

Simison: Councilman Bernt.

Bernt: I move that we approve H-2021-0026.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I did have a question.

Simison: Do we have a second?

Hoaglund: Second the motion.

Simison: Have a motion and a second. Is there discussion on the motion? Council Woman Strader.

Strader: Yes, please. Thank you, Bill. I just wanted to make sure that if we needed the fallback position, the compromise, what the cost of the road would be, or that the road would basically fall -- would be split between the two properties -- that that piece was captured in the findings.

Parsons: Yeah. Mayor, Members of the Council, it has been. In that DA provision it lays out what was discussed, either where it stubbed in the concept plan with that cost share or if they can't reach an agreement and, then, it falls basically half and half.

Strader: Thank you.

Simison: We have a motion and a second. Is there any further discussion? If not, Clerk will call the roll.

Roll call: Borton, yea; Cavener, absent; Bernt, yea; Perreault, yea; Hoaglund, yea; Strader, yea.

Simison: All ayes. Motion carries and the item is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

2. Public Hearing Continued from July 13, 2021 for ACHD Ustick Maintenance Facility (H-2021-0029) by Engineering Solutions, LLP, Located at 3764 W. Ustick Rd.

Simison: Next up is a public hearing continued from July 13, 2021, H-2021-0029. Bill, is this going to be you or is it going to be Joe?

Parsons: Yeah. Mayor, Members of the Council, Joe is going to do it from -- remotely this evening.

Simison: Okay. Then, Joe, I will turn this over to you.

Dodson: Thank you, Mr. Mayor, Members of the Council. Can you hear me?

Simison: Yes.

Dodson: Thank you. Sorry about not being there in person. I'm not feeling too well. Sorry. But I still wanted to participate in this and not leave it all on Bill. As noted this -- this was continued from two weeks ago in order for the applicant, which is ACHD, to reach out to their commission and discuss the phasing of both this project, as well as the phasing of the utility -- or sorry -- the Ustick Road road widening. We did receive a letter last week, July 22nd, from the ACHD commission regarding the second point noted on this slide eight point -- A1.J, which discusses the -- the timing of the future building permit. Based upon the conversations that I had with ACHD, as well as with -- from the discussions that occurred at the Council meeting two weeks ago, I found that this was an appropriate modification of what is in the existing staff report. It is different than what the applicant had originally requested. On the 13th. I did circulate this language with ACHD at the end of last week and I was under the impression that this made sense and was understood. Beyond that I don't have any other comments, since everything else is the same. I'm not -- if you have any other questions I'm here for you.

Simison: Okay. Thank you, Joe. Council, any questions for staff? Okay. Everyone is shaking their head no. Would the applicant like to come forward.

Wong: Mr. Mayor, Council Members, thank you for the opportunity to be here today. Mr. Mayor, if I could take a little bit of a pause on this. I first would like to thank your Police Department for the tremendous job they did on Sunday's Idaho Patriot Thunder. They did ensure that we all arrived safely. They did a tremendous job as always and it was just a pleasure to have them on board again and we will make sure that next year we have that on your calendar very very early for your participation. Mr. Mayor, we are --

Simison: Mr. Wong, if you could state your name and address.

Wong: I'm sorry. It's Bruce Wong. I'm the director of the Ada County Highway District. Mr. Mayor, we do have a concern on this. This language that was changed -- we were aware of that -- or made aware of that today at 3:43. I have talked to my staff. We have not received any type of other reports back and forth and we have been in lockstep and very agreeable to all of the conditions that the P&Z had asked us to consider and we have agreed to them all and the letter from Commissioner Goldthorpe was very clear on what we thought was the agreement that would be coming in front of you. So, Mr. Mayor, Council Members, I do apologize, but we do not agree with the change at this point in time and we would request that you would render a decision that provides -- that was in lockstep with all the discussions we have had with your P&Z and the letter that -- that you

all requested that the president of the commission send you, which was that we would be able to take occupancy on phase four. That was our request. That's the letter we sent. And, again, I -- first we were notified of this and I have got the e-mail here was at 3:43 today. I will stand for any questions you might have.

Simison: Okay. Council, any questions?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Yeah. Part of the schedule of today was somewhat rushed in hopes that the stars might align and we can get this worked out and understood that it might be rushed in doing so, but, you know, the letter came five days ago and now we have got this condition and it needs a little more time to discuss the pros and cons of specific language. The one thing that jumped out to me was -- the condition made sense as proposed by staff, but to incorporate the specific matrix in a letter, because that would be in the DA, as opposed just referencing it for itself, to include those benchmarks. But by all means it --

Wong: We can work that --

Borton: Yeah. More time is necessary to visit with staff. I think we contemplated that very well might occur, because I think the second date we were looking at was the end of August, beginning of September, so --

Simison: So, before we just go directly to that, are there questions Council has or comments? I mean, personally, this is more in line with what I thought the Council's conversation was last week, as compared to what we received from the letter from ACHD. So, I would say that there is maybe a difference of expectation or interpretation, so -- but that's my -- that's how I heard the conversations last week -- or two weeks ago.

Dodson: Mr. Mayor?

Simison: Yes, Joe.

Dodson: Yes. Thank you for mentioning that. I would agree with that and that's why I wrote it this way. I apologize if there was any confusion with ACHD and their staff. I -- I'm not trying to throw anybody under the bus, but I have e-mails that I sent this out last week, this exact language, minus the words ACHD commission and the date and I had two people from ACHD tell me that it looked good, which is why I went forward with this. So, I didn't formally send the memo until today, yes, because, again, I was not feeling well today and I was out yesterday, but this is consistent with what I thought that the discussion between both myself and ACHD and what the Council discussed last week -- I know that we have had -- Council has had discussions recently about using the word certificate of occupancy, because we have less control over how we can withhold that because of the TCO process, so I thought that using the word building permit consistent with my original

DA provision makes more sense and gives the city -- I guess the most power to do exactly what the Council had discussed two weeks ago.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: I agree with Joe as far as the recollection of -- in fact, it was pretty recent that we were having that discussion on the -- you know, the COs versus building permits and kind of got pitched in a different situation. So, it seemed appropriate, timely, quite frankly, to -- to make sure not to have that happen with this one. So, I thought Joe's language -- staff's language here made sense as well, so --

Simison: Additional questions, comments?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: ACHD provided a letter to us, which was I believe in response to the conditions of approval on July 12th and this that we are discussing here, which is one of those items that they responded to, but there were three others -- excuse me -- two others and I just wanted to make sure our staff was -- could advise us on -- on those decisions as well and so that was specifically A-1-C in -- in the letter that was provided by ACHD's engineer and that's specific to the commercial design of the -- of the buildings that are going to be along Ustick and the costs related to those in relationship to the use of the -- of the building. And, then, in addition, that there -- that the multi-use pathway would be constructed in the second phase of development, instead of the first. So, I don't know if we -- if Council needs to have conversations about those requests to the changes in the conditions of approval. I didn't see anything in the file, as far as staff's specific comments on those, so I would like to hear from our staff on that as well and, then, if there is anything additional the applicant would like to share on those for our clarification that would be great.

Simison: Joe.

Dodson: Thank you, Council Woman Perreault, for your questions. I did note that -- or I can say -- because those -- my -- my presentation was two weeks ago for the commercial standards I did note that that is something that staff is wanting, again, because of the Ustick corridor, it's highly visible, it's an arterial, we tend to do that a lot for buildings that are going to be close to the arterial. However, I did note last -- you know, two weeks ago and I will say it again, that if the Council thinks that with the additional landscaping that I'm requiring and the additional costs that it might incur to the applicant, that they utilize the industrial standards. I understand that reasoning. I think that is up to the Council to make that final determination if they want to give that concession to the applicant. On the second point regarding the multi-use pathway, traditionally we have always wanted the

pathways and landscaping to be done with the first phase. I do understand that per the phasing plan submitted by ACHD -- by the applicant that phase one is pretty minimal, so I can understand the desire to move it to phase two. I think that that is acceptable, but, again, it is Council's determination, if they want to do that per the phasing plan or if they would like to require it up front with phase one. But no additional information has come out about -- regarding those items.

