

A Meeting of the Meridian City Council was called to order at 6:00 p.m., Tuesday, November 30, 2021, by Mayor Robert Simison.

Members Present: Robert Simison, Joe Borton, Treg Bernt, Jessica Perreault, Brad Hoaglun and Liz Strader.

Members Absent: Luke Cavener.

Also present: Adrienne Weatherly, Bill Nary, Kurt Starman, Cameron Arial, Bruce Freckleton, Sonya Allen, Tracy Basterrechea, Joe Bongiorno and Dean Willis.

**ROLL-CALL ATTENDANCE**

<input checked="" type="checkbox"/> Liz Strader	<input checked="" type="checkbox"/> Joe Borton
<input checked="" type="checkbox"/> Brad Hoaglun	<input checked="" type="checkbox"/> Treg Bernt
<input checked="" type="checkbox"/> Jessica Perreault	<input type="checkbox"/> Luke Cavener
<input checked="" type="checkbox"/> Mayor Robert E. Simison	

Simison: Council, we will call the meeting to order. For the record it is November 30th, 2021, at 6:00 o'clock p.m. We will begin tonight's Special City Council Meeting with roll call attendance.

**PLEDGE OF ALLEGIANCE**

Simison: Next time is the Pledge of Allegiance. If you would all, please, rise and join us in the pledge.

(Pledge of Allegiance recited.)

**ADOPTION OF AGENDA**

Simison: Next item up is the adoption of the agenda.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I move that we adopt the agenda as published.

Hoaglun: Second the motion.

Simison: I have a motion and a second to adopt the agenda as published. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the agenda is adopted.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

**CONSENT AGENDA [Action Item]**

1. **Approve Minutes of the November 16, 2021 City Council Regular Meeting**
2. **Approve Minutes of the November 23, 2021 City Council Regular Meeting**
3. **Small Talk Clinic (Verona Subdivision No. 3) Water Main Easement**
4. **Findings of Fact, Conclusions of Law for Red Aspen (H-2021-0066) by KM Engineering, LLP, Located at the southeast corner of S. Linder Rd. and W. Overland Rd.**
5. **Agreement Between the City of Meridian and Brighton Development, Inc. to Accept Payment in Lieu of Installing Streetlights at Bainbridge No. 11 and No. 12 Subdivisions**
6. **Agreement Between the City of Meridian and Challenger Development, Inc. to Accept Payment in Lieu of Installing Streetlights at Cache Creek Subdivision**
7. **Agreement Between the City of Meridian and Triple D Development, Inc. to Accept Payment in Lieu of Installing a Streetlight at Prevail No. 3 Subdivision**
8. **Animal Welfare and Enforcement Agreement Between the City of Meridian and the Idaho Humane Society**
9. **Master Interagency Governmental Agreement Between the City of Meridian and the Meridian Library District for Waiver of Costs and Fees**

Simison: Next item up is the Consent Agenda.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I will move that we approve the Consent Agenda, for the Mayor to sign and for the Clerk to attest.

Hoaglun: Second the motion.

Simison: I have a motion and a second to approve the Consent Agenda. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay. The ayes have it and the Consent Agenda is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

### **ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]**

Simison: There are no items moved from the Consent Agenda.

### **DEPARTMENT / COMMISSION REPORTS [Action Item]**

#### **10. Mayor's Office: Recommendation of Appointment of Bruce Freckleton to Community Development Director with an Effective Date of December 21, 2021**

Simison: So, we will move on to Department/Commissioner Reports. First item up is Item No. 10, Mayor's Office recommendation of appointment of Bruce Freckleton to be the Community -- Community Development Director, with an effective date of December 21st, 2021. Council, before you is my recommendation to make Bruce Freckleton the City of Meridian's Community Development Director with the departure of Cameron Arial later this month. Bruce is a known quantity to all of you, maybe some more than others, but he's a known quantity to the community as well. He spent the last 41 years here in the Treasure Valley working in the development community, 12 years in the private sector and 29 years for the City of Meridian and he has served in his current role since 2004. I say served in his current role since 2004, but that does not mean his role has not grown, evolved, matured in a lot of ways and I think as we have seen the work that Cameron started in bringing a lot of services in house, there was really Bruce doing the implementation of those efforts, leading those teams, leading those changes. That is one of the things that I can say is I know he is committed to continuing those efforts, working at our processes, whether they are internal or external, to ensure that we have the premier community development department here in the Treasure Valley. He knows the community. The community knows him. They know the expectations. He's able to pick up the phone and call and make things happen, whether it's with our neighbors to the east or west, others within the state, to get things moving forward. While it is a growth opportunity and there is some things that he's going to have to learn, it's also something that I think that he can step into right away without the department feeling that learning curve and continuing to highly achieve and perform well. I have learned a lot about Bruce over the last couple months as we have been having conversations and learning from current and former employees management style, how he leads, how he interacts and I say that right now he is the right person for the job in order to continue this process. So, it's with my pleasure that I recommend him for your consideration to lead the department and I would be happy to answer any questions or take comments from Council at this time.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Just a comment. I think that's a great recommendation. People really benefit from his experience and his leadership and I'm very supportive of that nomination.

Simison: Thank you.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I wholeheartedly agree with Council Woman Strader. I'm excited to see Bruce in this role. I had the opportunity to work with him as the Council liaison last year and he definitely knows his stuff. So, I appreciate the recommendation very much.

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: I am sick as a dog, but I wouldn't want to miss this. Bruce is a champion of the Meridian Way. He's shown that for decades. He's such a great pick and, I, too, am totally supportive of it and appreciate seeing how it will grow with great talent within and the whole community development team is going to be in good hands with Bruce's leadership.

Simison: Thank you.

Hoaglun: Mr. Mayor, I had a question for you.

Simison: Councilman Hoaglun.

Hoaglun: You said he's been in development work for 41 years.

Simison: Forty-one years.

Hoaglun: Forty-one years. Okay. Can I continue?

Simison: Yes.

Hoaglun: You want yours? If I can continue?

Simison: Yes.

Borton: Okay. Great. I appreciate that. I didn't realize that we had a prodigy, because I thought Bruce just turned 50, so he started at nine years old. Wow. It's a long time -- a lot of great experience and a great way of doing business. I have been able to see that

over the years and it's wonderful to see. I think you are right, Mayor. He is -- it is a growth experience for him and stepping into that role is a big step, but he is more than up to the challenge. So, I think it's a great appointment and I look forward to what Bruce can do for the department and for this community and definitely want to eagerly support this.

Simison: Thank you.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: Great choice. Sorry you're not able to see me. It's kind of a special occasion. Bruce is a champion for Meridian. He knows the department. He knows his -- his team that he will be working with and I wholeheartedly support him and grateful for his efforts in the past and currently and going forward. So, thanks, Bruce.

Simison: Thank you. With that, Council, do I have a motion?

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: I move we approve the recommendation and the appointment of Bruce Freckleton to be the Director of Community Development for the City of Meridian with an effective date of December 21, 2021.

Hoaglund: Second the motion.

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

Simison: Congratulations, Mr. Freckleton. Would you like to come up and say a few words?

Freckleton: Well, thank you, Mr. Mayor and Members of the Council. I -- I am deeply honored by this appointment and your continued confidence in me to lead the Community Development Department into the future. I want you to know that I don't take these responsibilities lightly at all and I promise you that I will work every day to live out and to

instill the CARE values that we promote. I have been very very fortunate in my career to have so many great influencers. Councilman Hoaglund, I was a junior in high school when I started in this field. I was working for a small land surveying engineering firm doing drafting. So, it does take me back a little ways. But as far as the influencers, throughout my years I mean I have had so many good leaders that took me under their wing and taught me a lot. Cameron Arial has been just stellar. He's done so much for our department and I'm going to really really miss him when he's gone, but I'm extremely humbled by the support and encouragement that I have received from -- from staff and everyone and -- but I especially want to thank my wife Connie, who is here with me tonight, and our family. They have always been my rock and I just so greatly appreciate that. I'm excited for the future of our department and for the City of Meridian. Our employees are the absolute best in their field and I can't think of a better group of people that I would rather be in the trenches with every day. I also look forward to working with each of you and getting to know you better and forwarding our work. Forward the vision and mission of the City of Meridian. So, again, thank you for your support and it's going to be fun. I appreciate it. Thank you.

Simison: Thank you. Council, if you could join us in a round of applause for Bruce. With that, Mr. Borton, thank you for your attendance and feel better and we will see you soon.

#### **11. Legal/Police Department: Presentation Regarding Idaho Opioid Settlement Intrastate Allocation Agreement**

Simison: Okay. Next Item up is the Legal/Police Department presentation regarding Idaho Opioid Settlement Intrastate Allocation Agreement and I will turn this over to Kurt.

Starman: Thank you, Mr. Mayor, Members of Council. Kurt Starman at the city attorney's office. The item before you this evening pertains to two settlement agreements that relate to or intended to resolve a number of opioid-related claims against Johnson & Johnson and three large drug distributors as well. So, I'm going to talk a little bit more about those agreements, as well as a funding agreement or allocation agreement that's been proposed by the state of Idaho and the chief is here tonight, then, to also talk about the impact that opioids have had in our community, as well as how the funds from this settlement -- from these two settlement agreements could potentially be used within our community to help mitigate some of those impacts from the opioid crisis. As I mentioned, there are two settlement agreements. These are nationwide agreements that most states have agreed to, including Idaho. They involve Johnson & Johnson, as well as three of the largest drug distributors in the nation as well and when Idaho agreed to participate in the settlement agreements that also opened up funding opportunities for all of Idaho counties, as well as some Idaho cities, including the City of Meridian, and so that issue is not quite ripe for your consideration tonight. We think we will probably have something on your agenda maybe in a week or two that would actually deal with the settlement agreements themselves, so I will talk more about that in a moment, but tonight is just sort of to present the idea to the Council, but also to get your approval for the -- or at least your consideration of the proposed allocation agreement that the state has proposed. So, the -- the agreements -- the settlement agreements themselves contain a default

funding mechanism or formula that talks about absent a -- a different agreement amongst the state and the local government entities in that state, there is a default formula that basically says funds received under the settlement agreement, 15 percent go to the state of Idaho, 15 percent go to cities and counties and, then, 70 percent go to -- or are placed in a trust fund that is administered by a committee consisting of state and local officials. So, absent some type of other agreement, that's how the funding would be allocated. Under that formula we anticipate that Meridian would receive, if we choose to participate, Meridian receive about -- would receive about 431,000 dollars over a 17 year period, but the settle arguments also contemplate that states may want to adopt a formula that -- or funding allocation formula that might be more suited for their particular needs and their particular state and so Idaho has proposed such a form -- funding formula and that's really what's before the Council this evening. The state has proposed what is called an intrastate allocation agreement that would allocate 40 percent of the settlement funds to the state of Idaho, 40 percent of the funds to counties and cities, and, then, 20 percent to the local health districts here in Idaho as well. So, under that formula, that's advantageous for Meridian in particular, because we believe that under that formula the city would receive about 1.15 million dollars over a 17 year period, as opposed to the 431,000 I mentioned earlier. So, obviously, there -- those additional funds could be put to use in our community to help counteract the impact of the opioid crisis. In addition to that it also opens up other potential funding down the road. There are at least two large pharmaceutical companies that are currently going through bankruptcy proceedings, including Purdue, and if we agree to the funding allocation the state has proposed, Meridian would be entitled to a share of those funds as well. Without that funding agreement that's proposed by Idaho that would not be the case. So, there are a number of advantages associated with participating in the funding agreement, the allocation agreement that's been proposed. The potential pitfall or a downside to it is it does come with some additional strings attached in that the state is proposing some additional reporting requirements and also some additional accounting requirements. So, we have met internally with the Finance Department and with the Police Department to discuss those requirements and we think they are manageable, but the Council should be aware that there are some additional reporting and financial considerations that come with that. They are not -- not insurmountable, but something to be aware of. So, ultimately, our recommendation this evening will be -- after the chief is going to talk about opioids -- the impact of opioids in Meridian in particular and, then, how these funds potentially could be used, but also at the end of our presentation the recommendation to the Council this evening is to approve the proposed intrastate allocation agreement. That's step one in our process. And, then, shortly in the next week or two we will be back in front of the Council with the actual asking for your consideration to approve the actual settlement agreements with Johnson & Johnson and with the three distributors and with those two action items that will enable the city to receive the funding I talked about. I'm going to pause there, I'm going to turn the microphone over to the chief and he will talk about those Meridian specific topics and, then, we are both happy to stand for questions you may have.

Basterrechea: Mr. Mayor, Members of the Council, one of the things that brought this lawsuit about was the -- the push by the big pharmaceutical companies with painkillers in

this country. They estimated that they overpopulated the market by about one hundred billion pain pills, resulting in over 400,000 opioid overdose deaths, which is what has brought us here today. As a result of that, what we have seen locally and across the country is more and more people -- as finally we started controlling the prescription pill problem, more and more people turning to heroin and black market pills, which is what we are seeing now. We are seeing a lot of Fentanyl come into Idaho. They are pressing them into pills that look like they are Hydrocodone and other types of pain pills and we are seeing overdoses like we have never seen before in our own community. We are probably averaging a minimum of two overdoses at least a week. This last week we just had a 27 year old overdose and die. We have had several people -- several overdose deaths, which has pushed us to the point where we have partnered with the High Intensity Drug Trafficking area called HIDTA and we are developing a mapping system to go through Meridian as a test platform for Ada county to be able to track our overdoses throughout the city, so that we will be able to track when we believe that we are getting a bad batch of heroin in or a large push of Fentanyl into the area. There is -- there is no identifier as to who the person is that overdosed. It's something that we are going to be able to use to track more accurately and be able to target more towards the opioid problem as an actual public health issue. We keep hearing it called that, but nobody seems to want to do anything public healthwise with that. So, the Police Department that's really where we are pushing. We have partnered with the Fire Department and got them on board, as well as paramedics with that program. Moving forward with these funds, one of the things we are looking at doing is funding a -- we have a part-time position and we are looking into seeing if we can fund that as a full-time position with the Meridian Anti-Drug Coalition. We also are looking into some different programs that we can hopefully bring to Meridian using some of these funds to help with those addiction issues that we are dealing with here and we can also use those for educational purposes as well and with that I will stand for any questions.

Simison: Thank you, Chief and Kurt. Council, any questions?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. I'm just curious some of the things that, you know, we think we could use the funding for, if you have identified any potential projects. I assume that we carry Narcan already or --

Basterrechea: We do carry Narcan already. However, it does expire, so that is a funding source as well for Narcan. The other thing that we have looked at is are there other recovery programs or things that we could help prop up in Meridian, so that we can battle it on the front side and the back side of things. There is a lot of really good programs out there that give people a different outlet in their struggles with addiction, so those are some of the things that Kendall Nagy, who is in charge of the anti-drug coalition, is looking at right now.



Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. I mean that's great to hear. There have been several documentaries, too, that have come out about the crisis that was created by the pharmaceutical companies and, you know, I remember the proliferation of pain clinics and stuff around and clearly now we are seeing some horrible effects from that and addiction touches so many families. So, hopefully, we can put that to good use. Thanks.

Simison: And I think, you know, we -- we have such a strong relationship with our educational providers that, you know, there is not enough time for -- there is a lot more need to get into the schools and help engage them and we have people to do that and that's one of the benefits of going from a part time to full time and this is a position that's been vacant for a while and we have been looking for the right opportunity to come to Council, quite frankly, to take that part time to full time, because of that need and this is a great segue into that conversation.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: First of all thank you so much, gentlemen, for working on this. This is great news for this opportunity. I do have a question for Mr. Starman if I may. Are there any other considerations -- other than the -- the additional amount of funds that will be received and the additional reporting obligations, are there any other upsides or downsides that we should know about the interstate allocation agreement?

Starman: Any other --

Perreault: Any other upsides or downsides or any other obligations or is that, essentially, how those two items are the -- the main effects that it has on us or is there anything else that we should take into consideration?

Starman: Thank you, Mr. Mayor, Council Woman Perreault. I think the two -- the two major issues you have already touched upon -- one is there are additional reporting requirements with the state proposed allocation agreement, so that largely will fall upon the Police Department and our partners to generate the annual reports and to be able to prepare that and submit that to the state of Idaho. In addition to that there is some additional accounting and auditing requirements. Our Finance Department estimates that if we were required to do a special audit it could be as much as 7,000 dollars per year. So, that's something to take into consideration as well. But there are two other potential downsides. We have looked at the agreements pretty thoroughly and I think we are satisfied that, really, that there is nothing significant there that would be to the city's detriment. There is always administrative burdens that come with grant funds, but I don't think there is anything significant there that -- that would, you know, impact our

recommendation to the Council. The upsides -- I think the one I will highlight a little bit more than I did in my initial comments is the -- the impetus for being here tonight largely is the two settlement agreements -- two settlement agreements with Johnson & Johnson and with the three distributors, but the other really strong upside for Meridian is that by entering into the allocation agreement it also opens up potential funding from the two major pharmaceuticals that are currently in bankruptcy. That could be several hundreds of thousands of dollars more than what we have talked about tonight. We don't know the answer to that quite yet, but without the allocation agreement Meridian would not be eligible for those funds at all. So, that was a significant potential upside.

Perreault: Mr. Mayor, follow up?

Simison: Council Woman Perreault.

Perreault: Thank you. So, are there a certain number of entities that need to agree to the interstate -- Intrastate Allocation Agreement in order for -- I mean do a certain number of cities or counties have to sign on in order for it to go into effect?

Starman: Thank you, Mr. Mayor, Council Member Perreault. Yes, what the state is looking for is basic -- basically it's population based, based on counties, as well as those cities that are eligible to participate and the magic threshold for the state is 50 percent plus one. So, based -- weighted based upon population. When I spoke to our point of contact with the Attorney General's Office about a week or ten days ago they were at the high 30s and they fully anticipated that they would meet the 50 percent threshold, so -- but it was possible -- I mentioned two things. One is it's possible that 50 percent plus one does not agree, in which case the allocation agreement we are not going to place, number one. Number two is even once the allocation agreement is in place and if Meridian and others agree to the settlement agreements at a later date, there is also a touch point for Johnson & Johnson, as well as for the three distributors, that after the first of the year, like after January 2nd to be more precise, they will do another assessment to see if there is sufficient participation to work -- to proceed with the settlement. So, actually, there is a -- to us in the -- in a vernacular, an offering up for Johnson & Johnson and the distributors that there is not enough participation nationwide, but my understanding is that the participation has been pretty strong so far.

Perreault: Thank you. One more question?

Simison: Council Woman Perreault.

Perreault: Thank you. So, sometimes these -- these lawsuits and settlements go on for years and years. So, are we at the end of that process? I mean when -- when -- when will these funds actually be distributed? I mean can't they not often take a really long time to actually receive funds?

Starman: Mr. Mayor, Council Member Perreault, that's a very accurate statement and we have all experienced probably in our professional life and perhaps otherwise lengthy litigation. The good news here is this litigation has been ongoing for quite some time and

we are at the tail end and so as opposed to going into trial, the defendants here have agreed to a settlement agreement with the states that are participating and so if after that January 2nd date if Johnson & Johnson and the three drug distributors decide to proceed, there is enough mass to proceed that really does bring that litigation to a close, the settlement agreement goes into place, and, then, funding that starts -- there are actually two installments in 2022. The first is in the March time frame and there is a second installment in the July 2022 time frame and, then, there are annual installments thereafter.

Perreault: Thank you very much. I appreciate that detail.

Starman: You are welcome.

Simison: And just to kind of follow up on the things, I don't know if this was ever identified -- if necessary can we use these funds to do the audit?

Starman: Thank you, Mr. Mayor. The agreement still -- the settlement agreement, as well as the allocation agreement, don't specifically say that, but my answer is yes, because both agreements say that a minimum of 85 percent of the funds have to be used for direct opioid related activities, which in my mind means that up to 15 percent can be used for administrative purposes. So, there is no explicit language to that effect, but my reading of the agreements is that the funding -- the funds up to 15 percent can be used for administrative purposes.

Simison: Well, hopefully, the defense can pay for themselves for the work that we are asked to do to utilize them, because they are asking us to do the work.

Starman: I think that's a fair statement.

Simison: Council, any further questions? Okay.

Starman: Mr. Mayor, that completes our presentation. The next item on your agenda -- this was Item 11. So, presentation Item 12 is an action item relative to the allocation agreement and we ask for your consideration tonight. Thank you.

Simison: Thank you, Kurt. So, with that, Council, we will move on to Item 12, which is as stated -- request to approve the Idaho Opioid Settlement Intrastate Allocation Agreement between the state of Idaho health districts and eligible local governments.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Since our police liaison is not feeling well this evening I will make the motion. I move that we approve the Idaho Opioid Settlement Intrastate Allocation Agreement between the state of Idaho, the health districts, and the eligible local governments, including the City of Meridian.

