

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: I move to continue file number H-2020-0113 to the hearing date of March 4th to give the applicant more time to walk through the staff's conditions of approval in the staff report.

Grove: Second.

McCarvel: It has been moved and seconded to continue H-2020-0113 to March 4th. All those in favor say aye. Opposed. Motion carries.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

5. Public Hearing for Ambles Run Subdivision (H-2020-0124) by HomeFound Group, Located ¼ mile east of N. Locust Grove Rd. and ½ Mile South of Chinden Blvd.

- A. Request: Annexation and Zoning of 2.88 acres of land with an R-2 zoning district.
- B. Request: A preliminary plat consisting of 6 single-family residential lots.

McCarvel: Next item on the agenda -- and we did have -- there was a typo on the public agenda. It should be H-2020, not -- not H-2021 -- 0124, Ambles Run Subdivision, and with that we will begin with the staff report.

Dodson: Thank you, Madam Chair, and thank you for recognizing that minor mistake there. As noted, the first item that we are actually hearing tonight is for Ambles Run Subdivision, located about a quarter mile east of Locust Grove and South of Chinden Avenue. It is a lot and block within the existing county Dunwoody Subdivision. The applicant is requesting annexation and zoning of 2.8 acres of land with a request for the R-2 zoning district and a preliminary plat for six single family residential lots. The property lies within the low density residential future land use designation, which allows single family dwellings at a gross density less than three dwelling units per acre. The proposed project meets both the allowed use and the density requirements of the requested zoning and future land use. The proposed density should function as a transitional density from the Vienna Woods Subdivision to the -- on the south to the existing Dunwoody Subdivision surrounding it to the north, west, and east. Staff finds the proposed density as appropriate in addition to meeting our Comprehensive Plan. Access into the site is proposed via extending Chopin Avenue, which is abutting the site to the south and it's the only available point of access into the site. The applicant is proposing to provide parkways with street trees on both sides of Chopin. As currently proposed the project is proposing approximately four percent open space. That would be qualifying should it -- if any were

required. This number is important, because if this property was required, if it was greater than five acres to be exact, the project would only be required to provide five percent due to the lot containing buildable lots or an ability to gain all building lots that are over 16,000 square feet. Providing open space for developments is a critical point within the Comprehensive Plan to help create a sense of place and add green space for residents to enjoy. Therefore, staff is recommending that the applicant revise the landscape plans to show ten foot wide parkways, instead of eight foot wide, to increase the open space for the project and meet that five percent threshold. Providing open space at this level is not required by code, again, to be clear, but staff believes it helps the project meet the spirit of the code and allows for even more of an identity for the small subdivision, because ten foot parkways, one, allow trees more room to grow and they tend to be healthier with that versus eight foot and with -- our code allows bigger trees within ten foot wide parkways versus eight. In addition to wider parkways staff is recommending a revision to the road layout to better comply with the Comprehensive Plan and help with future development in this area. The applicant should provide a stub street to their western boundary and preliminary conditions or discussions with ACHD have determined that this applicant would be required to construct a full street section. However, the applicant should work with ACHD on a reduced street section for the stub street to minimize the impact to this property. By providing a stub street to the north and to the west provides road connectivity and utility placement for future development in this area, which should create a more cohesive design. Furthermore, this recommended change does not create the need to lose any lots or change the request for R-2 zoning, as each lot would still meet the minimum dimensional standards for R-2 after reducing the lot widths along the western boundary. A submitted landscape plan also shows a raised berm with relatively full landscaping along the rear of the building lots. This landscaping on private lots is not regulated by code and, therefore, staff does not recommend adding any provisions regarding this landscaping. The applicant intends to maintain the berm and landscaped areas through the HOA and subsequent CC&Rs, Conditions, Covenants and Restrictions, that the city does not regulate. Staff believes this is the appropriate way to regulate and maintain the proposed landscaping on the private building lots. I would like to circle back to my recommended changes to have a western stub street. The applicant did speak with ACHD following my staff report and ACHD will not allow them to do a reduced -- a reduced street section as a sub street to their western boundary, which is unfortunate. They only allow that in cases where there are site constraints, which usually means existing development, and because there isn't any they would like a full standard street section. Therefore, with that knowledge, as well as understanding that, whether this street is on this side of the north property line or the north side of the property line with a future project, it will not make or break this project and, therefore, I am in a -- I am expecting the applicant to request that that condition be waived and I'm amenable to that. I do not -- I prefer these six lots be approved, rather than denied, over a short stub street that will eventually be there with future development in this area. There was one piece of public testimony submitted as of approximately 4:30 p.m. this afternoon that's from the neighbors to the west that are in the Dunwoody Subdivision from my understanding, Mr. and Mrs. Rammell, and they were noting that they would like a stub street to their -- their eastern -- this western -- so, the shared property line on the west side for another access point to their lot. Other than that staff does recommend approval of this application as

noted and I will stand for any questions that you guys have. Thank you.

McCarvel: Any questions for staff? I do have one for you, Joe. What number is the item on the stub street that you are okay with us striking, if that's the direction the commission goes?

Dodson: Madam Chair, there is multiple, because it -- it goes through the plat conditions, as well as the landscape conditions and things like that.

McCarvel: Okay.

Dodson: I don't have that in front of me. I apologize.

McCarvel: So, are we -- we are probably good with -- if in the discussions and of just talking about there being no stub -- stub street?

Dodson: Correct. I can easily go back through --

McCarvel: Okay.

Dodson: -- and do that afterwards.

McCarvel: Yeah. Okay. Okay. All right. Would the applicant like to come forward?

Miller: Hi, there. Michael Miller. Can you hear me?

McCarvel: Yes.

Miller: Okay. Thank you, Madam Chair. Again, my name is Michael Miller. My address is 1308 North 12th Street, Boise, Idaho. I have a presentation. Can I share that with you?

McCarvel: Yeah. I believe so.

Miller: Okay. So, I'm going to go here and -- excuse me. Okay. All right. So, give me a second here. Okay. Can you see that?

McCarvel: We have a white screen right now.

Miller: Apologies for the complications.

McCarvel: No problem. There we go.

Miller: Got it?

McCarvel: We have it.

