

A Meeting of the Meridian City Council was called to order at 6:05 p.m., Tuesday, March 8, 2022, by Mayor Robert Simison.

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

Members Absent: Joe Borton.

Also present: Chris Johnson, Bill Nary, Sonya Allen, Joe Dodson, Alan Tiefenbach, Tracy Basterrechea, Joe Bongiorno and Dean Willis.

ROLL-CALL ATTENDANCE

☒ Liz Strader	☐ Joe Borton
☒ Brad Hoaglun	☒ Treg Bernt
☒ Jessica Perreault	☒ Luke Cavener
☒ Mayor Robert E. Simison	

4. Public Hearing for Apex West Subdivision (H-2021-0087) by Brighton Development, Inc., Located on the North Side of E. Lake Hazel Rd., Approximately 1/4 Mile West of S. Locust Grove Rd.

- A. Request: Preliminary Plat consisting of 208 building lots (207 single-family and 1 multi-family) and 34 common lots on 96.08 acres in the R-2, R-8 and R-15 zoning districts.

Simison: Okay. With that we will move on to Item 4 this evening, a public hearing for Apex West Subdivision, H-2021-0087. We will open this public hearing with staff comment.

Allen: Thank you, Mr. Mayor, Members of the Council. The next application before you is a request for a preliminary plat. This site consists of 96.08 acres of land. It's zoned R-2, R-8 and R-15 and it's located on the north side of East Lake Hazel Road, approximately a quarter mile west of South Locust Grove Road. This property was annexed with the --

Simison: Sonya, do you have a presentation that you are sharing?

Allen: I didn't realize it wasn't sharing. Thank you.

Bernt: Mr. Mayor, Sonya got really quick to the draw on that and just like quick before I can make a little comment on the public record.

Simison: Yes, Councilman Bernt.

Bernt: I need to recuse myself on this one.

Simison: So, what you are saying is there is a chance I get a vote. Wow. Okay. Thank you for that information. Thank you, Sonya.

Allen: Alrighty. So, this property was annexed with the previous Shafer View Terrace and Apex Developments and is included in their respective development agreements. The Comprehensive Plan designation is shown there on the left map. It is low density residential the green. The medium density residential the yellow. And the medium high density residential the orange. The proposed preliminary plat consists of 208 building lots, 205 single family building lots -- I should say the 208 building lots consists of 205 single family building lots, two lots for future resubdivision for residential homes and one lot for future resubdivision for either townhomes or the development of multi-family apartments and that is that lot on Lake Hazel right here. We have 34 common lots on 96.08 acres of land in the R-2, R-8 and R-15 zoning districts. This subdivision is proposed to develop in four phases as shown on the phasing plan on the right. The proposed plat includes a portion of the parcel to the east, depicted on the plat as Lot 1, Block 5, in the surrounding area and that is this area -- if you could see my cursor -- right here. The entire parcel is required to be included in the boundary of the plat or a property boundary adjustment. The applicant is proposing to submit a revised plat prior to City Council approval of the findings to include the entire parcel in the boundary of the plat. This area will be resubdivided in the future for residential homes. A revised landscape plan is also required to be submitted, both of which will require review by staff for compliance with UDC standards. Additional conditions may be -- may need to be added to the staff report. Access is proposed at the northwest corner of the development from East Quartz Creek Street, a collector street, from South Meridian Road. From South Sublimity Avenue and South Apex Avenue, both collector streets, from Lake Hazel Road. Stub streets are proposed to adjacent properties for future extension and interconnectivity. Qualified open space, consisting of linear open space, open grassy areas of at least 5,000 square feet in area, eight foot wide pathways and street buffers along collector and arterial streets is proposed in excess of UDC standards. Site amenities consisting of a swimming pool with changing facilities and a restroom, two segments of the city's multi-use pathway system, totaling a half mile, and a playground are proposed in excess of UDC standards. The future development areas will be required to comply with the open space and site amenity standards with development. The McBirney Lateral crosses this site within a 41 foot wide easement and the Watkins Drain runs along the west side of the site within a 38 foot wide easement, as depicted on the plat. These waterways are required to be piped unless otherwise waived by City Council. The applicant is requesting approval of a waiver to allow the Watkins Drain along the west boundary -- and that is this area right here in green -- to -- excuse me -- to remain open and not be piped. No fencing is proposed to prevent access to the drain. In order for Council to waive the requirement it has to find that the public purpose requiring such will not be served and public safety can be preserved. Conceptual building elevations in a variety of materials and colors were submitted for future single family detached homes in this development as shown. Homes on lots along collector streets are required to incorporate certain design elements as noted in the staff report, since they will be highly visible. And just to back up a little bit. This is a cross-section that the applicant submitted showing the Watkins Drain easement and the

