

interested, because we have that venue here, albeit, you know, not as close as I would like it to be for sure, but to me it has a lot of similarities. So, we could, you know, learn something from that.

Tsai: I would certainly look into the reason. I can't give you a very concise answer is just because I'm not really familiar with their size and their operational scope. What I can say is that based on the capacity, you know, Boise valley as a whole gets bypassed very often because of the lack of venues of that type, either because of booking conflicts or any type of capacity issues. They might say, oh, well, we wanted to play on this weekend, but you have one venue of that size and they are fully booked, so they could just -- you know, they will drive from Salt Lake City through Boise all the way to the Portland. That's how the -- the usual scheme goes. So, comparison wise it would fill that niche of the tiered capacity that's typically constrained amongst those venues, especially if there is a need for in the city and that -- and by that I mean, you know, if there is a venue that fills a 50 capacity and, then, one that fills the next tier up at a hundred capacity and the next one skips to 500 and, then, a thousand. Well, if you -- if you are the type of musician that can fill those types venues, the next step up is to, you know, go to revolution and the next step up you are going to fill from there is to go from 2,000 up to 20,000. There is not really anything that, you know, fills those needs in between.

Seal: Thank you.

Tsai: Hopefully that answers your question.

Cassinelli: Madam Chair?

McCarvel: Commissioner Cassinelli.

Cassinelli: Brian, I just wanted to -- you went through a lot -- first of all, I don't know that I have ever seen any applicant do the background and the homework that you have done on this. I think I mentioned that -- or at least several others mentioned that the first time around. But I didn't -- I wanted to make sure I heard you correctly on a couple of things. Number one is that you have agreed to drop to a 400 capacity? Is that -- did I hear that right? Okay. And you were at 600?

Tsai: I believe the fire code had it at six or seven hundred and we dropped it to 500 to meet the parking requirement threshold of four to one. Now with the extra spaces we will have in position that are permanent I'm willing to drop it to 400 and meet closer to that three to one that the Commission requested.

Cassinelli: Okay. And then -- and -- and to confirm, it sounds like it was that, but -- but you said the -- the cross-parking agreement that we had asked for you to seek last time, that did not happen; is that correct?

Tsai: Correct.

Cassinelli: Okay. Thank you.

McCarvel: Any other questions for the applicant or staff? Okay.

Wheeler: Madam Chair?

McCarvel: Yes, Commissioner Wheeler.

Wheeler: Just one quick clarification on that. With the cross-access agreement for parking, were you actually told no or did you just not going to reply back yet?

Tsai: We were actually told no. But that was -- that's been in place for probably over two years now. Since Villa Sport just originally started their proposals they had just -- before, you know, this was even just a plan, they had told other developers flat out that they would not entertain any cross-parking.

Wheeler: Okay. Thank you.

Tsai: Back in 2018, so --

Wheeler: Thank you.

Dodson: Madam Chair?

McCarvel: Yes. Joe.

Dodson: This is Joe. Sorry. Just to -- for Commissioner Wheeler, just a quick background on that. Yeah. The -- there is an existing cross-access agreement between all of these sites for the Villa Sport. The Sadie Creek, which is directly south on this site, and, then, onto the Wadsworth site. But specifically in that I think it was recorded in June of 2020, so almost a year ago, it specifically states that there is no cross-parking. I believe it was one of the Villa Sport owners or developers that was on the call last time and they had noted interest in working with the applicant, but, then, following the hearing it turned out that they -- they couldn't come to an agreement. I don't know what happened on the back end, but I -- it was pretty quick. I would agree with the applicant it was pretty quick that they rescinded that offer to get the cross-parking involved -- or a part of that. So, just wanted to make that clear, that there is an existing agreement, it just prohibits parking -- cross-parking.

Tsai: Thank you.

Dodson: You're welcome.

McCarvel: Okay.

Grove: Madam Chair?



McCarvel: Oh, Commissioner Grove.

Grove: Just so that we are all on the same page again, because this one is a little thorny, Joe, could you give us just kind of -- the parameters that we are hearing tonight before we go into public testimony in terms of what it is that we are ruling on and -- and also kind of how we are basing our -- what we are basing our decisions on in terms of what is applicable and not?

Dodson: Commissioner Grove, that's a great question. So, there is kind of two parts to that, at least for why the product should be approved or denied. Some of them being these reasons I was previously continued, but, then, more specifically these are the required findings in code. These eight findings for conditional use permits. So, you don't have to have all eight, you don't have to not have all eight. So, those are the things that need to be addressed. So, any -- any of these are reasons to be recommended -- or, sorry, this is a CUP, so any of these reasons to be denied or approved, depending on the application. The parameters of this -- the proposal tonight -- again, it is a CUP for a drinking establishment and a music venue slash nightclub. Multiple uses are kind of wrapped into that drinking establishment for the CUP. So, their -- originally in the narrative he had mentioned a thousand capacity. I don't -- I don't want to quote him as saying that that is what he was proposing, I just think he was saying that based on the size it could work. But regardless of that, I had recommended in my staff report to limit that to no more than 500 because of the parking and, then, following that the applicant has now stated that he's willing to reduce that even further to 400. So, I hope that answers your -- your question, Commissioner Grove.

Grove: Yes. Thank you.

Dodson: Absolutely.

McCarvel: Any other questions for staff or the applicant? Okay. There being none, we will take public testimony and remind everybody that that needs to be limited just to the discussions that were presented in this evening's presentations, so with that are there -- is there anybody who would like to speak on this application?

Weatherly: Madam Chair, we have several people signed in. First in house is Jerry Soulsby.

McCarvel: Okay.

Soulsby: My name is Jerry Soulsby. Address here 104 East Fairview in Meridian. I was here the last hearing and two points, mostly following tonight's information. So, regarding the -- the traffic flow, by my experience with the people that attend these facilities -- and I'm part of a community -- a group of people that do a lot of country swing dancing and so for the most part a hundred percent of those that I know mostly cooperative people, zero aggression in those groups meeting. The majority of the people and the families that I'm involved with they are people with children ages, you know, three to 15 years old. They

are people that are working, they get off work, they go home, they fix dinner, they arrange for childcare and they all go to classes, you know, Wednesday or Thursday nights, Friday or Saturday nights they go down and they -- they practice what they have learned. They are a great community of people. The majority of them are going to be attending a facility like this probably starting around 8:00 o'clock at night, some of them might get there as early as 7:00. The majority of the traffic that will be entering this lot will be after hours, after a majority of the traffic off of Eagle Road in the first place and, then, those that are departing will be leaving after -- nearly all of the traffic is gone on Eagle Road. So, it's not going to be during peak hours or peak traffic times as far as the flow and as Madam Chairman mentioned last time, no matter what you do at this corner it's going to be a business that draws some traffic. A lot of those businesses are going to be during the high traffic count time period. So, this would be the ideal business to have there where the traffic is concentrated after hours. Just wanted to make that point. So, I guess, you know, I'm just going to leave it at that. Thank you very much.