Miller: Okay. Thank you so much. Thank you, Madam Chair. Thank you to the Commissioners for allowing this opportunity to present our application. Big thank you to Joseph Dodson. We pre-app'd this application in August, almost six months ago, and he has been very communicative and helpful throughout this entire process. So, as you mentioned, our parcel here -- can you see my mouse?

McCarvel: Yes.

Miller: Okay. Our parcel here lies just outside of the Dunwoody Subdivision. Originally this was an open space lot connected to the Dunwoody Subdivision. Each of these residential lots were designated an open space lot and -- and two years ago in July during a purchase and sale agreement, this open space lot was separated from this residential lot and now has no access through Dunwoody. Our only access is through Chopin. As you can see here, the Dunwoody Subdivision is all county and Meridian has grown around us and our only option for utilities is to stub here through Chopin, the Vienna Woods Subdivision. Traffic will flow down Locust Grove and come through Strauss and up through Chopin. This is kind of a little image of what it will look like. It will terminate in a cul-de-sac. We have six homes planned with a fence along the border here. The highest and best use for this land is residential development. In our due diligence through this last six months we spoke with the neighbors who do have an intention to develop. It was important to staff that we show how a western interconnectivity could be possible and they provide -- provided us this plan and I don't know if this is what they are still doing, but this was an initial rough draft presented to us. They would go through here and, then, out through Dunwoody, stubbing to this northern property. They would stub west and, then, out and continue for the rest of their development. This is the idea of what we would want if we were controlling the entire 15 acres, but we only have the 20 percent -- the three acres -- 2.8 acres right here. So, we do not think that a western stub street is good for our project or for future development. As you can see, if we were to stub at any part of our western border here it would go directly into this property here. If we were to use up the full length of our parcel here these lots would be like 50 by 50 and the road would end right into this home and there will be double frontage. So, a western stub street almost -- along the entire length of our western border provides several complications to future development, but they do already intend to stub to the west here on this property and this will allow them to continue through and we open the door for that development. As Joseph said, we have six lots here. We originally started out with eight. My first impression was that we would need to be zoned R-4, which is contiguous with the Vienna Woods Subdivision -- Subdivision, but after our neighborhood meeting they requested that we lower our density and change our zoning request and so we were amenable to that and we changed it to six .4 acre lots. We also have in our landscape plan here you can see a three foot berm with -- I think like over 90 pieces of vegetation and landscaping, along with a six foot cedar fence to help provide privacy for the Dunwoody Subdivision. Those neighbors right here along our eastern border. We are also proposing that the homes be single level with a bonus room, so that the -- at least here on these three, so that Dunwoody would have -- maintain its privacy. Just like a couple quick facts. The last year in 2020 there were I think 13 -- 1,300 new construction sales on .4 acres or less and only 16 of those were .4 acres or larger. We just make that point to show that we think

this is going to be a great fit for Meridian, these large open size lots. Regarding staff's recommendation for the eight foot parkway to go to ten feet, we -- well, we are not in disagreement with that. The Vienna Woods Subdivision right here, their parkways are six feet. So, we thought it would be a good transition to just go two feet wider and -- yeah. So, as he mentioned with our open space and these parkways our open space is about four percent, which is close to what would be required for R-2 zoning and that's it. That's all I have for you. So, if there is any questions I will be happy to answer them.

McCarvel: Okay. Any questions for the applicant? There being none at this time, thank you, Mr. Miller.

Miller: Thank you.

McCarvel: Madam Clerk, do we have anybody signed up to testify on this application?

Weatherly: Madam Chair, we have some people signed up. The first of which is Jeff Wilding. Jeff is the HOA -- is representing an HOA tonight.

McCarvel: Okay.

Wilding: Thank you. Good evening, Madam Chair and Commissioners. My name is Jeff Wilding. I'm the HOA president of the Dunwoody Subdivision and I live at 1842 East Dunwoody Court. I have prepared a small presentation that I would like to work through. Some of it a little bit of history and, then, some to the narrative that was provided by the Homewood Group. So, as you have learned, Lot 26 is the proposed Ambles Run Subdivision. Lot 25 is important, because during the sale of Lot 25 that was referred to before in 2019, that lot was allegedly split, but that violates our CC&R agreement and, again, I don't expect that you folks will have time to read through all this. I'm not going to read all of the details that are in the black, but it's information that I want you to have. So, the HomeFound Group suggested that there was an agreement from the Dunwoody Subdivision to split those lots in the sale. That was never done. No documentation. Multiple requests for alleged e-mails approving the lot split have not been produced and multiple requests -- excuse me -- requests from Title One have also produced no evidence on agreement to split that lot. So, they still should be under one ownership. This is just a little bit of background for you. Also within our CC&R document, except for Lots 26 and 28, there can be no subdividing, but we do recognize that 26 can be subdivided and that's what we are talking about tonight, but the resulting lots must contain a minimum of one acre. The proposed Ambles Run Development, again, violates the CC&R document. And so moving on to the next piece -- and this now is -- I have taken the Ambles Run narrative and there is a few things that I would like to point out. The HomeFound Group claims that Lot 26 has been separated from Dunwoody Subdivision and we are wondering how that took place. Mr. Miller has -- did, in fact, meet with several residents requesting deannexation from Dunwoody HOA. That motion was presented to the Dunwoody residents, which there are 16, with 14 votes no and two in abstention. So, how did Lot 26 get separated from Dunwoody Subdivision? Our position is it has not been separated. In 2007 there was a lot line redraw due to Richard Price building a shop over the top of