pathway and -- and landscaping that's proposed in that area. The Commission did recommend approval of this project with conditions in the staff report. Mike Wardle and Jon Wardle, Brighton Corporation, testified in favor. No one testified in opposition or commented. Written testimony was received from Julie Edwards and Josh Beach, Brighton Corporation. Key issues were concerned with the provision of three common driveways within the development and associated traffic congestion. Concern pertaining to parking in relation to the alley accessed units and the adequacy of such for guests on the adjacent public streets, especially with the common driveways proposed and parking issues -- issues associated with those. And suggest some of the building lots be eliminated in favor of a provision of guest parking, in addition -- guest parking lot in addition to the on-street parking and elimination of the common driveways in favor of larger lots in those areas. School capacity concerns from their proposed development and others in the area. Key issues of discussion by the Commission are as follows: Desire for South Sublimity Avenue to be built with the first phase as a final build, instead of a temporary fire access. Question pertaining to if Apex East and Apex West will be considered one development for common use of common areas and amenities. The provision of common driveways within the development and associated congestion. Not in favor of common driveways, although they are allowed by code, and in favor of the applicant's request to leave the Watkins Drain open and not pipe it. The Commission did not make any changes to the staff recommendation. The following are outstanding issues for Council tonight. Number one, the Council requests approval of a waiver to UDC 11-3A-6B as I mentioned earlier, which requires all waterways on the site to be piped in accord with UDC standards to allow the Watkins Drain to remain open as an amenity feature. Second. Staff requests Council include a modification to condition 2-B in Section 8-A to also include Lots 4 through 11, Block 10, and the requirement for an easement for a 20 foot wide street buffer to be provided on the lots along East Horse Creek Street and South Sublimity Avenue. And, lastly, with submittal of a revised plat and landscape plan to include the remainder of the legal parcel previously mentioned, staff may identify additional conditions of approval that need to be added to the staff report. Therefore, staff recommends the public hearing is left open and continued in order for Council to have a final review of the revised plans and any added conditions. If the applicant is in agreement with the conditions, findings can be prepared to be approved at the same meeting if deemed appropriate by Council. Staff will stand for any questions.

Simison: Thank you. Council, any questions?

Allen: There has been no written testimony since the Commission hearing also. Thank you.

Simison: Councilman Cavener.

Cavener: Sonya, I think in -- in reading the summary document in your report I think you said that Planning and Zoning recommended approval. I have got my notes that they recommended denial. Am I misremembering, misreading?

Allen: They did recommend approval.

Cavener: Okay.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you, Sonya. So, I -- we -- we often see the -- these lots that are set aside for multi-family, maybe townhomes in the future, but I haven't often seen lots that are dedicated to single family dwellings that aren't included in the proposed plat. So, can you help me understand the thinking behind those two lots that are on the north that are triangular shaped, does it have to do with kind of how the parcels are already set out or -- it's just unique.

Allen: Mr. Mayor, Council Woman Perreault, I -- I don't really know why, so the applicant can respond to that question in their -- in their presentation. Thank you.

Simison: Council, any other questions for staff? Then will the applicant come forward, please.