Perreault: Thank you. Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: If the applicant could share with us some specifics on how they would like the commercial design to be different, that would be really -- really helpful, give us a better understanding of what would be cost prohibitive.

Wong: So, Mr. Mayor, commission -- again, the district is in agreement -- the district is in agreement with all of the discussions we have had with your P&Z across the board and we continue to be in agreement. We can work through these things with modifications. The one issue that I will raise again was -- again, the 3:43 note from your planner stating this, which we were not aware of -- the Commission was not aware of it. I was not aware of it. Our maintenance team was not aware of it.

Bernt: Mr. Mayor. Mr. Wong?

Wong: Yes.

Bernt: Would you disagree with what our planner just told you?

Wong: Yes.

Bernt: One hundred percent. You are saying that he is lying.

Wong: No, I'm not saying that at all. I'm just saying that this is new to what we saw today at 3:43. We were under the assumption coming into here that we were lockstep with -- with P&Z. Now, in the past -- yes.

Berenger: Jennifer Berenger. I'm the deputy director of maintenance at ACHD. 3775 North Adams Street, Garden City. Just for clarification, this was sent to us last week before the commission memo came out. So, what Joe was doing was kind of setting the stage and here is what we think it's going to look like and we were like, okay, that looks good and, then, he said, after we get the memo we will clean it up a little bit. So, we hadn't seen the cleaned up version after the memo got submitted. The changes that were made after the memo was submitted were specifically putting the date -- the date in there, but it didn't change the other pieces that the memo had outlined, to include kind of the changing -- to -- to the condition of occupancy, as well as some of the other verbiage on tying it back to phase four in those cases, so -- so, again, this was -- he did submit this to

us before the memo came out, so it just -- this doesn't incorporate what the commission had put into their memo.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: So, what Mr. Wong is saying isn't accurate?

Berenger: He is -- he is correct in the sense that he saw it today. But that was when we saw the final version that was sent to you. What we --

Bernt: The question is -- no. No. No. The question is -- I -- the question that I asked was did -- was this seen prior to 3:43. My -- my planner is saying yes. The basic premise -- you know, there may be some different words, there may be some dates added, but I want to -- I want to make it clear that I'm getting two different stories, one from my planner and one for Mr. Wong. As a decision maker on this body I like to know what's -- what's going on.

Berenger: No. The -- what your planner is saying is correct.

Bernt: Okay.

Berenger: He sent a draft of this last week before the memo was received from the commission. So, this was kind of a leading edge before all of the facts were in. We hadn't seen a final version that incorporated what the ACHD commission would commit to. So, this -- what we saw was before what our commission was able to commit to.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Would it be helpful for you all to have additional time to digest language and review it, then, with the commission? Is that the request?

Price: Mr. Mayor, Council Members. Steve Price. General counsel for the highway district. We did just get the final version of the staff report today at 3:43. But --

Bernt: Mr. Price, one second. Mr. Price, that's not what we are saying. We agree that the final -- the final version of it was sent at 3:43, but what I'm confused about is that Mr. Wong said that no other correspondence had taken -- he hadn't seen anything until -- until today at 3:43. So, I just want to know what story is correct and which story is wrong.

Price: Well, Councilman Bernt, the -- I'm not sure and my comments aren't related to that. I will tell you that the way that we look at it is is that we received communication on July 12th from the P&Z and at that time -- or excuse me. Our engineer at that time was very

clear that in terms of the condition related -- and that would be A-J and I believe we referenced that in our letter -- that we wanted that condition modified as to occupancy, not as to the building permit. Okay. And, then, you had the meeting on I believe -- shortly thereafter on the 13th and we again restated that. The Council wanted a commitment from the ACHD commission that they would go for offsite improvements in support of that. Now, in terms of off-site improvements I'm not sure that we are comfortable with that legally. I'm not sure the Council has the authority to condition a land use development application based upon offsite improvements. We are happy to make all of the on-site improvements, but the commission, as part of interagency cooperation, agreed to go ahead and accelerate the project in response to the Council's request and we sent that in the July 22nd letter. That was our agreement -- the commission's agreement to do that was based upon the fact that no certificate of occupancy shall be issued until phase four of the project consistent with the submitted and revised phasing plan and the deceleration on Ustick frontage is constructed. That is what ACHD will agree to. Nothing more. Nothing less. I don't think the Council has the authority to require any more than that in terms of off-site improvements. That is something that is beyond what you can ask for, but we have agreed to it and now today you are telling us, no, it's not certificate of occupancy, it's based upon the building permit. We can't agree to that. There is no justification for that. You don't have the authority to do that. And it -- frankly, I don't understand it in terms of us building -- a building permit in terms -- and the relationship to occupancy. So, that is our objection. If you have got a legal rationale and Mr. Nary can provide it as to why you can require off-site improvements beyond the on-site improvements, great, provide it to us. But today you are not and we have already committed -- the commission has agree to, based upon certificate of occupancy, that we will go ahead and accelerate that project plan. This isn't -- this is occupancy, folks. This isn't permitted to construct. We will -- those projects will be done as committed by the Commission. It will be done by the time we actually take occupancy and don't understand why the Council is requiring that as a new condition. It was nothing -- anything we have agreed to. It's nothing we have committed to as of today. And so I think there is a big misunderstanding as to what the commission has agreed to.

Bernt: Mr. Mayor?

Simison: So, just for clarification, this is annexation.

Price: That's fine.

Simison: Correct?

Price: Yes, that is correct.

Simison: We both understand what is -- what the latitude there is in an annexation.

Price: I understand the latitude. But, at the same time, you have to think of it reasonably as interagency cooperation, as we try to do with you. We are not asking to run the

maintenance facility until we actually occupy it. We just want to construct it. There won't be any impacts to the roads until occupancy.

Dodson: Mr. Mayor?

Simison: Yes, Joe.

Dodson: I did want to clarify that the -- what was in the memo from the ACHD commission letter regarding the condition that they had in there -- that was what ACHD requested as a modification to what is already in the commission recommendation that I sent out for the hearing two weeks ago. That is not something that our Council or myself agreed with. That is something --

Price: We agree with that.

Dodson: -- that the ACHD commission -- they may have seen that and that may be what they want, but that is not what we have agreed to. So, I do understand Mr. Price's point there and they did not receive the final draft of what I have included here until 3:43 today, yes. But the only thing that changed from July 22nd until now is I added ACHD commission and July 22nd, 2021, because I felt that the language was sufficient based upon what I had discussed with ACHD maintenance, as well as with the Council discussion from two weeks ago. The rest of that is beyond my paygrade, frankly.

Price: Appreciate that, Mr. Mayor and Council Members, and I think that that is correct, but in terms of the commitment for the commission we are stuck at a dispute as to certificate of occupancy and building permit. That's where we are at.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Yeah. Coming into this I thought, eh, we are a little bit apart -- not that far apart. So, Steve, if we can walk through -- you know, when I read the letter due to the fact that there could be interim uses that may need a building permit -- permit, but do not require occupancy and, then, when I saw the language that -- that Joe had submitted, it would allow for a building permit and it's -- with this language here -- and it talked about the decant washout station needing the building permit. Is there more than one building permit that is needed without the occupancy?

Price: Yes.

Hoaglund: So, it sounds like you want to build out and, then, when everything is done you will occupy, it's ready to go, and you walk in, boom, you are operating.