McCarvel: Thank you.

Weatherly: Madam Chair, next online we have Jeffrey Vrba. Jeff, one moment, please.

Vrba: Hello, Madam Chair. Are you able to hear me?

McCarvel: We can hear you. Please state your name and address for the record.

Vrba: Madam Chair and Honorable Councilmen, this is Jeff Vrba. Address is 3005 North Leblanc Way in Meridian, Idaho. 83646. A couple things that I'm really concerned with is on the November 19th Planning and Zoning meeting that you guys had there was proposed five buildings to go in that lot. Right now they have the one going in, which is the medical center that's going in there and possibly this building here going in. At that time they said there is 125 parking spaces in there -- in that corner lot there. If he's going to be taking up a hundred of those for his business that's leaving 25 spaces for the remainder of the four buildings that may be going in there. Granted I know that the buildings probably aren't going to be opened up much past 11:00 o'clock at night, but I don't know what type of buildings are going in there. So, if you are giving each one of those buildings only two to three spots, what are we going to do? The other thing I'm concerned with is last meeting he mentioned that he has up to 30 staff that will be there -- or possibly being there. So, it's up to 30 cars out of his 170 that we were going to ask him to have a spot for. If he's got bands coming in -- if they are a local band he may have anyplace from two to five cars there, depending on the size of the band and spouses or people that are helping with the stage and that -- if he's got people coming in from -- driving down, like he said to Portland, we have buses that are coming in or campers. Where are these planning on being parked at? The other thing was last meeting, too, he mentioned that on the side where he said the ride share is set up, that now that was going to be the smoking area for the smokers to be able to go out and have their cigarette just before they go back in. So, now all of a sudden that area gets changed again to the ride share area. Also another concern -- we are looking at just strictly at the nightclub at night. He did mention that he's going to be using this facility during the daytime hours, too. We

are -- we are talking 400 people at night. There is no limit on daytime. He could bring up to 700 people in for a cheer competition that might be going on there. In that case there -- the odds are most people aren't going to be using rideshares during the day coming into that. So, there is possible you have to 350 people that are wanting to go in there. They are going to be in -- parking in our neighborhood. My house -- I have three parking spots out in front of my house. That's all I have for my family or whatever else is coming over to visit us. Unless they pull around in the alley behind my house, park in the driveway and, then, have to walk half a block to a block to get around to the front of my house, so they can come in through the front door. We need to make sure that if this facility is approved with you guys that we have something in place that we can protect the homeowners out in this area, to protect our parking area, to protect our noise compliance, to protect us. We were here way before this was even planned to go in. That's something we need to look at. The other thing I would like to say is I want to have all the parking spots for roadways and prior to them going -- getting a conditional use permit. Right now there is only two entrances to the building. To be coming down Eagle Road you have to take a right in there to go in or you have to come down Ustick Road heading east and take a right to go in. There is no way to get in off of Centrepont without going through our subdivision and we are highly against trying to get more traffic coming through our subdivision here and unknown people coming in at that time. My main concern is even with his facility there -- yes, he will get the parking spots by putting this extra parking in where the three businesses aren't going up yet, but when those three businesses go in we don't know how many parking spots they are going to need. If it's a restaurant going in there may be -- they may need 20 -- 20 to 25 spots. If he's using 125 that are in that area for his business, the new businesses going in there won't have anyplace for their patrons to park. We need to look in the future at the parking for that area, not in the present where he's trying to go through and say we can extend this out that way. Madam Chair and Honorable Councilmen, thank you for your time.

McCarvel: Thank you, Mr. Vrba. Madam Clerk, do we have -- who do we have next?

Weatherly: Madam Chair, we have others signed in, but no one else indicating a wish to testify. But we do have one raised in online.

McCarvel: Okay.

Weatherly: John, one moment, please. John, you have the ability to unmute yourself. Go ahead when you are ready.

Hoeger: Okay. Thank you. My name is Jonathan Hoeger. My address is 3664 North Summerpark Place, Meridian, Idaho. I commented the last meeting and I have comments specific to what has happened tonight. Two concerns that I have. The first is the requirement that was given was for him to be able to obtain a cross-parking permit, which has failed to happen. I think that making the adjustment in the top line in terms of the capacity of the facility is sort of a fool's errand. I operate a business. I have 46 employees. I don't know very many businesses that will have profit margins that are large enough that you can just take 40 to 60 percent, depending on what number you are saying

he started with, 700 or 1000 -- how many businesses can take half of their top line, reduce it, maintain the same debt service because the capital expenditures haven't changed and continue to be a going concern? If that's something that can happen in this business I'm in the wrong business. But I know a lot of entrepreneurs, a lot of business owners in town, I don't think this business is going to be feasible with the recommendations that we have made. I also would like to say that the research that he's done, while he's done a lot of work, I don't think he's necessarily done the relevant work. The cities that he's citing are not similar in size, neither are they similar geographic locations. He's choosing large urban centers, like Chicago, Los Angeles, San Francisco all on his list and other places as far away as Florida and Arkansas. These locations don't have similar parking requirements. If he's saying he's 30 percent better than what you see in downtown San Francisco or LA or Chicago, these numbers are irrelevant and they shouldn't be considered by the Council. I think that the last hearing it was clear that he had something that had to get done. He wasn't able to get it done. I'm recommending that the Council deny approval. Appreciate it.

McCarvel: Thank you, Hoeger.

Weatherly: Madam Chair, we have MK. One moment, MK.

Kynaston: Hello. Can you hear me?

McCarvel: Yes. Please state your name and address for the record.