Wardle: Mr. Mayor, Members of the Council, Mike Wardle, Brighton Corporation, 2929 West Navigator, Suite 400, in Meridian. 83642. Thankful for the technical capability of some people in the organization that give me the opportunity to address you this evening and I will get to the questions that were raised in due course. I'm -- I'm going to just kind of recover some of the -- the ground that Sonya has covered, but also just note that -- well, let me -- let me start with the first one. When the recommendation for approval was given by the Commission, it was -- quoting directly from the meeting minutes of February 3rd -- as presented with no modifications, but embracing the applicant's request to have a waiver for the open waterway for the Watkins Drain. So, there really were no issues that the Commission had. I mean there was a lot of discussion, but when they made the motion it was a fully affirmative motion. As Sonya noted, this area was part of the annexation that the city did back in 2015. You have already approved three projects or three specific phases of the project as Apex Northwest, Apex Southeast, and Apex East that are denoted in the purple color. This project -- again, two years ago when we brought forward a concept plan and the rezoning and those preliminary plats, it was all zoned at that point in accordance with the Comprehensive Plan. So, everything that is before you is as was approved two years ago in the R-2, R-8 and R-16 zones. A little bit more detail in terms of what the ground looks like today before we get started on this. The Shafer View Subdivision, the -- and there has been applications separate from ours relative to some of the ground in that project, but Shafer View is to the west of us and west of Watkins Drain. Kind of the easterly portion of our project as proposed for specific development is along the Williams Pipeline corridor, that's the green diagonal, in reference to Council Member Perreault's comments about the triangular future development, those were specifically because they were within a parcel and we had to include them, we just don't have the detailed preliminary plats that will come forward at some point in the future. So, part of that was because of the way that the separation from -- of the parcels by the

Williams Pipeline -- and that's a very difficult thing to cross without a lot of thought and so we are just not quite ready to make that crossing at this point. But it will happen as part of the area that the Council has already addressed in our past actions for the rezoning and preliminary platting. Now I need to go back and talk a little bit more about some of the elements. You will see just below the Williams Pipeline there is the McBirney Lateral. That, as the preliminary plat will show, will become a -- that lateral will be piped and there will become a pathway corridor that links many of the facilities together on kind of an easterly -- east and west alignment. The Watkins Drain, which forms the west boundary of the project, actually kind of at the beginning down at Lake Hazel, we will be piping the portions that go through the project along Lake Hazel and up Sublimity -- Sublimity Avenue of the collector along that western boundary to a point where it enters adjacent property and goes into that property. But, then, the portion above that that we will propose to be left open we will illustrate in a few moments, just kind of the character of that. So, those are the elements on the ground that we will be dealing with in the course of development. The site plan specifically shows the single family lots with those future R-8 parcels that will be preplatted with adjacent ground in the future and as Sonya has noted, if you look kind of east -- northeasterly from the project where it says future development and has the -- the school site, that's the parcel that we have agreed with staff that will be brought in in the revised preliminary plat, only just to take -- make sure that we don't leave something out that was an original parcel. So, nothing specific will be approved there, except it will be subject to a future preliminary plat application. But just for the parceling purposes it's going to be brought in by a revised preliminary plat and so the only thing that will add to it will be the buffers along Crescendo, the east-west street, it's a collector, and along Locust Grove, which is the arterial on the east side. So, the only -- well, the only real issue that we are going to be just addressing here in a moment is the waiver. But we do have in the project 46 alley or rear-loaded lots that are designated there kind of in the southerly portion of the -- the site. I would note that those lots are 120 feet deep. They will have the 20 foot parking pad at the back. There will be no driveway curb cuts on the streets. The streets are full width ACHD streets. So, on-street parking, so there is no need -- there was some discussion about, well, maybe they need to have a parking lot. There is no need, because we actually have more on-street parking, but we also have the required parking pads at the back of each of those lots. The open space, 16 percent -- 16 plus percent of the area is in the open space and you will see that -- that green McBirney pathway corridor that I mentioned a moment ago. Community pool and playground complex there on the east side that is linked by that pathway corridor also that goes over to the -- the Watkins Drain and Sonya did note the amenities, the pool, playground, and the pathway corridors. And, again, a little bit more detail precisely to show how that McBirney corridor connects the future Williams Pipeline pathway corridor, that will, in fact, be a pathway that connects already to your city park, Discovery Park, is -- has that pathway and that same pipeline going through it. We have the -- the connections that will link people down to the intersection of Lake Hazel and Locust Grove and onto the -- the park to the east. But, then, that McBirney pathway corridor, again, links all of those facilities over to the Watkins, which does have a -- already a sewer access. There is a sewer line that has been constructed into the project and I will illustrate that again in just a moment and that becomes part of the common area pathway corridor along the Watkins Drain. This is the existing Watkins. Shafer View on the left. Apex to