the lot line between 25 and 26. So, it is recorded with the county that that lot line got moved. That's why it's 2.88 acres and not three acres. So, we recognize that that got moved. However, that does not separate the lot for purposes of selling or for subdividing and the CC&Rs are still in place. The HOA was not contacted by Title One requesting permission to split the lot. In fact, Dale and Lonnie Hope, who are here tonight, had their own title company working on the sale and when the issue of splitting lots came up they were suddenly told that Title One would now be handling that transition. Mr. Miller referred to me to Lisa Britt from Title One to get the alleged documentation and through several e-mails and phone calls to Lisa Britt, she informed me that there was nothing in the file, nothing in underwriting, no notes, no documents or anything mentioned about the CC&R stipulation of splitting that lot and when pressed Lisa Britt ceased to return my phone calls. The HomeFound Group also claims that a single board member may have granted split of the lot. So, when we first talked with the group they said this was a verbal agreement and the former HOA president has no knowledge of that verbal agreement, nor is there anything in writing, and so that never was -- there was never any business conducted that way. Mr. Miller claimed that I -- in his narrative claimed that I felt uncomfortable that the previous HOA president had allowed separation of lots and that's just not true. I never expressed that, because that never really happened. So, I really challenge Mr. Miller and the HomeFound Group and Title One to provide e-mails that they claim are in existence granting permission to split the lot. It's in his narrative, so I think it becomes very important. As I have stated before, Mr. Miller did approach the HOA with a proposal of deannexation of Lot 26 and a vote was taken with 14 votes of no. He also included that he was never asked -- or at least the homeowner -- not the homeowners, the owner of Lot 26 was never included in that vote. Short sighted on my part. They don't live there. Usually the votes just go to the people who live there. But it wouldn't have mattered even if they would have been there, the vote still would have been a no vote. I did suggest to Mr. Miller that he work with the developers of the rest of that area there, that 15 acres, and try to include acre lots at least along the Dunwoody lot lines for a higher density as it moves forward to Locust Grove, much in the same manner that Three Corners Ranch on the -- on the north side of us has done. All of those lots are one acre against Dunwoody and, then, they get more dense as they go and he declined to do that. Also there is a claim that the HOA has agreed to smaller than one acre lots for Lot 28 and he actually showed a diagram of that. We have not been approached by that homeowner. I have seen his plan, but we have not been approached to vote on that, nor has that been brought before this group and so there -- that has not been approved by the HOA. So, I'm not sure where he's getting that information. Just a few final points that I would like to make. Initially, the Hopes did not want to purchase that open space lot. The real estate agent representing Mrs. Miller informed them -- informed them that the space behind them would be subdivided in one acre lots. That helped them feel comfortable with what was going to go in behind them and so they moved forward with the sale -- with the purchase of their home. When they learned about the proposed Ambles Run development they offered a very handsome price for that 2.8 acres and that was declined. Point. Lot 26 has not been deannexed from Dunwoody Subdivision. That cannot be unilaterally done. The vote of the HOA was no. The split of Lot 25 and 26 was not done with any approval and nobody has provided information that would suggest otherwise. The narrative contains many non-truths and speculations. Under R-2 zoning one acre lots may be

constructed on that property and so when Mr. Miller first came to us he said I cannot develop it unless I go to R-4 zoning. We told -- we told him about R-2. Now he was going to go to R-2, that's great, but he can still put one acre lots on that property. So, my final point is that the Dunwoody Subdivision HOA opposes the plan is presented for Ambles Run and we would ask that the Commission consider our longstanding 30 year old CC&Rs and -- and help us with that piece of it. That is my presentation, unless the Commission has questions.

McCarvel: Do we have any questions for the speaker?

Seal: Madam Chair?

McCarvel: Okay. Commissioner Seal.

Seal: Just as a question of documentation here, do you have the -- the notes and the vote documents from the HOA meeting that you had?

Wilding: I don't have them with me, but I do have all of the e-mails that I can provide that would show us that -- that -- that information. I can -- that can be retrieved and presented to you.

Seal: Okay. Thank you.

McCarvel: Any other questions for Mr. Wilding? Okay.

Weatherly: Madam Chair?

McCarvel: Yes, Madam Clerk.

Weatherly: Next we have Jeff Thompson. He is online. Jeff, one moment, please.

McCarvel: Okay. Mr. Thompson, please state your name and address for the record and right now it looks like you need to unmute your side.

Thompson: Thank you, Madam Chair. Jeff Thompson. I am at 1970 East Handle Court in the Vienna Wood Subdivision. My property touches part of the property in question, so I share a lot line and so, basically, just what I wanted to share was I -- originally my family was involved in -- in the development approved by the City of Meridian for Vienna Woods Subdivision and when we went forth with that project for Vienna Woods, Dunwoody Subdivision members were very concerned and so working through the process with the city, what we ended up having to do -- and which I think is a great thing -- is we had low density large lots placed along the east-west border on the north side of that 80 acres that constitutes Vienna Woods and that was done to -- for and behalf of the Dunwoody concerning -- to address those concerns from Dunwoody -- the Dunwoody homeowners and residents and -- and we also had specifics that were put upon us or that were agreed to I should say that we would do single levels, which is mentioned as part of

this plan with this new Ambles Run, but we did single level on certain sections and, then, two stories were allowed only at certain locations and they were mandated a half acre at a very very minimum point. So, we had -- that was the smallest we could go along that stretch east to west and so I guess my point is living here now -- I have owned two homes in this subdivision along that border and have followed and complied with all those things and we did, of course, in the development as well. But my feeling is that that sort of set a precedence of the -- the graduation or the blending of the densities and seeing that Dunwoody also had that as -- that in their CC&Rs of one acre lots, it -- it totally -- it totally fits and totally coincides with what the history that's there, right, that we -- we had with the origination and the approval of the Vienna Woods Subdivision. So, my testimony is just that. I really believe that -- that either one acre or half acre or larger is sort of the precedent that was set by the board and the Commission in the past and I see that only as reasonable moving forward and not that I'm against development, I am not against the development of that property at all. I -- I am for that, but I think it should follow that precedent that's been set and I also think that that kind of density -- low density needs to be followed and if the CC&Rs are in place, in fact, of the one acre, then, I think that should be honored and that -- that's all I have. Thank you.

McCarvel: Okay. Thank you, Mr. Thompson. Anyone else, Madam Clerk?

Weatherly: Madam Chair, next we have Robert Phillips also online. One moment.

McCarvel: Go ahead, Mr. Phillips. You are -- you need to unmute your side and give your name and address for the record. Thank you.

Phillips: I'm Robert Phillips. Can you hear me now?

McCarvel: Yes.