Price: Exactly. And we will have all the improvements made to the road network offsite at that time.

Hoaglund: Right. Mr. Mayor?

Simison: Councilman Hoaglund.

Price: That seems a reasonable approach.

Hoaglund: Yeah. Follow up, Steve, then. So, it is probably not just having one building permit, but it's others.

Price: Yes.

Hoaglund: You need the building permit to get them constructed and, then, usually -- building permits and, then, as we know, you know, certificate of occupancy follows after -- after that one when the time comes. Everything's agreed to, just like the WinCo, everything's got to be done, okay, here we go and we can do temporaries, of course, but -- so, it's just a matter of building permits plural, as opposed to singular, and it sounds like --

Price: It's a timing issue and you are correct.

Hoaglund: Timing issue. So, I think that's the area that we have to figure out if we can make that flow, so --

Price: I don't understand the rationale, frankly, as to why the certificate of occupancy versus the building permit.

Hoaglund: And, Mr. Mayor, if Joe could put up that other language, I was going back and forth -- that he had sent back and forth between the two, just trying to figure that out. Or is that you, Bill? Okay. Joe, could you put that language from your memo back up?

Dodson: This one? Yes, sir. Sorry, I was going to ask you which one he are referring to. There we go.

Hoaglund: There we go.

Dodson: The first one is not related to this. It was an additional DA provision based upon the sewage stuff that we had discussed. The one that we are discussing now is the lower one and my understanding is that it was because of the discussion two weeks ago was to do with truck traffic and that's why the building permit and the future buildings may incorporate the use of more trucks is the reason why we would be using building permit, instead a certificate of occupancy, because we have the temporary certificate of occupancy process that can somewhat circumvent that provision. So, I was trying to give the city a stronger position.

Hoaglund: So -- and, Mr. Mayor, follow-up question for Joe then.

Simison: Councilman Hoaglun.

Hoaglun: So, that's why no building permit shall be submitted until the widening project is completed, except for the one building permit and for that -- for the decant washout station; is that correct?

Dodson: Yes, sir. That is correct. And that's what I had discussed last week with the -- the other ACHD staff. So, I thought we were on the same page there. This is something similar to what we do with a lot of larger plats where we say, well -- well, we will allow one building permit for one building. That's it. You don't -- not -- we don't say withhold occupancy, we say one building permit, because of this -- because of the ramifications with allowing more building permits, which usually means more traffic.

Hoaglun: Mr. Mayor, question for Steve.

Simison: Councilman Hoaglun.

Hoaglun: And I might defer this -- so, I remember seeing the plans, we went through all that. How many buildings are we talking about for build -- building permits for -- for that period of time that would be constructed?

Price: A total of seven buildings.

Hoaglun: Okay.

Price: And, by the way, this is inconsistent with the July 22nd letter that the commission did send. So, I'm not sure how there has been any interpretation that this is consistent with ACHD's position, because it's not been. It's a misunderstanding. Fine. But it's important that we be able to build and we most certainly won't occupy until all of those improvements have been made, including the on-site improvements adjacent to our facility, as well as off-site improvements. These are not minimal improvements, these are significant improvements that are off site.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: Steve, you know, looking at Planning and Zoning Commission proposed the condition no building permit shall be submitted until phase four and that's why you countered and said, well, wait a minute, you know, we need to have the build out and be ready to operate when that time comes.

Price: Exactly.

Hoaglun: So, I understand that. When -- if there is no -- you can -- if -- if you were to be allowed to build, there is no occupancy, they would be able to use the facilities, like the

decant washout it sounds like. Would there be truck storage? Is that -- how -- I guess -- and maybe this is a question for staff -- is -- my lack of understanding on what is occupancy for something like a storage shed? Is that occupancy?

Dodson: Councilman Hoaglun, that's, frankly, kind of the issue I thought the Council was having last time was some of this stuff that is not a building, like the broom shed or the covered storage, those things will require a building permit, but the gravel pit and the pavement and all the paved open storage, that generally does not -- they need a certificate of zoning compliance, but we don't issue a building permit for them to move dirt and lay asphalt. So, that's where -- when you start having all these additional things that may not have a building -- a physical building that has an occupancy, now you start getting to, well, you can still have trucks use the facility -- can you have all this truck traffic that was heavily discussed at the previous hearing. That was the issue. All that can still occur. So, again, that's the understanding that I had. I -- I agree that I don't -- that we don't have the same understanding that the ACHD commission had, because I was not in contact with them and -- and what they proposed or what they were shown was not what the Council had agreed to either, so I do apologize for that misunderstanding. That was a -- that was not our intention at all.

Price: Mr. Mayor and Councilman Hoaglun, the -- ACHD is not going to operate this facility with trucks otherwise, other than the construction of it and so we are not going to be running trucks out of there, other than for construction purposes. Wouldn't make sense for us.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: Steve, I appreciate that comment. I think if there is some understanding to the effect that if it's built that -- until you have I guess that certificate of occupancy should be issued, we -- we just have to make sure those -- the deceleration lane, the other widening projects are made that is done and, then, we can -- we can move forward. But I think somehow we have to figure out, okay, what is that language? I think we are close. Again, it just comes down to the language. We -- each side goes, okay, yes, we agree and it means the same thing to everybody, so --

Price: No. And thank you, Mr. Mayor and Councilman Hoaglun, I appreciate that. I really do. I think we can agree in the development agreement, which is anticipated on that language, that ACHD is not going to be actively operating any maintenance operations out of that facility until what the commission has committed to in our July 22nd letter.

Strader: Mr. Mayor?

Price: But we need the ability to go ahead and build those facilities until that time.

Simison: Council Woman Strader.

Strader: Yeah. I mean it -- you know, it -- I think the challenge we run into with conditioning certificates of occupancy and enforcement has been a thorny one. In this case, if the DA could be crafted to reflect that understanding, I personally think that should make us more comfortable if we can enforce that additional language, according to Mr. Nary, but I do want to say I -- you know, I appreciate the written commitment from the commission to go ahead and accelerate the widening of Ustick Road in that letter. I don't want to lose sight of that fact in the details of working this out. So, I thought that that was an important commitment and appreciated seeing that commitment in writing. That was my two cents.

Simison: And I'm going to try to walk a fine line in my comments right here, that this is a very similar situation to another project out in this area where we started talking about TCOs, DA provisions, that are, quite frankly, enforced by you. I mean the off -- some of the off-site improvements in these areas. So, just trying to -- you know, we got a lot of different issues that are kind of coming to light in this point in time to try and figure out, yeah, how do we work together to address all these issues that are off site, on site, et cetera. What we can -- what we can hold a developer to and that's -- I think that's the thing is like we get these requests from developers all the time, say we need to go in and we need to do this first. We need to do this. And we have seen how that doesn't work on our back end, but we are trying to figure out what does make sense for another government entity partner, how do we work together to solve these issues without going through all these hoops to make things complicated and that's, you know, where we are in several issues right now and that's what it feels like.

Price: Well -- and, Mr. Mayor, if I can, the difficulty is that -- well, one is the development agreement between the city and -- and the City of Meridian, we are contractually bound by any conditions that you put. Check. That's done. The second point is is that we are in a unique situation, unlike other developers where you can condition from a partnering agency to make improvements beyond. You can't require this of other developers, because they don't have the ability to -- to make off-site improvements, like a wholesale improvement of arterials in the area. But the commission's agreed to that. Fine. You can condition that in the agreement. The commission did what you said, they provided you a letter of commitment that they would do that. Obviously, that's going to take resources from other projects that are within our priority, but we are willing to do that. So, it's a difficult situation, but it is within your purview, within the development agreement, to require what we have proposed and that's all we are asking.

Simison: Mr. Nary, keep me in a short leash.

Price: He will.