the right. That gravel pathway or trail that you see there right now is actually the sewer access maintenance road. That will become a multi-use pathway, 14 feet wide, and so the only issue before the Council this evening, if you agree with the affirmative recommendation of the Planning and Zoning Commission, is the question of will you grant a waiver to maintain the Watkins in an open corridor. This is just a view from the northwest corner of the project looking back with Shafer View on the right, Apex to the left, and, of course, the city's sewer access road future multi-use pathway. This simply shows that there is going to be a section that Sonya already showed to you, but I want to just reinforce. There is a -- a Watkins Drain easement that goes through that area currently. You have a city -- a 25 foot sewer easement that will become the dual purpose pathway and maintenance access and that will be the manicured area as proposed. Everything from the top of bank to the back of the lots will be manicured, but the Watkins Drain itself and the area over to the west would be native landscape and part of that you will see in the next slide is actually -- the property line is at the centerline of the Watkins. I would note that on the very west side you will see that it shows a fence location. There is, in fact, a white rail fence along all of that property, so that where it says fenced property line there is a white rail ranch type fence already in place on those adjacent Shafer View properties. Where the property line, then, deviates and goes down to the center of the Watkins, that actually occurs -- it's an interesting -- it's an engineering phenomenon, but the McBirney lateral actually siphons under the Watkins. So, you will see the McBirney Lateral at the very bottom center of the photo, it ends there, goes into a pipe, goes down through the swale under the Watkins Drain, comes back up and you can see a little roadway connection there that's an access for the purpose of maintenance for the irrigation district, that, then, intersects with the McBirney where it, then, surfaces and runs to the west. So, it's an issue that's been addressed in the past and from that point, then, to the northwest boundary of our property the Watkins Drain is actually centered on the property line and you will see, then, that sewer access road, the gravel road, that will become paved -- a 14 foot pathway. So, we concur with the staff recommended conditions and the Commission's recommendation for approval and, again, quoting them: As presented with no modifications, but embracing the request for a waiver for the open space -- the open Watkins Drain. We agree with that recommendation and we ask for your approval with that acknowledgment. Be happy to answer any questions that you have.

Simison: Thank you. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: So, that is -- if I understand correctly drain easements generally stay dry most of the year; right? With exception of any excess groundwater that may come through natural causes. So, is -- is that correct, this is not -- there is not active water running through this on a regular basis.

Wardle: Mr. -- Mr. Mayor, Council Member Perreault, that is -- that is correct and it was interesting because of the hearing this evening -- let me go back one slide. The property owner -- if you look the very left side of the slide where the property line jogs down from the Shafer View, that adjacent property owner called me just to find out what our schedule was, noting that they plan to come in sometime this year with an application of their own on their eight acre parcel and I asked the question of him -- I said so would you tell me what the Watkins Drain is like and he said it's wet, but it doesn't really run much water and he said we really are the only ones that put any water to it from our irrigation, but it's not a stream, it's just a -- a wet swale. So, it's not a waterway that -- that would raise concerns for safety, it's purely just a natural swale that picks up the excess drainage that comes out of the area, which as development occurs will be less and less. Thank you.

Simison: Councilman Cavener.

Cavener: I guess I can do that, Dean. Thanks for the reminder. Batting a thousand tonight. Mr. Wardle, I'm certainly supportive of -- of the request and -- but I -- I do have kind of an odd question that you may help me just become a better Council Member. When we pipe these waterways do they need to have a certain amount of moisture running through them with any type of regularity in order for them to function correctly? Do you create scenarios where they can fail because they run dry for a certain amount of time? Just -- not about this particular project, just you are here, you are making a good request that I'm supportive of, because -- because there isn't a lot of water movement and I just would seek your insight and counsel.

Wardle: Well, Mr. Mayor, Councilman Cavener, I kind of anticipated that there may be a question about this, so I have slipped a slide in there from your code and if we, in fact, wanted to create what is deemed a water amenity, we would have to qualify -- we would have to design and note exactly what the flows were and, then, appropriately grade, but this doesn't even qualify for that purpose and so your code actually says -- and this is the one that we are requesting the waiver for -- in Section A, the purpose, it says -- since I'm going to just pick up the yellow highlights that -- the purpose is to limit the tiling and piping of natural waterways, including drains, where public safety is not a concern and it certainly is not. Then in the subsection on the piping, the natural waterways will remain as a natural amenity and, then, in the subsection B-2 and, then, the fencing section C-2, it talks about maintaining these as maybe left open as a water amenity and that's where you get into the technical details or linear open space. And so, again, there is no public safety issue. It's going to be primarily making sure that stuff that blows into that -- the grasses and weeds there is picked up and since it will be a homeowners association maintained corridor that will occur.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: So, that follows my -- that was my next question. Could an HOA erect a fence in the future if they choose to do so, if they find that -- that there is a safety issue after all?