Phillips: Okay. Robert Phillips. 5576 North Chopin Avenue. So, my property is the property just to the -- the south of the proposed subdivision and, by the way, I'm very pro development. I think development is great. I do have one concern probably should be brought before Council on this matter, which is if -- if -- if the applicant goes forward with his proposed subdivision and -- which the Council or, you know, the Commission and Council has the right to approve, that doesn't remove the CC&Rs. So, you are going to have CC&Rs that restrict it one way and Planning and Zoning and the Council saying a different way, those CC&Rs don't go away, which means when a person buys the home their title policy will have excepted out the -- the CC&Rs will be an exception to that, which means people may be buying homes in that subdivision without valid title insurance and that can create a real issue and so I just want to make sure that we are not creating future issues for the neighbors there as it relates to a violation of the CC&Rs that will -- that will stay in place after -- after this is approved. So, you are going to create a natural conflict there, which isn't resolvable unless this Dunwoody Subdivision somehow deannexes that. So, I just think that's a problem that you should make sure you consider when you consider this application. And that was it.

McCarvel: Thank you.

Weatherly: Madam Chair, next we --

McCarvel: Anyone else, Madam Clerk?

Weatherly: Madam Chair, next we have Susan Rammell.

McCarvel: And is she online or --

Weatherly: She's in-house, Madam Chair.

McCarvel: Okay. Thank you.

Rammell: I'm Susan Rammell and I -- my address is 5690 North Locust Grove Road, Meridian, Idaho. My husband Dale O'Brien and I have owned the five acres that is directly west of the property that's being developed. We have lived there for 31 years and have been involved with all of the subdivisions and things that have -- have gone on. I submitted a comment earlier and would like to read it into the record tonight. I just said the first sentence. My husband Dale O'Brien and I, Susan Rammell, own the five acres -- I'm really not this scared. I sound like I'm going to cry, but I'm really not. Immediately west of the proposed development Ambles Run Subdivision. We ask that the Millers stub a street into the east side of our land. This is important because it will provide an alternate route to enter and exit -- exit our property and helps in the long term maintenance of a road that will connect us to Vienna Woods. A street stub into our acreage also offers an improved zoning and would better fit with Meridian's planning principles and we appreciate your consideration. It is not correct that if you put the stub there it would run into our house. So, that is incorrect. We have been working with three of our neighbors to try to develop the property that -- the five acres that we own -- have and so Mr. Miller knows about those, because we have contacted him. I would also like to ask that the development take steps to limit light pollution to the surrounding area, so -- and that's all that I have.

McCarvel: Thank you, Ms. Rammell.

Weatherly: Madam Chair, next we have Dale Hope, who is in house.

Hope: Thank you. My name is Dale Hope. I live in 1985 East Dunwoody Court. My wife and I purchased the home at -- at that site, which is on the map as Lot 25 and during the sales process we were informed that the area behind us was limited to one acre parcels, which Mr. Wilding expanded on. So, I won't go further into that. So, it was just part of the sales enticement that we thought was pretty nice about the neighborhood and we were kind of hoping that it would stay that way. Mr. Miller and his family have stated in their narrative that they are separated from the Dunwoody Subdivision as a result of me purchasing Lot 25 and the home from them -- their family. Well, I don't see how that really makes any sense. We don't agree with that and the HOA has also said that that does not

constitute a separation from the subdivision. So, just briefly I just wanted to say that, you know, the Mill -- Mr. Miller and his family lived in the home for 30 years, which he's conveyed in his message. He enjoyed all the benefits that the CC&Rs brought to the neighborhood, which brings a beautiful higher end type neighborhood with open spaces and very appropriate nice neighborhood. So, as they are living there for 30 years they are enjoying the benefits of the CC&Rs. Once they move out now they want to come to the city and to the neighborhood and the rest of our neighbors and HOA and no longer be bound by the CC&Rs which are clearly in place and I have talked and some -- my understanding the only way to get out of CC&Rs is either through a homeowner association vote, which Mr. Wilding has already done and the answer is no, and the only other option that I understand to get out of a CC&R is through a civil legal lawsuit, which has not happened yet. Thank you.

McCarvel: Thank you. At this time I would like to let the record show that Commissioner Cassinelli has joined us at 6:41.

Cassinelli: Thank you.

Weatherly: Madam Chair, we have -- sorry, Commissioner Cassinelli. Madam Chair, we have Monte Moore, who is joining us online. Monte, one moment.

Moore: Can you hear me?

McCarvel: Yes. Thank you.

Moore: Okay. Hi. My name is Monty Moore and I live at 1921 East Dunwoody Court. I live immediately north of Mr. Hope, Dale Hope, who just testified. I also own -- I own five acres and there is a three acre agricultural lot -- roughly three acre agricultural lot that I own immediately north of the Millers and I'm one of the neighbors who has been talking to Tucker Johnson about putting my property into a development. I have always felt like it would be better to have a one unified whole development, rather than piecemeal it, and here after 27 years I think we are getting close to it. I'm in favor of Mr. Miller developing his part. I am a member of the Dunwoody Subdivision and have been privy to discussions among the subdivision, owner -- people who are owners in the HOA, and I just think what I would like to come to is something that would be reasonable for everybody. I have tried -- went to Ada county two or three years ago and tried to bring in a road or a driveway from Dunwoody, so that I could develop my three acres. It would just be two -- two lots and -- and I was turned down, they said there is no way I can do that. So, the only way I can access -- if that's still true, the only way I can access my property would be through Mr. Miller's development and, then, out the other side onto the west end of Dunwoody, which is what we are talking about for our development right now. I have it on good authority -- there may be some who disagree, but I do believe that if -- if there is some compromise on the one acre issue, that there is a good chance that the Dunwoody Subdivision would let us out of the CC&Rs and disconnect -- disconnect that property from Dunwoody and allow it to be developed. What I'm doing is I'm going to have lots -- I'm going to have -- I would like to have four lots, three lots around three-quarters of an

acre and, then, one other smaller lot, just because of the way the road would have to come through and so what I would hope the Millers would do is on the east edge where the Hopes are, take the three lots and bring them down to two lots and I think that the neighbors would, then, look kindly on this, you know, as -- that would be a compromise and I understand you have already compromised from eight down to six, but I would like to see you bring that down to two lots, instead of three, and my lots will -- will be of similar size, will be along the back of my property and the Fillmore's property, large lots -- not an acre, but close to it, and I think that we would have consensus at that point. Also appreciate our past discussions of -- of allowing me to have access through there -- through the Miller's subdivision into Vienna Woods, so that there is a -- there is a way for traffic to -- to get to my piece and some compromise on the access to the Rommell-O'Brien -- Rammell-O'Brien property, as Susan Rammell testified earlier. Any questions?