Strader: Second the motion.

Simison: I have a motion and a second to approve the allocation agreement. Is there any discussion? If not, all in favor signify by saying aye. Nay? All ayes. Motion carries. Thank you.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

## **ACTION ITEMS**

### **13. Public Hearing and Second Reading Continued from November 23, 2021 of Ordinance No. 21-1954: An Ordinance of the City Council of the City of Meridian, Idaho, Approving the (Option A) Urban Renewal Plan for the Northern Gateway District Urban Renewal Project, Which Plan Includes Revenue Allocation Financing Provisions; Authorizing the City Clerk to Transmit a Copy of This Ordinance and Other Required Information to County and State Officials and the Affected Taxing Entities; Providing Severability; Approving the Summary of the Ordinance; and Providing an Effective Date**

Simison: So, Council, with that we will move on to our Action Items this evening. First item up is Item 13, which is a public hearing and second reading continued from November 23rd, 2021, of Ordinance No. 21-1954. Mr. Nary, should we do the second reading first before the public hearing?

Nary: Yes, sir.

Simison: Okay. I will ask the clerk to do the second reading.

Weatherly: Thank you, Mr. Mayor. This is Ordinance No. 21-1954, an ordinance of the City Council of the City of Meridian, Idaho, approving the (Option A) Urban Renewal Plan for the Northern Gateway District Urban Renewal Project, which plan includes revenue allocation financing provisions; authorizing the City Clerk to transmit a copy of this ordinance and other required information to county and state officials and the affected taxing entities; providing severability; approving the summary of the ordinance; and providing an effective date.

Simison: Thank you. Council, you have heard the second reading done by title. Is there anybody that would like it read in its entirety? Seeing none, we will, then, move on to the public hearing for this item. Do we need to have a staff presentation on this item? I didn't know if we -- I didn't think we did. Okay. All right. Then --

Conrad: Hello. Okay. Thank you. Sorry about that. Oh. Thank you. Thank you.

Simison: So, Meghan, are you going to be doing a presentation for both items?

Conrad: I will be, Mayor. Thank you.

**14. Public Hearing and Second Reading Continued from November 23, 2021 of Ordinance No. 21-1956: An Ordinance of the City Council of the City of Meridian, Idaho, Approving the First Amendment to the Urban Renewal Plan for the Union District Urban Renewal Project, Which First Amendment Seeks to Annex Certain Parcels to the Existing Union District Project Area; Which First Amendment Includes Revenue Allocation Financing Provisions; Authorizing the City Clerk to Transmit a Copy of This Ordinance and Other Required Information to County and State Officials and the Affected Taxing Entities; Providing Severability; Approving the Summary of the Ordinance; and Providing an Effective Date**

Simison: Okay. Then why don't we go ahead and open up Item 14 as well, which is a public hearing and second reading continued from November 23rd, 2021, of Ordinance No. 21-1956, and ask the Clerk to read this ordinance by title.

Weatherly: Thank you, Mr. Mayor. This is Ordinance No. 21-1956, an ordinance of the City Council of the City of Meridian, Idaho, approving the First Amendment to the Urban Renewal Plan for the Union District Urban Renewal Project, which First Amendment seeks to annex certain parcels to the existing Union District project area; which First Amendment includes revenue allocation financing provisions; authorizing the City Clerk to transmit a copy of this ordinance and other required information to county and state officials and the affected taxing entities; providing severability; approving the summary of the ordinance; and providing an effective date.

Simison: Thank you. You have heard this ordinance read by title. Is there anybody that would like it read in its entirety? Okay. Seeing none, Meghan, if you would state your name and address for the record and be recognized for your presentation.

Conrad: Thank you, Mayor. Meghan Conrad. I am an attorney at Elam & Burke, 251 East Front Street, Boise, Idaho. 83701. So, before you today for public hearing the Urban Renewal Plan for the Northern Gateway Urban Renewal District. On your screen now you have the map of the proposed project area, which includes parcels north and south of Fairview Avenue and generally east of -- east of Meridian Road and north of Pine Avenue. It is 126 acres. On this slide you will see the plan that is at Idaho Code specifically 50-2905. This is a slide that you have seen before as this plan has come before you a number of times at this point. However, in bold text beside each bullet point you will see this reference in the plan where the statutory obligation is met. For parcels that have been used as an ag operation, which is a defined term under the law and the act, there is one parcel that required property owner consent. That is a 17 acre parcel that is located at Meridian Road and Cherry. That property, when we started this process, was actually located within unincorporated Ada county. As you know that parcel is referred to as the McFadden property that has since been fully annexed into the City of Meridian and the property -- an agricultural operation consent was obtained from that property owner. In terms of the projects that are identified in the plan, they were specifically informed by the city's Comprehensive Plan, Destination Downtown, both city

and MDC staff, the Trivium Planning, as well as the owners within the boundaries of the proposed project area. Here you will find the specific list of the projects that are anticipated to be undertaken during the life of this project area, which, under current statute, is permitted to be in place for 20 years, but recognizing that revenues will be received in the year following the termination date. Most of these dollars will be used to support infrastructure improvements and buy right of way, specifically streets. There will be also sewer and water system improvements. There is pedestrian improvements, facade improvements, public parking plazas, open space, environmental remediation and some planning studies. The estimated cost of these improvements using 2021 dollars and based on similar projects that have occurred in the -- in the broader community. It's estimated the grand total is about 34 million. So, 33,925,000 dollars. On this slide there is a more defined list of the roadway improvements that were identified by the Trivium Planning in its review of the project area and also some estimated construction costs and you will see that for the construction of these right-of-ways it's about 11 -- just slightly over 11 million for the scope of these improvements. Also included in the plan is a list of potential sewer and water lines and new sewer and water line infrastructure to be added that are located within the boundaries of the project area. In the plan it's noted as Attachment 5, which is the economic feasibility study. The tax increment revenue projection is anticipated to be a little over 35 million for the 20 year life of the project. The private investment that's anticipated to occur based on the communications that have been held within the boundaries of this project area are estimated to be 310 million. The economic feasibility study included a number of specific assumptions. In generating that revenue figure, specifically based on recent history with value increases, land values are anticipated to increase eight percent a year for the first five years and, then, it will be four percent a year for the balance of the term, which is pretty conservative. Similarly, the improvement value increase is estimated to be ten percent for the first five years, with a reduction of five percent for the balance of the term. The levy rate was reduced by ten percent, which is also a fairly conservative estimate when we are looking at revenue generation. Homeowners property tax exemptions were anticipated to increase about five percent a year. The significant new development projects were analyzed to -- or anticipated to occur during the years of 2024 to 2035 and there are an allocated 500,000 of new development that would occur in the -- in the off years. Finally, the other consideration under new statutory changes, in order to receive the allocation from Ada County Highway District an agreement between the agency and ACHD is necessary and that step has also been completed at this point, so -- and just skipping ahead pretty -- oops. There is a timeline in here that shows the process that has been undertaken to date and you will see that there has been a robust opportunity and presentation on this plan several times over the -- this process. So, happy to stay in for any questions on Northern Gateway.

Simison: Thank you. Council, any questions on this item?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I don't have any specific questions. Thank you very much for -- for all the information. Is it possible for us to get a copy of this presentation e-mailed to us?

Conrad: Thank you, Mr. Mayor, Council Member. It actually is here and that is not going to be a problem at all. I can get that to you.

Simison: Council, any additional questions at this time?

Conrad: I'm sorry, can you help me get back to the -- the slide view? I'm not a tech person. Nope. Not that one. Thank you. All right. Mr. Mayor, okay to jump into the first amendment? Thank you. So, you also have before you for a public hearing the First Amendment to the Urban Renewal Plan for the Union District Urban Renewal Project. The Union District was adopted in 2020. The area that we are talking about today was de-annexed from the existing downtown area and represents 1.461 acres. So, it's a very small area and you can see in the photo -- in their slide that it does border and is appended to the existing Union District. Similar to the presentation on Northern Gateway, there are the statutory requirements of what must be included in an urban renewal plan pursuant to 50-2905. Those bullet points have been identified here in the bold parentheses behind shows the specific sections of the plan amendments or the original plan that addresses this specific area. As you will note this -- if we get to number seven below, this amendment does not extend the life of the existing revenue allocation area, it still is intended to terminate in 2040, recognizing that revenue allocation proceeds will be received in the year following termination. There are two issues at play when you have a post-2016 amendment to an existing revenue allocation area. The first is whether or not such amendment constitutes a modification that would result in a resetting of the base assessment roll. Under Idaho code there are four exceptions, the definition of what constitutes a modification, and one of those is specifically an amendment to add area pursuant to 50-2033. That statute stands for the proposition that you can annex into an existing project area no more than ten percent of the existing acreage and that acreage must be contiguous to the existing boundary. This is the case in this area. The original Union District project area is just short of 16 acres, it's 15.8, I believe, and we are annexing 1.461. So, we fall within that ten percent limitation. For that reason this does not constitute a modification under the 50-2903(a), that would require a base reset of the -- of the original project area. Again, the project list here was formed by the city's Comprehensive Plan, Destination Downtown, both communications with city and MDC staff, as well as property owners slash developers that are within this area. On this first slide we have shown what the original union district project improvement list was, mostly centered around some public infrastructure improvements on the top half, improvements at 3rd and Broadway, and you will also see references to the civic block improvements, as well as some structured parking. This slide identifies the additional improvements that are contemplated as a result of this particular amendment. The subtotal for these new improvements is going to be 13 million. So, it brings the total of the original proposed improvements, together with these improvements, to 28 million. These improvements include the improvements to the facade, property acquisition, improvements to public plazas, parks and open space, any environmental remediation. A portion of Idaho Avenue is included within this project area, as well as planning studies. In conducting the revenue

analysis of this proposed project area it was taken into consideration facts that have occurred that would somewhat change the revenue allocation based on development that had or had been delayed in the existing union district, as well as the potential for new development occurring within this 1.461 acres. So, the total increment yield over the 20 year life of this district is estimated to be a little over 25 million dollars. The private development that is anticipated to occur as a result of urban renewal efforts in this area is about 225 million dollars. The assumptions are very similar to those that were used in the Northern Gateway analysis, particularly the percentage increase year over year of the assessed values. For land eight percent and, then, reducing to four percent after five years. For the improvement value ten percent, again, reducing to five percent after five years. In this example the tax rate is also reduced by ten percent and when we are talking about the tax rate we are talking about the eligible tax rate for those levies that do generate revenue for the urban renewal agency, which, as you know, is not the entire levy. It's those that qualify under the statute. The new development occurring in this district is really intended to be -- or estimated to be focused on the years 2024 to 2028. For this one as well, because of the statutory changes the law requiring an agreement between the agency and the Ada County Highway District would apply to this amendment area and that step has also been completed here as well and here is the timeline that is similar -- similarly undertaken for both the First Amendment, as well as the Northern Gateway project area. As you know there is two phases to this planning process, the eligibility phase and the plan approval phase, and so as part of the plan approval phase the plan and its attachments and certain additional information were circulated to all of the effective taxing districts more than 30 days in advance of the public hearing date. The notice of the public hearing was published in the paper. There is -- originally scheduled to occur on the 23rd. On that date that public hearings were continued and the notice of the new publication date for today's date was also published in the paper. November 16th was the date the City Council did the first reading of the ordinance. Today's the time set for the public hearing and the second reading. And the third and final reading is scheduled to -- for your consideration on December 7th and with that happy to stand for any questions on the first amendment.

Simison: Thank you, Meghan. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you very much. Would you mind going back to the slide that was called revenue model and assumptions? So, the tax increment yield of 25 million, how did that figure come to be? Obviously, it's based on the estimate of private development investment and, then, the tax increment yield, but it seems like that that just -- that is a significant amount for that small geographic size, even -- even developed very very well. That just seems like an exceptional amount to generate for that block, so I want to have some more understanding of that. And, then, in addition the -- on -- with both of these the land value increases and the improved -- improvement value increases, the assumptions that are made, what basis are those? Is that an historical basis, it's based



on information that's been collected over a matter of time or is this based on assumptions from commercial real estate industry that's anticipating these -- these gains? Can you give us some background for that?

Conrad: Yes. Thank you, Mr. Mayor, Council Member. Those are both great questions and so for the first question concerning the revenue generation in the First Amendment, there is an Attachment 5.A that is attached to the plan and the 25 million, actually, it's a combined from the existing Union District, plus the addition of this 1.4. So, that's not only the revenue generated from the 1.4. So, specifically it is 5.2 -- my number is cut off, but it's 5.3.A I believe is where you will find this specific table that -- that shows the revenue generation and the development, but it is a combined, it's not just for the 1.461 and I don't -- my understanding is that the -- for your second question the percentages as to the growth, there was a backwards look as to what has occurred historically in projecting forward.

Perreault: Mr. Mayor, a follow up?

Simison: Council Woman Perreault.

Perreault: Yeah. I -- I assumed that that included that all of the geographic area of the -- the existing and new acreage. It's still a very small -- it's a city block. So, if you have anymore thoughts on how that city block should yield 25 million dollars in tax increment over 20 years, I'm -- I'm -- my ears are wide open.

Conrad: Thank you, Mr. Mayor, Council Member. I mean there is intended to be some significant development on those blocks in terms of, you know, higher density residential rental, as well as office, and those ultimately will have fairly significant value. Again, we are projecting into the future and so it's -- those are anticipated to come on the tax roll about 2025, 2026 and some of those numbers are based on data that we obtained during the drafting of the Union District plan and those were numbers that were also provided by the development group at that time. So, that helped inform the data that -- that was carried forward here as well.

Simison: Council, any additional questions? Thank you very much.

Conrad: Thank you.

Simison: Council, this is a public hearing. Madam Clerk, do we have anyone signed up to provide testimony on these items?

Weatherly: Mr. Mayor, we do not.

Simison: Okay. This is a public hearing. If there is anybody that would like to come forward and provide testimony on any of these two items you can do so now and if you are online and would like to testify, you can use the raise your hand feature and we can bring you in for visual comments. Council, seeing no one wishing to come forward in the

room or raising their hand online, do I have a motion to close the public hearing?  
Hearings.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I move that we close the public hearing for Ordinance No. 21-1954 and the public hearing for Ordinance No. 21-1956.

Perreault: Second.

Simison: I have a motion and a second to close the public hearings for Ordinance No. 21-1954 and Ordinance No. 21-1956. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the public hearings are closed. I guess you are looking to me, because we are not taking any action tonight on these items. So, with that -- with the public hearings being closed, we will have the third reading on the -- on next week's City Council agenda. So, thank you everyone, Meghan, Cameron, Tori, for being here this evening.

**15. Approval of Johnson St Right-of-Way Vacation (H-2021-0079) by Hawkins Companies, Located on the south side of W. Waltman Ln. approximately 1/8-mile west of S. Meridian Rd., between 235 and 295 W. Waltman Ln.**

- A. Request: Vacation of an Ada County Highway District (ACHD) right-of-way (i.e. Johnson St.) located between 235 and 295 W. Waltman Ln.

Simison: Next item up is Item No. 15, which is approval of Johnson right-of-way vacation, H-2021-0079. I will turn this over to Sonya for any comments.

Allen: Give me just a minute, Mr. Mayor. Let me get the presentation up here. Alrighty. The first application before you tonight is a request for a vacation of ACHD right of way. The right of way proposed to be vacated lies on the south side of West Waltman Lane between 235 and 295 West Waltman Lane. The applicant proposes to vacate .43 of an acre of ACHD right of way consisting of Johnson Street. The reason is because the applicant owns the parcels adjacent to the subject right of way and wishes to develop the area with commercial uses. As is the location of the road interferes with the development plan. With development of the area the access driveway or street is proposed to be relocated approximately 50 feet to the west as shown. A relinquishment letter was received from Idaho Power stating that they have no facilities in the area proposed to be vacated. The Public Works Department verified that there are no water or sewer mains located in the area proposed to be vacated. Therefore, the proposed vacation will not impact city utilities. The ACHD commission has already approved the request. Staff is

recommending approval of the proposed vacation and no written testimony has been submitted. There are no outstanding issues for Council. Thank you.

Simison: Thank you. Council, any questions for staff? If not do I have any motions?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I guess a question. Do we need to have a -- open a public hearing for this or does it not fall into that category?

Simison: It's not a public hearing.

Strader: With that I would be happy to make a motion. After considering that ACHD has approved this, it doesn't impact the utilities, I would move that we go ahead and approve this Item No. 15 after considering all staff, applicant, and public testimony to approve file number H-2021-0079 as presented in the staff report for today's hearing date.

Perreault: Second.

Simison: I have a motion and a second to approve the vacation request. Is there any discussion? If not, Clerk will call the roll.

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

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

MOTION CARRIED: FOUR AYES. TWO ABSENT.

**16. Public Hearing Continued from November 23, 2021 for Fast Eddy's at Eagle (H-2021-0068) by Steve Eddy, Located at 3775 N. Eagle Rd.**

- A. Request: Modification to the Existing Development Agreement (H-2018-0006 - Inst. #2018-042029) to remove the requirement for the driveway along the west side of the retail store to be extended to the north property boundary for future extension and interconnectivity in accord with UDC 11-3A-3A; and a cross-access/ingress-egress easement to be provided to the property to the north (Parcel #R4582530202, 13984 W. Jasmine Ln.).

Simison: Next up is Item 16, which was a public hearing continued from November 23rd, 2021, for Fast Eddy's at Eagle, H-2021-0068. I will turn this over to Sonya.

Allen: Thank you, Mr. Mayor, Members of the Council. The next application before you is a request for a development agreement modification. This site is zoned C-G and is located at 3775 North Eagle Road. The Comprehensive Plan future land use map designation for the property is mixed use regional. A little history on the property. Development agreements -- a development agreement was recorded for this property in 2018 that requires the driveway along the west side of the property to be extended to the property to the north for future extension and interconnectivity and a cross-access easement to be granted in accord with UDC 11-3A-3A prior to issuance of the first certificate of occupancy for the site. The UDC requires cross-access easements to be granted to adjoining properties where access to a local street is not available unless otherwise waived by Council. The abutting property to the north fronts on a state highway, North Eagle Road, State Highway 55, and does not have access via a local street. That's the reason the driveway access and easement were required. Without this access the undeveloped parcel to the north would have no access other than the state highway until such time as the property to the west, Delano Subdivision, develops, which has granted a cross-access easement to them through their multi-family development for access via the future extension of North Centrepont Way. Because the applicant did not wish to construct a driveway or provide an access easement in accord with the timing stated in the development agreement, a temporary certificate of occupancy was issued in order for the applicant to apply for an amendment to the development agreement. The applicant proposed to meet with the property owner to the north at the time of development to see if the -- excuse me -- if it makes sense to both of them to install an access at that time. An assisted living facility has been approved by the city of Boise to develop on the abutting property to the north. The approved site plan depicts a driveway access to this site for cross-access and ingress-egress. If these provisions are removed from the development agreement and a final C of O is issued, there is no mechanism for the future -- for the future to require construction of the driveway or granting of an access easement. No written testimony has been received on this application. Because this is a UDC requirement staff cannot waive the requirement and, therefore, cannot support the request. The UDC does allow for a Council waiver to this standard if deemed appropriate by City Council. Staff will stand for any questions.

Simison: Thank you, Sonya. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you, Sonya. Am I understanding correctly, then, that there was a -- a deadline in the DA for that driveway to be constructed and it was not done by that time frame?

Allen: Mr. Mayor, Council Woman Perreault, no. That's the reason for the request.

Perreault: Okay.

Allen: A final -- let me clarify. A final certificate of occupancy has not been granted. A temporary C of O has been. So, the requirement was prior to the first C of O.

Perreault: For the Fast Eddy's --

Allen: Yes.

Perreault: -- property that's been there for three years?

Allen: It's been extended several times from what I understand.

Perreault: The -- the -- the certificate of occupancy? Okay.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Question, Sonya. These get a little tricky when you are dealing with split jurisdictions here and with that -- what was that, assisted living facility, that was approved by the city of Boise to the property to the north. I was just curious if you know -- was there a requirement requiring any other accesses or cross-access agreements or anything for this? It says the approved site plan depicts a driveway access to the site, so I'm assuming that's the case?

Allen: I'm assuming. I don't know if a cross-access easement was required or received, but I know that a driveway stub was provided.

Hoaglund: Okay. Thank you.

Allen: I shouldn't say it was provided, but is shown on the approved site plan. They haven't started building on the site, so it's -- it's hard to -- you know, hard to tell if they are actually going to go forward and build or not. But so far they have an approved plan.

Simison: Council, any additional questions for staff? Okay. Would the applicant like to come forward?