Simison: Yeah, just trying to be -- again, we got a school down the road that has off-site improvements -- off-site road improvements, which are part of a DA --

Price: Yes.

Simison: -- and we are being asked to uphold, which are not necessarily ours to uphold, but they are part of our DA.

Price: Well, they are yours to enforce.

Simison: And that's -- that's where we are getting into these type of issues, where it's like --

Price: But this -- in this situation, Mr. Mayor, we are in the contract. The school were not in the contract. There is a difference.

Simison: Can we hold another -- can we hold them to do their own work through a DA provision that we don't have the ability to sign off on or enforce against?

Price: Contractually you can.

Nary: So, Mr. Mayor, Members of the Council, I guess maybe to kind of echo where Joe was going earlier, part of the reason -- the difference between building permits and certificates of occupancy are huge and the reason why a majority of commercial developments with multiple buildings, where we are very stringent on allowing more than one building or more than two buildings, usually it's primarily one, is because it's the biggest hammer we have. You can't build another building until you get this done and we want whatever it needs to be done to make this whole project fit -- has to be done before you get to build a second building. That's the common factor, because from an enforcement standpoint it's a lot easier. On the occupancy -- occupancy is physically occupying the building. Right? If you want -- it requires some voluntary effort on the property owner to enforce it. We can red tag the door. It's locked by red tags a lot on buildings when we have done this in the past. We now have to take code enforcement action. Now we have to take contractual legal action against the property owner to enforce it or we de-annex it. I mean that's the other option in the contract. So, it is a lot more difficult to manage on -- on contingencies where we aren't the signing party. Again, if we are required to sign off on it to approve the next phase or whatever that is, it's fine. But if it requires another agency's approval and also their voluntary compliance with that, those can be challenging to deal with and I know there are other entities around the state and around the valley that find that challenging in dealing with partner agencies that -- again, we do want to get along, we do want to figure out how to do this together, but, again, we don't have a lot of teeth up front. The building permit is the teeth. Everything else requires a lot of letters, phone calls, conversations, visits from code enforcement, you know. Again, are we going to have the ability -- we don't have the ability -- we can turn off water. Normally that's not a condition as long as they are paying their water bill. I don't know what -- I don't know what those needs of the utilities are on his property at that point in time. We can sometimes -- depending if there is a life safety issue we can turn off power. I don't foresee that in this situation. So, if -- if people won't comply, the enforcement, without a building permit, as a need, is a little harder. So, I don't want to kid anybody that the CO is the same, because it's not.

Price: Mr. Mayor. And I most certainly acknowledge that, but we are one of your better partnering agencies and we most certainly try and get along and I don't think you can question the integrity of ACHD and if you want to put a condition in the development agreement that we won't operate any of our operations out of that facility, that is most certainly fine. We can agree to that.

Perreault: Mr. Mayor?

Price: And that's contractual and Mr. Nary is right, you will be into potentially a -- you know, a breach of contract, a development agreement, but you are not talking about a developer, you are talking about the Ada County Highway District, and you are talking about the integrity of the Director Wong and the commission that we will commit that we won't do anything until certificate of occupancy, we won't run any operations, we need to build those facilities until that time. That is something that you can put in writing in a contract. Mr. Nary knows it and we will commit to it.

Simison: Just to kind of do a quick follow up on -- kind of related really -- and two weeks ago when we heard -- we heard that the plan was to operate three facilities.

Price: Yes.

Simison: News reports have said otherwise. Can you just put on the record that your -- is this is to replace the facility down in Garden City or does the facility in Garden City stay operational?

Price: Well --

Simison: Because I saw different stuff in the media and I just want to have it on the record.

Price: No. Absolutely. Mr. Mayor, we have -- based upon a lot of pressure from Garden City, we are now looking to relocate the Garden City maintenance yard to a new location. We are in negotiations in a contract, actually, to purchase property off of Federal Way and that would move that facility off of that, but it will not diminish the need, because of the growth in the west, from the facility that we are trying to get permitted from you today.

Simison: Thank you. Just wanted to make sure that we have a clear understanding.

Price: Yep.

Simison: Council Woman Perreault.

Perreault: Thank you, Mr. Mayor. Well, I'm going to ask about that first and, then, I will make a follow-up statement. So, does that mean you are still intending on -- on having three facilities, the one -- because it's my understanding there is also going to be one in south Boise potentially?

Price: Well --

Perreault: Or is that going to replace Garden City and the Boise facility, the one on Federal Way?

Price: Excuse me. Mr. Mayor, Councilman Perreault.

Perreault: Perreault.

Price: If I get it wrong I'm --

Perreault: Okay.

Price: -- not good at French. But the -- the idea is is that we will have three facilities operating at all times. We will be moving the Adams facility, which is in Garden City, to Federal Way and that will -- that won't change the number of facilities. So, we will have the Federal Way facility -- but, trust me, that is a long ways away. The Cloverdale facility and the Meridian facility.

Perreault: Okay. Follow up, Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: So, I just want to -- I don't have a question for you, I just want to make a comment that -- first of all I appreciate the commitment that -- that the commission is willing to make to allow us to put that in the DA, because the conversation we are having right now is very different than, in my opinion, the conversation we had at the last hearing and I think very highly of Becky and she's phenomenal, but her presentation has been very different than the one that you are presenting.

Price: Well, I'm -- I'm the blunt instrument. They bring me in.

Perreault: And so I just want you to know that it's -- it's understandable that we are kind of here now, because what was presented to us was a lot of ambiguity about things and so appreciate -- very much appreciate the letter that was sent from the commission clarifying what your intentions are, but there -- there was a lot of questions asked and a lot of ambiguity and I think had your staff been here and you had been here the first time around we may not be here. So, I just wanted to share that with you, because --

Price: Well, I appreciate that.

Perreault: -- it's not intended -- you know, I want to -- I want to be in good communication as well, but just -- we will be having these conversations about other applications in the future and I appreciate that you all have come and taken your evening to talk to us this evening, because what you have shared with us this evening, in my opinion, is significantly different and more clear than what we received the first time.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: Question for Bill. I just want to make sure I understand the process and understand the hammer that the -- the building permit is for us to be able to use to make sure things get done. But if Scentsy were to come before us for the first time and they said we want to build our headquarters and two warehouses and here is our time frame, we are going to be doing these pretty much concurrently, would we not issue three building permits for that or do they have to complete one and, then, do the next one and, then, the next one and if they were doing -- let's say widening of Pine at the same time.

Nary: So, Mr. Mayor, Members of the Council, I mean I think -- I think this would be the conversation you would be having with any developer on what they would like to do. So, you know, I mean -- I guess what I would characterize the letter from -- from President Goldthorpe was that's ACHD's ask. Their ask is we will widen the roadway with this condition that allows us to build the buildings, but not occupy them by this date. Every developer asks you for things in annexation as a give and take on a development agreement. So, if Scentsy were to ask that, we -- I would tell you the same thing and so would Planning. Once they build those buildings I have a lot less control over people going inside them, because, again, the building process is primarily focused on the construction of the building and its safety to occupy it. So, then, to build a building that is completely done and completely safe to occupy, but has a -- has a contractual version that says no one can be in there, but there is no real teeth for us to enforce that, especially on private property. This is a little bit different. But if it were the Scentsy situation, it's behind the fence on their property behind some trees, I can't see if anybody's in there. So, then, enforcement is challenging. So, I think we would always have this conversation and certainly Bill is probably a better resource than me, but -- we get asked this all the time. This is not new of we need this, this and this and we are saying, no, we want to really hold the line here. Again, our standard has been one and we have seen it in residential, we have had the same questions in the past. You have a person standing there with a moving van full of -- full of furniture and they are saying what do you mean I can't occupy. Because there is a sticker on the door. Too bad. I'm going there to do it. So, it can be challenging. So, we have over time tried to create these standards to be able to have enforcement mechanisms.

