

MOTION CARRIED: ALL YES.

McCarvel: Any other discussion on this? It is pretty straightforward.

Fitzgerald: Madam Chair, this is a pretty simple one. I -- I appreciate they -- they are wanting to add an additional dwelling unit. I think there is space there and if Ada -- if Ada county can't serve them for a new well and septic, then, I think picking up the city services is appropriate. So, if anybody has a problem let us know. If not I will make a motion.

McCarvel: Always in order.

Fitzgerald: Madam Chair, after considering all staff, applicant, and public testimony, I move to recommend approval to the City Council file number H-2020-0119 as presented in the staff report for the hearing date of January 21st, 2021.

Holland: Second.

McCarvel: It has been moved and seconded to approve H-2020-0119 to recommend approval. All those in favor say aye. Opposed? Motion carries. Congratulations.

MOTION CARRIED: ALL AYES.

4. Public Hearing for Schnebly Annexation (H-2020-0115) by Richard Schnebly, Located at 2690 E. Franklin Rd.

- A. Request: Annexation of 0.75 of an acre of land with an R-2 zoning district.

McCarvel: Next item on the agenda is the Schnebly Annexation, H-2020-0115, and we will begin with the staff report.

Allen: Thank you, Madam Chair. Oops. Can you all hear me?

McCarvel: Yes.

Allen: Thank you. I'm sorry. I thought I was muted. Thank you, Madam Chair, Members of the Commission. The next application before you is a request for annexation and zoning. This site consists of .63 of an acre of land. It's currently zoned RUT in Ada county and it's located at 2690 East Franklin Road. The Comprehensive Plan future land use map designation on this property is commercial. The applicant is proposing to annex .75 of an acre of land and that goes to the section line of East Franklin Road as required by rezoning, with an R-2 low density residential zoning district. The reason for annexation is that the existing septic system on the single family residential property failed last -- late last year and the applicant had to hook up to city water and sewer service. No new development or redevelopment of the property is proposed at this time and the use will remain residential for the foreseeable future. As a provision of hookup to city services

annexation into the city is required. The Comprehensive Plan future land use map designation for this property is commercial. Because there is an existing home on the property and the use is proposed to remain residential, an R-2 zoning district is requested as recommended by staff as a placeholder zoning district until the property redevelops or a change of use to the property is proposed in the future. At such time the property should be rezoned and the use -- development should be consistent with the commercial future land use map designation. To ensure future development is consistent with the Comprehensive Plan staff does recommend a development agreement is required as a provision of annexation that requires the property to be rezoned and the agreement modified to include a conceptual development plan consistent with the commercial designation prior to any change in use or redevelopment of the property. This would not prevent the applicant from selling the property for continued residential use, but would preclude it from being subdivided to increase the density on the property and further the residential use of the property. Written testimony has been received from Brad Miller from Adler Industrial. He has concerns pertaining to compatibility of R-2 zoning of the property with adjacent industrial uses to the north and suggests commercial zoning might be more compatible and a better option. I did touch base with Mr. Miller and did explain that this is just a placeholder zoning that's requested and supported by staff. Anyway, just to explain that. Staff is recommending approval of the requested annexation with R-2 zoning and the requirement of a development agreement as previously mentioned. Staff will stand for any questions.

Holland: Madam Chair?

Fitzgerald: Commissioner McCarvel -- or I mean Madam Chair?

McCarvel: Yeah. There we go. Thank you. Commissioner Holland, I think you started first.

Holland: Either way. Sonya, just one quick question. With the -- the comment that came in from Brad Miller, if they have an R-2 designation does it impact them any way on the industrial side of things with setbacks or anything like that? Because I know sometimes there is additional setback requirements for residentially zoned properties next to industrial areas. Or is there a way that in the development agreement it could be noted that they would be exempt from those traditional setbacks, because it's planned to be commercial in the future?

Allen: Well, I believe that the -- I'm just double checking that. I believe that the industrial uses to the -- the industrial property to the north is already improved and, therefore, nothing additional would be required. If the site were to redevelop with the new uses, then, yes, a buffer to residential use is required.

Holland: So, follow up to that. Do we -- if it is all developed, then, probably no concern, but if somebody was to come in and do another industrial use their way, we can put that note in the development agreement or the staff report that it's a placeholder zoning and

the typical buffers wouldn't apply, because we are going to follow the notes of the future use map for that site?

Allen: I will defer to legal on that, but I don't believe so. The developer -- or the requirement would -- would be on the priority under development and it is based on the zoning district of the property under -- under development. So, I believe it would apply in either case.

Pogue: Agreed.

McCarvel: Mr. Fitzgerald.

Fitzgerald: Sonya, did Brad have a response to your comment? Did he give you feedback?

Allen: Well, I don't want to put words in his mouth, but he seemed okay with that explanation and -- and, yes, I can see from the aerial that that property to the north is currently developed. He represents the property owner to the north. Adler Industrial.

Fitzgerald: Got it. Okay.

Allen: I think he just wanted the comment to be on the record.

McCarvel: Any other questions for staff?