Kynaston: Yes. Michelle Kynaston. 3725 North Neith Avenue, Meridian, Idaho. 83646. I would just like to add to the comment today that last time we talked the traffic circle was being used as a place to send traffic through, but that traffic circle is not an appropriate use for these kinds of businesses. It was a traffic circle meant for the location that's there right now and it would have to be rebuilt to accommodate the traffic that would be flowing through that neighborhood circle. Second of all, the other clubs that he is trying to compare himself to are not in neighborhoods and he admits he is very much in the middle of a neighborhood and there is no parking garage for anyone to go park in and attend his facility events and he has also made it clear that his people will have to park seven to eight blocks away. Those seven to eight blocks away are in our neighborhoods. They are across dangerous streets and in places where we have our children and we live and raise our kids and expect them to be in a safe place. He has also said that he has conversed with many people in the city and gotten it all approved and desirable by people in the city, but he didn't talk about the people in our neighborhoods and if he did he would discover that handily we do not want it here. We are up to 190 people saying, no, do not bring this in, to the 40 who I don't even know where they live, saying that they want it here. But this affects our lives and our neighborhoods. We would also like him to -- we would like him fact checked, because he has demonstrated an ability to say things that are questionable and we would like to -- the opportunity to challenge what he's saying, particularly on the list of property developments who have denied him. We in -- our greatest win-win here is for him to go somewhere else with -- with his business and not put it right here on this corner in our neighborhood. He said foremost the concern of

everyone is parking and traffic, but that is not true. Our foremost concern is the immorality of it and what it does to make our neighborhood unsafe for our women, for our children, for the City of Meridian, how it has been developed as a family neighborhood and we want to see that maintained and that is our foremost concern. We also feel like the reality of saying he wants a thousand patrons. Okay, now 500. Okay, now 400. Is really just an attempt to get the CUP approved, but there is no way -- and the police force has already declared that there is no way for them to enforce it. So, he can really just say whatever he wants and change it later and that's a great concern to us as well.

McCarvel: Thank you.

Kynaston: I think that's about it. Thank you so much.

Weatherly: Madam Chair, I see no other hands raised online.

McCarvel: Thank you. Sir, you may come forward. Yeah. Just come forward and talk in the mic. Yeah. And state your name and address for the record.

Sattler: David Sattler. 2060 East Lobelia Street, Meridian, Idaho. 83646. I think there has been a lot already said. I agree with many of the statements that have already been provided. I feel like this is a conditional use permit and I think the question that we have to ask ourself is there a compelling reason for us to grant an exception? And, quite honestly, I think that there isn't. I think that there was an inability to acquire the parking that this Council requested. I think that there is quite clearly a lack of community love for this particular establishment in this particular location. I don't think that anybody here is saying that a music venue is necessarily a bad idea. I think that what you are hearing is that this close to neighborhoods at this particular location isn't a good idea. I think that based on my research that I have done of nightclub zoning best practices, there are distinct designations and regulations and requirements for nightclubs that this applicant has been unable to meet and I think it behooves this board to benefit from those best practices. I think that would be, I guess, my opinion. There really is no compelling reason to grant an exception -- I think the -- the rule is there for a reason and I think granting an exception -- I feel like we are honestly forcing something that -- into a location that just isn't a good fit. With all of the energy and effort between the community and the applicant they have put into this, I feel like there has been a lot of good thought, but I just think it's the wrong location and I thank you for your time.

McCarvel: Thank you. Okay. If there is no more testimony, would the applicant like to come forward again.

Dodson: Madam Chair, real quick?

McCarvel: Oh. Go ahead, Joe.

Dodson: Thank you. I just wanted to address one thing, just to -- for clarification of both the public and the applicant and the Commission regarding the potential traffic going

through the neighborhood. One of our conditions of approval is related to working with the Villa Sport owners to construct the northernmost drive aisle on the Villa Sport site to get them to have another access to that Centrepoint Lane on the south side. So, that would be -- hopefully avoid some of that. So, I just wanted to mention that that was thought of and attempted to be addressed. And the rest I will leave to Brian. Thank you.

McCarvel: Thank you. Go ahead, Brian.

Tsai: Thank you, Madam Chair and the Commissioners. So, just as -- some of the calls had mentioned that our safety plan -- if you were to go through that entirely it is quite extensive, as I mentioned. It does cover our security staff directing traffic, where they are lawfully allowed to do so, which is in and out of the parking lot to -- you know, if you are leaving a parking lot I would suspect that most people would try to get to the main road, as opposed to trying to duck through a neighborhood and our staff is there to ensure that. Additionally, if there is any concerns, it's not like we will listen to the concern and address it later down the road. The reason that the safety plan implements that cell phone contact for the neighbors and anybody who might be affected adversely is so those issues such as noise or parking could be addressed immediately as they happen, not later down the line, and that, as I mentioned in the original testimony, would be provided to all the neighbors who are within that immediate vicinity. For the notices of this original hearing, I intentionally went farther out than what the city code had required as far as radius, just to ensure I had contacted some of those neighbors that otherwise would not have had an opportunity to voice their opinions. Let's see. The reason that this is still a viable business plan is not just because we are trying to squeeze it through, we are trying to, you know, accommodate as much as we can, but only a percentage of our overall operations, as I mentioned in my previous presentation, is reliant solely upon maximum capacity events and the reason for that is because we are not solely a music venue, just like we are not solely an event center. A lot of those venues do operate on tighter margins and capacities, therefore, they have to fill the house every weekend or, you know, that is part of their pertinent business plan. The reason for the cross-parking agreement in the previous request is because of the capacity and not the other way around. We didn't require the cross-parking because that was the prominent factor, it was that we would require the cross-parking based on the request for the three-to-one ratio, which the previous -- that was posed by the Commission previously. We had to go all the way back to the fact that this -- the scale of this business is small. It's in, you know, hundreds and not thousands. We are talking about hundreds of people and not thousands of people, we are talking about a hundred -- less than 200 cars. We are not talking about thousands of cars. What people are imagining now is trying to get out of the fairgrounds or trying to get out of the Canyon County Fair when everybody is trying to leave at the same time and we are doing it at a scale of thousands of cars and that's just not a realistic application for that vision. If we want to talk about facilities that are similar that do music and dancing that are closer to houses that are currently existing -- well, if you look at the Buffalo Club, there is a neighborhood right across the street. It's not hundreds of feet away. If you look at Cowgirls in Kuna, they are right next to houses. They are right across the street. They are not -- I think the -- 328 feet before we even touch the first house. As far as the opposition numbers, it's not really reasonable for someone to say, hey, there is 190

people against this. If you were to go through letter by letter there is many of those people who have actually written in ten or more times. So, to go back and say, hey, we have counted this person ten times as ten people who have written in in opposition is just not a reasonable assessment. As far as us just being dilly dally with the -- with the actual capacity, I would again mention that state of the art system that does alert us and allow us to crack down on load capacity limitations, not to mention the fact that we are looking at fines from the city, as well as our insurance may even refuse to cover us if we exceed our rated capacity that's approved. Going back to whether or not this community approves. Well, across the valley that we have over that thousand people who have already signed up just to see what we are doing, that are excited to be here. We have pledged over 20,000 dollars in free venue use to the Idaho Humane Society, Marine and Canine Rescue. The reason the cheerleading camp came up is because there was a group that wanted to come and use it for cheerleading competition. All these excessive uses -- we have pledged it to the Meridian Arts and -- Arts and -- Arts Commission. I'm sorry. And, then, also the major -- the majority of all the nonprofits are in support of it and I can even furnish you those messages, because they were excited that they were able to finally now have events in Meridian, as opposed to just be in Boise where their facilities are. As you can see there is no exceptions that are being requested. The only thing that I'm requesting is we have met the parking ratio request of the three to one, which was the original significant concern. Otherwise, we are just using this exact property for the exact general commercial use to which it was originally intended long before any of those houses were built and zoning has not changed. That's all I have, Your Honor. Or Commissioner.