McCarvel: Don't believe so. Thank you.

Weatherly: Madam Chair, that's all that I show signed up in advance.

McCarvel: Okay. And is there anyone else on Zoom or in chambers that would like to testify on this application? Okay. All right. Would the applicant like to come and address --

Weatherly: Madam Chair?

McCarvel: Yes, Madam Clerk.

Weatherly: We did have one person raise their hand in the online audience.

McCarvel: Okay.

Weatherly: Dick Price. One moment, please.

McCarvel: And, Mr. Price, you will need to unmute yourself on your side and, please, state your name and address for the record. Mr. Price, you are still muted.

Weatherly: Madam Chair?

McCarvel: Yes, Madam Clerk.

Weatherly: It looks like Marissa Price also has their hand raised. I'm going to go out on a limb and say maybe they are together and if it's one having audio issues.

McCarvel: Okay.

Weatherly: Let's try Marissa. One moment.

McCarvel: Let's try that.

Price: Well, I think I got it.

McCarvel: Okay. All right. So, Mr. Price, are you and Marissa Price the same testimony here?

Price: Yes. I'm one of the owners of the property.

McCarvel: Okay.

Price: And, first of all, I want to say I really respect Dale Hope. I think he's a real good guy and in our development I want to make sure that he's a happy camper, because he spent a lot of money on his home. When we originally applied for this we were looking at four lots on his side and I hope it's a compromise that they can live with. We are going to do half acre lots, which there are three, but I said in our development proposal I would only want those homes on his side of the street to be single level or single level with bonus rooms, because I want him to have privacy in his backyard. I don't want people to be staring at his backyard and I guess the last thing I would say is just how this has changed since we bought that property. I used to pheasant hunt in Vienna Woods. When Dunwoody was put in I mean it was so rural 30 years ago and it's just amazing what's happened over the last 30 years. Unfortunately, Meridian just needs a place for people to put their homes and this is just one of them and I'm just hoping you will take a look at it in that manner, especially where we are going to try and make Mr. Hope happy and -- and do nice homes and have them single level or single level with bonus rooms on nice size lots. So, that's all I have to say.

McCarvel: Okay. Thank you. Okay. Anyone else wish to testify on this application? All right. Would the applicant like to come forward --

Miller: Yes, Madam Chair.

McCarvel: -- and address any of the issues. Thank you.

Miller: Yes. Thank you. Can you -- can I share my screen again?

McCarvel: Yes.

Miller: Okay. Thank you so much. Can you see this?

McCarvel: Yes.

Miller: Okay. Thank you. So, originally, our home here, Lot 25, was owned by Maureen Miller and Dick Price, my parents. They separated many years ago. She bought him out of title of that home. So, this lot here was hold -- held sole and separate by Maureen Miller. The lot we are talking about here, this open space lot, was held -- is held in title by Maureen and Dick Price. When Maureen went to sell her home she had no intention to sell the open space lot. She held title to 20 -- Lot 25 and she put just this up on the

market to be sold. The issue of the CC&Rs did come up during that purchase and sale agreement and title has cleared any issues with the HOA. They had to in order to get pro-rations for Dale Hope's purchase. We have several e-mails -- e-mails detailing that. At the time Mona Tippetts -- I have blurred out her number. But Mona Tippetts was the president of the HOA at that time and they had a conversation about the CC&Rs and it says here that Sandy Anderson and Mona Tippetts reviewed the CC&Rs on their own and realized you are in compliance, because as you can tell this was a hot issue at the time. She could not sell both lots. She owned just the residential lot, Lot 25, and the HOA was aware of this. It was cleared and the lot was separated. Now that it has been separated there is no access through Dunwoody. We don't have access to their amenities and we are clearly not getting a vote -- vote in their HOA. We weren't contacted about that. I asked for them to deannex -- to just do that to approach this subject before we came before you. They were not in favor of that and, then, they did not include us in a vote in that. So, I don't understand how we can be part of a subdivision that we don't have a vote regardless. The best access comes from Meridian through Chopin Avenue. We have compromised on our lots. We went from eight to six and we think that that's a good compromise, a good transition, as staff mentioned. Before we had done any of this we had actually offered to sell this property back to Dale Hope. He declined. He didn't want it. And so we went forward -- we asked the county if we could develop on it. You can't develop on anything less than five acres. So, we are here presenting to Meridian in order to get utilities to develop our land, which is the highest and best use for this land. The western stub road -- it does run directly into their property. We would put, you know, two lots here, maybe, and one here and it would go directly into that house that it just -- it would not function to have lots here and, then, here and, then, double frontage here. I appreciate the other neighbors wanting to develop. This is their plan. We did not have an agreement about that plan. There is an island here of homes, maybe 200 feet by 200 feet surrounded by asphalt. We don't think that's a good transition between Vienna Woods and Dunwoody. We think the best route is to go north directly into Monte's property, like he's proposed with his four lots. The transition looks good between these two. Then they can go west and, then, they could do an open space lot here. But at the end of the day we are here to present you our project, which we think is a good plan. We have decreased our density at the request of the neighborhood. We have been continually -- that's why it has taken us six months, we have continually tried to work this project to make sure that all of the concerned parties have been navigated. With that being said, we think that this is going to be a very good option, a very good plan for this piece, and we are opening the doorway by developing for the neighbors to continue with their options. Thank you very much.

McCarvel: Any questions for the applicant? Okay. With that, then, can I get --

Yearsley: Madam Chair?

McCarvel: Yes, Steven.

Yearsley: This is Steven Yearsley.

McCarvel: Yes, Commissioner Yearsley.

Yearsley: Given that there is -- there is a struggle between the two subdivisions with regards to the CC&Rs, I wonder if maybe Andrea could respond to how -- I mean before we close the public hearing I wouldn't mind having the applicant to comment on this. But my concern is how do we proceed with this if there is a discrepancy in the CC -- you know, with their CC&Rs, which is not by us, but is there -- is there an issue proceeding I guess with this?