Eddy: Mr. Mayor and Council, I'm Steve Eddy at 3775 North Eagle Road, Meridian, Idaho. I guess this has been a while and that store has been open two -- two -- a little over two years. The store. The car wash was on a separate parcel and opened earlier than the store was. My biggest concern with this -- and we have talked about this once before -- is -- and one thing that happened with the -- all the submittal of the plans and everything for the site this was never shown on any plans. It kind of slid through and that's one reason. And, then, the property owner that was to the north, which was Wally Hedrick, and I had promised him, you know, nothing would ever happened there until he did something with that property, which he moved because of that access point looked right at his living room and when we bought the property -- part of this property I bought from

him that was one of our agreements that I had brought up to Sonya and staff that we just couldn't do that to him as a residential homeowner adjacent to us. But what's concerning to me now is the site has continued to get busier and we get -- year three is when we kind of get our peak and behind that building we have a double drive-through, so we have a drive-through for the Earl of Sandwich and a drive-through for the store and it's gotten -- you know, back in that area it's -- it's crazy. There is just a lot of traffic. All of our deliveries come in there. The pedestrian path that goes to the Brickyard Apartments, we had it adjoined and come to the front of the store. Well, nobody comes that way. They walk right through that driveway, so from a safety standpoint from all of the homes that are in the Brickyard down with a superhighway going through there it's just -- it's going to be a safety nightmare. The other thing we got is two more things, is the fuel tanks are right in that pathway where, you know, there is a flammable type operation there where they are going to be driving right through and, then, the exit to the car wash right now with the Brickyard development, which is severely underparked. At night they park along that street on both sides, all the way around to Ustick and I think it's -- you know, with what's went on with a lot of the apartments there is more than one family living in an apartment and many times they backup almost all the way to my car wash now and those cars are being pushed out with a conveyor and if that property to the north doesn't go with an assisted living, which we don't know where it's going, we can't get to talk to anybody or know anything that's going on and I just worry that property gets developed as apartments, which seems to be the going thing in the valley, and we have another apartment complex they are underparked and all that traffic, with where the car wash exits, you know -- well, those cars that are in the car wash, I can't have cars hitting each other because it's backed up to there and it backs up almost to there today in the morning time and the evening time when all those residents are back in those apartments. That street is narrow. Centrepont is very narrow and tight and when Hobby Lobby gets busy it's a nightmare right in there already. So, my biggest reason is just a safety concern and not knowing what's going to the north. We hear their -- their application expires in March, but we have no idea for sure what's going to go there. And I -- we set this building up for the deliveries out back there, so -- and I brought that up before. With the delivery trucks and the drive-throughs and having two driver-throughs back there, I watched people again today, they just take out of the drive and take a left and just head out and that's right where that connection is supposed to be. There is no way to put a stop sign or anything there that would stop those people from pulling right out and, you know, we are creating a superhighway kind of through my properties as a shortcut. Now, the application I did see on the retirement center, assisted living, it did have an access off of Eagle Road. It wasn't just through me that they showed on their application. So, I'm assuming that would be a low impact use and they would be adequately served with that. Again, you know, Centre Pointe was supposed to go through to Wainwright, which I think would help this. That got stopped. I don't think I'm against, you know, worst case -- I would like to see it removed, but worst case I think do a pedestrian with the fire department barricades like we did for the Brickyard, so it's more pedestrian friendly, but not vehicular. I just think it's an accident -- it's already an accident waiting to happen there. As we get busier it's going to be worse. I guess what I was going to say is that Centrepont where it went down to Dashwood Street that was supposed to go through, that got stopped with just the emergency barricades down there and I think that's the best case here when -- especially when we

don't know what the use will be and since Meridian isn't controlling that site at this time we have no idea what Boise will approve there and that's -- that's -- that's my concern is just the safety and what will go there. So, I think I would first like to ask that it be removed. Second, I think I would be willing to do the pedestrian access with the bollards and, then, determine if we have to, you know, bond that or whatever we have to do to satisfy -- you know, I would complete what I would say I would do. I think this is our eighth store I have built in Meridian and I think I have tried everyone we have built, even though I have sold them, to do it right and do it first class and tried to be a good resident to the city. That's - - that's all I have, other than questions.

Simison: Thank you. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you. Mr. Eddy, I'm trying to understand the timing of all this. So, when -- were you aware that this was a requirement of the DA when you did your site plan design? Why would there be so many impediments to this if this area was intended to be kept open for an expansion to the north?

Eddy: It was in the DA and when we were going through everything we weren't really thinking what would get done and how things will change over time and the original plans were submitted to the City of Meridian. This was not shown on any plans. Not -- not by choice, it just was missed by my engineer. It was missed by my folks that I hired to do the plans on the site. So, all the drawings that were approved by Meridian per my permit this is not showing on one set of plans. It was forgotten. It wasn't like left off intentionally. So, it didn't get constructed and, then, as I said before, the gentleman that lived in the property here to the north I had promised him when we had bought -- where the store sits I had bought that property from him, that we would put that six foot fence up and keep him somewhat private, because at that time he told me he was going to live there for a long time and he just moved in the last few months. He has been there for that whole time and that was just an agreement that I had made to him that I felt I needed to honor to him with the fence, so --

Perreault: Mr. Mayor, may I ask a follow-up question?

Simison: Council Woman Perreault.

Perreault: Thank you. So, what's the distance from the north property boundary? How many feet was that extension supposed to go? I'm assuming that -- that your -- that the concrete showing in this photograph goes all the way up to your north property boundary and that there was going to be constructed a driveway for a short distance from your property to those?

Eddy: No. All that was supposed to be done, by the way I read the development agreement, was there is about a six foot landscape strip there on the other side of the concrete --

Perreault: A what?

Eddy: There is a curb and grass and trees there currently. That would be -- all I would be responsible for, I believe, as far as the development agreement is to take that curb out, that grass out, and just concrete or pave to my property line. It would be whatever they do to tie into me.

Perreault: Okay.

Eddy: And like I said, I'm just really concerned with what land values have done, that that will get changed from an assisted living to an apartment complex that's three or four stories high and we have a superhighway through what's already a really busy area that will be a nightmare. I think if the property stays a retirement -- and that's something else I guess I would ask. If it stays a retirement and gets developed retirement, I don't have a problem with the access.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thank you. I guess just to be really clear about my concern, right, and I think it's laid out pretty well in the staff report, there is the potential that if we don't make sure this access happens in the future there could be a parcel to the north that's orphaned off, that if they don't get that access off of, you know, the adjoining road, then, it could be isolated and we really believe that connected communities are healthier communities. I would hope that if there is an apartment project to the north that the city of Boise would consider making sure there is adequate parking there. You know, what could we -- because our -- you know, you are a good partner. Our kind of discussion point with you is issuing a CO; right? I mean what are -- have you guys had a discussion with staff? Like is there a solution where you could escrow an amount to build this or -- what are you sort of thinking? You mentioned bonding. I guess I would like to understand that. But part of my concern is, you know, you definitely made a promise to the property owner and I understand that, but the city is not a party to that and we can't really solve that for you. I'm just concerned that if we don't have this access we are not going to get it and we are going to have a piece of property that's isolated that shouldn't be where there should be connectivity.

Eddy: Well, I think that -- that piece of property was going to be in Meridian at one time. It's changed with Boise now. Again, if that got developed to a three or four story high -- four story high apartments we could not handle that traffic. It would be a deathtrap for consumers and residents of the Brickyard and, then, the drive-throughs that I have, there is -- there is no way we could accommodate that. Like I said, the plan that Sonya had



and we saw that they did submit to the city -- well, to you guys first and the city of Boise, it showed access on Eagle Road into that complex.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. But I guess just to follow up, I mean from my review I didn't see that that access is a legal right that will be granted. Like so -- if you are aware of something that indicates that they will receive that access or that access has been definitively approved, yeah, that's good information.

Eddy: I don't have -- I don't have access to that today, because we don't know what's going to happen. Like Sonya had said and we have seen, their -- their approval expires in March, so we don't know what will happen with that parcel and that's what concerns me is that and, then, like I said, it's hard to take that size of a piece of property, what we did develop in Meridian, and try to get it to flow correctly and right without having some heavy access user to the north going through my property and, again, it depends upon the user and that's what concerns me is we -- I would love to have the apartment traffic, but it would not be safe through this site and, then, the car wash that I have built there, the way the conveyor pushes cars out, if that was a massive apartment complex I would have a nightmare of cars running into each other automatically that I have really no control over, if that kind of traffic to get to that access point to the south of me to try to get out and, like I said, right now the issue is -- and you guys can go by there anytime, morning or night, that street is lined with cars on both sides. It is really dangerous today to even drive down the street when those residents are home, which I know we can't do anything about that now, but it -- you know, it's what we are dealing with now.

Strader: I'm good for now.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: And so I take it from your comments you don't think having an access point to a road -- and let's say it's similar to what you see in the picture here -- would be a relief, another point that customers can exit quickly, as opposed to going back to the -- to the south of your property. It's -- there is nowhere to go. If there was -- let's say it's assisted living and that -- that property there they are able to access that point, then, turn right and go to Eagle Road and turn right again, that gets them onto the -- without having to go from, you know, the upper store all the way down through where the car wash is and back to that area, I was just trying to look at it differently to see if that was --

Eddy: If you think about that, the problem with that is if you think about the drive through and the drive throughs behind that building both face west. Those people -- I watched him today. They get done doing their stuff, they just head out and they take a left, because

there is -- there is nothing to worry from the right. So, if cars were coming through there and trying to get through both ways, it would -- I mean I would have my own Eagle Road internally, you know. And that's what's -- what's hard. I mean the proposed plan they had, their access point was -- they had buildings up pretty close to the property line and you kind of access through. It wasn't really something they needed, if they had granted access off of Eagle Road, which they showed and I think they would get personally, but you know, that's my thought. They didn't really need that access for me to satisfy the assisted living that they were proposing building in any way.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: A question -- first a comment. Yeah. And, typically, cross-access easements -- I'm more familiar with -- they do look more like roads. They are straight. They allow access to different entities, businesses, and whatnot to each side, as opposed to on the whole parcel, but yet, you know, we do have some that continue on, but usually it's a straight line and more street-like, as opposed to parking lot driveway types of areas. I would like to know more about the -- your storage, your fuel tanks. Where that red arrow is, can you just kind of give me a description? They are underground, obviously, but I don't know if you can make that bigger. I doubt it, but -- yeah. It's a skating mouse. It goes --

Eddy: It's right here.

Hoaglun: Okay.

Eddy: And what's tough here, too, is almost all of my traffic is southbound traffic.

Hoaglun: And, Steve, could you pull that microphone a little bit closer to you. Yeah. Thank you.

Eddy: Almost all of my traffic is southbound traffic, so they -- most of my traffic under that fuel canopy face west and they exit this way out or they make this loop and come back if they want to go to Eagle Road and take a right here. But the fuel tanks are sitting right here. That's --

Hoaglun: That's the next one coming up.

Eddy: Anyway, the fuel tanks are sitting right here and, then, the other thing we have for the future -- right here is a massive transformer for electric cars that we are not utilizing today and this whole line right here was set for electric vehicle charging station of the future, which looks like it's coming quicker than we thought. So, this has a -- you know, a hundred thousand dollar infrastructure of being able to charge electric cars that's super fast already underground and to this site that we are not utilizing today. Again, that all lines up right here right in that driveway that we are talking about, letting possibly become a massive highway and to the north after the -- the Hedrick parcel -- or the -- you know,

the Hedrick parcel is not assistant living, it's -- there is one more parcel, then, it's office buildings all the way to Wainwright. There is no way through to the north that I know of that could possibly line up with mine without tearing down fairly new office buildings from the Yellowstone log home to Wainwright. All those new office buildings. And, then, to the left that access that was going to go to Centrepont to the north to get to Wainwright has now been blocked off and not there anymore.

Perreault: Mr. Mayor?

Eddy: Which when I built here I was told that was going to go through Wainwright and have -- our customers have the ability to use this and they can go to Wainwright to get out, which would have been better for me at that light. So, that's a change that we didn't plan for.

Simison: Council Woman Perreault.

Perreault: Just to clarify, that access to Wainwright has not been blocked, it's just not going to go through until the property just to the south of Wainwright is developed. So, it still can go through at some point, there has just not been a time determined. Whenever that property owner decides they want to develop that property between -- between the application for apartments that was approved earlier this year or last year and Wainwright. Yeah, Dashwood has been blocked off, but the Centrepont will go through to Wainwright once the property just to the south of Wainwright is developed. So, that will happen at some point. Just wanted to clear that -- clarify that for you. My inclination is -- is -- I'm sorry that -- that all -- that your property has been developed and this wasn't taken into consideration on your part and I really feel strongly that we should have that cross-access. However, I am not opposed to getting more information about what's going to happen to the north. If it's possible to do that prior to March when -- when this becomes a significant issue. I -- I'm happy to consider continuing this if you believe that you can get enough information to show that that access is not necessary to our satisfaction. But at this time I can say I'm not inclined to grant the request. And it looks like Councilman Bernt is talking. I don't know if there is something that he is trying to share. So, do you believe that that is feasible?

Eddy: Well, first of all, I went and drove back on that piece that goes through to Wainwright today and you know the roads are all in and they did not leave access. They have a really narrow pathway for like a fire truck to fit through, like just the width of one vehicle to sneak through that and the roads back in there are all completed and done for development. So, I don't see how they would hook Centrepont to that now. I mean there will be dwellings in the way by looking at the roads that are paved and utilities are all in today. I don't know how I could go to Boise and get Boise or ACHD or I guess that would be ITD to say no. I -- just from my years of development I think ITD, if a nursing home facility was built there, they would allow access. This is going to be a right-in, right-out only -- there is already a median there -- that they would allow access to that parcel. I don't think they can legally not grant somebody access for that kind of -- that size of a development personally.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Did I understand that you said there is an application already that's been submitted to the city of Boise?

Eddy: The application that we saw and I think Sonya saw showed an access on Eagle Road on their application, yes.

Perreault: And did you gather anymore information from them on when they are going to have their hearing and make consideration?

Eddy: I think it was approved. It expires in March. It was approved a year and a half ago with access -- it shows off of Eagle Road into their development. That's what you saw, too; right?

Allen: Can't remember -- excuse me, Mr. Mayor. Would you like me to respond?

Simison: Yes, please.

Allen: There is -- I believe that a copy of that is in our public record on this application file. I was just going to look it up real quick. I don't remember offhand. I assume that there was an access. I don't believe Mr. Eddy's property was the only access. I know it did have a stub to his property, but let me look for that real quick.

Eddy: If you look at that application they had a building jammed almost up right against that access point of mine to theirs. It was a really narrow driveway with the building straight ahead. But it definitely had Eagle Road -- their access was off of Eagle Road into the development. Sorry, I should have brought that with me. I didn't think that was material.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: Can you guys hear me okay?

Simison: Yes.

Bernt: Perfect. So, thank you, Mr. Eddy, for being with us this evening and thanks for the presentation. I -- you know, normally the path -- obviously conductivity is extremely important, especially in these types of development. Very familiar with this section of our city and it's -- it's -- I have always thought that the parking situation over there along that road south of Mr. Eddy's property going west to where the Brickyard road is behind Kohl's and Hobby Lobby, there is always cars there in the morning time and in the evening, so

that was one of the reasons why I didn't support the Delano project that we heard last year. It takes a high bar in my opinion for us to -- to issue some type of variance or -- like Mr. Eddy is asking for -- or permission from Council to issue what he's asking us to do. I take it extremely seriously, as does every single member of our Council. In this situation I agree with what Mr. Hoaglun said earlier with regard to the -- the -- Wainwright that goes from the road that is north of Mr. Eddy's property to the southern road that's south of Mr. Eddy's property. If it was one straight road where you are not dealing with drive-throughs with Mr. Eddy's property and the other problems that he's mentioned. The fact that he originally -- when we heard this project years ago I think this was mentioned as a concern as well. I remember specifically making a pathway or something -- we are talking about -- where we spoke about issues with -- with -- with public safety. In this regard I just don't see a way -- and I agree with Mr. Eddy with regard to allowing pedestrian access and bicycles and -- and that type of access, but I don't see a way in which you can have a car -- full of cars having access from that northern roadway to the southern roadway in a way that's safe. I completely agree. You're going to have to drive residents to a section of the property where folks are getting gas. I have seen kiddos, you know, buy their -- you know, that are walking, you know, from -- you know, from the area where you get gas over to the C-store and kiddos, you know, going astray. I also know the Eddy family quite well. They are good people and I know that whatever that is to the north, if it makes sense for -- I believe that he could potentially in the future maybe grant no access for vehicles. I doubt that just with the current layout that we are looking at and I understand staff's point of view of requesting denial. I mean it's code. I mean what they are asking for is -- is not in our code and I get why staff made the recommendation that they did, but knowing this property and how its laid out, it would be very difficult for cars to flow freely throughout that property in a safe manner. So, I would be -- from where I stand right now I will be supportive of Mr. Eddy's request.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I have a question for Mr. Eddy. So, you have developed this -- you admit there is a -- a safety issue already on your property with pedestrians. What can you do to make your property safer for pedestrians?

Eddy: Well, the biggest thing is not have that access point and more cars coming through there. I think we try really hard to make it safe. I think the -- the one thing is where that road and where that electrical transformer is and that pinch point where it's this sharp turn is where we have so much action and even down by our -- where our dumpster corral is for the car wash, we are going to have to an internal stop sign there today, because the cars, you know, come out of Hobby Lobby, it's lined up to get out onto Eagle Road, they come flying through me to get to Eagle Road and get out my access point and where the dumpster is at the car wash, which it doesn't show on here, we had a real blind spot there right now that we are going to have to have a stop sign internally. I think everything else with the mass of the site what we tried to do is make the site flow good for the customers we have. The Brickyard has added another element where people let their kids come

over unattended and walk over there and that's what scares me about that highway and that pinch point is they come across their nonstop all day and evening and they don't pay attention and we have a pedestrian pathway that we put in, it's marked, it's with pavers very well, but they just come straight across from that pedestrian way into the Brickyard and they don't pay attention to that, because it's shorter just to come straight. So, with my dumpster corral out there right next to where this access point is supposed to be, there is a -- we have a large dumpster corral to hide all of the crates and the different things we have. We have recycling out there. You walk and you pretty much have to walk right in that driveway before you can see if a car was coming through this access point from where our corral is and this doesn't show it like the other one did, Sonya.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just want to ask Sonya, is this what the current proposal is for that property to the north? Is that what we are looking at?

Allen: Mr. Mayor, Councilman Hoaglund, yes.

Eddy: Sorry. That -- sorry, I wasn't even looking at that. That shows how they came off Eagle Road and what I saw is their drop-off points and so on and it just went straight into a building. It wasn't really going to help their flow and the way they had their parking all the way around that building. You could circulate around that and get right back out to Eagle Road.

Perreault: Mr. Mayor?

Eddy: Thanks for sharing that. That's -- that's what is approved with Boise.

Allen: So, Mr. Mayor, they show the access driveway to the west through the Delano multi-family project that's planned for that site and, then, as you can see the stub to Mr. Eddy's property to the south.

Simison: Council Woman Perreault.

Perreault: Thank you. Mr. Eddy, I'm really trying to understand how you got here in the sense of -- so, you hit -- if I understand what you have been telling us, you had made an agreement with the property owner to the north that you wouldn't put that in, so that -- that the public wasn't trying -- excuse me. The public wasn't trying to access his property. So, you knew that that was going to be a requirement at some point, but yet all these -- all these business decisions were made to add all of these expensive elements to your property in a pathway that leads up to where you knew there was supposed to be a northern access and now coming back and saying, hey, now my property has all these impediments, I put them there, even though I knew that at some point cars were going to have to access this part of my property. Is that -- am I -- am I unfairly describing that?

Because that's what I'm hearing and I -- I -- I want to make sure that I'm not mishearing you.

Eddy: No. You are fairly saying it. But things change and it's changed with how the drive-through is setup and what's happened, you know, and, again, if this was a development that was to happen there, I don't think I have a problem with it, but we can't be guaranteed what's going to go there and with what's happening with apartments today and highest and best use, I could see these guys sell this, because they were all rah rah going to go to apartments and there is -- from a safety standpoint neither one of us would be smart to approve something with an access cutting through my development with that -- that kind of traffic. If it's a retirement home, something like this to where it's minimal traffic, it wouldn't be an issue, but I'm really concerned about what -- since you guys let this property -- didn't approve it in Meridian and now it's in Boise, we don't -- we don't know what's going to go there.

Perreault: Mr. Mayor, follow up.

Simison: Council Woman Perreault.