McCarvel: Thank you. So, at this time can I get a motion to close the public hearing for Item No. H-2021-0004?

Cassinelli: So moved.

Seal: Second.

McCarvel: It has been moved and seconded to close the public hearing on H-2021-0004. All those in favor say aye. Opposed? Motion carries.

MOTION CARRIED: ALL AYES.

McCarvel: Comments?

Cassinelli: Madam Chair?

McCarvel: Commissioner Cassinelli.

Cassinelli: I have got a -- I have actually got a couple of questions for Joe if we could -- if I could. Joe, do you have -- do you have a diagram at full build out what all the traffic flow -- the way the pads are laid out? Everything I see nothing connects. What I want

to see is the roads connecting up to Centrepoint and, then, that roundabout. Do you have a slide with that by chance?

Dodson: Commissioner Cassinelli, I do not. This would be the connection to the south. This would be the corner of the property we are talking about and, then, this is the drive aisle that will connect there. I do know that the -- this drive aisle that also connects with Ustick is part of the construction drawings for the already approved CZC for this site, for this Wadsworth site, so that will be constructed as required. I would have to dig through and pull out some of the old Villa Sport stuff to see what else is going to be there. As for the -- this site, those pad sites up at the north end have not been applied for. There has been no administrative application put in for those yet. So, those are currently unknown.

Cassinelli: Is there -- is Centrepoint the only way out or will there be a driveway that will -- that will be a right-in, right-out onto Ustick to the east of Centrepoint?

Dodson: Yes, sir. Just this one right here on the -- the west end of the Wadsworth site.

Cassinelli: Okay. So, that is not Centrepoint there where your cursor is?

Dodson: Correct. No, that's not --

Cassinelli: That's another -- that's another access point?

Dodson: Yes. This is their main access point in and out.

Cassinelli: Okay. But, then, to get directly onto Eagle Road it's southbound through the project to that roundabout off of -- is it Piccard?

Dodson: Yeah. Down Cajun Lane and then -- yes. So, come down here, connect, and, then, out to Eagle.

Cassinelli: Okay. And, then, if I could another question, a little different one. There -- we have talked a little bit about the capacity. The applicant has -- has agreed to go down to the 400, but is there an enforcement instrument or whatever in there that -- I mean because it -- fire code is -- is -- is what will trump everything and I think that's up there in the 700 or so. But if the applicant is just agreeing to 400 for parking, but five or six or seven hundred come in, I mean is there anything that -- that can be done on the -- on the city side to enforce that?

Dodson: Commissioner Cassinelli, a great question and we discussed this a little bit at the last hearing in March and, unfortunately, there is not a lot. There are other -- it kind of falls into the same guise or same -- trying to think of the word. Having a brain fart here. Same issue that we have with daycares when we limit those capacities. You know, I don't go in there and count all the kids. We are on a good faith system largely. I know that's not in code and I -- trust me, I understand the frustrations of the public for that. A lot of it is the self policing, as well as community policing. When we start getting complaints and,



then, police have to go out there and, then, hey, you are overcapacity, that's going to, you know, be an issue and you can have -- the applicant can have the CUP revoked for that. That is a thing. That can happen. It's, unfortunately, not something that we can -- short of me standing out there as part of my salary position I can't really guarantee that that will be adhered to, but we run that risk with anything that we limit the capacity on, underneath the fire code.

Cassinelli: Thank you. So, if I can follow up that with comments?

McCarvel: Sure. Go ahead.

Cassinelli: I'm torn on this. I know a couple of things from the last meeting and I think -- and I know Joe did address that question last meeting, but since the number changed I kind of wanted to address it again as far as the capacity. I don't know that the noise and some of the things would be as bad as -- as some of the people might think that they would be. I'm trying to think back in the days that I used to go out and -- and that sort of thing -- it's been a long time ago. You know, even in strip malls -- I can remember clubs that were in strip malls, maybe like Buffalo Club or something, that shared with other businesses and -- and, you know, outside of maybe some trash that would get picked up in the morning, everybody kind of is in that main area in front of the -- of the venue and, then, they are out of there. The problem that I have with this one is that there is -- so much of the traffic is going to be forced through -- I could just see people coming out after drinking, hitting that roundabout and not knowing which way is Eagle Road, you know drive through -- drive around that thing three times and, then, wind up going Cajun and up around some of those other streets. Going up to Centrepoint and turn left, instead of right, thinking that, hey, we can get out -- you know, maybe we can get out to Eagle Road going -- you know, turning left here and -- and wind up running around the neighborhood three times before they finally figure out -- figure it out how to get out of there. Most of these other -- you know, you look at that Buffalo Club, you look at -- at Cowgirls, their -- their access to a main road is -- is right there. Buffalo Club is right on Fairview. You can go left or right out there. There is a side road alongside that development. There is a lot of ways you can get out of there without having to go through -- nothing takes you through a residential neighborhood. We didn't get that cross-access parking and I'm leery about the -- the enforcement of the -- of the capacity. Fire Department can shut the event down if there is -- if they are over fire code on a given night. They can -- they can shut them down and force everybody to leave, but if they have got five or six hundred people in there, because they are over capacity, so to speak, from a parking aspect, you know, there isn't the -- there isn't the -- the code enforcement to really cover that as we -- as Joe mentioned. I think this is a great product. I think the city could -- could do well with it. I think it would be -- you know, it would fit ten times better even across the street, either -- either to the -- to the east or to the north where there is better access -- direct access to Ustick, direct access to Eagle Road where -- where with this one, except for the one -- the one right-in, right only -- right-out only to -- on to Ustick, there -- all the access is running through residential and that's my -- that's my -- that's my hang up on this one and that -- for those reasons I'm not -- I'm really leery about it. Again, if it was -- and -- and I can appreciate the applicant's trying to find space in this town. It's -- it's difficult. But I --

I look at it and it's just -- it's -- it's a difficult one, because you have got to -- you almost have to get to it through residential neighborhoods and that's a tough one for me.