Is that something that an HOA would be able to do? Is it on -- will they have jurisdiction to do that?

Wardle: Mr. Mayor, Council Woman Perreault, I would assume that they would if they -- if they determined that there was a threat, but there will be eight, essentially, acre lots that will back up to that and it will provide them with kind of a -- a space and a backyard area that will be, frankly, enjoyable. Probably a few critters that will wander through there occasionally. But, yes, an HOA would have the authority if they deemed that there was some kind of a threat.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Sorry, I don't want to beat this to death, but is there any -- we are in a desert, we are not like experiencing flash floods or something. Just want to make sure -- have you guys at least taken a look at it, if there is a rain storm to make sure like -- there is not a part of it that is a hazard? I know it feels remote, but I -- I just want to make sure that -- that -- that we are not missing something.

Wardle: Let me go back to the pictures of what that actually looks like.

Strader: And maybe -- maybe to answer the question also, like is there a part of this that if it was full of water would be more than like a foot or two feet deep in terms of the actual terrain I guess.

Wardle: Under extreme conditions and, you know, with a hundred year storm, yeah, there would be the potential of a foot or two of water, but if you look at the channel right there it's only a couple of feet wide itself. So, yeah, I -- I -- I just don't know how to respond, other than the fact that you will find that this is really similar to a lot of facilities in the community that are actually left open, many of which are improved as amenities, but because there is really no perennial water that runs through here it doesn't really even qualify for the investigation or assessment from an engineering perspective as a water amenity.

Hoaglund: Mr. Mayor?

Simison: Councilmen Hoaglund.

Hoaglund: Just to shed some light on that, we have a drain that used to be on the farm, but now is part of a development and they left that open. There are requirements for safety that -- the slope and different things like that and -- and they lowered it down to have a walking path and during the summer during irrigation season drains can have a fair amount of water, I mean it probably at the deepest gets knee deep, but the rest of the year it is a drain, it -- it takes natural groundwater and water flow and carries it off. A lot of times they are under -- it's a Boise Project Board of Control and I think this one is as

well. In fact, they have a letter here and they -- they don't want fencing within the project and whatnot. It can be an amenity and -- and what you are doing is similar to what they did in BridgeTower in terms of having a pathway and doing it. So, it's -- it's -- there hasn't been a safety issue. I mean we see kids making little dams across and whatnot, which they really shouldn't, but they do and, then, they -- they get taken out, so it -- it's something that's actually used there. The ducks are there, the geese are there, and -- and whatnot. So, it makes it -- it makes it nice when -- when it's done correctly, so -- but I know a lot of times the Boise Project Board of Control does not want it piped, because they want that access and they want it open and so -- hope that helps.

Simison: Okay. Council, any additional questions for the applicant? Okay. Thank you very much. Mr. Clerk, do we have anyone signed up to provide testimony on this item?

Johnson: Mr. Mayor, we did not.

Simison: Okay. Is there anybody in the audience who would like to provide testimony on this item? We do have someone online. It looks like Julie Edwards is online.

Johnson: Julie, you are able to unmute.