Perreault: Thank you. We do have a lot of conversations about traffic flow here on almost every application and one of the things we discuss is that usually folks will take the easiest route. They are going to go through somewhere that has the least amount of impediments. So, my anticipation is that you are probably not going to get that many people cutting through this property to get out of -- to get out of that development, because they just don't want to try to drive through your property and, however, if we decide to remove that access now we have removed -- now we have taken out a safety element that should be there in the case of an emergency or in the case of there really needing to be one, but -- but I truly think that with as many -- as many items that you have in that driveway to get out of your property, probably not going to drive through your property.

Eddy: I think people take the path of least resistance just like you said, like the kids that walk over every day, if they think they can get through quicker through me they are going to come through me and that's what -- that's what concerns me. That's what this is all about. I just -- we couldn't buy the property and get a square parcel. I got that dogleg in there and where that dogleg is is where all the fuel tanks are at sitting there and it's not a straight shot. The other part of that is when you come straight from that development you are going straight towards the gas pump and, again, if it was a low impact to use it's one thing, but if it gets into a high impact use, neither one is any good for the community in my opinion. I mean it would be better for me to have the traffic. So, I'm mostly speaking from the standpoint of safety and doing the right thing personally. I would be better to have all the cars come to me and fuel and shop with me, but it's not smart from a safety standpoint with what's already going on the site to have that kind of traffic and have a speedway right through my parking lot.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I know this is a public hearing, but while we have Mr. Eddy up here I would like to ask Deputy Chief Bongiorno about fire access and adequacy of the current site, about this cross-access easement, if there is a need for that. If you could weigh in that way Mr. Eddy could -- could respond as well.

Bongiorno: Sure. Mr. Mayor and Councilman Hoaglund, looking at -- I was just reading through Boise's letter and I'm not going to speak for the city of Boise, but knowing the fire code like I do typically when you have more than a hundred units you are required to have two separate accesses for that property, unless they are fire sprinklered. I believe it's -- you can go up to 200 then. So, my only question would be whether that access to Mr. Eddy's property would be considered their secondary access to the property, because the other two on the east side just go to residences. So, that would be my only question about the -- the accesses. Are they considering that secondary access and if they are I -- I would be agreeable to building the full access and putting up bollards, like Mr. Eddy said, and allowing, you know, classical bollards or whatever to allow foot traffic and bicycle traffic through there and, then, if it needs to be used as a secondary access for the fire department, then, we can remove the bollards, knock them over, whatever type of bollards that Boise would be agreeable to, along with me. So, that's my only question is -- is I feel it should be -- someone should check with Boise to see if the one access is enough for what they are looking for or if they needed that secondary access because of the fire code.

Eddy: Mr. Mayor and Council, I -- that would cost me more money to do that and from a safety standpoint I think I would be agreeable to pay to do that and put the bollards in. I think that size of assisted living it would have to be fire sprinklered, like the fire chief said, but I wouldn't be against doing that, then, that would allow pedestrian traffic from that site into my parcel or through to Hobby Lobby to my sidewalks that are safe that we do have and into my facility from that -- that and it covers the fire issue for myself and that development.

Simison: Council, any additional questions for the applicant? Okay. Thank you, Mr. Eddy.

Eddy: Thank you, guys.

Simison: This is a public hearing. Did we have anyone signed up to provide testimony on this item?

Weatherly: Mr. Mayor, we did not.

Simison: Okay. If there is anybody in the audience that would like to provide testimony, please, come forward at this time and state your name and address and be recognized for three minutes and if there is anybody online use the raise your hand feature so we can also bring you in for testimony.



Martin: David Martin. 23633 FreezeOut Road, Caldwell, Idaho. 83607. And I just happen to work for Stellar Senior Living, who owns the property to the north. So, I don't know that I need to make any comments to you guys. I welcome to answer any questions. I -- I would argue, though, that we at least have that emergency access. Right now it's slated for about 150 living units. It is sprinkled. The access to the west is still on the map -- is going to be -- it's going to be emergency access only. On the -- on the west side -- on the north side that goes to a private residence. That's that parcel that is blocking the Centrepont Way access onto Wainwright. And the access on the west to the south, that goes directly into the Delano Subdivision, which we don't want -- we don't want their traffic coming through an assisted living. It's like Mr. Eddy mentioned, the safety hazards for all of our seniors and everything else. So, we would love to have this access stay open just for emergency access at least. But, again, as Mr. Eddy implied, they come right now. It's crazy. Building costs are crazy. We intend to develop this into assisted living. If not, then, we can look at our options. But we don't -- we don't have any clear exact direction we are going to do that just yet. Right now we are approved for assisted living. That's what we do. That's our wheelhouse and it's a great spot for that. We do have access on Eagle Road. It's right-in, right-out and we barely got that approved with the traffic study, because it's Eagle Road and Eagle Road is crazy, so -- and it's just because assisted livings have very low traffic flow. The trip count was low enough they were able to approve. We were able to get a waiver I believe, too, because the access there is so close to Fast Eddy's and to Wainwright, it was tough with the deceleration lanes and everything else, so that's kind of a tenuous access. It was approved for the assisted living. Something with more units may -- that access may go away, which would, then, require that there would be an access to the south through Fast Eddy's.

Simison: Thank you. Councilman, any questions?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. I guess a question for staff, but please don't go. So -- just so I understand. So, if the ACHD approval of the access for Eagle Road runs with -- is associated with a property type and, then, we move forward on an emergency access with bollards this evening, then, what would really -- I mean what would happen with all these agencies and Boise if we -- if we approve that, he has no access, can his -- does he have to go for re-approval through the city of Boise if he changes the use or how does that work?

Allen: Mr. Mayor, Council Woman Strader, I'm trying to get all your questions. I'm sorry, I'm a bit brain dead tonight, so cut me a little slack. But -- so, it's ITD that's the road authority for access on Eagle. The city of Boise is the one that approved their site plan. I'm not sure if they -- they -- I'm not sure if they required a cross-access easement to be provided from the assisted living facility to Mr. Eddy's property. It looks like they -- assuming they required the access driveway. Not sure if they would have if we hadn't required it to be a stub on Mr. Eddy's property to their property. I'm not sure of their code requirements. Did I answer all your questions?

Strader: Yes. Mr. Mayor, one more?

Simison: Council Woman Strader.

Strader: Sonya, have you ever seen a situation where we could just say Mr. Eddy needs to put, you know, X amount of money into an account for this purpose and if in the future he doesn't, we could take that money and, then, have a right to ensure that some kind of access is installed to our satisfaction? Have we ever done something like that to try to solve a problem like this?

Allen: Mr. Mayor, Council Woman Strader, I don't believe we can do that. The only -- and only time we can take money is when we are holding up occupancy for a determinant time. From what I understand that's not something we have done in the past nor want to. ACHD sometimes does. It doesn't apply in this situation, but sometimes does road trusts that can accomplish those kind of things, but not in this case. And I -- and I failed to answer one of your other questions. I remembered afterwards. If the land use changes on this site, then, that would be required to go back through the city of Boise for a new approval.

Strader: Mr. Mayor, one more.

Simison: Council Woman Strader.

Strader: Okay. So, if -- if this evening we ended up approving this as an emergency access with bollards, which I'm not sure I'm there yet, frankly, I believe this was within Mr. Eddy's control and he did a little bit of do something and asked for forgiveness later. I'm not like loving that. But if we did that, then, would you be able to communicate with your counterparts in the city of Boise to like let them know the outcome here, so they can calibrate their future decisions accordingly? Or how does that communication work back and forth?

Allen: Mr. Mayor, Council Woman Strader, I can certainly convey that to them. However, they have -- they have approved this site development plan. So, I -- I'm not sure what they would do with that information, to be honest with you.

Strader: Fair enough. Thanks.

Simison: Counsel, any additional questions? Okay. Thank you. Is there anybody else that would like to provide testimony on this item at this time, online or in the room? Okay. Then would the applicant like to come forward for any final comments?

Eddy: Mr. Mayor and Council, I guess all I can say is I have my track record in Meridian. I built my first store in '91. I don't do things that way. I would never do that. I can promise you that. This was a little bit of an oversight by my engineer that didn't show it. It was never done intentionally. You build a site, you do what I did there, and, then, you see the traffic and you see what happens and I can sit and look at you straight up -- it's just a

safety concern for me, because I do care about the community. I care about Meridian and I'm only asking for a request. It's the right thing to do and that's all.

Simison: Thank you.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thank you. Yeah. I appreciate that. I guess my request back to you would be, you know, things change, I'm not sure what the outcome is going to be, but I would love to have someone who is a community partner, who is doing the right thing, love to see you do anything you can do on your site to try to fix some of the pedestrian safety concerns that you have identified. That would also be the right thing to do. So, I will trust that you will do that.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: I wouldn't mind if we had a discussion without closing the public hearing. There might be some questions that might come up or response that we might need. So, if that's okay with the rest of the Council Members to kind of have that discussion as we kick this around.

Bernt: Okay by me, Mayor.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: You know, our Uniform -- Uniform Development Code, the requirement for, you know, a cross-access agreement, easements, and everything is there for a reason and it's a very good one and -- and so when you think through this and take this request, you know, and look at it, it's not something we do lightly. The concern that I have with grant -- with -- with not granting the request to -- and do something other than having a wide open easement for access, is we -- we have got a bad situation there with the apartments, the traffic, the parking and we can't undo that and by granting it it's not going to make it better. Looking at the site and why I wanted to find out exactly where the gas tanks are, now here -- you know, there is -- there is the trash enclosures and he is doing things to make sure that's not visible to folks. It just changes a lot of things that just makes to me the situation worse and, like I said, our code -- it's a good thing to have that access easement, but in this one particular situation I think 99 percent of the time I would probably deny, but I think he meets the high bar of saying this isn't going to work at this particular location. I mean we can get into the reasons why we should have, could have, would have, but it is what it is and I just don't see that improving with -- with anything, even if it

goes to something else. I do agree, I think emergency access with bollards is something that is definitely needed for -- for those safety and for pedestrian access and I think even if you have assisted living you are going to have workers over there that makes it a lot easier for them to access the conveniences that his business offers that they can utilize. So, I think even though it's, again, money out of his pocket, it will certainly come back to him in the long run. But that's just where I am here tonight on -- on this particular issue. I just -- I just don't see it making it -- that situation better and it is a safety issue. It's -- it's not like most of the easements that we -- we have put in that are -- that are typical and for whatever reason it's -- that's what we are dealing with and that's -- that's where I am.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. I think -- I think I'm in the same boat. I would like to see the emergency access with the bollards and I am hoping that does improve the situation. It should be a high bar to -- to make these exceptions. Unfortunately, it's just kind of a bit of a conundrum with the Brickyard and I don't think that this will -- providing full access is just going to make it worse, but that being said, I really hope that the assisted living moves forward. I think it could get tough if it -- if it becomes a different use. This area is going to be really problematic. But that's not within our purview tonight, so that's where I'm at with the emergency access with bollards and I appreciate Mr. Eddy's commitment to improve the pedestrian safety in whatever way he can.

Perreault: Mr. Mayor?

Bernt: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: So, there is four of us here this evening and that's what makes a quorum. I'm not yet at the place where I am comfortable saying that we waive this requirement, so -- however, for the applicant's sake I -- you know, I don't -- I don't want to cause him undue difficulty with us in any way. However, at the same time to be really candid Mr. Eddy has developed multiple properties in our area and he knows how these work and I'm -- I'm sorry for the oversight, I am very concerned about cutting off access to that. So, I'm going to -- I'm going to put that out there and if there is anything else I suppose that could be said or discussed or presented that might help me get over the hump to agree with the emergency only access, I -- my ears are open.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I think this evening's dialogue has been crystal clear. I don't think that there is anything more that can be added or anything that can be subtracted from this

conversation at the end of the day. This is no secret. I'm not a big fan of this area of our city. I think that with all of -- with Brickyard and with Delano, this is -- I mean I have -- I have always had serious concerns with this and -- and I completely agree with -- with Councilman Hoaglund's assessment of the situation. To -- to approve what Mr. Eddy is asking for is an extremely high bar. I mean especially in the commercial area where we rely on connectivity. I think it's extremely important. You all know why. In this case it just, honestly, in my opinion, it doesn't make sense and we are making a problem a bad -- I'm going to say a bad problem, but a problem that I don't really like. I think by, you know, opening up this -- this -- this -- this area for -- you know, for -- for traffic use, auto use, I think would make the problem even worse. So, I'm in favor of the development modification that Mr. Eddy is asking for and if there isn't any further discussion, I -- I would be in favor of closing the public hearing and voting on this issue.

Simison: Was that a motion?

Bernt: Oh, more than welcome to make a motion, Mr. Mayor. I move that we close the public hearing.

Hoaglund: Second the motion.

Simison: I have a motion and a second to close the public hearing. Is there any discussion? If not, all in favor signify by saying aye. Opposed? The ayes have it.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

Bernt: Mr. Mayor? Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I -- before I make a motion, included in my motion I'm going to include an emergency access with bollards that Mr. Eddy has agreed to. Is there anything else that I have missed that I need to add to my motion?

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Mr. Mayor and for legal counsel, is there a time frame that we should be putting on this or, Sonya, staff, is there a time frame? I know those bollards would have to be acceptable to the fire department, but as far as when this would be completed by? I mean if we don't have a date certain it could be five years from now, but --

Nary: So, Mr. Mayor, Members of the Council, as Sonya stated earlier, I mean this is holding the C of O; right? He has a temporary C of O now. If you want to require a date -- I don't know, Sonya, if there is a way to track a specific date, like six months or whatever the time period will be. I have no idea how long it would take to construct the emergency

access there. So, that's a question I have for Planning, because she would be responsible for verifying it was completed by the time period.

Bernt: I can't -- I can't hear. Excuse me, Mr. Mayor. I apologize to interrupt. I can't hear Mr. Nary very well.

Nary: Apologize, Council Member Bernt. What I said was that if we put a specific date -- because, really, right now the burden is on Mr. Eddy if he wants a final C of O to construct this right. Now it -- it can be bonded for, but if you want to put a specific date it really is incumbent on Planning on verifying that it's completed by a certain date. So, I don't know they have a method to do that in the Accella system and that's the only thing I was asking of Planning.

Bernt: Okay. Got it. Thank you, Mr. Mayor.

Bongiorno: Mr. Mayor?

Simison: Deputy Chief.

Bongiorno: I was just going to say I -- I have been typing an e-mail in anticipation as we have been -- as you have been talking. So, as soon as the motion is made and approved I will send the e-mail to Mr. Eddy and Sonya.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Isn't the point of leverage that the city has for -- sorry, it's kind of a crude term, but the issuance of the COs -- I think probably the motion should reflect that this would take place before issuance of the final CO.

Simison: That would seem to be why we are here.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: So, it sounds like there has been several requests for an extension and temporary certificates approved. Is this the last that will be permitted?

Allen: So, Mr. Mayor --

Perreault: And what have been the -- can you share with us the reasons for the past approvals?

Allen: Mr. Mayor, Council Woman Perreault, Council, this has been the reason for the previous extensions on the temporary C of O there. They currently don't have a C of O. It's expired. I'm not sure why the building department didn't renew it. I know they were waiting to issue a final C of O until this issue was resolved one way or the other. But from what I understand their temporary C of O is no longer current. So, something needs to be done. The temporary C of O needs to be extended or if this requirement is waived, then, the C of O will be issued.

Simison: It sounds like we are going to need a temporary C of O regardless, because they shouldn't be in there if they don't have a temporary even. So, that's a separate issue that needs to be addressed. We can take care of. But one of my initial questions was can you have a temporary C of O forever? So, again, kind of going back to the question like when does the temporary C of O cease to be an option or an opportunity, under what ordinance, code, et cetera? Have we hit that point?

Nary: So, Mr. Mayor, Members of the Council, from -- from my understanding with the building department, I mean they will give specific deadlines and dates to complete these and they are looking for milestones of some sort. So, I don't know whether or not, you know, this winter I don't know whether 90 days would be reasonable. Certainly six months would be reasonable, in my opinion, to be able to complete the work for that. After that, again, if no further C of Os are directed by -- by this amendment that no more C of Os could be granted -- temporary C of Os could be granted after six months, it would require Mr. Eddy to come back within less than six months to say I cannot complete it because of X, whatever that X may be, and you have to hear it again and decide. So, that's -- that's probably your best bet to get it completed within a reasonable period of time, because he could not -- if -- again, if his C of O gets revoked that's a whole different problem that he certainly doesn't want to have and neither does the city. So, frankly, that's probably your best way to do it, to get some finality to this without it being bonded and, then, having to revoke bonding. Mr. Eddy doesn't want that either and neither does the city. So, that probably is the easiest way to move this along, get some finality, get some eyes on it and, again, put some direction both on Mr. Eddy as the owner and the City with him in conjunction to get this done. That would be the best in my opinion.

Simison: So, I'm sorry, Mr. Nary. I am so confused. You said that they weren't eligible for the temporary C of O, but don't they need to have a temporary C of O?

Nary: No. They -- I mean right now from what it sounds like they have expired. So, I mean --

Simison: I guess my question is can you have a business that's in a temporary C of O for 20 years, if the building department continues to issue them?

Nary: In theory under our code it's not specific as the building official's call. Our past practice has been we don't allow that indefinitely. So, they do want finality to it.

Simison: Understood. But it's not illegal.

Nary: It is not illegal.

Simison: Okay.

Nary: The building officials can allow it.

Simison: That's all I wanted to have verification -- okay.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: If the Council waiver doesn't pass what happens with the development agreement modification? How does that affect the C of O? Is the applicant permitted to submit another development agreement modification if they -- if they would have an alternative solution to the problem? Can you help me kind of understand how all that would tie in?

Allen: Mr. Mayor, Council Woman Perreault, if -- if Council denies the proposed development agreement modification then the current development agreement provision stands. It would be up to the building official at that point whether or not they choose to extend that TCO or not. If they don't -- I mean the applicant needs to construct the driveway and provide a cross-access easement. If they still don't wish to and want to provide something alternative to that, as you -- as you mentioned, then, certainly they could submit a new application. From staff's point of view --

Hoaglun: Mr. Mayor?

Allen: -- preferably that we get this handled now and not be back here again in another -- you know. So, I don't know if there is any alternative, though, that the applicant would like to pursue, if it would -- you want to continue this or not? I don't necessarily think it would, but --

Hoaglun: Mr. Mayor?

Simison: Mr. Hoaglun.

Hoaglun: I was just going to say --

Allen: I think a decision just needs to be made, quite frankly, on whether or not a cross-access -- the provision should be waived or not.

Hoaglun: Mr. Mayor -- and I think Sonya is correct. We just needed to deal with the issue that's before us and it is a request to -- to have a development agreement modification to not do that and we are going to require, though, an emergency access with bollards that are acceptable to the fire department. I think a time certain of at least six months -- that's



one of the things we don't control and Mr. Eddy won't control is availability of construction folks and materials and all those things that we know that's going on in the world right now, but if that is an issue he can come back and say that wasn't reasonable, here is the situation I'm dealing with, and we deal with it then. But I think six months and, then, see where we land after that and, then, we just move forward.

Simison: That was close to a motion.

Hoaglund: Well, I thought Mr. Bernt was going to make that motion.

Bernt: Go for it, Brad. Go for it. Go for it.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: After considering all staff and applicant testimony -- and public testimony, I move to approve File No. H-2021-0068, the development agreement modification as presented in the staff report for the hearing date of November 30th, 2021, with the condition that an emergency access only is created with bollards that are acceptable to the fire department for their access purposes.

Bernt: Second.

Hoaglund: And -- and that the work be completed, if possible, within six months.

Bernt: I will second again, Mr. Mayor.

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

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Just want to make sure we are formulating it in a way that it technically works. So, the staff report recommended denial. So, I just want to make sure we are approving the waiver and not the staff report, because I think that -- and maybe I'm just -- maybe I'm being overly persnickety. I apologize. Mr. Nary will set me straight.

Nary: Mr. Mayor, Members of the Council, no problem, Council Member Strader. So, what's going to come back to you is findings to that effect is what your motion is and, then, we will prepare an amendment to the development agreement that Mr. Eddy will sign and, then, he will, then, work with the building department on the temporary C of O to get it done and, again, obviously, if he can get it done sooner than six months the better for him, better for the city, but that should cover the -- the necessity, as Council Member

Hoaglun stated, but, no, I think we have it covered that we will be able to bring back the appropriate findings and amendment.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: I might answer Council Woman Strader. So, to cut through the legalese, the applicant requested the modification to the development agreement, so that's what we are approving tonight with -- with our additions to it, so -- yeah.

Simison: Is there further discussion?

Bernt: Nope.

Simison: Clerk will call the roll.

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

Simison: Three ayes. One no. Motion carries.

MOTION CARRIED: THREE AYES. ONE NAY. TWO ABSENT.

Simison: Council, do we need to take a quick break? Okay. We are going to take a ten minute break and we will pick back up at 8:15.