Grove: Madam Chair?

McCarvel: Commissioner Grove.

Grove: I can appreciate the -- the concerns with going through the neighborhood. I -- I don't personally see that as a long term issue I guess. There is no out from that neighborhood in terms of -- you are not going to cut through that neighborhood to get somewhere. So, if you make the mistake one time, you are not doing it again the next time, essentially. So, I mean that to me is somewhat mute long term. Short term maybe. Long term not as much. But looking at what we asked the applicant to go back and get information on, he brought back the first two and he answered the third one, which was the cross-access parking by doing -- not being able to achieve that, but showing another step and, then, looking at the eight things that we have in here for meeting the required findings for the CUP, I'm having a hard time finding a reason, based on what is in front of us, that I could get behind denying based on what we are tasked with grading this against I guess. Would I like to see it somewhere else? Sure. But that's not necessarily what we are being asked to judge this request on. It's -- does it meet these requirements? Yes or no. And for me it -- it meets all of the requirements and he also came back and met or addressed the -- the additional concerns that we had from the previous hearing.

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: I would like to add onto what Commissioner Grove said. I think the challenge is whenever you live in a neighborhood and there is a piece of dirt in front of your neighborhood, you, as a homeowner, don't have control on what that's going to be. What if it was a hospital? What if it was an In and Out Burger where there is constant flow of traffic? The fact that almost all four corners have a drinking establishment already leads me to believe that -- you know, Winners has football and -- and they can get rowdy over there. There is the Land Ocean New American Grill is going to go in. There is Pinnacle Sports Bar. There is Chili's. And like Commissioner Grove said, he fulfilled the requirement findings for the CUP. The parking is disappointing. I think he will have his challenges to being able to be good neighbors and being able to take care of that without having two companies involved, but that's a challenge that he is going to have to deal with and if he aggravates and upsets his customers, he's not going to be in business very long. So, again, I agree with Commissioner Grove, I'm having a hard time finding the one through eight items that he hasn't addressed or acknowledged.

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: Just a quick question for Joe. Is the -- the reason for the CUP is it because -- is it because it's close to residential or is it just because of the type of business?

Dodson: The CUP? It's for the drinking establishment period. That's a conditional use within the C-G zoning district.

Seal: Okay. I just wanted to make sure that we weren't -- there wasn't something tied to the closeness of the residential.

Dodson: A proximity thing? No. The only part of the code that could loosely, in my opinion, be tied to that would be the specific use standards for the indoor rec center, which talks about if there is an outdoor music venue. It talks about the outdoor -- meaning outdoor sound, period, can't be within a certain distance of a resident of district. But this is not going to be outdoors. So, that's -- that part is not applicable. The concept of a music venue in general, there is nothing specific in code, unfortunately, that dictates that.

Seal: Okay. Another question. I don't remember seeing one. Was there a sound study done as part of this?

Dodson: The applicant did provide some sound analysis and noted certain materials that would be used. I'm not a sound engineer, obviously. That's not something typical that we have or do.

Seal: Okay.

Dodson: I don't know what I would be basing it against, unfortunately. But, obviously, for good sound you want it to stay inside, otherwise, there wouldn't be a point. Internally, you know, to have the good music, so I -- but other than that I do not know, sir.

Seal: Okay. We have had stuff submitted before. Generally it's to -- because there is freeway noise or something like that where people have submitted basically engineering sound -- sound plans in order to mitigate the -- the freeway sounds or the sounds of something that's noisy next to them. So, didn't know if this had something along those lines.

Dodson: Within his narrative he did provide some information to that, yes.

Seal: Okay.

Dodson: I just don't know if it was a full sound study.

Seal: Got you. I'm really torn on this one. I mean the -- the parking is not ideal. That said when they put the medians in on Eagle Road it kind of made everything not ideal as far as in-out. But I understand why they did it, so -- we have got something that's going to be close to a subdivision -- and to put that into perspective, all the people that are in that subdivision -- I'm sure every single person on Leslie Drive came in here and was

against that proposed subdivision, because they were there first and they didn't want their neighborhood ruined and they didn't want all the people coming in and they didn't want all those little tiny houses in there and all the low income people it was going to bring and that's the way of -- that's the way it is right now. Right now there is a lot of play things that can go into a lot of places and they are not going to make people happy. But it is where you live. Fortunately or unfortunately that's the way that I see this. Everybody's always for something, they always come up and they say I'm not against something like this, I just don't want it in my neighborhood. I want it somewhere else. Which is unfortunate. There is a lot of things I don't want to go in close to my neighborhood. They are going to. It's coming. The growth is unstoppable at this point in time. It's going to happen. No, parking is not ideal. My biggest question -- well, I guess a question for Joe is on the -- the capacity portion of this, the rated capacity versus the enforced capacity, you have touched on the enforcement of it a little bit, but I guess maybe it's more of a question for legal is if they have a rated capacity and we try to enforce a different capacity, can that affect their insurance and everything as the applicant said or is that more conjecture than anything? Because, again, they are going to build a building for a rated capacity and we are going to try to enforce a different capacity on that.

Dodson: Commissioner Seal, the -- I don't know about the insurance side of it, but I do know that changing the capacity with the conditional use permit is -- is allowed. I mean that is one of the parameters that is largely used, as you know better than me. Regard on the -- regarding the private side of it and insurance and things like that, I -- I can't speak to that. I don't know if legal can.

Baird: Madam Chair, Members of the Commission, I don't think it's -- it's one of your decision analysis to worry about his insurance. It's can you enforce the 400 capacity that is under the fire code. The fire department shows up, sees that it's under 500 or whatever their rating is, and they are fine. If the city gets reports, as Joe touched on, that they are potentially exceeding the 400, the city would have to probably send out code enforcement personnel, who generally aren't available on weekends and evenings, but that's the procedure for how that would be enforced and, as Joe mentioned, if the city finds that that 400 capacity is being exceeded, then, the remedy is to commence proceedings to revoke the conditional use permit. So, that kind of gets -- gets to your evaluation criteria. The proposed use, if it complies with all conditions of approval and not adversely affect other property in the vicinity, it's -- it's -- what are your conditions of approval and will they be effectively enforced.