Edwards: Hi. My name is Julie Edwards and I live at 1310 East Mary Lane, which is just north of this subdivision and there is just a couple thing -- couple things. It wasn't about the waterways, but I did have a question about -- if there is any water studies ever done, because the majority of us surrounding this area are on wells and so once the subdivisions go in and, you know, we are not getting the water regenerating back into the aquifer from the agriculture, I'm just wondering if that's something that the neighbors all need to plan for in the future, that we are going to be drilling deeper wells or being forced to connect to city services. So, that's one thing. The other one is in regards to schools again. I know I bring that up a lot. But, you know, it's -- in the small picture it's listed in the information packet it said this, you know, could generate 132 school age children, 154 once they had the townhomes and so my thing is that, you know, 132 students, that doesn't sound so bad, but when you look at the bigger picture of all the other applicants -- and I was hoping to talk to Marcy Horner at the West Ada School District before this, but she's out of town until tomorrow. So, I just looked at your active public hearing map online and just kind of pulled numbers from there for the schools that were zoned for this area. So, Mary McPherson Elementary, Victory and Mountain View and so there is Apex East, West, Graycliff Estates, Burnside Ridge Estates, Biltmore Estates, just for the elementary school that's almost 700 new homes going in in those and that's just, you know, what hasn't been fully approved yet. So, I know there is other things that are in the works surrounding us as well, so that's in addition to that 700 and same with the middle school, it's just under 600 and high school that was like right around the 600 mark, too. So, that was one other concern. And, lastly, I -- well, I wanted to know what the timeline was for phase three completion, just because it's edging closer to me and I just wanted to know that and also if planting -- and this is a general new development question. I don't know if they have pre-selected trees and shrubs that they are supposed to use, but I was just wondering if there was a way to kind of migrate towards using drought tolerant

shrubs, trees, things like that, just doing more native landscaping because we are so dry these days. And that's all. Thank you.

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

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Not a question, just a comment. Thank you for -- for providing that concern. We recently met with the West Ada School District staff and while I agree with you, there appears to be a very acute issue, particularly brewing in south Meridian, when we directly ask them the question of what they needed from us, they -- they told us they didn't need anything from us, that they have the situation with the student population under control. I'm having a hard time, frankly, believing that. I'm doing my own math on it, but it's pretty hard when another agency emphatically disagrees and doesn't provide district wide projections. We are continuing to meet with them. I think, you know, we have meetings coming up, hopefully soon, but I just wanted to tell you I feel like we are trying to address that issue head on, but in a very recent meeting when we directly asked that question of them they told us that they will redraw their boundaries, that they have tools available and that they don't see any issue. So, I would encourage you if you see an issue to be vocal and bring that directly to them. Thanks.

Simison: Thank you. I know we do have two members of our Public Works staff online. Would Council like to hear any of the information about the water issues that were asked by the applicant from Warren or Laurelei, if you are available, to unmute and provide comments to the question for Mrs. Edwards.

Stewart: Mr. Mayor, Members of the Council, you know, the -- I can tell you that -- and let you -- let the lady that testified know that the City of Meridian has been keeping track of the aquifer for about the last 20 years. Every well that we put in we also drill a test well, which has a series of smaller wells inside of it to -- that goes to various aquifers and we track that on a regular basis to see if there is any declines in the aquifer and we have not determined that there is any significant decline in the aquifer in the Meridian area. That the aquifer underneath Meridian seems to be fairly robust at least at this point, but to caveat that a little bit, we don't -- you know, really shallow, depending on how deep the person's well is, we typically take a look at things at two to four hundred feet and deeper. There could be a situation where some private wells are not that deep and we would not necessarily measure those aquifers that they are in, those really really shallow aquifers. But we have not seen any declines in the aquifers that we have been measuring for the last 20 years and you can go to the Department of Water Resources, they have other information that's available on wells that have been drilled and water table and so forth and so that's another resource if they would like to go there.

Simison: Thank you, Mr. Stewart. Is there anybody else that would like to provide testimony? If you are online you can use your raise your hand feature -- raise your hand

feature on Zoom or if there is anybody else in the audience that would like to come forward on this application. Seeing none, would the applicant like to close?

Wardle: Yes, Mr. Mayor, Council Members. Again, Mike Wardle, Brighton Corporation. One of the first things that we do whenever we undertake a development is go visit with the school district. We have a reputation for addressing their needs first and foremost and we have identified a future elementary site within the project. We have also worked with Gem Prep and they are under construction for their facility to be open this fall. So, schools, yes, and we all hope and trust that decisions made by West Ada will deal with what appears to be stress and overloading, but they do have the ability to make those changes in boundaries. Ms. Edwards asked about the timeline for phase three. It would appear that 2024 would be probably the earliest that we would be into that northerly area. There is still ground between our phase that's being proposed in Apex West and their property. So, this doesn't get adjacent to them, it just gets closer. Final comment. We agree with the recommendation and ask the Council to affirm that recommendation for approval. We acknowledge that Sonya has asked that the find -- that the issue be left open until findings, so that if we add that parcel that there is any question that needs to come up or be addressed at that point that it can be and we agree with that, but we do ask that the Council approve by motion and second this evening what we have requested and what the Commission has recommended. Thank you.