Simison: And, Mr. Nary, just to that, it's not been uncommon for levels of building to be based upon, quite frankly, off-site road improvements. I can think of Walton property, which was based upon limitations until progress, bridge was put in, Center Cal, same similar stuff. Obviously, Winco had its own unique one most recently, but it's not uncommon for elements to be tied to road improvement, specifically more than anything that I can think of.

Nary: You are correct, sir. Yeah. It's certainly not an uncommon part of the development process and, again, it's a partnership with the developer, ACHD, and the city in trying to get those road improvements done.

Simison: Yeah.

Hoaglund: Mr. Mayor. Follow up, Bill, then. I'm hearing from Mr. Price that the DA is the instrument that we can use as a contract. So, how -- how strong is that contract? And, again, I completely get the building permit is the stronger -- the bigger hammer, if you will, but is the DA useful to us?

Nary: So, Mr. Mayor, Members of the Council, I would definitely tell you the DA is a useful tool. I certainly have, over the time period that I have been here, pointed to that development agreement to a developer -- a developer's attorney and says this is clear to me. Do you really want me to sue you to comply with this or will you just comply and -- and most times we can get to an agreement and comply. That -- I mean, you know, as a lawyer I have -- I have better things to do than go to court over things and spend the money and time and I'm sure Mr. Price does as well. So, I don't see that as not an effective tool. What I'm saying is it isn't the same kind of tool. So, if -- if the expectation is there is going to be -- you know, is there going to be -- is it -- is it similar, the same, or have the same level of teeth? Again, from a developer's standpoint, not a public entity, like ACHD, the fact that I can't build another building to be able to turn that over to create revenue is a big deal. This is a little bit different situation, so --

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I think this could be a situation where I would look at a TCO issuance as a slippery slope. I wouldn't want us to issue a TCO in this case, because I think at that point only life safety issues would possibly get in the way of our CO. So, I -- I think where I would be more comfortable if -- if we were to go down this road would be the substitute condition with that DA provision that they wouldn't operate the facility without occupancy and my question to staff would be if they had direction that no TCO be issued until the Ustick Road widening was completed without a waiver from City Council would that help? No. Mr. Parsons.

Parsons: Mr. Mayor --

Simison: Just say no --

Parsons: The reason why I say no is just the fact that, you know, the building official really has the hammer for issuing TCO and in this particular case if a building meets all of the minimum life safety issues it's going to be difficult for him to say no to a TCO. He is going to want to give CO and that's going to put Planning in a -- in a predicament where we are trying to leverage our building department to manage one of our conditions in a DA and that's why we brought that conversation to you two weeks ago as well. So, that's why we are -- we are trying to get out of the business of the TCO process, if possible, and make sure that we can leverage COs -- or not even do COs, but hold people up with building permits or, if you recall, even in development agreements, we want better phasing plans

and I think that's why ACHD came forward with their best phasing plan to let you know how they plan on using the property over the next eight to ten years. So, that way you can make that informed decision and, then, limit what they can do based on that phasing plan. So, if something's wrong with their phasing, then, maybe that's the discussion we can go to as well. But, again, a lot of the buildings that I see on the site are going to get -- they are going to get COs, but they are going to be getting COs for storage buildings, they are not going to get a typical CO for an office building or that affect. So, I'm also looking at their phasing plan and I don't know -- I'm not trying to belabor the discussion, but I'm looking at phase five and that's when their administration building comes on and to me that's where people are going to start moving in and wanting to operate from this facility. So, I'm not sure if ACHD is even amenable to maybe saying no building permits until -- with phase five until phase four is done or whatever -- whatever we can do to help allow them to do -- use some general maintenance on the site and get moving forward on it. But those are some of the ideas that I was thinking about, but I will -- I will turn it over to Steve and see if he had any other comments on that.

Price: Well, Mr. Mayor, I think at the end of the day what I'm hearing is is that the City of Meridian, Council and the Mayor, don't trust the Ada County Highway District in terms of their commitment. We will not operate that facility if you give us the permits. You put that in a contract. I most certainly appreciate Mr. Nary's -- I develop -- I deal with development agreements all the time. We do development agreements with developers and the City of Meridian in terms of impact fee credits all the time and it's a little disheartening to think that if we make that commitment that we are going to be into a dispute with the City of Meridian over a condition within a development agreement and I would hope that you would have more trust in the integrity of our interagency cooperation than that. We are not some fly-by-night developer, we are a multi-million dollar public entity that's trying to provide maintenance service within the City of Meridian. By the way, that's what that facility is for. And we are trying to develop that and it's a little disheartening to say the least and I'm being extremely blunt, I probably got the director rolling behind me, but that is the truth and if you put it in a development agreement -- you have already got the letter from the commission, we will build the -- the off-site improvements as requested. We just need to be able to get those built and, then, have those facilities -- the timing of that so that when the day is ready and they are complete, we can move in and start operating. We will not operate our maintenance facility, we won't store anything, we just simply want to get it constructed and ready to go.

Simison: And, see, that -- I'm a lot more lenient than some of my friends up here. Trust is not the issue in my opinion. It's not about whether or not we trust ACHD. So, I hope you either, A, rethink your words moving forward from that standpoint. It's about consistency in our process. As much as we would like to treat you differently than we treat other people, we still have a consistency that we have to uphold and we -- these are the same issues that we deal with with any developer and you may say you are not any developer, you are not like them, but, you know, we all talk about precedence. We all talk about consistency and fairness. And that's what we have to be looking at.

Price: And I agree, Mr. Mayor, most certainly. But you don't have the opportunity to ask a developer to make these kind of off-site improvements.

Simison: We often will not approve a project until certain improvements are --

Price: Not to this extent, Mr. Mayor, I'm sorry. These are significant.

Simison: No, I think that there are some people in the development community that would disagree with you.

Price: This is a big ask.

Simison: And, then, we have denied their projects when they weren't willing to go work on -- to work to improve the projects. And, you are right, you have the -- you have the discretion not to sign a development agreement with any of these things and that's not under your purview. But we do have these conversations consistently with development to say the road infrastructure is not adequate. Don't come back until you have a plan to fix the road infrastructure. And, then, we condition permits and everything else, based on those road improvements. That is what this Council and the city has consistently done to get ACHD's roads built, ITD's roads built, more than anybody else in this valley. That's what we do. This is how we get your roads built and I'm sorry you don't feel that that's what this is, but, you know, it's --

Price: Well, Mr. Mayor, I -- I don't disagree with that, but I'm not sure that the -- all of these improvements are warranted for the level of impact that we are making with on the network.

Perreault: Mr. Mayor? Again, I would --

Simison: Councilman Perreault.

Perreault: -- say that the -- the questions that we asked of the prior presenter about the impact, there were not clear answers given to us. We didn't leave this meeting clearly understanding exactly what the impact was going to be on the roads and the timing of which that impact was going to happen. So, in my opinion, the decisions that we were making in our last meeting we didn't have sufficient information to make them, which is why we continued and decided to have another hearing and very much appreciate you being here, because the presentation that was made when there is questions asked about the use of Ustick Road, there is -- there is no -- there is -- I mean it's a shoulder -- a gravel shoulder and there is no improvements on either side. I live in that area, I have driven it a thousands times. If -- if there is two trucks coming a day and they are gravel trucks, highly different than if there is -- if there is 15 a day, if there is -- we don't know. That's what we need you to share with us and your applicant -- the applicant -- the presenter last time didn't have clarification on that. So, her obligation is either to say I don't know, I will get back to you, if that is an important issue for you, instead of us going ahead and conditioning it last time at the last meeting. Let's have a conversation about that and,

then, we will do the condition at the next meeting, but we didn't have enough information, in my opinion, at that time, so we were trying to find a solution at the last meeting to try to get this passed on your behalf and if the solution isn't satisfactory, I'm sorry, but your applicant should have come forward with more information for us.