Seal: Understood. Mine was more to -- to be able to help put teeth into the enforcement. I mean if -- if that's a -- if it was a true statement it might help with, you know, ease people that, yeah, this guy could lose his insurance and it -- you know, we have the ability to -- or the city has the ability, I should say, to enforce lose of the conditional use permit. So, I mean it does already have teeth in it. My worry is, you know, as far as a business perspective why would you build a building that can hold a thousand people and agree to only ever put 400 in it? Why not build a building that can hold 400 people? That's the biggest question I have in a business sense. The other side of this is, unfortunately, you are going to be located very close to residents, affected or not, who are going to make it

their mission to pick up their pitchforks and axes and call the police every time somebody drives wrong, every time somebody flashes their lights, every time somebody flicks a cigarette butt in the wrong direction and that's what I see happening here and I find that to be unfortunate, because I -- I think a lot of the criteria has been met. I think there are very valid concerns as to the project. Personally I would like to see something like this come into Meridian. I think we are sorely lacking in that area. We are lacking in things like this, as much as we are bike paths. I mean -- so I -- I would like to see this come in. I'm not discounting the concerns that are out there and I do share similar feelings on -- on the parking, on how it's going to work, on -- on how that would turn out. But I think the single biggest problem that we are going to have is people are mad, they are going to -- maybe only short term, but possibly long term, try to make life extremely miserable for you and especially when you are operating in a completely reduced capacity. I just don't know how that's going to work and how much the city is going to have to be involved and how much misery and pain that's going to bring on to people. So, it's concerning.

Parsons: Yeah. Madam Chair, Members of the Commission, if I may provide you some context. So, I'm looking at the code, I'm looking at our ordinance for conditional use permits, and certainly, you're right, your job is tasked to enforce the code. With the conditional use as you could add -- and I will quote it here. It says you -- you can require more restrictive standards than those generally required in this title to -- to safeguard the public interest and so I'm hearing all of this talk and, you are right, you guys are struggling with this decision, because you hear somebody that's passionate about opening a business and you hear the concerns of the neighbors, but the other part of the conditional use is the duration and timing of the use and that's really to me where we are at here. You hear Joe or the city staff wanting to limit the occupancy. Let's say, for example, we do that and all of -- right now when you look at the aerial of this site there is nothing else to construct out there and that's really the concern I think from staff's standpoint is -- and what I'm hearing from the Commission is if we don't have all that connectivity and any parking in place, people are going to park on dirt, people are going to drive through dirt to get to the light, people are going to cut through the neighborhood. That's really the concern here. So, what you have with this conditional use permit is if you feel inclined to approve it you can have that condition that says they are capped at 400 and at such time as Villa Sports happens and everything else develops, if they want to come back and modify that conditional use permit and it's working and, then, he has the ability to make -- to modify those conditions and say, hey, we are working -- we haven't had any complaints, Commission, we think we want to increase our capacity and now we have a shared parking agreement and we want you to allow us to operate the way we envisioned when we first came before you, I don't know, three or four years ago. That's how you can probably mitigate some of these concerns. You can cap them at 400, with the caveat that if they want to expand that in the future they come back to this body through a CUP process, you have the ability that they can't go beyond 400 until they have a shared parking agreement in place with the surrounding developments or you can say, you know, we don't feel you have adequate circulation or parking for this. You can deny this and the applicant has the ability to appeal your decision to City Council. So, there is -- there is different avenues you can take here and, you are right, I have dealt with this site in the past and I have been at neighbors' houses out there talking with them about other

commercial businesses in the area and we have had to rectify some of those past decisions and I don't want to see that happen here and we want to be sensitive to that. So, to me if you guys are inclined to recommend approval of this tonight, I think I would put some sideboards on it. You can do this in -- in such time as you get cross-parking agreement or you don't get to operate until you get a cross-parking agreement. Certainly you have that ability with the CUP.

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: With the CUP, just on protocol, does this go to City Council or are we the defining -- we are the decision maker here?

McCarvel: We are the decision maker.

Lorcher: Okay. Thank you.

McCarvel: Yeah. We are not making a recommendation, we are saying yes or no.

Lorcher: Okay.

Dodson: Madam Chair?

McCarvel: Joe.

Dodson: The one caveat to that is that applicants or members of the public can appeal decisions to the Council --

McCarvel: Sure.

Dodson: -- following the action done by the Commission. It's the one caveat.

McCarvel: Okay.

Wheeler: Madam Chair?

McCarvel: Commissioner Wheeler.

Wheeler: I would like to add some comments here, too. I am -- I'm in agreement here with Commissioner Grove and Commissioner Lorcher here on taking a look at the staff report and looking at their findings. That's -- everything seems to be in the line here. They are using terms in here like there is no results and no damage, this -- this proposal here for this use will not be detrimental for any persons, will not be detrimental to the economic welfare of the community or create excessive additional costs for public facilities. It seems like there is a lot of things that are just buttoned up for -- for this to

happen and another thing that I took a look at here as I was looking at the -- the out pads, the extra building pads that are, they are around, I know there has been concern about some of those being used -- or the parking kind of spilling over into that area. From -- from my experience it seems that those -- those pads need to carry their own weight of parking and if they can't, then, the -- then the developer of that proposed use will come before this board again and -- or this body again and we take a look at it to see if we want to grant some sort of cross-parking agreement at that time or just the parking requirements. But I see the need for -- or I can hear that people here in this community see a need for such use on this and it seems that the staff has done a thorough job on taking a look at what could cause any sort of issues and you have addressed these things in a very thorough and organized fashion.

McCarvel: Okay. Any other comments or discussion? Yeah. I have gone back and forth on this. I -- I love the idea of this. It would certainly be much easier if it was somewhere else and I guess the comment that Bill made was exactly my question is, you know, as this develops out and there is more adjustments as time goes on with additional parking, can they come back, because I really don't see how -- as well thought out as every other thing in your business plan was, that it -- it still functions by keep lowering the capacity. But I guess that's not what we are here to parent over. If he feels he can make it work at 400 and that's what -- and this -- although he didn't bring in a cross-parking agreement, I believe -- I think he adhered, I guess, to the spirit of what was intended. I guess -- at this point I guess if somebody's got a motion we can -- or any other comments we can move forward.

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: Yeah. I'm still -- still struggling with this one, so --

McCarvel: Yeah. Well, keep going.

Seal: Right -- right now the -- the capacity limitation is -- is self imposed by the applicant; is that correct, Joe?

Dodson: Yes, sir.

Seal: So --

Dodson: That -- that 400 number is -- I did not make that -- we did not make that. To Bill's point you can -- you can pick a different one based upon the concerns noted.