Parsons: Commission, this is Bill.

McCarvel: Yes. Go ahead.

Parson: I was going to also let the Commission know that the two vacant parcels there have also been approved by the city to develop industrial uses. So, it will be a fabrication shop and some outdoor storage.

McCarvel: Okay. Thank you. Okay. Any other questions for staff before the applicant? I don't see the applicant in the Zoom audience. Do we have the applicant in chambers, Commissioner Seal?

Weatherly: Madam Chair, it looks like I do have somebody raising their hand --

McCarvel: Okay.

Weatherly: -- wanting to talk for a moment.

McCarvel: Okay. Okay. So, is this Mr. Schnebly? You are on mute, sir. If you are -- you will need to unclick your mute. I think you have the permission to talk if you unmute your -- your side. There you go.

Schnebly: Can you hear me now, Madam Chair?

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

Schnebly: I'm learning how to work this. My name is --

McCarvel: We all are.

Schnebly: My name is Rich Schnebly and my -- you want my home address or the address of the property that I own? My home address was 4050 East Hubbard Road, Kuna. 83634.

McCarvel: Okay. Thank you. Is there anything you would like to share with us about your application?

Schnebly: No. I believe it's pretty straight forward. My one concern that I had after being given the staff report -- and I will have to tell you that Sonya has been very patient with me throughout this whole process and that she's tried very hard to make sure I understand things, but still this is very new to me and trying to work through all the ins and outs of this project have been somewhat overwhelming. But, anyway, the one thing that I had after the staff report was this DA that -- this development agreement that you wanted me to sign or apparently is required and never having seen one or whatever I was very very concerned over what obligations it would put to me, what kind of legal stuff that I would be required to do and that this is kind of something you guys apparently need or want and I have questioned the necessity of it, because it just seemed most everything in there is kind of a given. You know, if the house changes hands at some point down the road I certainly don't have any thing, but if it's sold to somebody that's a commercial developer I mean however it's zoned or whatever don't -- don't they still have to come in front of you guys to get it rezoned for commercial use and come with a plan. I'm somewhat uncertain why the development plan even needs to be in place and the fact that I get charged for the privilege of signing it.

McCarvel: Okay. Sonya, do you want to respond?

Allen: I'm sorry, I was tending to a technical difficulty and I did not catch that question. I apologize.

McCarvel: Mr. Schnebly wants further explanation on why he needs the DA agreement.

Schnebly: Madam, could I interrupt there just a second.

McCarvel: Sure.

Schnebly: Sonya and I had a pretty good discussion last night via e-mail and she tried her best to explain the necessity of it and the requirement of it and, again, I understand it, but I still have a little bit of resistance I guess. So, if you guys really feel that it's a

necessity -- the one thing is I just happened to notice on one of the other applications that you had that in the staff report you have a zoning of R-1. I only put a zoning recommendation of R-2 in there, because it was one of the recommendations Sonya put out in the pre-planning meeting that we had to go forward for my project and would a zoning of R-1, would that help better that it could only be a single family dwelling on that acreage and maybe a development plan wouldn't be needed. But at the same time if you guys do feel that you do need to put the development agreement together and it is required, I will go forward with it, but I guess the one thing I could ask of you is I don't know if you have it within your power to maybe waive the fees for having to put that together, because I still have to go forward this spring. This project has been enormously expensive for me and not planned and has been kind of a financial burden to me at the moment. So, the 300 bucks or whatever that was being required to -- to put this agreement together could be better used this spring, because I have to totally re-renoate my entire front yard on that property that got tore up in this project and that money I think could certainly be better used to put things back together again this spring. So, that's my comments. Thank you very much. I will let you guys go forward.

Allen: Madam Chair, if I could respond to Mr. Schnebly's suggestion for R-1 zoning. The city does not have an R-1 zoning. R-1 is a county designation. The lowest density zoning designation the city has is R-2. So, that's why staff recommended that zone.

McCarvel: Thank you. I guess at this time do we have any further staff comments from Bill?

Parsons: Sure. I'm listening to their conversations, so I think this body is aware and also for Mr. Schnebly, certainly wouldn't want to put undue burdens on homeowners or people that just want to hook up and -- and honor their commitments with the city, but this site is a little bit different. We are -- we actually have a comprehensive plan designation of commercial, but we are recommending a residential zone to help assist with his need to annex in and that's really our standard process, so the state statutes enable staff to require a contract with annexations or rezone. So, once -- he's right, though, they -- technically he could come back through -- whoever buys the property could come back through and rezone it and, then, at that time the city, through our process, could require a development agreement or amendment to the DA if -- if you choose to do that. The city does not have a fee waiver process anymore. We modified the code a few years ago and took that out. The Council at the time had determined that, you know, it just doesn't set a good precedent to be waiving fees for applications, because there is staff time involved, there is -- there is so many different staff members touching these applications. But what I can recommend to this Commission is certainly the city has the ability to get some other assurances with the rezone, but to me it's really a Council decision. They are the ones that are going to be making the decision on the land use. So, if that's something that the Commission feels is appropriate in this case, then, I would go forward on a recommendation of the annexation without the inclusion of a development agreement. That's certainly something you can do and see whether or not Council would support that recommendation.