Price: Sure. And, Mr. Mayor and Council Woman Perreault, I most certainly respect that and I think that's why you got the July 22nd letter was we don't want to make that an issue. The commission is happy to go ahead and approve that project and get it done. We don't want to get into that debate with you. We most certainly respect that. But at the same time we need to get our facility developed. We don't intend on operating it. So, absolutely, and I respect that comment.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Steve, I appreciate blunt. I think that's helpful. I think the direction that we are getting from Mr. Nary and from our Planning staff makes sense. I think it articulated well the reason why and to the Mayor's point we are trying to be consistent and why the building permit has become a very focal point. Hammers doesn't necessarily need to be the word we use for it, but a focal point to ensure things that -- that need to be prerequisites for any project are -- are accomplished. This one's clear to your language that this is a big deal. It's a big ask. A big improvement. And I think that's, in part, necessitated by the big impact, quite frankly, on the -- on the road and the neighborhood and -- and the heavy use. I know it was described last time 12 to 18 to 20 trucks a day. It's heavy use. And this is the next hundred years. So, the big picture is this will be a very intense use on Ustick Road and that was one of the reasons why we were extremely concerned with all annexations at time we have considerations of whether it's the right time for a particular project in this particular location in light of roadway improvements or other infrastructure needs and I think that's the same consideration that I heard us discussing last time and this time. We always want to try and be good partners, but I think ACHD has held Meridian's feet to the fire with good intentions at times on projects and vice-versa. I think that's kind of what we are doing. Trying to be good stewards for the city when all seven of us are gone and everyone here is probably gone and there is going to be other folks operating this. So, for me I thought with all of that direction that we got from our team, that the proposed condition from -- from Joe tying it to the building permit made the most sense in light of the concerns, quite frankly. Greatly respect and appreciate Commissioner Goldthorpe's letter and the commission's July 22nd commitment. I know that's somewhat unusual probably to do that. There is nothing really overtly binding about it, but it is definitely a good faith and a great gesture, which made me feel like we are close and I'm not as worried about the -- any squabble about who e-mailed who first and the timing of all this. If it needs a little more time so be it, but a couple of -- I can't come up with a condition on the dais that -- that has certainty as powerful as a building permit. I probably wouldn't invite us to do it.

Price: Well, I don't think -- and, Councilman Borton, I don't know how.

Borton: Yeah. I -- frankly, I --

Price: You're a good lawyer, but --

Borton: So, to that point -- and it's just a pure policy consideration. Do we want to treat this relatively consistent to other projects, like Mr. Nary had said, and it just seems to be most prudent to do so for the city. This is a really big deal. Certainly I understand for you as well. But this annexation is a big deal for this corridor and the type of use that's going to be placed upon it. So, I'm not comfortable going forward. I would love to have this proceed, but it's that -- it's that condition, that building permit condition that staff has proposed is the only reason that could get me over the hump on it, quite frankly. So, it's kind of a blunt response back, but I think you deserve --

Price: No. And I appreciate --

Borton: -- to hear the logic, at least the understanding that leads me to that conclusion, at least as I see the application.

Price: Yeah. Mr. Mayor and Councilman Borton, I -- and I appreciate that. I really do. And I have always had a great deal of respect for you. You know that. But the urgency and the need for this --

Borton: Hey, wait a second. You can't say but after that.

Price: Yeah. It's the yeah, but defense.

Borton: You are supposed to stop the sentence.

Price: I apologize about that. I would like to say, though, that the Council and Mr. Mayor, you can't forget that the reason for the urgency to get this facility bit built is to provide service to the City of Meridian and to be able to provide quick response in terms of maintenance and this most certainly will delay that effort and out of interagency cooperation and due respect for our agency commitment, I would ask that the Council most certainly consider some language in the development agreement that can give you the assurance that you need that -- and give us what we need to be able to build a facility, that we are not going to go in and start operating this facility and creating all these impacts on Ustick Road when those improvements aren't made. We are most certainly happy to work with Mr. Nary to come up with some language that you feel comfortable with. I think that this situation merits that.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Mr. Parsons said something interesting that kind of made me think the -- the administrative portion of the -- of the build out, the administration building, the operation

center if you will for that facility, that requires a building permit. That's the main portion that you need to operate from that facility I would think. I'm just thinking out loud. Is that the focal point, to use Mr. -- Councilman Borton's very diplomatic words, is that the focal point to make sure things are done before occupancy and not having that building permit is the way to go about that. And, again, it's not about the trust issue, you are a public agency, you provide services to our residents and greatly appreciated and unnecessary. So, I think it will get done, but to Mayor Simison's point, that the process, we do have to have integrity of our process to a degree, so having a building permit that's still outstanding that gives us that focal point for enforcement, I don't know if that's an option or not.

Dodson: Mr. Mayor?

Simison: Yes, Joe.

Dodson: Thank you. I just wanted to reiterate that the main focal point of the discussions that occurred at commission and by -- by this Council was regarding the truck traffic and not necessarily regular car traffic. So, if -- if there needs to be some language changed regarding what the -- what the applicant is requesting, again, I'm all ears, I'm just trying to reiterate and work on behalf of the city as -- as is my job. I just want clear direction as to what that should and should not be moving forward. That's the only thing I ask, so that I can be a good instrument of enforcement for -- for you guys.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I appreciate the creativity or the -- the attempt to try to find the -- the answer. May not find it up here tonight. Yeah. I'm wondering if the combination of a DA provision, in connection with an outstanding building permit that we don't issue, since we feel like that's our consistent practice now with development is, you know, have building permits conditioned, as opposed to COs. If we had a combination of those things, if -- if there was one building permit outstanding and, then, we were to have that DA provision, which they have stated on the record they are not going to operate this facility and I take them at their word and I appreciate their letter. I wonder if the combination of those things would be consistent with our practice and, then, be a contract that we could enforce if needed, so it's just consistent with how we treat other development.

Nary: Mr. Mayor? Mr. Mayor, Members of the Council -- and maybe this is a question for Mr. Price. I mean I don't doubt that Mr. Price and I can come up with some language that might be satisfactory. I guess my concern is -- and most of what Council Member Hoaglund was saying, from I understood what's been presented tonight is ACHD would like to, essentially, create a turnkey facility and have it completely built and, then, occupy. So, even holding a building permit for the administration building -- because it sounded to me from what -- what Mr. Parsons said, is a lot of the things you are constructing might need a building permit, but they are not buildings, they are -- they are sheds for stores, they

are sheds for equipment, but they are not occupiable buildings. So, it sounds like there is -- there is one or two buildings on this site that will have people in it. But from what I have heard -- and I -- again, Mr. Price could correct me, but I don't think they want to be operating it with equipment and people running in and out of the facility, operating, maintenance, doing all what they normally would be doing once they are occupying the site, and, then, building another building after that. That's -- that's what I'm thinking may be problematic, because, you are right, that would be a way to do it that could be consistent. Again, it isn't -- it isn't as common, to be fair to this application, is for a lot of commercial developments. They need the buildings to be built to get them occupied to, then, get the next phase built. So, a lot of that's based on how financing is done for those types of things. This one isn't that. So, it's a completely different model. But I don't -- I don't know that that would work, Council Member Hoaglund, only because I don't think they want to bring a construction crew on the site to build a building while they are trying to operate the facility the same time and maybe I missed what you said, Mr. Price, but that's the way I understood it. So, that may not be a solution.