Seal: Okay. I just want to make sure, because if that's an issue we would have to put that in a motion to --

Dodson: That is correct, sir. Yes. I have a current one in there regarding -- I think it's 500 and I spoke about how I got to that number with the four to one ratio of the -- the number of capacity versus patrons. But, yes, you are right, you would have to -- if it's going to be a different number you have to have it in your motion --

Seal: So, is that --

Dodson: -- along with the -- any of the timing that Bill spoke about.

Seal: Is the -- is it limited to -- is that limit on customers or is that limit of the capacity of the building period?

Dodson: Great question. In my -- wow, it's been a long week. It's like a -- yeah, in my condition I noted that it does include the employees as well. So, it's going to include, basically, that -- that tenant suite -- patrons, customers, as well as the employees, because they will -- the employees will be the ones that use -- utilize the parking the longest.

Seal: I will ask a long question here that probably has a short answer. Since this is -- we are going to limit this to four -- 400 and I don't see it exceeding, I can't imagine that doubling and people being happy about it. Can we limit the amount of space that they are -- can we limit the building to a capacity as far as what it's capable of holding or is that part -- was that already addressed in a development agreement?

Dodson: That is not addressed in the development agreement. That is what you guys are doing now. Are you saying that you could have a step process saying that you will have a lower -- lower capacity now in saying that in the future it will never exceed a certain amount?

Seal: Just essentially limit the -- limit the building's capacity to a certain number of people by constraining it to a certain size.

Dodson: Yes, essentially, that's what you can do through this CUP.

Seal: Okay. Because right now we are allowing him -- I mean he could build a building that could hold 2,000 people and we are saying you can only have four people in there -- 400 people in there, so --

Dodson: Well, to be more specific on that, that until this use applies for a TI and that's this specific use, the fire plan reviewers will not be able to give us a dedicated number. How the interior of the tenant suite is laid out is very important to determine that, because as soon as they start adding tables that changes their ratios. If they have how big their dance floor is -- all of those things go into that. I loosely got a number from the fire plan reviewers just based on a preliminary floor plan that I was given and it was a range anywhere from five to 750, depending on if there is additional tables and things like that. So, there is -- there is definitely room to play with what the fire capacity will even be. I



think that based upon my conversations it's probably going to be the lower end of that, probably between the five and six hundred. So, fire capacity may limit it more than what has been discussed in this hearing. So, a thousand was never going to be part of the question period and I don't think 750 is either. So, if that helps you guys. I hope that does.

Seal: It does. And in the picture you have there, which is that oriented north-south or is that -- do you know?

Dodson: It -- south is to the top of the picture.

Seal: Okay.

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: For our motion I would propose that -- what Commissioner Seal said, to have a capacity, but I think that the applicant should have the ability to come back to increase his capacity if his business model is working and he does get cooperation with the other tenants for parking.

Seal: Madam Chair? And --

McCarvel: Commissioner Seal.

Seal: Question for Joe. That -- that's kind of built into the process; correct? Or does that require that we state that in a motion? The ability to come back and ask -- ask for more capacity in the future.

Dodson: It is my understanding that they -- regardless of if you note it, that the applicant can just do a mod -- a CUP modification at a future date. However, for whoever is on the Commission in the future date, if there is already a condition noting that this was something that was discussed that might be worth adding.

Seal: Okay. Thank you.

Dodson: But process wise it's not a requirement, no.

McCarvel: Okay.

Dodson: Well, let me -- let me say that further, now that I'm thinking about it more. The only way that it would be a requirement is if there is a certain timing associated with it, as Bill alluded to. If there is a -- once you get A, then, you can request it, then, yes, that's going to be a requirement of the motion.

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: So, we can't say just a future date, have it be ambiguous, it has to say when a tenant agreement or parking agreement happens -- we have to have something definitive or can it be more vague?

McCarvel: No. We -- my understanding --

Dodson: Commissioner Lorcher.

McCarvel: Go ahead, Joe.

Dodson: Sorry. Yeah. If it's going to be vague, then, in the normal process and the allowance of a future modification is what you should just -- and just -- and just not say anything if it's going to be vague. If there is something specific, the cross-parking as an example, but also part of the CUP you could put a certain sunset date period and say not until after five years can you come back. Those are all things that are in your parameters to add.

Lorcher: Thank you.

Dodson: You are welcome.

McCarvel: Yeah. I'm thinking mentioning it as just a courtesy to a future Commission that it was thought of and we weren't -- they don't have to rehash it all. But I don't think a sunset is necessary. I mean to come back --

Grove: Madam Chair?

McCarvel: Commissioner Grove.

Grove: I think maybe how we could help future is to put in something along the lines of how we have been approaching the percentage essentially of parking. So, not just getting a parking agreement in place with neighbors, but having -- being able to hit that -- a certain threshold with that to keep it consistent with what we have discussed might make it a little easier for future commissions to have an idea of where we were coming from.

McCarvel: Okay. Thank you.

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: If anybody else wants to comment I'm -- I'm ready to make a motion here, but I want to make sure that -- I mean, essentially, the capacity is really -- the capacity and their ability to come back at a later date to ask for more parking -- is there anything else in here that somebody is wanting to see if we were going to make a motion on this?

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: Commissioner Seal, I tried to write something down for the -- for the first time, but -- so, I will defer to your expertise. I just had -- I just had like with the other tenants nothing specific as a -- as a cross-parking agreement, because if the other tenants aren't -- that -- that's not within their business model, they are not willing to do that, then, that limits this applicant any future growth. But it -- as a collective group of tenants together, they have kind of a gentlemen's agreement or a business agreement that they have it, but not necessarily in writing, so maybe not have it saying if it is a cross-parking agreement I have more of parking with the other tenants on the site, as just a general rule.

Dodson: Madam Chair?

McCarvel: Go ahead, Joe.

Dodson: Commissioner Lorcher, there already is an existing cross-parking for all of the tenants and all of the future building sites within this five lot subdivision. So, that cross-parking is already existing. The main crux would be additional parking beyond what is going to be constructed on the site and that's where you could impose saying if you -- you cannot come back -- or I should -- you know, if you get that cross-parking, then, you can increase your capacity, that type of a situation. Beyond the site. Yeah.

McCarvel: Commissioner Cassinelli.

Cassinelli: Not to keep -- keep going down the road here and, Commissioner Seal, I know you are about ready to go forward, but another question came up for Joe. A member of the public that spoke brought up a point of future tenants in this. If there were something -- a business, perhaps a restaurant or something, that competed hour wise with this that wanting to go in, how would their parking -- I mean most of these businesses, if they close up by 8:00, they are not going to -- you know, their parking is not going to impact the parking here. But if there was something else that had hours 10:00 or 11:00 say, his parking might be -- be impacted by this parking. How is that -- how do you view that down the road?