(Recess: 8:06 p.m. to 8:16 p.m.)

**17. Public Hearing Continued from November 23, 2021 for Regency at River Valley Phase 3 (H-2021-0059) by Bach Homes, Located at 3270 and 3280 E. River Valley St. and 2480 N. Eagle Rd.**

- A. Request: Modification to the existing Development Agreements (Inst.#113005608 – SGI and Inst. #2020-062947 – Bach Storage) to remove the property from the existing agreements and create one new agreement for the development of a 134-unit multi-family project.

Simison: All right. Then we will go ahead and come back from recess and go into our next item, which is a public hearing continued from November 23rd, 2021, for Regency at River Valley, Phase 3, H-2021-0059. We will have staff comments for this public hearing.

Allen: Mr. Mayor, I'm having technical difficulties here. All righty. Thank you. Mr. Mayor, Members of the Council. Make sure I'm on the right project here. This project was

continued from October 19th Council meeting to tonight's meeting in order for the applicant to have time to address concerns discussed during that meeting pertaining to traffic generation from the proposed development, impact to West Ada School District, sustainability of the multi-family development on this property and if the new phase would meet UDC standards for open space amenities, parking, and et cetera. The applicant is here tonight to address those topics of discussion for you.

Simison: Thank you. Council, any questions for staff? Ask the applicant to, please, come forward.

Whallon: Thank you, Mayor, Members of the Meridian City Council. My name is Brandon Whallon. Physical address is 25 South Ruby Street, Boise, Idaho. 83706. This is a follow up for the meeting that we had on October 19th. I'm not sure that this is the PowerPoint that I put together, but we can just talk off the --

Allen: Brandon --

Whallon: No. This is fine.

Allen: No. I have -- I can get it up real quick here. I thought you had one.

Whallon: No. No problem. So, this is a response to the concerns that were raised by the Council at the October 19th meeting, specifically the traffic that would be generated from the new phase and the safety of the existing access on River Valley Drive. The additional student load to the West Ada School District. The existing development agreement modification and the creation of a new development agreement. Suitability for a multi-family housing project located on Eagle Road. And if the new -- new phase could meet the development code requirements, open space, off-street parking, landscaping, open space and site amenities through the conditional use permit review process. So, this is the existing main access point to the Regency off of River Valley Drive and so the first point of discussion is the modification of the development agreement. This is the property that's just north of the existing mattress store. You can see the right-in off of River Valley Drive and there was an A and a B component associated with the development agreement for this parcel. On the right-hand side you can see a retail. It would be just a speculative retail building or to the left you can see a smaller speculative retail building and a restaurant with a drive-through. That was the development agreement that was approved for the southern most piece of property. The other development agreement that is in place was for the self storage unit, as you can see here, on the northern piece of property. Bach Homes has owned these properties for some time. They did try to market them to various commercial entities. They would go under contract, but when it came time to lease and/or sell the property the people realized that there were just limitations and restrictions associated with access that would not make it functional or profitable for them and so they would not close on the contract and so Bach, then, re-examined it and said if we aggregate those two parcels and remove the existing development agreements and come forward with a new development agreement for phase three of the Regency, they could get 134 living units on that property and so

that's what our request is tonight. On the left-hand side you can see the E-shape of the building. That would be five stories in height. On the interior of that you can see areas where they have allocated for amenities, fire pits, barbecue areas and there will also be, as was discussed in the last hearing, an access road that goes from north -- from River Valley Drive northward through our properties to the Great Wall restaurant and, then, the property to the north of that is going to develop and the approval for the Great Wall restaurant is a temporary access point to Eagle Road and when either the backage road, as Caleb called it, develops from River Valley going north or from the property that is north of the Great Wall, when either of those two properties were developed and that backage road was created, the temporary access to Eagle Road would, then, be terminated and so we have had discussions with Caleb and JoAnn Butler was representing the owner of the Great Wall and the property to the north, we told them that we have seen great utility in that backage road and that new access point to the north of the Great Wall restaurant being improved, because as Ms. -- Council Woman Perreault asked at the last hearing, if there is only a right-in, right-out to this phase it's going to be very difficult to get on and off the property, but if people can go north on Eagle Road past the Great Wall into the new development and, then, take a write off of Eagle Road and, then, take a right onto this backage road, that provides them another opportunity off of Eagle Road to get into this property. You also have the right-in, right-out directly off of River Valley and, then, we are also planning to remove three parking spaces between phase one of the Regency, so that direct vehicular access can go from phase three to phase one. So, it really diversifies the number of locations that people can come on and off the property and we have brought -- we did generate a scope -- a traffic study with ITD and it was submitted and approved by ITD and we have the traffic engineer here tonight if you would like to ask him any specific questions with regards to traffic on the property. This slide just shows the amenities that will be provided on the site. Firepits. Hot tubs. Kind of an outdoor picnic area underneath the pergola. We are looking for this -- this development to be for young professionals and so those are the types of amenities that we are trying to provide on the property, but we are looking to provide an easement to phase one and phase two. All amenities that are provided throughout the site, the clubhouse, the pool, the spas, the gym facilities, will be available to any tenant from phase three as well. So, it will meet all of the amenity standards standalone, but they can also use all of the existing amenities provided in phase one or phase two. And this is the backage road that I was referring to. It will be a direct route from East River Valley Street around -- along the backs of the -- the mattress store where we are proposing phase three of the Regency and the Great Wall restaurant go across the slough that's being -- I think being underground at this point in time, that water channel, and, then, there is a proposed access point there to Eagle Road that we think will be a great access point for phase three of the Regency. This is a depiction -- another question that was asked how safe and effective is the main access point to Regency One and so I went and looked at the Idaho Transportation Department's safety dashboard and they show crash history data going from January of 2016 through December 31st of 2020 and there were four documented property incidents at that main access point. So, that categorizes a fender bender and no physical harm or physical injury. So, with that we would respectfully request to remove the existing development agreements associated with the one property that could be retail or retail with a drive-through restaurant and the other parcel, which was identified and approved for self

storage, we would like those two development agreements removed and replaced with a new development agreement for phase three of the Regency at River Valley creating 134 new residential units and with that I would stand for any questions that you may have.

Simison: Thank you. Council, any questions?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thank you. Yeah, I have a couple questions. The amenities looked really interesting. Where would those be located? Are those on the roof of the building? Are they in a plaza in between the building? Like help me understand that piece.

Whallon: If I could go back -- remember the building is shaped like an E and so there would be open areas within that building and it was within that area inside of the -- one more slide and I think we are there. Yeah. On the left-hand side there the --

Strader: Okay.

Whallon: So, the building was kind of wrapped around that outdoor amenity area.

Strader: Like kind of a plaza?

Whallon: Yeah. Like a plaza.

Strader: Got it. And, then, I think you mentioned it's going to be five stories tall. So, I'm assuming that that's elevatored. Have you worked with the fire department at all in terms of, you know, now it's like a higher building there should be different requirements?

Whallon: Absolutely. Yes. Mr. Mayor, Council Person Strader, yes, it is -- we will meet all UBC, IBC standards and this building -- in the past Bach Homes has built many different buildings and one or two would have an elevator. In this instance one or two elevators would serve the entire building and so it does provide that service and capacity and kind of cut costs as well.

Strader: One more, Mr. Mayor.

Simison: Council Woman Strader.

Strader: So, I'm assuming it's not stick built then. Are you -- just curious what kind of construction materials you are using considering the height of the building.

Whallon: Mr. Mayor, Madam -- Council Woman Strader, I'm not sure if it's type four or type B. The -- because it is five stories that is a threshold where you have to go to a different building type. They are going through the conditional use permit process. Once

they have the conditional use permit approved, then, they will generate the construction drawings, submit for building permit review and the building department will ensure that we are meeting all of the codes for a five story building.

Strader: Thanks. That's helpful.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Mr. Mayor and -- to talk a little bit more about the conditional use process, the site amenities will also be part of that consideration when you go through and you are proposing that, you know, have to have cross-access to the other phases, they can use those amenities, and we have talked before about the site and some of the constraints you have space wise for amenities and hoping that -- but if -- if that does not come about, if staff looks at it and says, you know, you need to have, you know, the required amount of amenities, where do you -- how do you -- how do you move forward with that? Is that doable or -- or --

Whallon: Sure.

Hoaglund: -- just kind of concerned about not being able to meet our code requirements if that's -- that's what's required for that particular site.

Whallon: Sure. Mr. Mayor, Council Person -- Councilman Hoaglund, as I understand it through your UBC -- or UDC, Uniform Development Code, the number of amenities required is based upon the number of units you can provide and so our architects are looking at how much area they have and can they get one amenity? Can they get two amenities? Can they get three? They are saying they can get four amenities on the property, which would allow them to get 134 units. So, they are going through the conditional use permit process and they have submitted that material to the staff for their review and so I think that if staff may come to the determination that that doesn't count as an amenity, you only have three, then, our unit count comes down. So, our unit count -- it's a standalone project. It has to meet the requirements of the Uniform Development Code or -- yes. So, based upon the number of amenities that they can provide on site will dictate how many units are able to -- on the property, it stands alone, and we are just saying, hey, you people in phase three if you would like to use any of the amenities in phase one or two you are more than welcome to, but unit three -- or phase three will meet all of the Uniform Development Code requirements through the conditional use permit process.

Hoaglund: Mr. Mayor. Thank you for that response. It sounds like you do have a plan, so thank you.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I have several questions, so I would like to ask your permission to go through them back and forth.

Simison: Have fun.

Perreault: Thank you. My first question is now that you -- now that you know that there is going to be a road that's going to access further to the north -- north of Great Wall, did the -- did the owner, developer, applicant -- you and your team make any consideration of -- of potentially taking this back to commercial use? I just -- I want to really understand before we forego this high traffic important corner that we -- that you have exhausted all the options.

Whallon: So, Mr. Mayor, Chairperson Perreault, we have considered it and they still think that the access that is provided -- I looked at the -- the traffic study. There is 55 trips in the peak p.m. hour. Less than a car per minute. That's suitable for somebody who is going to their home, to their residence, they will go through a little bit of a diversion and go a little bit out of their way. Not going to be a big problem. But somebody who is looking for commercial uses, who wants to do some shopping, they are going to make their decision based upon how close they can park to the front door of that business. The path of least resistance I think we have heard earlier this evening. And so it's just our opinion that we are still not going to be able to satisfy the access requirements of a commercial use on that property. They have tried -- they have had -- they have held the property for three, three and a half years. I know this is the -- the backage road going to a new access point on Eagle Road does change things a little bit, but we have talked internally and we just don't feel that it's marketable commercially for retail or services.

Perreault: Can you shed some light for us on that concept plan having been put together in the first place, if there was just not due diligence done or if there is some factors that have changed since then as to why commercial would have been originally proposed. The state regulation for right-in, right-out and difficulty getting access to Eagle Road hasn't changed for quite some time, so -- so, Mr. Mayor, Council Woman Perreault, it was time. They got those parcels at different times and so they got the first parcel and we are looking at opportunities and it wasn't big enough for multi-family residential development and so they started the speculative retail, just a strip and, then, they thought maybe they could entice a restaurant user to come onto the property and so they market it that way. Got the development agreement in place and, then, the other parcel to the north became available and, again, at that point in time it was -- there wasn't -- the access wasn't defined and so they said, hey, it's still not going to function, you know, for -- as a storage unit the access would have been fine, not generating very many trips, but my discussion with Ms. Butler was a week ago and -- and she was asking us to have a uniform -- or a unified request before the City Council for the access to be emergency use only and for there not to be any cross-connectivity from Eagle Road into phase three of the Regency and we said that we -- we don't think that it's -- it's going to be very difficult to get on and off the property without that access -- that right-hand turn off of Eagle Road and so we wouldn't

-- we decided we were not going to participate in a uniform -- unified request of property owners asking for that road to be blocked for general use. We think it provides all of the good reasons why you want connectivity between different uses is present in this location and we just thought it was -- it was paramount, it was very important for the success of this, even multi-family residential development, to have that right-hand turn off of Eagle Road and that's preserved. The Great Wall property loses it, but it moves just a little bit to the north and, then, they can still -- their customers can -- I think that's changing. It's going to be an antique store and something else. So, it's not going to be a restaurant, it's -- it's not going to be a restaurant, but we think it will be a great new neighborhood.

Perreault: When -- what is the timing of the development of that in relationship to what you are planning? The road.

Whallon: Yeah. Mr. Mayor, Chair Woman Perreault, we think they are ahead of us now. We thought we were ahead of them, that we would be further along through this process, but I think that they are looking to develop and have their new store in 2022 -- late 2022 and we don't think that will be even turning around until 2023. So, they are at least a year ahead of us.

Perreault: Thank you. Can you bring up the slide that shows the traffic flow with the arrows? So, over on Records Avenue it looks like there is an access to phase one from that location. Does that loop around and eventually connect to the new backage road? And is that a way for phase three to get out to Records Avenue without having to use Eagle Road?

Whallon: Yes.

Perreault: Okay.

Whallon: Mr. Chair, Madam -- or Council --

Perreault: Council Woman.

Whallon: Council Woman Perreault -- yes. And it's maybe tough to see, but if I can get the -- this drive aisle will be common. People can come around this way, they can come onto the property here, and this is phase two back here or they can drive in this way and this is going to be our connection, we are going to take out three parking spaces and this will be the connection from phase one to phase three. So, people can make a left-hand turn in and come back this way to get into phase one. They can go a little bit longer to make a left-hand turn and come back this way. If they are coming westward on East River Valley Street they can make a right-hand turn in and either one -- any of these three access points they will be able to get across this connection right here to phase one. Or phase three. Excuse me.

Perreault: Thank you. As I shared last time, anyone who is making a left is going to head out to East River Valley Street. That's just -- they are not going to go north on the backage



of the road and try to head out that way and make a U-turn, they are going to use East River. So, I still anticipate a significant amount of traffic through the first and second phase. I don't think that that's going to go away. And we talked about, you know, the traffic -- the traffic study -- first of all, we didn't get a copy of it. We got one little page of it that was in your letter that really didn't provide enough information. Secondly, I had asked about information regarding the traffic flow within the development of phase one and phase two at the last meeting, meaning I wanted to know if there were any concerns with traffic internally, any reports of accidents. I don't know if your property management team keeps track of those things or not, if there is cameras, that -- that watch that, but, again, I have driven through that numerous times. There are sections in there where you cannot get two cars going side by side. It's -- it's narrow and when people are backing out you sometimes cannot see and I just -- I think that just phase one and phase two the -- the drive aisles that go around that are very narrow and I don't -- I just have a lot of concerns about adding potentially 200 more cars coming in there, if they are already narrower as they are. So, I was hoping that I would see more information about traffic flow. Any -- any concerns regarding space accidents, anything along those lines, within the existing development, not just on East River Street. The photograph that you provided of the entrance to the -- of the main entrance is actually taken from across East River Street. If you get up closer to the entrance it certainly isn't that big and doesn't look that big and when you drive around that little loop, you drive around that center piece, it's -- it's not always, in my opinion, the safest way to -- to be accessing that. So, the way the traffic is you are supposed to -- if you are off to the right come around the circle and head back in when you are heading west and so you are going to have individuals that are continuing to do that that are going to be heading towards phase three.

Whallon: Mr. Mayor, Council Woman Perreault, I think that there is a learning curve, much like any roundabout, that people the first time they come onto the property they might be a little bit confused on how it actually operates, but their second, third, fourth time they show up they understand that they go around the circular landscape area and, then, they can stay on the right down a drive aisle. I think that -- I think the development meets all of the drive aisle width requirements. It's not anymore narrow than any other multi-family housing complex, because that's dictated by the fire department meeting their minimum -- I believe it's 24 foot wide drive aisle and so I think that it's similar to any other multi-family housing project in the -- in the city.

Perreault: Thank you. I will ask our -- I will ask Chief Bongiorno if he can comment on whether that drive aisle is the correct width if you include the additional 134 units. Hopefully he will be able to share that with us. Thank you.

Bongiorno: Sure. Mr. Mayor?

Simison: Deputy Chief.

Bongiorno: Mr. Mayor and Council, for a multi-story building like that drive aisles need to be at least 26 feet wide for ladder truck access.

Perreault: Thank you. Is there a way for us to confirm that that's the case?

Whallon: Mr. Mayor, Madam -- Chair Woman Perreault, I don't have the --

Perreault: Sorry. Council Woman.

Whallon: Council Woman Perreault.

Perreault: It's okay.

Whallon: I would assume that Chief Bongiorno ensured that those were 26 foot wide drive aisles when they built that. I think this project was built back in 2014 maybe. Phase one. So, I -- I don't have a measurement and I do have the traffic consultant here and maybe that's something he could speak to, but I was operating under the assumption that when the construction drawings were submitted they were reviewed and it met all minimum standards for drive aisle widths.

Perreault: Well, they -- it would have for that size of project, but now we are adding another 134 units, but we are using the same width of drive aisle. That's the question I'm asking. Do you -- do you understand what I'm saying?

Allen: Mr. Mayor, may I address the question?

Simison: Yes, you may.

Allen: Council Woman Perreault, it -- when we do development agreement modifications -- just to back up a little bit -- we only require conceptual development plans and this is just for the -- changing the use of the property from what was previously approved. Detailed review of the site plan takes place with the conditional use permit application, which is submitted after assuming the development agreement modification for the change in the use and the development of the plan gets approved. So, we will do that evaluation at that time and all the agencies that are involved do submit their comments at that time and any changes will -- will be required to take place before they can develop the site as they want. If they can't comply with those changes, then, we don't approve their development. So, anyway, I just wanted to clarify if that helps at all and at this time it's not a detailed review, but they do have to comply with all of those requirements and life safety stuff at the time of development.

Perreault: Thank you. I appreciate that.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: If Council Woman is good then -- I have just a couple that just came up for me. So, I have a question about pedestrian connectivity. I'm a little worried and I think what's

so hard for me with this -- it's so -- it's so backward to me. We are doing a DA modification and, then, we are going to have a CUP process and the City Council may not see this again. That's why you are getting all these like detailed questions that your answer is like, well, in the CUP process we will handle it, but for us this isn't -- this is like the last time we might see this. I like totally hate that as a control freak type personality. So, talk to me about how you are going to try to ensure there is pedestrian connectivity between phase one and phase two and phase three.

Whallon: So, Mr. Mayor, Council Woman Strader, as you can see -- and its light, there is a sidewalk network. You can see the striped painting or the change of use of materials for pedestrian connectivity from the building here over to phase one and, again, there is another pedestrian connection and, then, there is also a direct pedestrian connection out to River Valley, so -- and, then, as well as from the front of the building out to a ten foot wide landscape and pathway that will be out along Eagle Road. So, there is a network of connectivity for pedestrians throughout phase three tying it to phase one.

Strader: Sorry, Mr. Mayor, if you will permit me --

Simison: Council Woman Strader.

Strader: -- a series of questions. So, if you are trying to go from like the pool or like the central amenity in the phase one, phase two part, it looks like there is a pathway, but, then, I'm assuming these are carports or something. I can't really tell. There are white kind of rectangular sections here and, then, it just occurs to me sort of odd that there is no pedestrian entrance that sort of center -- centrally accesses the building. Like I'm just wondering if -- if you are -- if you are in phase three and you want to go to the pool or whatever the central amenity is in phase one or phase two, is there a more direct way of getting there?

Whallon: So, Mr. -- Mr. Mayor, Council Woman Strader, there -- there is breaks in those carports. That's what you are looking at is the roof of carports. But there are breaks that pedestrians can go through and get on to the pedestrian network that's associated with phase one. It is somewhat of a retrofit. There wasn't the intention of tying phase one to the west of a new phase, so we are looking for opportunities to create a network from phase three that will tie into phase one and, as I stated, it is a retrofit, but we are going to do the best we can to make a safe and fully functional non-motorized connection throughout the development.

Simison: Council Woman Strader.

Strader: Thank you. Yeah. I guess I -- I would hope -- because it looks like you have a nice kind of pedestrian connection here facing the middle of the E, if you will, and, then, maybe you could get rid of a couple of these carports or something. A couple things. So, have you thought about -- there seems to be like a traffic situation that Council Woman Perreault has alluded to. Have you guys thought about maybe directing your traffic one way, you know, kind of circulating through this site? I mean it occurs to me as an option

for you. I don't know if that's something you guys have looked at. Maybe like get a circulation pattern going in a clockwise direction or something as a way to help. So, curious if you have thought about that and maybe we could hear from your traffic guy. And, then, the other question for the traffic expert -- maybe just a parking question, you know, how utilized is your parking. Are you charging extra for carports? Do you have full utilization of those? Is that part of why you have so much parking on the street? Help us understand how you are going to try to make sure that the, you know, roads are not totally getting blocked.