Simison: Thank you. Council, any questions?

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Mr. Wardle, I do have a question for you regarding the schools and when -- when Brighton set out to do this whole concept with Gem Prep being a part of it, it's my understanding that Gem Prep will be about five or six hundred students; is that correct?

Wardle: Mr. Mayor, Council Member Perreault, Jonathan has been the one that has dealt with them. If there is a -- if you can answer that one.

J.Wardle: Mr. Mayor, for the record Jon Wardle, 2929 West Navigator, Meridian, Idaho. 83642. Mr. Mayor, Council Member Perreault, that is correct. Their -- their student body population is designed to be about 600 students at that location.

Perreault: Mr. Mayor, follow up if I may.

Simison: Council Woman Perreault.

Perreault: We -- we have a lot of hearings, so if memory serves me right, you had another annexation application before us recently where we talked about this again and -- and I guess my question for you would be was it Brighton's anticipation that this would offset the amount of public students that were anticipated to come from the whole project or

was it just more of like -- it wasn't necessarily intended to replace what the public schools were offering, it's just something that is being -- a benefit that's being provided to the community, because the -- in our last hearing it was also brought up in the -- that -- that Gem Prep was -- was -- you know, was being built as an asset and -- and so I just -- is that something that you want us to take into consideration in every phase of the Apex development? Because I would anticipate that the student -- that you are probably going to have -- I mean maybe closer to a thousand students coming out of this based on kind of what I'm seeing for West Ada. So, I just want to understand a little bit more about that.

J.Wardle: Mr. Mayor, Council Member Perreault, it's an interesting question. At the time that -- when we started doing the planning for the project we were approached -- we had conversations with West Ada, but we had also been approached by Gem Prep. We did not look at it as a replacement to the responsibility that West Ada has to educate our kids and provide those facilities. This is a plus one. So, this is another opportunity, another option for families to make should they choose. It is a public charter, so it's open to all, but we really viewed it as something similar like we would do with a -- you know, our other amenities. While it's not necessarily Apex specific, there -- there were donations made so that that could be -- that could happen and happen quickly. So, not to replace, but to be a plus one. Thank you.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Same question I asked last time. Has the timeline changed in terms of delivering your phases overtime. You know, if it -- if it take -- if this whole thing -- if this whole buildout ends up taking you a number of years that is a positive thing in terms of the school district's ability to absorb students as well. So, if you guys see a big change in your timeline I would just ask that you flag that for us when these hearings come up.

J.Wardle: Mr. Mayor, Council Member Strader, we will do that.

Simison: Council, any additional questions? All right. Thank you.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Seeing that there is no further questions or comments, I would move that we close the public hearing for H-2021-0087.

Cavener: Second the motion.

Hoaglund: 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. Oh.

Perreault: Sorry. I believe the last outstanding issue for Council was that the public hearing be left open, but I don't know that we can do that if -- if we are going to make a motion tonight. We would have to continue; is that right?

Nary: So, Mr. -- Mr. Mayor?

Simison: Mr. Nary.

Nary: Mr. Mayor, Members of the Council, so, yeah, thank you for -- thank you for injecting, Council Member Perreault. So, I -- I think -- Sonya and I talked about this today and we can see what the applicant thinks, but I would agree -- I think what we are trying to get to is clear direction to planning staff to create findings based on the direction and the conversation tonight, but there is this one issue that needs resolution and may require additional findings that are unclear. We don't think so. I mean the potential is probably not, but we want to make sure that there was an opportunity both if there was maybe not meeting of the minds between planning staff and the applicant or a disagreement as to whether that's complying with the Council direction, that there is at one last opportunity for the Council to weigh in on the final findings, but we could, then, approve the findings at the same hearing. So, instead of closing it and, then, waiting another week or two for findings, we would have it prepared and if there is no disagreement or they are very minor, we could finalize it that night. So, I think that was our desire was to not close it, to give direction, to create findings pursuant to that with leaving that one condition left open for a resolution before the final findings come back for approval. If I have misstated that I'm sure Sonya or the application can correct me, but I think that was our desired avenue for tonight.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Yes. Kind of habit to close the public hearing, so thanks for the catch there, Council Woman Perreault. So, Bill, in -- in making the motion do we signify that the public hearing will be left open?