Dodson: Great question, Commissioner Cassinelli, and for the Members of the Commission. That's a good learning thing. One, unfortunately, there -- there isn't specific parking requirements for this specific use. You know, a drinking establishment, for example, versus a restaurant. That's all wrapped into one. So, one for 250 -- 250 square

feet that is the -- all of the future sites and what is already existing will be based on what their proposed use is and the minimum parking required by code. I can't require more, so as long as they are meeting those minimums, then, those sites could be utilized based upon the size of those buildings. If they get to a point where they exceed it, then, we can't approve it and they have to come through us each time. For the hours portion, the applicant -- or the landowner is actually doing some self policing there. For example, the Jamba Juice and that's going to be in the other suite in this building and I have seen the agreement that they are limiting them to close at -- I believe at 7:00 p.m. -- or 6:00 or 7:00 p.m. or something like that. So, as part of their agreement with some of these new tenants that are coming in, so I think that some of that will get quelled and, again, I don't want to speak for the landowners, but I do believe that one of the uses on the other side might be a bank, which does not have late hours and, then, there was word of a coffee shop, but I don't know if that's going to happen and those generally don't go later into the evening either.

McCarvel: Okay.

Seal: Madam Chair, one -- one thing that I would like to add -- and I don't know if it's going to help anything or not -- and the reason I asked the -- the orientation of the building is I would like to put something in here that the sound direction is concentrated away from the closest -- focused away from the nearest housing. Thank you. That's what I have written down here. Just trying to -- just trying to make sure that -- you know, essentially where the sound -- where the stage is, where the sound is focused, the direction that it's going to be emanating is away from the nearest housing as much as possible. Right now with the orientation of it it's kind of going that direction, so that's a little bit of a concern for me. With the construction that they are proposing I think it's less than an issue, but it is, you know, a way to mitigate some of the concerns that are out there as far as sound. Anybody have any issues with that let me know.

Lorcher: Madam Chair?

McCarvel: Commissioner Lorcher.

Lorcher: Didn't the tenant or the applicant fulfill the requirements for sound? Wouldn't that be redundant to put it in there specifically or you would just like to have it as an extra reminder?

Seal: Madam Chair?

McCarvel: Yeah. Commissioner Seal. Yeah, I kind of have the same thought. I think the building itself was designed as fairly sound proof.

Seal: I agree, but there was -- I mean there has been no true sound study done. We are relying on the applicant's analysis of what the sound can and will do. I just think this adds another layer of trying to get along with one's neighbors as well as possible, so -- and, again, I mean if you have been to a venue when you are walking up on it -- if you come

in from behind the building I will -- you know, use the Revolution Concert House is a great example. If music is going on and you walk up -- or you are in the -- behind the buildings, you don't hear a lot. If you are out in the parking lot you hear everything. So, that's -- you know, I mean the sound direction focus can definitely be -- play into something. So, if it's focused in that direction kind of no matter what it is, the bass is going to escape and it's going to float that direction. So, if you want to challenge that just have some teenager turn up their car driving down your road.

McCarvel: I have one of those.

Seal: Exactly. So, it was just a concern that kind of -- I mean to me the sound of this needs to blend in with the neighborhood as much as possible, so just a concern. So, with that, Madam Chair?

McCarvel: Commissioner Seal.

Seal: After considering all staff, applicant, and public testimony, I move to approve file number H-2021-0004, as presented in the staff report for the hearing date of May 6, 2021, with the following modifications: That the capacity will be limited to 400 people. That the applicant can come back at a later date to ask for an increase in capacity when more permanent parking is available. And that sound direction is focused away from the nearest housing.

Dodson: Madam Chair?

McCarvel: Oh. Joe.

Dodson: Sorry. Sorry. I know. One last thing that I do have an existing condition in there that talks about the cross-parking, but because that was not able to be obtained your motion should include striking that condition.

McCarvel: In lieu of the 400 capacity maybe? Okay. What's the condition number on that, Joe?

Dodson: 8-A-3.D.

Seal: That we strike condition 8-A-3.B.

Dodson: D as in David, sir.

Seal: Oh, sorry. D as in David.

McCarvel: Is there a second?

Grove: Second.

McCarvel: Okay. It has been moved and seconded to -- to approve Item H-2021-0004 with conditions. All those in favor say aye. Opposed?

Cassinelli: Nay.

McCarvel: Motion passes. Madam Clerk, do you need a roll call or --

Weatherly: Madam Chair, for the record I want to confirm that was Commissioner Cassinelli who said nay.

Cassinelli: That is correct.

Weatherly: Thank you.

MOTION CARRIED: FIVE AYES. ONE NAY.

**6. Public Hearing for Mountain America Credit Union Drive-Through (H-2021-0019) by Mountain America Credit Union, Located on the West Side of N. Ten Mile Road, Approximately 750 Feet South of Chinden Blvd.**

- A. Request: Conditional Use Permit for a drive-through establishment within 300 feet of a residential use and zoning district for a financial institution on 1.16 acres of land in the C-G zoning district.

McCarvel: Okay. Thank you. Next item on the agenda is -- and we are just full of CUPs tonight. H-2021-0019, Mountain America Credit Union Drive Through, and we will begin with the staff report.

Dodson: Thank you, Madam Chair. Sorry, Commissioners, you get to hear me more. I am told I have got a radio voice. So, maybe it's nice. I don't even know at this point, but -- as noted, this is Item No. 5, Mountain America Credit Union CUP. The applications before you are a conditional use permit, administrative design review was already approved for the building at staff level, which we allow concurrently with CUPs. The size the property is 1.16 acres, currently zoned C-G and it's on Lot 13 of the Lost Rapids Subdivision, which is part of the Costco site. It is on the west side of North Ten Mile Road and about an eighth mile south of Chinden. And to the north, as noted is more commercial. The two lots directly above are undeveloped and, then, the corner lot is the Costco fuel station. To the south is more C-G zoning and undeveloped, but directly to the south is the other drive though site that was approved by this Commission I believe last month. To the east is Ten Mile Road and, then, to the east of that is R-8 zoning and detached single family uses. To the west is C-G zoning and the Costco site, the larger building lot here. The future land use plan does constitute this site as a commercial designation, which, obviously, allows a plethora of commercial uses. The conditional use permit is requested for a drive-through. It is for a financial institution that is within 300 feet of a restaurant drive though that I noted is directly to the south. As you can see on