Whallon: So, Mr. Mayor, Council Woman Strader, all parking required for the development is on the property and we try to keep it about 1.7 parking spaces per unit. We -- we want it to self park. We don't want to impose our parking on other people's property. That creates contention. Parking under a carport is a premium and so that is something that's an add on as associated with their base rental unit and, then, they can have a reserved parking space, they can have a reserved carport parking space, they can also have a garage or they can just choose to be an open parking. So, it's -- it's -- it's somewhat of a regulated entity within the development and people kind of gravitate towards paying a little extra for a parking space that's closer to their front door and so it's a --

Strader: Yeah. I totally get that. I, myself, have owned like small multi-family units, but what I -- what I want to understand, though, is -- is your parking being fully utilized and do you have capacity -- like do you have the ability to flex your pricing on your carports or whatever people are subscribe -- subscribing to to try to make sure that that parking you have is being maximized in a way that makes sense if you have a traffic issue?

Whallon: So, Mr. Mayor, Council Woman Strader, it is a very fine balance and we try not to overpark, because, then, that's just wasting space time -- or space and money for parking spaces that's underutilized and we also don't want to be underparked, because, then, we run up against imposing our parking on our neighbors. The one thing that does kind of benefit, if there is -- if we have underparked a space -- typically it's full at night when other businesses are closing and, then, everybody's getting up, going to work, typically before some of those businesses open up, but we don't like to rely on that. We do not like to impose ourselves on other people. We try to hit it just right. We are where we are providing just enough parking to meet the demands on the property.

Hales: Mayor, Council Members, my name is Ryan Hales from Hales Engineering. I will be before you tonight and maybe in the future on a couple more projects that we are working on here in the area. I am a civil engineer by background. I'm a -- I also have an AICP certificate, so I also -- we do planning and engineering. So, we do a lot of transportation masterplans. The question that you asked, Council Member Strader, is a great question. When we look at some of the large facilities that we have worked on -- we just finished Key Arena up in Seattle and doing some traffic analysis up there, sometimes we will look at one way circulation where we -- we are circulating a large amount of traffic in one direction and it becomes a very efficient way to move traffic. Through a project like this we are much better to have traffic moving both directions, just because the -- the parking is 90 degrees and so it's more efficient for traffic moving in and

out, but it also creates what we call side friction. I think it's already been noted by Council Woman Perreault? Perreault? Sorry. Is that right? Great comment. When we -- when we look at traffic what we have is that side friction slows the traffic down through a project like this and so if we do have a crash typically those crashes are low impact, low speed and low severity, which is all good and we -- we appreciate that. The question about the amount of traffic going through the project -- typically a two lane road can handle up to about 10,000 ADT. Because we are in a parking lot we are, obviously, a lot lower. You have got a lot more side friction, a lot less things happening. The additional traffic from this project will be somewhat minimal as an addition onto what's already there and we are planning a lot of this traffic mostly to move north-south through the area, except for those left turns that you spoke about. Very astute in your analysis. We have looked at it and we think the traffic will flow fairly well through this project. We know the pinch points are really where we get out to State Highway 55. I grew up in the area here and I used to travel a two lane road up to my grandparents cabin up in Cascade. We would get in the car and travel along and I have seen this grow -- this whole valley has grown in such great ways, but this -- this road is a tremendous road. It's carrying a lot of traffic. We are talking about 40 to about 42 thousand cars a day. That's a lot of traffic. When you look at a five lane road -- a five lane road capacity is somewhere between 30 and 35, thousand ADT. We actually have a lane imbalance on this road. We have three lanes in the northbound direction and two lanes in the southbound direction through this segment. We are handling a lot of traffic, but it is -- it is kind of at its peak. The analysis that we ran was for years 2021 and 2023 and under full build conditions we can handle that traffic. There may be a point in the future where we need to change the timing of the signal in the green phase that is in the westbound direction to clear out the queues to allow left turns to come out. Anybody who is turning left would have to come out the main access of the project and, then, meander over to make a left turn at the light. There are dual left turn lanes in that location, which makes it a lot more efficient and a lot more available to do. There is very few through movements going westbound through the intersection and the right turns move fairly quickly with the light and they can -- they can diminish quickly. That being said, it looks to be a very efficient project getting the traffic in and out and especially with the cross-access easement going to the north. Again, we don't anticipate a lot of traffic cutting through there, but we know there will be some. But, again, with the side friction it will be slow moving. Any other questions, Council Members or Mayor, that I might be able to address?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Is there any anticipation that visitors to the commercial to the south are going to use that backage road to get -- to make a right more quickly? Sometimes that River Valley Street gets backed up, especially during Saturdays and Sundays -- high -- high shopping days times.

Hales: Yeah. Great question. We anticipate there will be some cut through going through, but we think it will be minimal, again, because of the parking conditions. When

you have a lot of side friction -- and you will see this in a residential neighborhood where you have garbage cans that are put out or cars that are parked on the road, it tends to narrow that travel the way -- and that width down. Because it will be at 26 feet, which is the fire code, we know we have a certain width, but people are concerned about others backing out and it just slows traffic down with that side friction. So, we are hopeful that we won't get a lot of people cutting through.

Perreault: Mr. Mayor, follow up?

Simison: Council Woman Perreault.

Perreault: I was speaking specifically to the backage road, so I didn't anticipate you would have those kinds of impediments that there is -- is there going -- intended to be off-street parking -- or, excuse me, offsite parking on that backage road?

Hales: I would consider it on site, because --

Perreault: Is that -- is that a private road that belongs to that site only that's -- that's not for public use?

Hales: No. I think it is -- well -- and I can't answer all the questions, but I do believe it to be for public use. But I do believe there is also cars that will be backing out into that. It's not specifically a roadway from what I understand. It will be cutting through the site. Did I represent that correctly?

Simison: Sir, if you can get on the mic -- microphone.

Whallon: So, Mr. Mayor, Council Woman Perreault, it's -- it will not be in an ACHD roadway, but there will be an access easement from north -- North River Valley Street -- or East River Valley Street to the north where it meets back up to Eagle Road, each property owner conveying cross-access to all patrons and parties -- to all the other properties associated with it. So, everybody is extending a cross-access to everybody else.

Perreault: Mr. Mayor, if I may?

Simison: Council Woman Perreault.

Perreault: We have some other areas of the city where we are just really seeing people cut through neighborhoods, cut through areas that we wouldn't have, especially around Eagle Road and so if that is, indeed, a private road, I would highly recommend that it be -- that there will be signage -- that there be some -- something that specifies, because I don't think people are going to care if it -- who has a cross-access easement, if they see that there is a way to get through it they are going to take it.

Whallon: Mr. Mayor, Council Woman Perreault, I think that's a great comment. It's kind of the -- you know, water goes to the path of least resistance and people driving cars do the same thing and if it will benefit both the safety of the people crossing that drive aisle and people using it, I think there are blue signs that you can put up that say it's -- it's private, but we are all extending cross-access to each other, so we all know that our customers and our tenants -- we can all use this road and, hopefully, it's not super inviting for people who don't live or shop in this area for them to be using it.

Nary: Mr. Mayor?

Simison: Mr. Nary.

Nary: Thank you, Mr. Mayor, Members of the Council, again, I don't know if this is the Council's concern. I'm glad that the amenity package on phase three will meet the requirements for the site and not borrow from the other sites. That was kind of the conversation the last time. But you used the word retrofit. So, I understand Bach Homes owns all of it, currently one and two and three, and so putting in cross-access, pedestrian pathways, is totally within your control, allowing access back and forth between one and two and three is totally within your control, but nothing in phase one and two's development agreement requires that in the future. All of it is on three saying everybody in one and two can come here and everybody in three can go there, but we need to amend the other development agreements if the Council thinks that amenity offer that you are making is important to the future of this development. You will likely own this together, I guess, but you may not. You may not own it all in one piece forever or -- or it may not be one ownership forever. So, I don't know if that matters to the Council. If it does we are going to need to amend one and two. If it doesn't matter to the Council, because your amenity package is adequate for your site, then, we don't have to. But right now it's really just your goodwill as the owner of the entire project to create that connectivity, but there is nothing guaranteeing that for the future for the one and two phase.

Whallon: So, Mr. Mayor, Council Members and Mr. Nary respectfully, yes, that is our intent to make this as one unit, to function as one. The clubhouse, all of the amenities that are located within there. A full gym. They have suntanning booths. That's where the hot tub is and the pool. We want to make sure that people that are in phase three are welcome and can use any of those amenities. So, we intend to extend an easement to phase three that all of the amenities that have been provided in phase one and phase two are available to any tenant for phase three, but phase three is a standalone review through the conditional use permit process. We will meet all of the standards, open space, landscaping, off-street parking and amenities based upon the unit count that we are shooting for and so we are anticipating for this to be as if it's one apartment complex, it's just growing in size.

Nary: And, Mr. Mayor, just one follow up.

Simison: Mr. Nary.

Nary: Mr. Whallon, I certainly have no -- no concern about that and, again, it's not a requirement that I think we -- we have to mandate, what I'm saying is if it matters to the Council that you do what they are saying you are going to do, whether Bach Homes owns this forever or another entity owns this, that this all be one unit, the only way to guarantee that in my head is to amend the existing development agreement for one and two to assure that. That's totally a voluntary decision on your part to bring that forward. But extending that still would require a development agreement -- a modification. I mean you could -- you could do it, but the DA mod has to match that. So, I mean, again, if that's something the Council feels is important you want to commit to, but it's not necessarily required today, it doesn't have to be and the Council is comfortable with you saying we will just follow up with that as a future piece, that's up to them. I just want to bring that up if that was important I just want to make sure that was out there. Because right now I think it's important that you have made that clear that to your attention, I just wanted to button up the legal piece of making it an actual permanent requirement for all of it to be used as one.

Whallon: So, Mr. Mayor, Members of the Council and Mr. Nary, I'm not an attorney, but I'm under the impression that the development agreement determines how the property is developed and so phase one has already been developed. So, I'm not sure that we would have to modify the development agreement, but just record an easement on that property conveying to phase three that all amenities located within this property are available to you and record that against phase one, benefiting phase three.

Nary: So, again, I don't want to get two hung up on the legal stuff for everybody. Yes, that's correct, you can do that and that will allow it. The only people that can, then, enforce that is the people that live in three and they would, then, have to take a private cause of action to bring that forward. If you amend the development agreement now it becomes an ongoing existing contractual relationship with the city that one and two will always allow three to access its amenities if somehow you had two separate owners or a future owner says I don't like this arrangement, I just want everybody over here to use this piece, right now we can't force them to do it differently. If it's in the DA the city could help and assist saying, no, this is all one. That's what we wanted. That's what they promised. We want it to remain that way. The city, then, has the ability to do that. So, those are the difference between the two. The easement allows it by private agreement. The contractual agreement with the city allows the city to say, no, our intention was that they would all be one thing. Totally if that's what the Council wants that would be the way we would have to achieve it.

Whallon: Respectfully understood. Thank you.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Mr. Nary, question in that regard. So, the applicant is proposing that the existing DAs go away; right? And, then, a new DA is -- is -- is written. So, then, if one



and two goes away -- or the original DA or the two -- I don't know if there was one or two originally. If those go away, then, would there still be a need to modify them or would that not just become a requirement in the DA that's replacing the original?

Nary: So, Mr. Mayor, Member of the Council, Council Member Perreault, the DAs that we are asking to be removed are the ones for the parcels on the west, not the parcels of River Valley one and two. The one that was a commercial development and storage. So, it's those two that they are asking. What I'm saying is I don't -- if the Council's desire is to move forward with this project you don't have to hold it up by saying you won't move this forward until they bring a DA mod on one and two of River Valley, but if they are going to make a commitment they will do that and you are comfortable with that commitment that they are going to do that within the next period of time, that's up to you. Or if you want to make a condition in the DA for this to say before the final CO of the final product they will bring forward a DA modification for River Valley one and two. But whatever trigger you want to make that's within your purview, if that's your desire.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Love that. It makes perfect sense to me if that's your intention I think that I personally, as one of -- one of the folks up here would definitely want that. I have a question for Sonya. I wish there was a way to kick this to Planning and Zoning and follow the CUP process to have it come before us for final approval. Is there a way we could do that? Maybe a question for Planning and Legal.

Allen: Mr. Mayor, Council Woman Strader, there is no way as -- as code is currently written, no.

Perreault: Mr. Mayor?

Simison: Council Woman Strader -- Perreault.

Perreault: Yeah, I start getting a little bit loopy at this time of night. Has the conditional use permit already been -- application already been submitted?

Whallon: Yes, ma'am, it has.

Perreault: Has a hearing date been set?

Whallon: They are waiting for this process to end before they will put it on the schedule.

Perreault: Okay. So, this -- it does have to go in an order of this happening before the CUP goes before the Planning and Zoning Commission? Okay.

Simison: Can I back up with the transportation elements and its -- I was not here when this was -- I was not here when this first came through, but I don't know if this has been discussed, but Deputy Chief, I'm -- how was the fire department planning on accessing this facility generally as you see it?

Bongiorno: Well, Mr. Mayor and Council, I mean as it sits our only access is that access off River Valley. So, we either have to go around and north or the other reason why we require two accesses is for that -- is that cross-access from phase one to phase three, we need that also if the other access is going to be there. I mean it's going to be hard to get to period. To answer your question. We can get there, but it's going to be a tough route.

Simison: And in what time frame? Have you mapped this one on the response? Because if it's a ladder truck required, it's got to come from Station 1 --

Bongiorno: Correct.

Simison: -- coming down -- and I'm guessing we are well outside of a five minute response with a ladder truck to this location -- I didn't want to use the -- circuitous or -- a circuitous route you are going to have to take in order to serve, because --

Bongiorno: Yeah.

Simison: -- you have got to go down past the Great Wall and come back through that space or you got to come up Records and take a left on East River Valley or a right in because of the challenges that otherwise exist.

Bongiorno: Correct. Yeah. I'm pulling up the map. So, that piece of property falls -- real quick. Yes. That piece of property does fall within our five minute area.

Simison: For Station 1?

Bongiorno: For Station 1, yeah. So, it's just that -- it's going to be an odd shot like -- like you had mentioned to get there. We are going to have to go all the way past, circle back around, once that road -- that backage road is built, but in the interim the only access is to circle all the way through and go through the existing complex to get in there. That's going to be the quickest way, because you can't get that ladder truck to do a U-turn in the middle of East River Valley Street, plus they have curbing up that won't allow it anyway. So, it's going to be a challenge for an engine or a water truck period.

Simison: And that's -- you know, we can all be our own traffic engineers, but I think long term the -- the primary access for this facility is to the north of the Great Wall.

Bongiorno: I agree.

Simison: That's where people are going to enter from. So, even the conversations about this -- you know, when I was looking at this and I'm seeing parking on both sides of what

is, essentially, the road and the conversation about there being -- you know, you are -- with the Great Wall's current location's access going away, you are creating the backage road. It's not a private -- through a residential area 26 foot full access, it is the access for other businesses, whether we like it or not.

Bongiorno: Yes.

Simison: And so when I -- at least when I look at the design with this -- I see a traffic challenge occurring for everybody through this, that's -- I don't -- that doesn't help anything, I just think it exists.

Hoaglun: Mr. Mayor?

Simison: Councilman Hoaglun.

Hoaglun: Yeah. And question. You sat here through our previous hearing and dealt with cross-access and those types of things. You know, when I look at this and you see the amount of traffic -- and you are absolutely right from a traffic perspective friction does slow things down. I mean it can be useful and sometimes we forget that, because residents -- we had one over here by St. Luke's where residents -- no more traffic, no -- the parking on the side streets is causing us to slow people -- you know, it's too much, but yet it slows down and they wanted slower traffic, so -- but how -- help me understand how this is not a similar situation where you have a lot of activity and yet this is going to be the focal point for people to get to another business and when this eventually goes through and connects and there is going to be other areas that it won't be a cut-through area in a way that can -- can this remain safe designed as is. Like I said in the earlier hearing, I'm more used to the cross-access -- access agreements that are private and they are set aside for that function and with limited points to these different -- in most cases commercial. So, is that something that's doable or is that something that's completely out of the question? I know you have got five stories, you need adequate parking, but is there a way to get there?

Whallon: So, Mr. Chair -- Chair, Council Member Hoaglun, I would just offer that a residential use generates less traffic than a commercial use and so -- and they are kind of focused, they get up and leave primarily in the morning and don't return until the afternoon, whereas if this was commercial in use there would be people coming on and off the property all day long in higher numbers. But I do think that with -- with careful striping and articulation or different use of materials, those will help calm traffic, slow them down a little bit, which provides a benefit. It might frustrate drivers a little bit, but the slower the speeds are the safer that that development and drive aisle can be. I don't know if you want to add anything to that.

Hales: You know, the only thing that I would add to that is as you look at the access point, the Great Wall, their access is probably going to come primarily from the north. People will pass by on Highway 55, they will see the Great Wall and they will turn through that north access to come back and so what we are hopeful is that we don't have people really

trying to cut through the entire site to navigate to it. What we talk about is we talk about destination retail. You know, a destination commercial of some type and this will become more of a destination site, especially with that right-in, right-out that -- the temporary right-in, right-out removed, it will become more destination based. So, again, people will most likely come from the north, access that area through the apartments. Will still have some coming from the north and around and we will have some coming from the south as well. So, I agree. I understand your question. Your question being it could be a -- its entirely its own road and just be a backage road itself. Unfortunately, the site doesn't permit that with the -- the width of the site. Good question.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just to follow up. Yeah. And your points are good and I think it's a death nail for whatever business goes into the Great Wall, it just makes it so difficult. How do you tell people how to get there. Oh, go through this parking lot of the apartment complex and, then, you are going to turn -- and that's fine. We don't know what's going to happen to the north. I mean, again, from our discussion from earlier tonight, you know, what's going to happen, what does it look like, what are the access points? Is that going to be commercial? Is that going to be apartments? We don't know what. I would like to know, because that would help determine, because I think you are right, that will just become more of a local point for people to go through and I do like the fact you have Records Avenue, that gives you access to Ustick Road, it gives you access to Fairview, you can go right or left, there is a light, you know, so there are some good points about this that open up options for people when -- when they travel, it's just that particular road there -- and I didn't know -- I noticed you had parking slots to the right, if -- if that road could be slid over a bit and keep the parking on the left side to kind of create some separation, but -- I don't know. It's -- it's just a struggle to -- to make sure this is all going to work and -- and again -- and I don't have a problem with the apartments on Eagle Road. I -- you know, they will fit there and people who want to be there will rent those and so that's -- that's not my issue. It's more just how will that flow work and is it going to be something that's going to be a major issue later on, but, anyway, appreciate the -- the answers that you gave.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Maybe we could chat about the schools, too, if that's possible to get into that. So, that definitely has been an issue -- consistent issue in Meridian, consistent issue from the last time you were before us. Centennial is over populated right now. I think it's like 107 percent of capacity. You talked a little bit about your timeline. Have you chatted with the schools and how this would work with your phasing and when you think this project would be delivered?

Whallon: So, Council Chair Simison, Council Woman Strader, I had not reached out to West Ada School District. I think the number of students they said would be coming from phase three were at 14 and I -- I'm not sure that that number is true high or low. They are the professionals in that regard. But I do know that we are looking for this phase to be angled or marketed towards the young professional that's going to, you know, be -- want to be out there on the street, see the activity and they are primarily studio and one bedroom units and so we are not creating too many opportunities for too many students to be generated, but I do know that a lot of people when they make a decision on where they are going to want to live, it's either because of the school district they want to be in or because it's close to work and if those are the two factors that are determining where somebody is going to live and they are looking at this apartment complex, then, if they can't get into this apartment complex they are probably not going too far away from it. So, those 14 students are still going to be within the West Ada County School District.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. And, thanks, I appreciate that. I'm -- I don't know. We have received a lot of different information from the school district lately, so I have a hard time with this formula and everything, but maybe walk me through your unit count and the mixture of how many studios, how many one bedroom, and how many -- really, how many two bedroom are we talking about? I agree that your amenities -- it seems like what you are planning right now is really geared toward young professionals or, you know, empty nesters and so forth, but if you can walk me through the unit mix that you are planning on.

Whallon: So, Mayor Simison, Council Woman Strader, I don't have the final count. The architects are still working on the floor plans trying to figure out exactly what it is that they are going to submit through the construction drawing process, but I'm told of the 134 units approximately 40 of them will be two bedrooms and, then, the rest will be evenly divided between studio and one bedroom.

Strader: Thanks. That's helpful.

Perreault: Mr. Mayor?

Simison: Just real quick, can we see if there is anybody -- are we ready to hear from -- if there is anybody else that wants to testify or are we still --

Perreault: I have got one question.

Simison: Okay. Council Woman Perreault.