Miller: The issue would be with the title company who has insured the sale. We have cleared that. They cleared it through the HOA. That's part of their due diligence. On top of that, we have e-mails saying that the -- the HOA knew about it and they have reviewed it and we are in compliance and now two years later that we want to develop there is a different president and I appreciate Jeff Wilding's testimony, he -- you know, he was open working with us. We -- when he suggested R-2 we decreased the R-2 or changed our request to R-2. But the president at the time Mona Tippetts and Sandy Anderson, who was on that board, knew about that and they allowed the separation of lots and now this parcel has been separated. The best use for it is development and there are no issues with the CC&R.

McCarvel: Thank you, Mr. Miller.

Seal: Madam Chair?

McCarvel: I think we are wanting to hear from our legal counsel here with us this evening from the City of Meridian.

Pogue: Madam Chair, Commissioner Yearsley, this is Andrea Pogue. Basically this is a private dispute. It doesn't involve the city. The applicant is acting at his own risk. He could choose to withdraw the application and deal with the dispute or he could proceed as he's doing tonight, indicating he wants to come in, if you approve it, and he could get sued and, you know, it will be -- it's a private matter. It's a private dispute with regard to the CC&Rs. So, Mr. Yearsley, the decisions before you -- this is an annexation. It's -- it's to you -- within your purview to decide if you are comfortable or not comfortable. If it doesn't seem like it's the right time given that there are other property owners looking to develop as well and maybe you -- you might want to consider the timing of this -- this parcel's development versus those. You might want to consider -- you know, there is just a lot of considerations for you. I think the least of which is this private dispute matter. Evaluate the -- the project on its own merits. It's the applicant's risk. It's -- I know in the past this Commission has decided with very simple private dispute amongst neighbors. You can continue the matter to try and give the applicant a chance to work through the dispute or come back with a resolution or further proof if you are concerned there is lacking in proof that the -- the lot was successfully split or any other issues that might bear on the decision of the merits of this application. There might be grounds to continue to tonight, but if you are -- they are also -- you may want to make a decision and move it up one way or another to Council to review. So, that's my basic comments, Commissioner

Yearsley. It's a private dispute. I can't give legal advice. I'm neither one of their attorneys. I -- I'm just learning of this for the first time tonight, so I can't say more than I have.

Yearsley: Okay. And that's what I was just asking for is -- is -- you know, that's kind of what my thought was as well, that it's, first of all, between the two homes -- you know, the association and homeowner or the property owner and I didn't know if we had any legal standing on it as well. So, thanks for the clarification.

McCarvel: Okay.

Seal: Madam Chair?

McCarvel: Any other questions for the applicant?

Seal: Madam Chair?

McCarvel: Commissioner Seal.

Seal: Yeah. I mean I would like to ask the same thing that I asked of the -- the current HOA president, which is the e-mail that was produced looked like it is of the former president of the HOA. It doesn't look like any voting statistics or anything were taken on that -- or voting minutes were taken on that. Can either side produce the meeting minutes from that where that decision was come to?

Miller: No, sir.

Seal: Was that a no?

Miller: Yeah. We just have the e-mails. There was no official documentation of the votes. We just have e-mails documenting the exchange between the HOA and ourselves and the allowance of us to separate.

Seal: So, you can understand where the -- the limit is, where we have -- this is one person's word against, you know, an HOA and -- and I -- and I personally -- yeah. I was going to say, I personally take issue with that. After serving in HOAs and being met with, you know, powerless decisions sometimes in order to continue on because things like this take place, I think that there is some kind of burden to produce some kind of factual evidence that shows that at least a vote took place and something like that transpired personally.

Miller: Sure. We have several e-mails documenting the exchange between us and the title company, so --

Dodson: Madam Chair?

Seal: I understand that and that's why a title company does what it does. It's -- it's

their --

Miller: Yeah.

Seal: -- it's their bill to -- to burden --

Miller: Yeah.

Seal: -- if something comes back on this. So, the legality of it is something that I don't think has been flushed out completely. Even if it is a private matter between homeowners.

Dodson: Madam Chair? This is Joe.

McCarvel: Joe.

Dodson: No problem. To touch on this further and what our counsel has said, it is a private matter in the sense of whether the lot was legally split as far as land records that -- that occurred. There is a lot line adjustment record of survey that that occurred. Whether that happened and the HOA allowed it, that is a civil matter. That's not in the city's purview. What's before us -- whether or not the lot was legally split and can be developed separate of Lot 25, that exists and it has -- my understanding from previous conversations and previous decisions by counsel and legal determinations, again, not our counsel, because we can't make these types of decisions for civil matters -- is that it -- it is a civil matter and once the city annexes a piece of land those former county CC&Rs no longer apply to this property, it applies -- the city zoning applies. So, again, that -- the legal portion of that is not handled within the city realm. It should be handled in the civic realm. It's a civil issue, not a city issue.

Seal: Madam Chair?

McCarvel: Yeah.

Seal: I understand that and -- but I mean part of the issue that I have is we have Mr. Moore and Mr. Miller, Mr. Fillmore, Mr. and Mrs. Rammell and Mr. Price involved in this, who are either part of or have been part of the subdivision, who want to develop this entire thing and it all hinges on the subdivision that you are either part of or have been part of. So, I lack understanding as to why they cannot come to an agreement on how to develop this entire parcel and I think that that's something that we should -- as people that are going to see this come into the city -- foster in in good faith.

McCarvel: Okay.

Weatherly: Madam Chair?

McCarvel: If there is --

Weatherly: Madam Chair, this is Adrienne.

McCarvel: Yeah. Uh-huh.

Weatherly: I did have one person identify themselves by raising their hand in the audience. I wanted to give you the opportunity to address that.

McCarvel: How does the Commission feel on it? Do we want to hear more testimony or are we ready to move forward, as the applicant has already come back and spoken?

Pogue: Madam Chair, this is Andrea.

McCarvel: Yes.

Pogue: I would recommend the Commission move -- continue to --

McCarvel: Move forward. Yeah. This is -- yeah. We can't keep debating this with the members of the audience. At this time I would recommend, since the applicant has already spoken, that we close the public hearing and move on to our discussions. And on that note, could I --

Seal: Madam Chair?

McCarvel: Yeah.

Seal: Move that we close the public hearing for Ambles Run Subdivision, H-2020-0124.

Grove: Second.