McCarvel: Okay.

Fitzgerald: Madam Chair?

McCarvel: Commissioner Fitzgerald.

Fitzgerald: So, Bill, we can't recommend that anything on that property until it comes back, has to go through the process again? We can't make that determination in a DA?

Parsons: Oh, sure you can. You always have the -- that's what a DA mode is; right?

Fitzgerald: Yeah.

Parsons: You put a DA in place. Yes. The avenue to change that contract is to go before City Council.

Fitzgerald: Yeah. So, that's my one concern about not putting a DA in place is that comes back and it still remains residential down the road where it's supposed to -- where I think it's a commercial zone.

Parsons: Correct.

Fitzgerald: Or industrial zone. So, that would be my concern about that.

Parsons: Yeah. The long-term vision for this property is commercial and we don't want the residential. Not that it -- it can't continue, but the intent is not for that to be residential forever.

Holland: Madam Chair?

McCarvel: Commissioner -- Commissioner Holland.

Holland: Questions for staff. If we condition it so that they don't have a development agreement, can we still make a condition through annexation that they are not allowed to subdivide the property in the future?

Parsons: Madam Chair?

Allen: Madam Chair?

McCarvel: Where did Sonya go?

Allen: Madam Chair, Members of the Commission, state code does not allow annexations to be conditioned. The only method we have of doing that is through the development agreement process and agreement.

Holland: That's what I thought. Thanks for clarifying.

McCarvel: And I mean it just helps everybody be clear -- you know, a future purchaser, it just helps things from slipping through the cracks, so -- okay. If -- anymore comments from the applicant? I think we still have you. We are answering your questions and staff's at this point.

Schnebly: Am I still on with you?

McCarvel: Yes.

Schnebly: Okay. I certainly understand and, like I said, Sonya has been very very patient with me and tried to explain it to the best of her ability last night to me. So, I -- and if you don't have the ability to waive fees anymore, I guess you -- I will have to accept what you move forward with and go from there. Right now I'm just trying to honor my commitment to you that -- of annexation, because all my permits were issued early on, so that we could get the house back up and habitable, because I have people living in it and they really needed to be able to use the system. So, anyway, thank you very much for your time tonight. I do appreciate it.

McCarvel: Okay. Thank you. Is there anybody in the audience who wishes to testify on this application or do we have anybody signed up?

Weatherly: No, we do not.

McCarvel: Okay. So, at this time if I could get a motion to close the public hearing for H-2020-0115.

Holland: So moved.

Seal: Second.

McCarvel: It has been moved and seconded to close the public hearing for H-2020-0115. All those in favor say aye. Motion carries.

MOTION CARRIED: ALL AYES.

McCarvel: Comments? Discussion?

Fitzgerald: Madam Chair?

McCarvel: We did a lot of it. Mr. Fitzgerald.

Fitzgerald: Yeah. I think my comments kind of float into what I said. I mean I totally understand the challenges that come with attaching to the city services and this just happens to be a unique property that we -- we see further commercial use on it and I --

I'm sorry for the applicant's situation. I know it's -- having a development agreement does cost money and I -- and I'm definitely sympathetic to that. The challenge is if we don't do it and we -- and he sells that property or something changes with it, we can't control what happens after annexation and so, unfortunately, I think we got to have a development agreement go with it in my opinion. So, that would be my -- my thought is that we attach it with an R-2, that's fine, but, then, it has to come back through the process to get redeveloped once that next step happens with that property if it's redeveloped in the future.

Holland: Madam Chair?

McCarvel: Commissioner Holland.

Holland: I would echo Commissioner Fitzgerald's comments. I -- I wish that we had the ability to do a fee waiver, because I would make that recommendation to Council that they consider waiving the fee, but if that's not a tool that we have available to us -- I don't know if there is anything creative Council can do to help them, but I think it's -- I think it's important to have that development agreement in place just because of -- it's a step away from the Comprehensive Plan that was designated for that property. I think the only other possibility -- and I don't think this is an option either -- is requesting the waiver of the fee on the Comprehensive Plan amendment, but that's the same -- same situation. We don't have that ability to change those fees.

McCarvel: I agree. I do feel -- I mean it -- we need the DA in place just for transparency for everyone involved and as fast as things move here it could easily be forgotten, so -- any other comments or motions?

Holland: Madam Chair?

McCarvel: Commissioner Holland.

Holland: Unless there is other comments I -- I will move -- I will make a motion. After hearing all staff, applicant, and public testimony I move to recommend approval to City Council of file Number H-2020-0115 for the Schnebly annexation with the request that they would work with staff on a development agreement. I think that might already be in the staff report, so maybe it doesn't need to be in the motion.

McCarvel: I believe it's in there. Do I have a second?

Grove: Second.

McCarvel: It has been moved and seconded to recommend approval on H-2020-0115. All those in favor say aye. Opposed? Motion carries. Thank you.

MOTION CARRIED: ALL AYES.