Perreault: Thank you. Did you -- so, when the notices were sent out for these hearings they only went to property owners, which means that the city did not require you to notify

any residents that are living in the first two phases. Did you voluntarily do that on your own? Were they invited to ask questions, have discussions and, in addition to that, did you talk with a property management company and get information regarding how many children are -- oftentimes with leases you will list the number of people in your unit and how many -- how their ages are. Maybe their leases aren't requiring them to do that, but that's common. Did you look into any of that information to help determine how many children might be living in those units? How many are currently in phase one and phase two? Are people only parking to the -- I mean I have parked in there in different times of day and night and it's packed. It's packed. Did you use any of that data that you have from the first phases to help determine what's going to happen in the third phase?

Whallon: So, Mr. Mayor, Council Woman Perreault, as to the pre-planning events that happened before we submitted our application I can't speak to. When I was before the Council on October 19th that was my sixth day of employment with Bach Homes. So, I came in somewhat -- the ship had already sailed to an extent. But I know that Bach Homes out of Draper, Utah -- I live in Boise. I have lived here for the last 17 years. But Bach Homes, they are home, townhomes and apartment builders. That's what they do. And they learn through the process and so they have kiddie pools, the -- the smaller wading pool and those kinds of amenities associated with phase one and phase two and they have provided them for enough -- for the child count that's there, they have got plenty of outdoor play opportunities for them. In this instance the phase three, they are really targeting it towards the young professionals and they are making the amenity package compliment that. So, it's -- they are really looking for two different audiences or capturing all of the audience's that may be out there, whether they are more interested in phase one or phase three, depending upon what lifestyle they want to choose. So, they are -- they are not looking to replicate what they did in phase one in phase three. They are looking to do something different. So, the child count in phase one and two is not what they are after in phase three.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I get that, but they -- if -- if somebody -- I understand that, but anybody can rent it. They can't -- they can't not let someone rent it because they are targeting a certain audience, so I think you have to prepare for -- for it anyway no matter who they market it to. And I'm sorry they throw you into the deep end of the pool a week being into -- but I would hope, though, that they would be utilizing the information that they have in the first two phases to benefit the -- the acceptance or approval of this and I'm surprised that they aren't, you know, using that information or that you don't have access to that information to help do that.

Whallon: So, Mayor Simison, Council Woman Perreault, I'm not saying that they don't. They have got two architects on the -- on the staff that are continually updating the plans and are drafting the floor plans as directed by the company owners and so I'm not saying that they haven't taken that into account and that they are -- they haven't learned or know

exactly how they want to build phase three and the unit mix and the amenity package. Those are all things that the owners are taking into consideration before they make this type of an investment in the community and they want to make sure that what they are doing is not duplicating, replicating or redundancy, they want something fresh, they want any -- all -- all audiences to be entertained on the site and so I think that they -- I can't speak to it, unfortunately, in the -- in the terms that you want, but I know that they have got two architects on the staff that are continually updating and making sure that the investment that we are looking to make in this property is not only a good investment today, but ten, 15 and 25 years down the road.

Simison: So, with that let's see if we have any public testimony. We may not, we may get right back into all these questions, but, Madam Clerk, do we have anyone signed up provide testimony on this item?

Weatherly: Mr. Mayor, we had one sign in and it's JoAnn Butler online.

Simison: Okay. We will go ahead and hear from JoAnn. If there is anybody else online that would like to provide testimony on this item, please, use the raise your hand feature, so we can bring you in the conversation.

Butler: Thank you, Mr. Mayor. Can you hear me?

Simison: We can. State your name and address for the record.

Butler: Sure. JoAnn Butler. 967 East Parkcenter Boulevard in Boise representing the owner of the property that is called the Great Wall property. I apologize for not appearing with you or on screen, but think of me as looking very much like Councilman Borton with a hoodie and the Kleenex next to me, just without the beard. So, let me take -- bear with me if I take more than three minutes, but I'm going to answer a lot of questions that I think were raised by some of the Council Members. I'm going to focus only on our concerns with condition number four, which is found on page nine of your staff report and we have a suggestion for a change and thank you, Sonya, for leaving that particular map up showing the drive aisle that people call a backage road, but it is a drive aisle through private property. As it goes north over the South Slough it will continue going north to the commercial property to be developed there and it will also go east to the residential property that will look somewhat similar to what the part of the -- the existing apartments look like. Perry Coles purchased the Great Wall restaurant just a few weeks ago and after reviewing the various development agreements and issues and talking with staff and with Mr. Whallon, which we really appreciated and the neighbors to the north, we brought up this idea of an emergency access only between the Great Wall property and the northern boundary of what is the Regency phase three, because of the change in land use going from commercial to residential and because of the fact that the road is going to be built to the north. We appreciated having those discussions and we want to say that historically there has been, you know, the -- the stage has been set. The master development agreement governing the properties in this area requires backage access roughly parallel to Eagle Road serving properties that front -- properties that front Eagle

Road and Meridian Code limits access in the vicinity of Eagle Road and strives -- strives for backage for properties that front Eagle Road. But we have a large concern with that development agreement condition number four, because this condition appears to premature -- prematurely determine the scope of the cross-access, especially by providing backage access to property that doesn't front Eagle Road. Condition four calls for cross-access to provide -- be provided across our client's private property to allow traffic to come from not only Regency phase three, which is 134 apartments, but also from Regency phases one and two, which don't front Eagle Road, with I believe almost 300 apartments. I'm not sure that this is either appropriate or perhaps even illegal to send all that traffic through the private property. As Sonya said, we understand that the devil is in the details and it typically comes out in the conditional use applications, but we would like to try to see if we can make a demarcation of emergency access, so that traffic from the Great Wall going north goes -- it continues, you know, serving the property north of the North Slough and that the backage access goes -- continues going south for phase three. As one of the Council Members just mentioned, this does look like the death nail to the Great Wall property and several Council Members have speculated how is this even going to work. Do you need to stripe it? Do you need to sign it? How -- you know. And that's -- that's a lot of traffic going north. So, we think that what should be done -- it should not be done today with this condition number four, which says that there will be cross-access, taking all phases one and two through our client's property, but wait until the -- not with the DA mod, but wait until the conditional use project comes forward and more information is known about the traffic, the traffic flow -- perhaps we can avoid a situation like we found in the project that was before you immediately before this one. So, I -- best of all possible worlds for us would be to have an emergency access only at that point where phase three and the Great Wall property meets. Appreciate the fire chief's comments on needing that emergency access and I would -- I guess we would suggest if you go forward with this that we have a change to condition number four, so it reads something along these lines: That the scope of a cross-access agreement for the properties, including Regency phase three, and the properties immediately north and south, shall be identified during the Bach Homes conditional use permit hearing. That will also allow our client the time it needs to perfect its conditional use application that it must make and work further with the folks at Bach Homes and we can also, then, bring more information to you about the schedule of construction as we go north. So, I -- I really appreciate if you have any questions of us, but we -- we just definitely don't think that other -- we are sorry that it's not going to be commercial and it's become residential and that much more traffic will be sent through our client's property and we don't think it's appropriate to send phases one and two through that property and -- but, you know what, we don't have all the information today. We don't have that traffic circulation and those numbers. So, I guess I'm saying that we should at the very least kick the can down the road to address it when that information is known at the conditional use hearing. Thank you. And I will be happy to answer any questions.

Simison: Council, any questions?

Hoaglun: Mr. Mayor?



Simison: Councilman Hoaglund.

Hoaglund: Mr. Mayor and JoAnn, thank you for your comments. I was just happening to be looking on Google Earth before you spoke and I was looking to the -- the properties to the north where the grocery store used to be and where Chili's is and Five Guys and -- and, you know, they -- they have created a specific drive aisles and -- out of parking lots. I mean it's -- it's various distinct, they are separate, but it allows that access and it looked like to me -- and I had in my head all along that it would be like, well, that's kind of what I expect all coming down to the south and that matching up someday and I don't know what's going to go in that property that's just to the north of the Great Wall, but I can see that, someone's -- you know, former Trader Joe's -- I can't remember what's there now -- coming down and saying, hey, we want to go to this establishment and can come down there to that and I'm intrigued by your idea and, then, at that point that's the last commercial or retail or whatever the Great Wall turns into, because, then, it turns into residential. Yes, you have Mattress Firm there at the corner, but that's kind of on an island by itself and it kind of fixes my concerns about the amount of traffic and how that goes through and it was my comment about it being a death nail for that retail -- for the restaurant there with that type of -- type of structure or parking access -- I'm sorry -- drive access to -- to the Great Wall. Do you know what any -- anything more about the property to the north of the Great Wall and how that's going to develop and is it feasible -- and maybe you know somebody can't say, that's fine, but is it feasible to have that type of drive aisle coming down from Five Guys behind there and continuing on that would access to the -- to the Great Wall?

Butler: I can tell you what I do know from talking to GGI, the folks that own the property to the north, they are in the process of extending the -- the -- the south slough there and that would access the Great Wall and that they will continue going north and they will have very similar -- it looks -- their concept plans look very similar to what you see before you on that -- on the page right there where you have got commercial fronting along Eagle Road and residential to the east along Records Avenue and so that is what they were planning and what we have been talking about with them is, you know, that that will allow access from Eagle Road into their property and, then, going south to the Great Wall property. Does that answer your question?

Hoaglund: Yes, it does. Thank you, JoAnn.

Butler: Okay.

Strader: Mr. Mayor?

Simison: Council -- Council Woman Strader.

Strader: Just a question for staff. I -- I really wish that we could see all of these applications come at the same time, see how this would work, really like flush this out. Give this applicant a chance to work with the folks that purchased Great Wall. Is -- is there a way to continue this or run this concurrently with that application? I'm just trying

to brainstorm. Is there a way to -- to take that sort of an approach, because it's like we need a holistic solution for this part of the city.

Allen: Mr. Mayor, Council Woman Strader -- correct me if I'm wrong, Mr. Nary, but as current code reads Chapter Five, Title 11, calls out the procedure for conditional use permit and development agreement modification applications. They both only require public hearings, development agreement modification before Council, and the conditional use permit before Commission. If you wish for a code change to be put into process or conditional use permits to be run concurrently with DA modifications when applicable, we can certainly look at that, but as is I don't think we can change our process outside of our code requirements.

Strader: Okay. Let me just interrupt. Oh, go ahead, Mr. Nary.

Nary: Mr. Mayor, Members of the Council, Council Member Strader, what I was going to say is -- I mean the reason they don't work in parallel is because they can't. I mean right now the reason the DA mod has to be a decision point prior to CUP is because they can't consider the CUP if you're not going to allow them to do it anyway. So, until you allow this use to change and be this new use, there is no CUP to consider. So, that's one problem with the CUP DA mod being congruent. If it's a different application that's being heard for -- for the Great Wall piece or the east-north of that -- well, again, that's a completely different application process that's going to go through the neighborhood meeting, you know, P&Z, Council approval -- I mean those -- there really isn't a method in our code to make them all sequentially unless it's one big project and that, again, doesn't have very much.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yep. Get what you are saying. Maybe just -- I will cut to the chase where I'm at. I'm not comfortable moving forward right now. I just don't feel like I have enough information about how this is going to come together. I would prefer -- like I definitely don't want storage here. Like in the grand scheme of things I would much prefer to see -- ultimately to see a nice residential development here. I think that would look great. But -- or retail. But I -- I think it works. If what they have right now is not viable, but the issue I have is -- I just don't see how this is flushed out with the access and I don't think it's appropriate to approve this now when this is our only bite at the apple. I would prefer to continue this for several months, if needed, to give you guys a chance to work with the owners of the Great Wall and I would like to see that property come before us first. That's just me.

Hoaglun: Mr. Mayor?

Simison: We are -- we have someone -- do we have questions for the person testifying? Otherwise, I'm going to go to the next person who is testifying to make sure we get them

through, because we are still going to have a long conversation. So, is there a question for JoAnn at this point in time from Council? Okay. We do have another person who has signed up to testify. So, we will recognize Alex Dahl for three minutes. If you would state your name and address for the record.

Dahl: Hello, Mr. Mayor and Members of the Council. My name is Alex Dahl. I am the architect of the project. I work for Bach Homes and I live in South Jordan, Utah. 12348 South Little Sahara Drive. And I just wanted to kind of point out some of the things that are written in the staff analysis as to what we are trying to accomplish I guess with this particular conditional -- or this development agreement modification and what the staff has recommended approval for this development agreement modification because the future land use map has indicated that they have desire for high density residential in this area and that the vicinity to the commercial and retail restaurants to the south and, then, also the Kleiner Park and senior center to the southeast indicate that this would be considered one of the desired uses for this particular parcel and that as we continue to develop our plans -- this is currently in conceptual design. We haven't really flushed out any of the details. We are hoping to get a development agreement modification done so that as we move through the conditional use permit application that we might be able to develop this plan further, so that we can meet all code standards and all zoning standards put into place for this parcel. Considering the cross-access agreements that are in place on this site, we are doing our best to be able to adhere to those cross-access agreements and allowing for that backage road to go from the south to the north connecting East River Valley Street all the way up through to the additional retail and commercial properties to the north. As far as some of the other concerns we -- we just want to make sure that everybody is aware that as Bach Homes we are planning to continue to develop this further with the help of the planning and -- the planning department to be able to meet all code requirements and to adhere to the zoning requirements for this particular site. So, if you have any questions for me, please, go ahead and --

Simison: Council, any questions? Okay. Council Woman Perreault.

Perreault: My apologies. I don't have a question for Mr. Dahl, but JoAnn had her hand raised and, then, I'm not --

Simison: I think it was just raised because -- from the original time.

Perreault: Oh. Okay. Thank you.

Simison: So -- seeing -- seeing no one else wishing to testify, would the applicant like to come forward for any final comments?

Whallon: So, Mayor Simison, Members of the City Council, I really do appreciate the dialogue, the questions, the detailed elements of the plan that you want to know about, because it's important, it's a part of the community, and once it's built it's going to be there for 25, 30 years. It needs to work from day one and 30 years down the road. So, I just want to say that Bach Homes has looked very diligently at making this a productive -- not

-- not a vacant piece of land, but a productive piece of land. They did look at different commercial uses, commercial retail, speculative retail, then, they looked at the storage units and then -- then the plan as the thought -- as the acquisition of land grew the thought that a third phase of the Regency, which has been a very successful project for them, it started to make more sense. I appreciated Ms. Butler's comments. We had several phone conversations talking about the type of development that would happen, the timelines in which that would happen, and, then, we just -- we felt that the backage road was something that, you know, really was important, but at this point if -- if making that just an emergency service vehicle access only, in speaking with our traffic consultant we still would be above level of service standards required on East River Valley Street, so it will still function and so we could lessen -- reduce the impact on that new property owner to the north that will be taking over the Great Wall property and they can go in their direction with the backage road and get their functionality out of it. We can have a backage road on our side and there is connectivity for an emergency service vehicle in that instance that they would be able to go north to south or south to north. We can make that concession today. But aside from that the specific floor plans, the materials that we will use for the surfaces, you know, all of those are still being worked on by our architectural team in plans for that conditional use permit and they have to get this development agreement modification in place first before the city's planning department will allow us to move forward with that conditional use permit. So, I know you have a lot of questions still and we did try, honestly, as hard as we could to hear what your comments were on October 19th and respond to them in a way that made the project more clear. It sounds like we still have some questions, but I think that a lot of those questions are really the questions that staff scrutinizes during their review of the conditional use permit process, whether this development agreement was in place ten years ago or we are modifying it and putting a new one in place today, their review for a conditional use permit for a multi-family housing project and this zoning designation is going to be the same review. So, you know, this is -- that's -- that's their opportunity to look at the development standards and look at our plans and make sure that we are meeting all of those requirements and so -- so, I'm standing before you today to consider removing the development agreements on the two existing parcels that face on North Eagle Road, replace it with the development agreement that Sonya has proposed, page nine of the staff report, and allow us to move forward through the conditional use permit process where staff has the opportunity -- allows us to really truly cultivate the plans for that review by staff through the conditional use permit process.

Simison: Thank you. So, I didn't have the benefit, again, of the first meeting and just to help me understand, even based on what we have heard -- so, every single parcel on this mile is going to be retail commercial, except for these two, and so my question from what we are -- tell me why these two won't work as retail commercial? Is it that they won't work or you prefer them not to work? And, again, you are talking about -- you said 30 years. We are really making 75 to 100 year decisions here. Is it that these two won't work tomorrow for commercial or they won't work in three years for commercial when everything else on this entire stretch of road has been built out as commercial and these two parcels need to be the outliers. Can you at least explain to me why that needs to be the case? Is it need or preferred?

Whallon: So, Mayor Simison, as I was told they had these parcels on the market for a long time. Went through the process to get the development agreements put in place through the city and those -- those were years apart in getting those approvals. Then they went out to market trying to do long-term leases or sale and they couldn't get anybody to close on the property and the comments that they got back was it was access. That was the limitation. And so that's when they decided that they had to take another look at what they were going to propose for this property and that's when they decided, hey, it's big enough for another phase of the Regency. So, I think that -- and as Mr. Dahl stated and which was in Sonya's staff report, the future land use map of the Comprehensive Plan does say North Eagle Road or these arterials are a suitable place for high density residential.

Simison: I understand that component. I -- I guess the point -- we understand that this -- this -- these two parcels have been a challenge for years because of not knowing what was going to happen with two other areas, but kind of going back to Council Woman Strader's point, now that you are trying to get more clarity on the access issues, both for the Great Wall and for the additional parcels, do those access issues still exist? And if so, is it because of the East Valley left in not -- is that the issue? Because that to me would be the only thing that I could identify as a potential reason why commercial would not be suitable once you have the parcel to the north come in for application and you, essentially, create the frontage road from Ustick down to East River Valley, you know, so it's -- whether or not Council thinks commercial or residential is appropriate I think is one question, but I'm -- I'm just -- personally I'm not convinced that commercial is not a long-term best viable option in this, because -- in other words, what we are essentially saying this, yeah, except for we -- we really want you to get back out on Eagle Road or go down through Records and come up through one of the other residential areas to get access to the other commercial in that area. If we are putting bollards in to prevent north-south movements what makes it okay to not allow north-south through multi-family, but we are going to allow east-west through other residential areas, which I have driven through those areas when I leave Five Guys and hop on Records to get out. That's how I go through is other people's homes, because that's what you do in a lot of ways. So, some of this is not meant to be responded to. You have answered the question I think to the best of your ability. So, I will leave it at that, more for up here's consideration as they think about next steps. I'm sure you are not going to get out that easy. I'm sure there is more questions coming, so I wouldn't go very far.

Perreault: Mr. Mayor?

Bernt: Mr. Mayor?

Simison: Go to Councilman Bernt.

Bernt: I am listening and I know I haven't spoke very much this evening, but I'm just sitting here in my office at my home and enjoying the dialogue. So, I appreciate what's been said. I appreciate what's been said by the applicant's presentation and by the dialogue from my fellow Council Members. I don't -- I don't mean to bring levity to tonight's public

hearing, but anytime Mr. Nary speaks as much as he does, you know, in a land use application causes me for concern and I completely agree with -- with the Mayor. This -- this application just is just too complicated. It's -- there is -- there is a lot of moving parts that don't make quite -- this doesn't make enough sense for me to be able to vote in favor of it. I do not support continuing this for any amount of time tonight. I believe we need to make a decision. We have already continued to once and with that -- with that said I won't be in favor.

Simison: Council Woman Perreault.

Perreault: Mr. Mayor. Believe it or not I don't have anymore questions for the applicant. No. I have the exact same -- exact same thing that you just -- that you just shared. This is foregoing just an area where commercial -- commercial is really intended. That -- I mean that's -- that's what is existing in this area and foregoing that I really think that it needs to be taken seriously and I think we are taking it seriously to the extent that it needs to be and, you know, a couple of us have asked how long the -- the applicant has marketed that property, not because we are under the assumption the applicant hasn't tried. Obviously they are -- they are trying to make a profit and that's what they do, but we have had applicants come before us that have tried to market properties for 20 years that have not been able to. So, for us, understanding the time frame and the process by which the applicant has really gone to lengths to -- to -- to use the property as is currently approved, it's helpful for us to understand that, because, really, we are being asked to -- what we believe exchange the -- the primary and highest use for this for something that is that -- it's not that residential isn't a high use, it's just about placement: right? And so we are -- we are asking so many questions because this is really critical and I still don't feel like we really truly have an answer on any details -- any specific details on what the applicant has done to try to fulfill the DAs as they currently are in terms of -- I guess, okay, they have -- they have -- they have attempted to do so. There is, obviously, access issues and there is, obviously, access issues whether it's residential or it's commercial. So, I don't feel like putting residential in here solves the access issues. It creates different ones, but they are still there and -- and that's all I had to share.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I think I, yeah, kind of said my piece earlier. I -- for me I just -- I don't think it's there yet. I -- the door is not shut with me. I don't think that it's inconceivable, but that -- you guys could figure out a way. I think the right way to go about doing this to really make it work and at least to satisfy all my questions would be to work with the new owners of the Great Wall, figure out the access, figure out this backage road, how it's going to work. I'm actually of the opinion -- like I hate the idea of just closing it and just making emergency access. I think the answer in this situation is more connectivity and more outlets for traffic and not less, but I would just need to see that flushed out more. So, I hate to -- I don't love the idea of totally shutting the door on it. I don't also love continuing things for a long time period. So, I get where Council Member -- Council President Bernt is coming from.