Price: Mr. Mayor and Mr. Nary, you are correct. Alls we want to do is get it built in the same phasing as the road improvements. We won't operate the facility in any way until those improvements have been completed and that's all we are saying and it is more of a turnkey. It isn't like a developer where you do one phase and you want to get -- because of financing. We just want to get it built in the same time frame that the road improvements are done and so that they coincide, so when the road improvements are done, then, we can start operating it. We don't want to operate it any sooner. We respect -- Mr. Mayor and the Council, we respect your -- your guidance on that and -- and the need for those improvements. The Commission committed that in the July 22nd letter, but we want to have the opportunity to get those built. That's all we are asking.

Perreault: Mr. Mayor?

Price: And I don't know how you do it. We can do it in the DA. Maybe the certificate of occupancy isn't as strong as you would like. Maybe we can do it -- Mr. Nary and I can do it through a phasing and -- with the building permit in terms of language. Happy to explore that.

Simison: Council Woman Perreault.

Perreault: So, just a clarification question on the timing. The letter had committed that the construction would occur in 2024. Correct?

Price: Uh-huh.

Perreault: Certificate of occupancy is likely not going to be issued until phase eight, which is 2028. So, are you asking to have until the certificate of occupancy is approved for the last building in phase -- that will be constructed in phase eight and that length of time to construct the Ustick or are you committing to having that completed by 2024? I guess maybe I'm crossing my wires, but I want to understand the timing of that.

Price: And I -- Mr. Mayor, Council Woman Perreault, most certainly that's a fair question. But that's -- what we have outlined is simply just conceptual. Again, we most certainly just want to build the whole facility and have that completed at the same time of the project. That's our commitment. All of the phases.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: That didn't quite answer my question.

Price: Well, in terms of timing -- I think that that's a concept in terms of timing. We just -- that simply got put into the plan. That was before we got to the point where the Council wanted us to make a commitment to make road improvements prior to that. I think we would accelerate our construction of that facility to get all those facilities built to coincide with the improvements that you have requested.

Perreault: So, by the end of 2024 --

Price: Yes.

Perreault: -- you would want to have this -- complete all of the phases by the end of 2024.

Price: Yes.

Perreault: So, that's why I wanted to clarify.

Price: Yes.

Perreault: The statement that -- in the letter that you sent that says no certificate of occupancy shall be issued, but your phasing plan would show that that would be the last one --

Price: Yeah. No, I -- that was a good catch. I appreciate that.

Perreault: And then -- but, then, you are claiming -- or stating that you would complete the road by 2024. So, I -- that's part of why I'm kind of sitting here going I'm really trying to understand. They are asking to wait until 2028? But what you are essentially saying is you would like to have the project complete by 2024, including the road improvements. Can we clarify that?

Price: She will.

Berenger: Yes. So, this was -- again, this is Jennifer Berenger, deputy director of maintenance. The phasing plan that we sketched out here was taking the whole project and spreading it over eight years to find some financial benchmarks along the way,

knowing that we won't have probably a big pot of money to do it all at once. So, it was kind of looking through what can we do, how do we plan it out through the -- through the eight years. What kind of money do we think we have. When will we bring the people and equipment on. And it was kind of a slow phase in. The -- the end goal would be to have full operations by 2028, but in our plan that we have, 2028, is building some parking lots, 2027, or phase seven was building, putting in a scale, some minor things. The bulk of when we are trying to get the buildings and people in there would be in 2024, '25 and '26. Phase four, five and six. So, our phases really aligned more with the fiscal years and, then, it was just kind of put in here before we had the discussion about widening the roads. But we certainly wouldn't want to operate the facility until we have the -- the Naomi Road built, the deceleration lane was absolutely something we want to do before we operate out of there, and signaling the intersection, which would happen with -- with the widening of the road. So, that's really where it makes sense for us to operate. We wouldn't want to operate before those critical pieces of the infrastructure are in.

Perreault: Mr. Mayor, follow up.

Simison: Council Woman Perreault.

Perreault: So, if I'm hearing correctly, your buildings would be constructed at the end of 2024. Your last certificate of occupancy would potentially come at that time. You potentially would not be fully operating, though, until 2028, because you still anticipate having some improvements come into play that are not structures.

Berenger: People and equipment.

Price: Certain operational -- yes.

Perreault: Okay. Thank you.

Price: But the buildings would be committed -- would be built by --

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: You know, if this was just another burger joint coming in and we had the same issue, we would say, you know, come back, talk to us when you are ready to, you know, make sure they are done. This is not another burger joint. I mean this is a public agency serving our residents and in a way that we want to have that service and I think there is a way to do it. Now, exactly what that way is I don't know and I think, as Councilman Barton mentioned, that's not something that's easy for us to do up here and we shouldn't and per his suggestion I think we should have staff, our Council and P&Z staff -- development staff work with ACHD and see if we can come together to the exact language we can all agree on and come back before Council and make it happen, so --

Price: We welcome that and I most certainly have worked well with Mr. Nary in the past and he's most certainly very able counsel for the -- for the City of Meridian and I'm -- and your staff are very good and we most certainly would like the opportunity to be able to do that.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: To that -- to that point, if that's where this might go for that future dialogue, if there is some language that is of similar impact as a building permit, that would be it. So, if it's not a building permit as the -- the prerequisite tool to ensure that the improvements are done, it will be something equivalent to it. So, that's certainly not a CO. And if it's not a building permit, boy, is it close to that. Now, good luck trying to craft how that might ever occur.

Price: Right.

Borton: Just so there is some clarity in the direction, that would be where it would tilt towards.

Price: Mr. Mayor and Councilman Borton, there is no question at the end of the day this will be contractual. Whatever is in the DA. So, we can make that as tight as you want. But it would be contractual. And I'm not going to lie to you, Mr. Mayor and the Council, that you have the same leverage under a development agreement that you do with a building permit. But we are asking that you extend that courtesy under a development agreement and we are willing to commit to that and I think we can find resolution.

Simison: Okay. Council, before we make any motions, this is a public hearing. There is one person online. I want to make sure that we are not excluding someone who has been sitting here listening to this conversation. So, I would like to -- if it's okay, if we have reached a point where we think we are -- to see if there is anybody else that would like to provide testimony on this item, either in person -- Ralph? Or if you are online use the raise your hand function on Zoom and we can bring you in for any comments. Seeing nobody who is wishing to provide testimony. Council, I will turn it back over to you for your pleasure.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Don't -- don't walk away yet, Steve. I apologize if I am trying to oversimplify this, but I really want to get into my understanding the timing of all of this. So, it's not feasible for the section of Ustick to be completed until the end of 2024. It's not possible to have that done. It's not.

Price: Correct.

Perreault: So, essentially, your concern is that if we make it -- if we -- if we require that no building permit be submitted, what you are essentially telling us is that now none of the buildings will start construction until 2024 and, therefore, your buildings are going to be constructed from '24 to '26 let's say. So, is that -- am I understanding that's essentially what the problem is?

Price: Yes. Mr. Mayor --

Perreault: Instead of the buildings being built at the same time as the road construction is happening, your concern is that we are asking you to wait for the construction of those until after 2024, which puts your construction of the buildings into '24, '25, '26, therefore, extending your full operation of the facility for two more years, three more years. Is that -- is that -- am I -- am I essentially --

Price: Mr. Mayor and Council Woman Perreault. Most certainly -- the -- the urgency and why the whole team is here tonight is we want to get this facility up and operating as fast as we can to be able to provide service to this -- this part of Ada county. It's important. We have looked at the numbers and the demand for our maintenance fleet and so it's the urgency to get this built as soon as we can. In terms of what our plan is and what the Council's requested in terms of improvements, we thought they would coincide and we would make most certainly the best effort, so that our facility is completely built with the road improvements, the timing of that and so that we would provide that facility to provide the service sooner than -- than what is being sought.