McCarvel: It has been moved and seconded to close the public hearing on H-2020-0124. All those in favor say aye. Opposed. Motion carries.

MOTION CARRIED: SIX AYES. ONE ABSENT.

McCarvel: Okay. Now we will continue the discussion. Where would you like to pick up?

Grove: Madam Chair?

McCarvel: Commissioner Grove.

Grove: My initial inclination is to move towards continuance to allow more time and see if further discussion among the neighbors and potential developing -- developers could come to a solution. If -- if not, then, you know, I think we could take another look at it, but that would be my -- my first impression of this. Similar to what we saw a while back with a subdivision development off of Black Cat and Chinden, just to allow a little bit more dialogue to occur.

McCarvel: Yeah. I think there has been a lot of dialogue, but I would hate to get in the middle of a civil matter when just annexing this part into the city could actually make the decision for them it sounds like, because, then, it would no longer be part of the county.

Grove: Madam Chair, for me it's not just the CC&R piece, it's also the -- the other developing piece and making sure that they are on the same page with how they want to develop, so that it's more of a unified vision and less piecemeal.

McCarvel: Yeah. Okay. Other thoughts, Commissioners? Steven, you came off. Commissioner Yearsley and Commissioner Cassinelli are off mute.

Yearsley: You know -- thank you. You know, I don't know how to -- where to go with this. I think on its own merits I think it looks like a really nice subdivision. I like the size. You know, I don't think that the association is going to want to compromise the way it sounds from the applicant -- or from the -- the HOA president and I think, you know, maybe giving them a couple of weeks to talk to the other homeowners to see if they want to include in that development -- I do recognize that the developers current -- you know, has been working on this since -- since August and so he's probably anxious to try to get into this building season, so he can get his -- his lots sold and move forward. I would have a tendency to -- you know, he gave him -- you know, there is opportunities for them to come in and still meet, you know, lot sizes and -- and have a decent development through that property. I'm inclined to move it forward.

McCarvel: Okay. And in moving it forward you like it as is?

Yearsley: I do. I like the subdivision. I think it's a nice size. If it was south of the -- south of Meridian -- of the interstate I -- I would actually consider looking at one of the lots, but -- so, no, I think it -- I think it stands good on its own merits.

McCarvel: Thank you. Commissioner Cassinelli, you are off mute.

Cassinelli: Oh, I'm just off mute. I will say that I'm going to -- just because I missed some of the dialogue here and I'm not totally up on -- on what was -- what was going on before I joined, I'm going to abstain.

McCarvel: Okay.

Cassinelli: But I'm just -- just my thoughts on it. It's -- you know, I mean to go into R-2, I -- you are not usually going to get a complaint from me on R-2. I -- you know, things that I typically like to see are good transition, the way it's shaped and the roads got to go in, that's not -- you know, it's -- that thing could turn 90 degrees, but I -- again, I missed the conversation with the -- with the CC&Rs a little bit with that, but, you know, all in all I like it. I would like to see how it's going to future develop with the -- with the other parcels around it, but, as I said, I'm -- I'm going to have to abstain from -- from the vote on this.

McCarvel: Thank you. Commissioner Seal? Commissioner Lorcher? Thoughts?

Seal: Madam Chair, I mean I have shared quite a few thoughts. I'm more with Commissioner Grove on this, simply because if it wasn't all the property owners involved in this that are all part of or have been part of the subdivision that's, you know, having the issue with this, I would say, you know, it would be more likely that I would want to move it along, but all of these people are part of or have been part of that same subdivision and, you know, again, I -- I hate it when HOA stuff gets stepped on, because HOAs are sometimes -- as much as they are the butt of a lot of jokes, they are often left powerless to do anything like -- against something like this, because of the movement or the wording or communication of one person. I have seen this happen in subdivisions I live in and I'm not a fan of it. I think that what Commissioner Grove reflected on as far as having a more complete vision for the entire area would be helpful for everybody involved. Instead of tearing everything apart, it would help things come -- come together a little bit more. As far as the project on its own, I'm with Commissioner Yearsley, I mean I live close to this, so, you know, I mean if my wife and I were looking for a piece of piece of property in Meridian, this is one of them I would look out for sure. I mean based on what it is and where it is if it were to go forward. That said, I just don't think that -- I think that they would be better off to have a more complete vision, a more complete plan of everything that's going to develop in here before it moves forward.

McCarvel: Okay. Thank you. Commissioner Lorcher?

Lorcher: The only thing I'm uncomfortable with is what Andy said with CC&Rs and HOA. If we don't -- if we don't respect them, then, why should they be there in the first place. We just kind of pick and choose the rules that we want. So, I think until the developer and the HOA feel a little bit more comfortable with each other to be good neighbors, I would probably be more favored for a continuance. It has nothing to do with the subdivision. I think it's -- what their plans are is lovely. But it was also pointed out that it's going to be piecemeal putting it all together, too. So, how -- how will they all be good neighbors?

McCarvel: Yeah. Okay. Yeah. I guess my thoughts are that I think on its own it's a nice subdivision. I think the through lots -- you know, you could do two or three there. I think that makes -- that's making a nice transition as it is. But, yeah, I agree, I would like some proof one way or the other on -- and not just one e-mail. Some title company proof or something, you know, before we move forward on this if they come forward with that would be helpful. Yeah. Because I don't think, yes, stubbing the street to the west if -- if we were just looking at this on its own, I think the layout that they have shown is good and would go forward in the future in a logical pattern. But, yeah, I'm -- I would say there needs to be some clarity on whether this is still part of the HOA or not.

Dodson: Madam Chair?

McCarvel: Joe.

Dodson: Thank you, ma'am. I just wanted to -- I don't -- obviously I assume the applicant would prefer a continuance over a recommendation of denial, but I don't know what a

continuance will do in favor of the applicant or in favor of the application, just because I know they have already worked with the HOA for a while and I know that the HOA is, obviously, because of what they talked about, is going to want the minimum one acre lot sizes, which with Meridian zoning is not a requirement. So, we are still going to run into this issue of do the CC&Rs have legal power to limit them to one acre lots and so that's why -- I don't know if the applicant and the HOA will ever reach an agreement, as Commissioner Yearsley noted. So, I just wanted to point that out that -- that those discussions have already occurred. I don't know if the applicant would still like to try to continue it out and do that again, but from what I have understood that issue is still going to come up and we will be right back here talking about this again in a month or two weeks.