Yeah. I mean my -- you know, again, a lot of detailed questions, but there is a good reason for that, because it's not going to come back before us. You know, I -- I get some of my fellow Council Members' points about, you know, ultimately we have zoned this a certain way for a reason. You know, at the same time, you know, I kind of question is, you know, storage really like what I would love to see there; right? Like another giant storage facility -- like the highest use of this property in Meridian; right? Like -- or just a drive-through restaurant? Like that's not -- like this could be beautiful. I mean I think you are -- I like what you are doing with it. I think you are orienting it toward young professionals. I think there is a need for that type of housing. I could definitely see this working, but it would have to be a lot more flushed out with the access and I think it would have to -- there is -- it's just too complicated with the amount going on in this area of the city. I think there is an order you have to go in. I think the Great Wall and you guys need to work together. They would need to go first. We get through that plan, you know, together and if it -- if it was all coordinated there is a way to do that, but -- yeah. I mean I will kind of -- you know, I would defer to the applicant what they want -- if they want an up or down vote I would vote no tonight. If it was keeping it open to flush it out more with, you know, other property owners in the area I would definitely be open to that.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Along those lines of Council Woman Strader, you know, I agree with her comments, you know, storage, really? And -- and it's a nice storage. Very nice storage. Yeah. But, you know, this is -- this is mixed use regional and, you know, housing is encouraged. Staff is recommending approval, because of the -- for -- for the development agreement modification and my question for staff, for legal, I guess, is, you know, Ms. Butler, you know, talked about in the DA provisions on page nine of the staff report, item six, number four, about the cross-access easement and proposed some other language. That may work, but I don't know. But we can't get to that point unless we do this step here, but what I -- what I need to know from -- from staff is the fact that can you get somewhere if we take that next step, go to the CUP, or is it still going to swirl? Is that -- is the cross-access the issues that we have been talking about -- because I am -- I am intrigued by that proposal. If that's going to be residential and you have that access to and from East River Valley and through the -- their other phases that might work. But, then, it's not true cross-access, but a lot of places do have gaps where it's not continued. You would have the commercial portion coming all the way from Ustick Road down to Great Wall and that's quite a stretch, so -- but I don't know if that's the appropriate place to consider things like that, item number four, in the -- in the conditional use process, Sonya or Bill. I would like your thoughts on that.

Allen: Mr. Mayor, Councilman Hoaglund, I believe it's appropriate to consider as part of the conditional use permit -- permit process. Mr. Nary, do you have any other thoughts?

Nary: I mean I agree. I mean part of it is going to have to be handled through the conditional use process once we get to the use that you are comfortable allowing. What

I'm hearing -- and, again, this is a modification of the development agreement, so this is entitled property. They have a DA with conditions to build a commercial unit there, storage and commercial with a drive-through. So, what I'm hearing the Council say, if -- if the direction this Council would like to go is to deny this request, it -- what I heard was, one, that the Council wasn't convinced that this isn't a viable property for commercial use -- not a residential commercial use, but a pure commercial use. The adequacy of access has not been flushed out with the property to the north and that the access to River Valley and out to Eagle Road through the northern property hasn't been defined well enough at this point, that there is limitations, that the alternative that was proposed as a potential of emergency access only was actually less desired, because it limits the access, but because these are drive aisles and not -- not necessarily backage roads, it's, again, not flushed out on how that will be functioned, how that will be used, how that will be used for parking, access, uses within both this property, as well as both to the north and the south. Those are all the variety of things I have heard that were concerns that can't seem to be addressed through this application or through the testimony you have heard in both hearings. So, if that's the case, then, that would need to be part of your motion, that that's why you are -- would be denying this project, because all of those things have not been satisfied to you versus -- as you know, I just want to avoid us saying we just don't like it. You don't like it for those reasons is what I heard and if there is others, then, certainly you should probably include them. But those are the primary ones I heard. Because, you are right, I don't think we can solve some of these things -- some of it just by our code until we do a revisit, if that's what you would like to do. It is going to be a CUP, not part of a DA modification.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just to follow up with a question to Mr. Nary. However, it doesn't get to a point you raised that I think is -- is relevant is the DA modification of phase one and two.

Nary: Yes.

Hoaglund: And is that something that can be addressed at the CUP level or is that a completely separate process?

Nary: So, Mr. Mayor, Members of the Council, Council Member Hoaglund, no, that would not be a CUP process. So, what the applicant proposed was -- was committing to an easement to allow -- since they own the property they can grant an easement, which is true. As I stated before, that only grants an individual person's right to access. So, they would have to enforce that on their own. If the desire is to create a joint unit that has free access between all the phases of the development, then, it would be required to amend the development agreement for River Valley one and two. If the Council wanted to put a condition in this development agreement that says prior to final CO -- and we would have to determine what that point would be -- an application -- or they will have completed a DA modification of River Valley one and two before final CO can be issued, that would be



your way to at least guard that particular piece. The other one, though, again, I don't think the DA is the tool. I think you are right, if those concerns exist this is too early. It's premature, because it isn't worked out with the other adjacent property owners and -- and, frankly, the road isn't there. I mean it doesn't exist yet and it won't, but it's not even planned yet for north of this piece. So, right now it will stop at the -- at the Great Wall piece today. So, I mean those conditions can't be satisfied through this.

Simison: So, for those scoring at home, looking for either a motion to close the public hearing or a motion to continue. Either one will do.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I agree with Council Woman Strader. I'm not at the comfort level to -- to approve this this evening, but I -- I also don't believe we should completely close -- that we should completely deny the application. What that looks like as far as continuing -- if we need to hear from the applicant, but I really want to make sure that we give them some direct guidance and/or at least hear from them that they understand the concerns and potential process they are going to take to solve this.

Whallon: Mayor Simison, Council Woman Perreault, I hear you very clearly and I'm very grateful that you are willing to consider our ability to meet your desire to understand fully what the -- what the project will be like and so we have homework to go back and look at our drive aisles. What are our widths in the existing? How have we done with the children? Have there been any incidents with the children there? Have we provided enough play area? You know, what else are we going to do in phase three and the drive aisle alignment? How will that safely convey vehicles north and south and how will that interact with the parking configuration. I haven't seen, you know, a site plan generated yet showing that, because, you know, I think they were waiting for this approval before they got into that level of detail. This was conceptual. So, conceptually we are not there. So, we have a lot more work to do to understand the alignment of that drive aisle, the width of that drive aisle, how it interplays with the parking, you know, to what extent I -- I think that the drawing that we have here shows it lining up with an existing access on the west side of Eagle Road, so -- and it's meeting the -- the half mile -- I think it's the half mile that ITD allows access to North Eagle Road. So, aligning it to the existing one on the west side of Eagle Road is where that access point is going to land. We can work with Ms. Butler and the new owner of the Great Wall property to see how they are going to develop that. What site plan changes are they proposing? And, then, it goes to the property owner to the north of that that's currently going through the process of putting the slough in culverts and, then, they will formulate their road and utility plans and we will see how that ties in, so -- so that it's functional and it works and it's safe. So, I think that we need to go beyond the conceptual plan, we need to invest a little bit of money to further flush these things out, these configurations, so that we know exactly what we are proposing that will be there for the next 75 to 100 years.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Just to like really be brutally honest, given the hour, like for me I think -- don't come back unless you have got a road. Like unless you can deliver a road that goes from Eagle Road -- you have a deal with the property owner to the far north and Great Wall, you can tell us what that looks like and how it works for the traffic flow and all the elements that you just mentioned. Just -- and I hate being like that, because I try to be so much more polite usually, but I just want to be really clear. Like for me that's the bar. So, I would say that should probably take months and I would love to hear -- you know, do you want a continuance for a long time period? Do you want an open -- I don't know if we even do an open continuance and, then, let Planning know when you feel like you have that ironed out? How do you kind of want to handle that from a time frame perspective? But I just wanted to like lay out -- just being really honest, like you have to deliver a road.

Whallon: Mayor Simison, Council Woman Strader, it was our discussion with Caleb Hood that when we were talking about our road and the question of when the Great Wall was going to tie into our road and they would lose their primary access or existing temporary access to North Eagle Road, that's when Caleb said, hey, look we are looking for this to be a backage road and we expect it on the back of all of the parcels and we don't want to see it, as was mentioned, be -- be more restrictive and cutting off access points. So, we were always under the impression that that was going to be a requirement of staff through the conditional use permit process that there was a fully developed road through our property that would connect to the north, whether they built before us or after us. So, it's always been our expectation that there would be a road back there, but we can go and we can go -- across our property tying into our neighbor's property. But we can go in and investigate what that site plan looks like and draw it out and show something tangible with the road back there that's going to start at East River Valley Street and go north.

Strader: Mr. Mayor?

Simison: Could you give -- can you give a little -- at least from your perspective -- we say road, you are talking curb, gutter, sidewalk or are you talking what exists in the northern commercial property where you have no cars backing into the space with essentially protected planting strips? Big difference between a width and expectation, Just so that they can hear your perspective.

Strader: Yeah. No. So, like I -- I'm looking for a really macro level solution, not just that -- you have a concept of what your piece of the road will look like. I would like to see either that you have an agreement with those two property owners and you all have come up with a concept and what that concept is or that they have already come before us and so we have approved a concept plan that they have brought. It's got to be -- to me has to be coordinated and I understand there is a constraint around -- I don't think I need to know like exactly what your sidewalk looks like, for example, but it's got to be -- I don't -- I need a high level -- I need to know when I -- when we approve this that in 2023 that that

road will be built all the way from the north property where there is the slough all the way down here to me, just because of the traffic and flow concerns.

Perreault: Mr. Mayor?

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Just a comment. One of my concerns, though, is with property owners to the north have already expressed -- we don't want that road to go through. I mean that puts them in a very difficult position and as we continue this discussion I keep thinking maybe it is to approve the DA and get it to the CUP process and have that fight happen and let the chips fall where they may and -- because I don't know how it's going to be resolved if -- just by having the continued discussions without having them have any leverage in the game and I -- but, you know, I can be swayed on that, but I -- I'm just trying to figure a way forward. I don't want to have this thing killed because there is viability here, it's just how do we resolve some of these things and what's the path to do that?

Nary: Mr. Mayor? Mr. Mayor, Members of the Council -- and, Sonya, you have absolute free rein to correct me if I mistake the process. So, right now what the applicant has applied for and paid for is a modified -- a modification to the development agreement. That's about 550 bucks. And the cost of that is based on a very overview by Planning does the -- does the DA that exists and the requests that we want fit within our code. So, that's why this report is fairly short. The analysis is fairly small, because we are really looking at a fairly narrow window and the rest of the cost of it is the cost of actually the process of notice advertising and the cost of preparing a development agreement by my office. That's what the -- that's what they paid for. That's what the staff analysis is. What all of you are asking for actually is like almost a full blown application. So, when you make a CUP request that cost is about 12, 13, 14 hundred bucks. That's because there is notices, it goes to Planning and Zoning, there is a full complete analysis by staff on code and how this fits and all of the things that you all are talking about, that's where that's done. So, it's okay if you want to continue this that's within your purview, but understand that now you are really asking staff to review that no one has paid for any of that. That really is staff time to come up with a full analysis for a DA mod that, then, has to be redone again or at least looked at again under the CUP rubric, does it fit the CUP. So, that's kind of our process and so that's what concerns me, because I think what Council Member Hoaglund said is right on the money, what you are asking is going to get reviewed. This isn't the place where it does. If you allow them to do -- if the direction is to allow them to do this, all of that will be analyzed, reviewed, brought forward, Planning, they may have requested to deny it, they may say it doesn't meet the standard, they may say the road should go through, it doesn't go through, the north will not -- whatever it is, it will all be done, but this isn't the process that does it and that's why I understand your frustration, because you are wanting that to be done now and that isn't what they applied for and that isn't what was reviewed by anybody. So, that's why you are missing these pieces. But I

don't have an answer to the chicken and egg that you are -- that you are concerned with, because that's really where we are.

Simison: Well -- and just to get -- I don't know whether it's the chicken and the egg, but I think the Council has been making the comments that sometimes things just aren't ready.

Bernt: Right.

Simison: And we can go back to the Council that first approved the Great Wall several years ago to start this domino of challenges in this area where we tried to allow someone to do something that the area probably wasn't really ready for, that is creating a continuing effort and while I agree from a process standpoint we are chicken and the egg, I don't know that from a practical standpoint it's chicken and egg, I think there is -- maybe these parcels aren't ready to have a full blown decision made upon them. They may be -- instead of being the first two that went into this, maybe they should have been the last two to get any entitlements to allow the rest of the area to figure out what it's going to develop with. I don't know personally. But that to me is as much of the question is now the right time to make a decision on these or is it to deny it and let the other ones come forward and, then, make a decision afterwards. There is cross-access. I know one of the -- that JoAnn talked about the -- they don't want it, but it exists and, honestly, I don't know how a roadway will work through there with how they have their parking lot laid out. I really don't when I look at it. I think you are going to have people backing up into a roadway. What's going to have to happen? Is that okay? I don't know. But maybe -- you know, my personal thing is now is not the time to make a change in direction absent other information in my opinion and that information just will come at some time and when -- we don't know when. We don't control that.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I have been watching our wonderful planner Sonya make presentations for five years and I can almost read her face now and she's over there thinking we are asking all these questions that aren't related to this project and I know we are. Like Council Woman Strader said, we will not get another opportunity to review this and so my expectation as a Council Member is that our Planning and Zoning Commission, who serves at our -- at our will and our request, have this information for their decision. So, whether it's done for us or if it's done for them, the information that's being requested still needs to be provided and one -- one point of clarification on that. As far as -- as far as the discussion regarding the number of children, it has nothing to do with their safety, it has nothing to do with the amenities, it has to do with the school district and whether the -- it's an accurate analysis of the amount of children that will be a part of the district. I don't -- I don't -- I'm not worried about whether their kids -- the pool is big enough. I just wanted to clarify that in the comments that you were making. My expectation is that the -- the items that we have requested, when there is a CUP application in front of our Planning and Zoning Commission, that those items be provided to our Planning and

Zoning Commission, because that's the information that needs to have -- that -- that needs to exist and you have the opportunity and -- you have the great opportunity to sit before us and have these requests made and have those ready and be prepared for them for your CUP with the Planning and Zoning Commission. Not a lot of applicants get that opportunity. So, take all that information, please, and use it to your advantage as you get that CUP heard by our Planning and Zoning Commission. However, this decision goes this evening.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. I personally don't want to move forward on the CUP process until -- until it's ironed out a bit more. So, I'm -- if I -- if I have to choose what side it sounds like I will probably be on a denial at this point and if the project changes and they have more information they can come before us again. But, you know, if it's -- if -- if the will of the Council is not a long-term continuance for them to work with the other property owners to come back and instead it's like moving forward on the CUP, I'm not -- I'm not there on that one. I would rather continue it long term while the property owners work it out or just deny it and they can come back again if they modify it.

Bernt: Mr. Mayor?

Simison: Or not.

Hoaglund: Mr. Mayor, to that point. I have questions of Bill or Sonya, the process. If we deny it they have -- they can't come back for one year; is that correct? Or what -- oh, okay.

Nary: Yeah. That doesn't apply to development agreements.

Allen: So sorry, Dean.

Hoaglund: Okay. For a DA --

Allen: Your question to respond that only -- the year only applies with the preliminary plat.

Hoaglund: Okay. Good.

Allen: Not a development agreement modification.

Hoaglund: So, that -- that could come back anytime in the future if it's denied. The other option is they could decide to withdraw and wait to an appropriate time to -- to bring it back? Is that an option?

Allen: They could. I don't know that it gets them anywhere.

Hoaglund: Okay.

Allen: I mean the application still dies. Just keep in mind if you -- all great points, by the way, made tonight. You know, Bill pretty much seconded in more detail what I tried to say earlier, more succinctly about the details, but, you know, all great concerns that have been brought out here tonight and things that you should be thinking about with a -- with a land use change like this, but if we deny this application tonight they still have entitlements to develop this site as a storage facility. So, bottom line I guess, you know, something that's important for your consideration and your decision is whether or not you would like to see the property develop with a storage facility or a multi-family development. I mean that's -- that's what it boils down to at this point. Thank you.

Simison: Councilman Bernt.

Bernt: So, I -- I really appreciate the dialogue that -- that's been made. At the end of the day we just need to make a decision on what's -- what's in front of us and I know that we all have great hearts and we all have -- you know, we don't want to cause extra expense, whatever the case may be, for those who stand before us. But I -- I -- I think it's really important that we make a decision this evening and that we make a decision to not continue this project, that we either approve it or deny it and so I -- I know your comments are spot on. I agree with you one hundred percent. I have already stated how I feel. We can kick this can down the road all night long, but at the end of the day we need to make a decision tonight and -- and I guess that's where I stand.

Simison: So, with that do I have motions to move through -- nothing is prejudicial that's tonight based on what we have heard to delay or otherwise.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I move that we close the public hearing for H-2021-0059.

Perreault: Second.

Strader: Second.

Simison: I have a motion and a second to close the public hearing. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the public hearing is closed.

**MOTION CARRIED: FOUR AYES. TWO ABSENT.**

Hoaglund: Mr. Mayor, I will kick this off and --

Simison: Councilman Hoaglund.

Hoaglund: -- it may not go anywhere, but we will -- we will start the process. Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: After considering all staff, applicant, and public testimony, I move to approve file number H-2021-0059 as presented in the staff report for hearing date of November 30th, 2021, and that staff consider special -- pay special attention to the provisions in Item 6, No. 4, and the potential of the modifications regarding phase one and phase two and that process.

Simison: Motion dies for lack of a second.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I will give it a try. After considering all staff, applicant, and public testimony, I move to deny file number H-2021-0059 as presented in the hearing on today's date for the following reasons: We don't have adequacy of access flushed out with some of the contiguous properties to the north. The issues with traffic and parking and the associated circulation of traffic have not been fully flushed out and, in addition, I don't think it's the -- it's the right time for the city to change the current zoning on this property.

Bernt: Second.

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

Allen: Mr. Mayor?

Simison: Yes.

Allen: Excuse me. Can I clarify? This is not a zoning for tonight --

Simison: Correct.

Allen: -- this is a development agreement modification.

Simison: This is a development agreement modification.

Allen: Thank you.

Simison: Second concur?

Strader: The motion maker concurs.

Bernt: Yes, I definitely one hundred percent concur.

Simison: Discussion on the motion?

Simison: Yeah. Mr. Mayor, I will support this motion. I mean there are issues that we have talked about that I agree with that -- that need to be explored. I still would like to see those being explored at the different level, but the issues are there nonetheless. So, those are things that need to be worked out, so despite my attempt at moving it to the other -- next level, I'm still in support of the reasons for -- for this motion.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I just want to make one more comment. For me this is not necessarily a no, it's an -- but it's definitely a not yet. So, I just want to make that clear, if it hasn't been made clear on my part, so --

Nary: If I could just add one point to Council Member Strader -- sorry.

Simison: Yes, Mr. Nary.

Nary: There we go. Just one point. So, as Sonya indicated, it's not a zone change, but it a huge change and so as part of your motion -- if you are not comfortable with the use change at this time, that -- that that was the basis.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: That's what I meant. It's part of the reason. It's not the whole reason, but I -- I just want to reiterate something which -- for the applicant, which is I'm glad the door is not closed for a full year. You're certainly welcome to come back if you can really flush these issues out. But I think you understand the -- the level you would have to meet to really deliver that, hopefully, through our comments. Thanks.

Simison: Any further comments? If not, Clerk will call the roll.

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

Simison: All ayes. Motion carries and the item is denied.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

## **FUTURE MEETING TOPICS**

Simison: With that, future meeting topics, Council? Then do I have a motion to adjourn?



Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: I move that we adjourn.

Simison: Motion to adjourn. All in favor signify by saying aye. Opposed Nay? The ayes have it. We are adjourned.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

MEETING ADJOURNED AT 10:24 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

\_\_\_\_\_  
MAYOR ROBERT SIMISON

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
DATE APPROVED

ATTEST:

\_\_\_\_\_  
CHRIS JOHNSON - CITY CLERK