Perreault: Mr. Mayor, follow up.

Simison: Council Woman Perreault.

Perreault: So, just want to clarify that we are understanding correctly that if -- if the Council so chooses to continue to encourage the building permit be -- be the -- the requiring factor, then, this will delay your construction by -- can you give me an estimated amount of time? I don't know how long it's going to take to construct all of your buildings. I assume two years.

Price: Mr. Mayor, Council Woman Perreault, I don't know, but I would estimate two to four years.

Perreault: Okay. So, then, you would, then, be moving in 2000 --

Price: '28.

Perreault: -- '28. Past that.

Price: Yes.

Perreault: Maybe 2030. Because '28 is when you are currently saying -- your phasing plan is based on -- on that road being completed at certificate of occupancy; right?

Price: Yes.

Perreault: So, if it's being completed upon the first building permit being issued, now your phasing plan is two to four years beyond what you have had --

Price: Well, if we could have built sooner we would be requesting certificate of occupancy sooner. Absolutely.

Perreault: Okay. So, I just wanted to understand that your phasing plan is based on your expectation that the road be constructed by the first certificate of occupancy, not the building permit.

Bernt: Mr. Mayor?

Simison: Let him answer that question, then, go to you, Councilman Bernt.

Price: I think that -- that -- the phasing plan was -- you know, when you come into the city and you make an application for an improvement, you do that, and, then, it changes when you get feedback from the Council and you had asked for road improvements and -- and we -- the original timing was thinking of road improvements, if you recall, within our integrated five year work program as to when they would occur. So, now that that timing has changed, we most certainly would like to try and accelerate it. We may not be able to meet those timelines, I just asked the director, it will be tough. But most certainly the idea, at the end of the day we are here before you to try and get this facility up and operating sooner, because the demand is there.

Simison: Councilman Bernt.

Bernt: Mr. Mayor, thank you. I think that it was pretty clear what -- what needs to happen next, you know. I think that it's pretty important that our staff and ACHD staff get together and legal counsel and hash out an agreement and so if you don't mind, Mr. Mayor, I think we probably should just continue this public hearing and -- and see where the ball lands.

Simison: Don't mind at all. Happy to take a motion.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just to talk through logistic for the city clerk, whatnot, you know, fifth -- August 31st is a fifth Tuesday, so we don't have a meeting then. I think it's going to take a few weeks and depending on vacation schedules and everything else -- I don't want people canceling vacation schedules or what have you, to get together, work on language, pass

things back and forth. I know speed and timing is of the essence. But it looks like September 7th would be a date we could have -- continue this hearing to. So, it's -- that's a five week -- five week delay. Okay. Thank you, director. So, Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I move that we continue the public hearing on H-2021-0029 until September 7th and in the near term, legal counsel and staff for the City of Meridian work with ACHD on proposals to bring back to City Council.

Bernt: Mr. Mayor, I second that.

Simison: I have a motion and a second. Is there any discussion?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: There were two other conditions that ACHD had addressed in their letter from July 12th that we have not -- still have not discussed. I tried to start that discussion at the beginning of the hearing and it didn't -- didn't get discussed. So, do we want to do that now or do we want to wait until the next -- next one?

Simison: Council? Do I have a -- will the maker of the motion withdraw their motion for a second?

Hoaglund: Well, I guess it's a discussion piece. Do we want to modify the motion or do we want to, you know, withdraw it and have that discussion I guess. Is that what you are asking, Mr. Mayor?

Simison: I'm kind of looking at the guy at the podium in hopes that he will answer the question to provide clarity to the issue. So, that's why I'm hoping, but I don't want to recognize him under the guise of a motion on the table.

Hoaglund: Mr. Mayor, let me withdraw my motion and we can have further discussion if the second agrees.

Bernt: Second will agree.

Simison: Second agrees. Mr. Price, can you answer that question?

Price: Thank you, Mr. Mayor and Council. If you would identify those issues in the July 12th letter most certainly. I'm happy to work with Mr. Nary and address those issues as part of the overall agreement with the city. I keep going over the letter and I'm not quite sure which conditions they are, but --

Simison: Council Woman Perreault.

Price: -- if you would identify those we most certainly will make a good faith effort to come back on September 7 to have those addressed.

Perreault: Mr. Mayor. That would be A-1-C, A-1-D and A-1-F. I believe A-1-F is something that staff is going to have to figure out. The Council won't have an opinion on. But I don't know that our staff has -- at least I haven't heard comments by our staff or ACHD, other than what is just in the text up here of explanation of the request that ACHD is making for those modifications to the conditions of approval.

Price: Mr. Mayor, Council Woman Perreault, the -- we have agreed to all the conditions except J. So, whatever was in the staff report data before that, July --

Perreault: July 13th there was a modify -- there was a staff report that came out. So, you are -- you are in agreement with that and you are withdrawing your -- your requested changes to conditions from the July 12th letter?

Price: Well, I would like the opportunity to discuss that. I haven't -- unfortunately, I don't have my -- but we will most certainly get those worked out. It was my understanding we were in agreement with all the conditions, except J.

Dodson: Mr. Mayor?

Simison: Yes, Joe.

Dodson: I would have to agree with Council Woman Perreault that -- that ACHD did send the letter and requested additional changes beyond just J, which did come up at the -- at the hearing. So, this was between the commission and Council hearing. So, I would agree with Council Woman Perreault that -- hearing them say that they were in agreement with all of them, except J, is news to me based upon that letter that was received before the July 13th hearing. If that's the case now that makes our jobs easier, but I agree that it would be nice to have that clarification.

Simison: So, perhaps it's something that Joe can continue to work with ACHD on and this is really one of the issues is this -- is this landscaping and which design standards to apply to the building. Quite frankly, you know, if I'm -- that's at least one of them and I -- I thought I heard Joe asking you when you presented this basically saying are we okay with which version. That's -- and I don't know if that's an ACHD issue or a Council issue ultimately is -- apply which standards. Extra landscaping with less structure? Am I -- am I interpreting that right, Joe?

Dodson: Mr. Mayor, that is correct. The way that I have it in there is the way that we have traditionally done it. But, again, applicants always ask for more. So, that's what they did. And, then, at that point if there is that not -- us not lining up exactly, then, Council makes the final determination on those. It is within the purview of either of those.

Price: Mr. Mayor, if I can -- in the July 22nd letter -- in President Goldthorpe's letter it says in response to the City Council's request for the Board of Commissioners to commit to the proposed city agency comments and conditions of approval A and J, I'm writing to confirm the board's agreement to the Council's proposed conditions with the exception of A-1-J.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: And for clarification, the letter that was sent on July 22nd supersedes the letter that was sent on July 12th?

Price: Yes.

Perreault: Okay. So, that -- in my opinion that wasn't clear in July 22nd, that -- that ACHD was removing all -- that they were in agreement with all conditions of approval outside of J. I didn't get the impression that that -- that that was actually what transpired. So, I just wanted to clarify. If it was, then, fantastic. Like as Joe said --

Price: That was my understanding.

Perreault: -- but I didn't --

Price: I think the only issue we are here tonight is on A-1-J and -- but to the extent that we -- that there are any other issues that are within the proposed conditions, I would like the opportunity to negotiate those with Mr. Nary. But I don't -- yeah.

Simison: Thank you. Mr. Hoaglund, back to your motion.

Hoaglund: Mr. Mayor.

Simison: Councilman Hoaglund.

Hoaglund: I move that we continue the public hearing for H-2021-0029 until September 7th and allow staff and applicant to work out suitable negotiations for presentation to the Council then.

Bernt: Second agrees.

Simison: I have a motion and a second. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the item is continued. Thank you and we will see you back here in September.

MOTION CARRIED: FIVE AYES. ONE ABSENT.