Nary: Yes.

Hoaglund: Okay. Thank you. Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: We leave the public --

Allen: Mr. Mayor, excuse me. Councilman Hoaglund, I might just suggest, if I may, that the public hearing just be left open for discussion of that item, rather than clear open. Thank you.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: Let me take a stab at this. After considering --

Simison: Are you going to withdraw your motion to close the public hearing?

Hoaglund: Oh, yes. I withdraw my motion for -- to close the public hearing.

Simison: Second agrees?

Cavener: Second agrees.

Simison: Motion is withdrawn.

Hoaglund: Wow, two of them in one night. I think I have never done that before. Anyway, Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: After considering all staff, applicant, and public testimony, I move to approve H-2021-0087 as presented in the staff report for hearing date of March 8th, 2022, and that we include a waiver of UDC-11-3A-6B to allow Watkins Drain to be left open and that the public hearing also be left open for discussion of revised plans and any added conditions.

Cavener: Second.

Allen: Mr. Mayor --

Simison: Have a motion and a second.

Allen: -- clarification from the city attorney if I may. Is -- should they actually be making a decision at this meeting, since the public hearing is being continued?

Nary: So, the way I took that motion is that it is still pending and there is a final decision to be made when the findings are completed, but the direction is to complete the findings but for this one outstanding issue to be resolved. So, it's not a final decision until the findings get approved.

Wardle: Mr. Mayor, I -- I would just maybe suggest one other alternative and that would be to actually close the hearing, make the motion and, then, if that one issue requires some further discussion at the time of findings, that the issue could be reopened at that point, just so that we can avoid confusion only on that one item.

Nary: So, Mr. Mayor, Members of the Council, Mr. Wardle, but, then, we have to renote it.

Wardle: I didn't under --

Nary: We have to renote the hearing.

Wardle: Oh. Okay.

Nary: So, this would avoid us being able to having to renote and be able to take action at the final hearing.

Wardle: We are agreeable with that, as long as the Council's direction is clear that they are recommending it -- or approving the project subject to just clarification when that one issue is addressed through the revised preliminary plat, that adds only undeveloped parcel.

Nary: Yes. Subject to the final decision and approval at the next hearing.

Hoaglund: Mr. Mayor?

Simison: I do have a motion and a second, so we are in discussion.

Hoaglund: Yes. To just clarify, I just want to make sure that -- from -- from the -- the staff deal, it is -- for the public hearing to be left open and continued in order for Council to have a final review of the revised plans and any added conditions. So, that's what we want to -- want to follow here and that's why we are leaving the public hearing process open.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: I don't have anything specific to state regarding the motion, but before we vote I wanted to mention specifically regarding the public testimony this evening, that because these properties aren't even annexed and we already had conversations with the applicant prior about school enrollment and whatnot, we -- we do take the decision regarding approval of preliminary plat just a little bit differently. I -- I know that Ms. Edwards had mentioned that in a letter that she had written and -- and I want to be clear to her and anybody else that's listening that -- that we are hearing -- but that we -- we address this -- approach this just a little bit differently, because this has already been annexed and they are complying with the zoning, so --

Simison: Is there any further discussion? All those in favor -- you know, because we are not approving the project, so voice vote okay?

Nary: Yes.

Simison: All those in favor signify by saying aye. Opposed nay? The ayes have it and the item is continued. To what date?

Allen: It depends on how long it will take the applicant to revise their plan.

Simison: It depends on how long it will take the applicant to revise their plans.

Bernt: Mr. Mayor?

Simison: Mr. Bernt.

Bernt: You know I better abstain just for the record.

Simison: Yeah. Noted.

Allen: I need the revised plans a few days -- like at least a week before the hearing to get the staff report out.

Nary: The April 5th or whatever the --

Allen: So, if we continue for two weeks I will need the revised plans in a week. The applicant states are good with that.

Simison: Okay. So, all clear -- clear is good for the record? Do we have a date on the record with a motion? Okay. Approved until the 22nd? Okay. Thank you. Let's not do that again.

MOTION CARRIED: FOUR AYES. ONE ABSTAIN. ONE ABSENT.