Parsons: Yeah. Madam Chair, this is Bill.

McCarvel: Yes.

Parsons: I just -- I just want -- I just want to share some of the conversations that I had with the surrounding neighbors with you as well, because I met with the HOA president and we went through a bunch of different scenarios and I shared a lot of the same things that you had talked about. Joe and I shared the same concerns with Mr. Miller and I tend to agree with Commissioner Yearsley that we may not be able to get to a resolution in two weeks or even a month. So, I don't -- I don't know what it gains us to continue the project. But, again, that's still -- that's within your purview. But I do know that everyone -- at least speaking with Mr. Miller and speaking with the HOA rep, they are very amenable to working together and trying to get this resolved. At some point at the end of the day they may not get to that point, but they do -- the applicant does have 30 days from tonight's hearing to City Council and I know you guys have always been -- I don't know if generous is the right word, but at least acknowledge that there may be an opportunity for them to work that out as they transition towards a City Council hearing. So, if you -- if you continue the project two more weeks certainly you may not have a resolution, but if you kicked it -- if you moved it along to City Council with the applicant and the HOA working together, hopefully, again, everyone wants a nice development around them and that's the impression that I have got in my discussions with both parties. So, I think they are mature adults, I think they can get to a consensus and work this thing out. So, I would -- you know, if it's your purview, certainly, you have the option to include in your motion that they continue to have that resolved as they transition to City Council. But that's -- at least I wanted to give you some commentary that you have the ability to do that, to move this on with them working that out, because I'm with you, it's -- from my experience with the city we don't get a lot of R-2 lots and that's what I'm just going to share with the Dunwoody residents out there, is this -- there has only been one R-2 development that -- or maybe two since I have been with the city in 14 years and this is potentially the third -- number three. So, it is -- it is something that a lot of developers don't take advantage of and I know past mayors and past council members have wanted to see more of that, particularly in south Meridian and north Meridian. So, again, I have to commend the applicant for even coming -- at least trying to make that attempt, losing some lots of coming in with the .4 of an acre -- almost half an acre lot size next to -- to county residents. We typically

don't see that type of transition. And, then, also restrict it to a single story, which is also I think another win for Dunwoody. So, I would just encourage them to continue working this out as they move through the hearing process and if -- if either side has any additional questions of staff they can certainly reach out to us and we can have those further discussions with them.

McCarvel: Thank you. Yeah. So, with that I'm not sure if we are ready for -- if somebody was to take a stab at a motion one way or the other. I -- I tend to agree, I think with as much discussion as was brought to us, it's -- I think it's obvious that the applicant and the neighbors have had numerous discussions and I think at this point to move it along and -- but with notes to City Council that -- of what our thoughts are as far as being respectful of the potential HOA's -- but that's -- I mean we will take a motion and a stab at it. I will give you a few minutes to see who wants to make the motion and what motion that would be.

Yearsley: So -- so, Madam Chair? This is Steven Yearsley.

McCarvel: Commissioner Yearsley.

Yearsley: I'm trying to remember -- was there a -- from staff recommended -- changes to the staff report that they recommended? I can't -- I remember him talking about that, but I can't remember what it was.

McCarvel: I believe he was -- Joe was in agreement to strike the road stub to the west. So, that -- it would -- it would be just basically the picture that we got.

Yearsley: Okay. Madam Chair?

McCarvel: Commissioner Yearsley.

Yearsley: Give me a second and I will make a motion. After considering all staff, applicant, and public testimony, I move to recommend approval to City Council of file number H-2020-0124. If I'm right. Yeah. 124. As presented in the staff report for the hearing date of February 18th, 2021, with the following modifications. That the -- to strike the condition to connect a road stub to the west.

McCarvel: Okay.

Grove: Madam Chair?

McCarvel: Commissioner Grove.

Grove: Commissioner Yearsley, could we add in a condition that the applicant continue discussions with the neighbors concerning future development to the north and west?

Yearsley: Absolutely. I would be agreeable to that.

Grove: In that case I second.

McCarvel: Okay. It has been moved and seconded to approve H-2020-0124 and I believe we will take a roll call vote.

Roll call: McCarvel, yea; Holland, absent; Cassinelli, abstain; Seal, nay; Grove, yea; Yearsley, yea; Lorcher, nay.

McCarvel: Okay. Well, motion passes and I believe City Council will have all of our notes and we will move on from there.

MOTION CARRIED: THREE AYES. TWO NAYS. ONE ABSTAIN. ONE ABSENT.

6. Public Hearing for Compass Pointe Subdivision (H-2020-0100) by A-Team Land Consultants, Located at the Southwest Corner of E. Victory Rd. and S. Locust Grove Rd.

- A. Request: Annexation and Zoning of 7.69 acres of land with a request for the R-15 zoning district.
- B. Request: A Preliminary Plat consisting of 48 residential building lots and 9 common lots on approximately 4.69 acres of land in the R-15 zoning district.
- C. Request: A Planned Unit Development for the purpose of reducing the rear setback of the R-15 zoning district for a portion of the development due to site constraints.

McCarvel: In that case we will move on to the public hearing for H-2020-0100, Compass Pointe Subdivision and we will begin with the staff report.

Dodson: Thank you, Madam Chair, Members of the Commission. As noted the next one is Compass Pointe Subdivision. It is located in the southwest corner -- right. Yes. Southwest. Southwest corner of Locust Grove and Victory Road. The site consists of 7.69 acres of land and the project was first heard by Planning and Zoning Commission in December 3rd of last year. The Commission recommended denial of the project at that time. Following this recommendation the applicant made a request to the Council to be remanded back to P&Z with a revised plat and open space pursuant to the comments made within the staff report, as well as by the Commissioners. The City Council agreed with this request and remanded the project back. That's why we are here tonight. The main changes made by the applicant following that recommendation of denial related to the number of units, the road layout, the amount of usable open space and the applicant is also no longer requesting a planned unit development. Therefore, the applicant is requesting annexation and zoning of 7.69 acres of land with a request for R-15 zoning, a preliminary plat consisting of 38 lots -- building lots and ten common lots on approximately 4.69 acres and, then, private streets for the road access for the development. That also