

ADDENDUM TO DEVELOPMENT AGREEMENT

- PARTIES:**
- 1. City of Meridian**
 - 2. Black Cat Apts LLC, Owner/Developer**

THIS ADDENDUM TO DEVELOPMENT AGREEMENT is dated this _____ day of _____, 2023, (“ADDENDUM”), by and between **City of Meridian**, a municipal corporation of the State of Idaho (“CITY”), whose address is 33 E. Broadway Avenue, Meridian, Idaho 83642 and **Black Cat Apts LLC** (“OWNER/DEVELOPER”), whose address is 1401 17th Street, Suite 700, Denver, CO 80202.

RECITALS

A. OWNER/DEVELOPER has submitted an application for a Modification to the existing Development Agreement recorded December 17, 2020 as Instrument #2020-174261 in Ada County Records for the purpose of updating the provision regarding the two-story commercial building now proposed as a single-story structure with surface parking. The Meridian City Council approved said application with Findings of Fact and Conclusions of Law as in the attached Exhibit “A.”

B. CITY and OWNER/DEVELOPER now desire to amend said Development Agreement, which terms have been approved by the Meridian City Council in accordance with Idaho Code Section 67-6511.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

- OWNER/DEVELOPER shall be bound by the terms of the Development Agreement recorded December 17, 2020 as Instrument #2020-174261, except as amended as follows:
 - Update existing Development Agreement provision 5.1.h as follows:

The proposed commercial building located near the intersection of N. Black Cat Road and W. Chinden Boulevard (SH20/26) shall be constructed as a ~~two-story~~ one-story structure as generally depicted in the revised concept renderings (see Exhibit VII.E), and as noted on the revised ~~CUP~~ Site Plan in Exhibit C.
- That Owner/Developer agrees to abide by all ordinances of the City of Meridian and the Property shall be subject to de-annexation if the Owner/Developer, or their assigns, heirs, or successor shall not meet the conditions of this Addendum, and the Ordinances of the City of Meridian as herein provided.
- This Addendum shall be binding upon and inure to the benefit of the parties’ respective heirs, successors, assigns and personal representatives, including City’s corporate authorities and their successors in office. This Addendum shall be binding on the Owner/Developer of the Property, each subsequent owner and any other person(s) acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereon and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed. City agrees, upon written request of Owner/Developer, to execute appropriate and recordable evidence of termination of this Addendum if

City, in its sole and reasonable discretion, had determined that Owner/Developer have fully performed its obligations under this Addendum.

4. If any provision of this Addendum is held not valid by a court of competent jurisdiction, such provision shall be deemed to be excised from this Addendum and the invalidity thereof shall not affect any of the other provisions contained herein.

5. This Addendum sets forth all promises, inducements, agreements, condition, and understandings between Owner/Developer and City relative to the subject matter herein, and there are no promises, agreements, conditions or under-standing, either oral or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Addendum shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to City, to a duly adopted ordinance or resolution of City.

- a. Except as herein provided, no condition governing the uses and/or conditions governing development of the subject Property herein provided for can be modified or amended within the approval of the City Council after the City has conducted public hearing(s) in accordance with the notice provisions provided for a zoning designation and/or amendment in force at the time of the proposed amendment.

6. This Addendum shall be effective as of the date herein above written.

7. Except as amended by the Addendums, all terms of the previous Agreements shall remain in full force and effect.

[End of text. Acknowledgments, signatures, and Exhibit A follow.]

ACKNOWLEDGMENTS

IN WITNESS WHEREOF, the parties have herein executed this Addendum and made it effective as hereinabove provided.

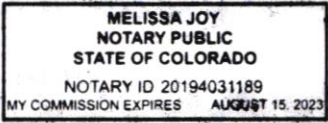
OWNER/DEVELOPER:
Black Cat Apts LLC

By: J. Jeffrey Riggs
Its: Manager

STATE OF Colorado)
) ss.
County of Denver)

On this 21 day of February, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared J. Jeffrey Riggs, known or identified to me to be the Manager of **Black Cat Apts LLC** and the person who signed above and acknowledged to me that they executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



M. Joy
Notary Public
My commission expires: August 15, 2023

CITY OF MERIDIAN

ATTEST:

By: _____
Mayor Robert E. Simison

Chris Johnson, City Clerk

STATE OF IDAHO)
) ss.
County of Ada)

On this _____ day of _____, 2023, before me, a Notary Public, personally appeared **Robert E. Simison** and **Chris Johnson**, known or identified to me to be the Mayor and City Clerk, respectively, of the **City of Meridian**, who executed the instrument or the person that executed the instrument of behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

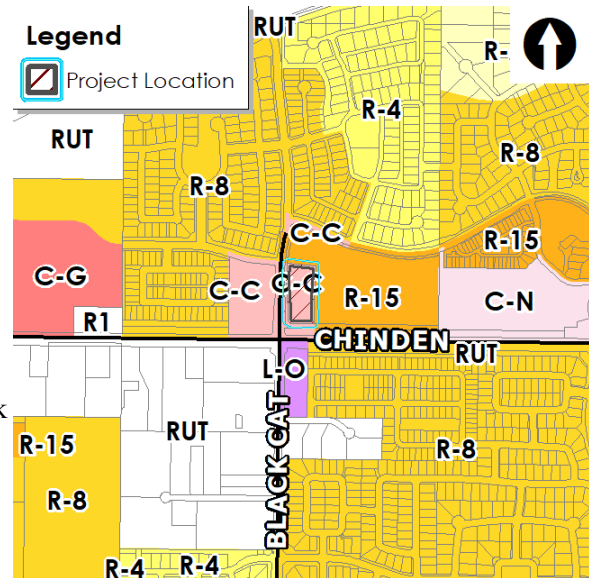
Notary Public for Idaho
My commission expires: _____

EXHIBIT A

STAFF REPORT COMMUNITY DEVELOPMENT DEPARTMENT



HEARING DATE: 1/17/2023
TO: Mayor & City Council
FROM: Stacy Hersh, Associate Planner
208-884-5533
SUBJECT: H-2022-0083
Modern Craftsman MDA
LOCATION: Project is located at 4701 W. Caragana Lane, on the northeast corner of N. Black Cat Rd. and W. Chinden Blvd. (SH 20/26), in the SW 1/4 of the SW 1/4 of Section 22, Township 4N., Range 1W.



I. PROJECT DESCRIPTION

Request to modify the existing Development Agreement (Inst. #20-174161) provision regarding the two-story commercial building now proposed as a single-story structure with surface parking on 2.59 acres of land in the C-C zoning district.

II. APPLICANT INFORMATION

A. Applicant:

Brandon Sheltrown, HB Arch – Corner Office Design – 2997 E. Deerhill Drive, Meridian, ID 83642

B. Owners:

Ryan Sexton, Baron Black Cat LLC – 1401 17th Street, Suite 700, Denver, CO 80202 .

C. Representative:

Same as Applicant

III. NOTICING

	City Council Posting Date
Legal notice published in newspaper	12/28/2022
Radius notice mailed to properties within 500 feet	12/30/2022
Public hearing notice sign posted	12/19/2022

IV. STAFF ANALYSIS

History

The subject application encompasses one (1) parcel on the northeast corner of Black Cat Road and W. Chinden Boulevard. This parcel is part of a Development Agreement Modification in 2020 and was removed from an existing Development Agreement (DA) for the purpose of entering into a new DA with a new conceptual plan and building elevations (H-2020-00226, DA Inst. #2020-174261). The new Development Agreement consists of a Rezone of a total of 23.63 acres of land for the purpose of reducing the C-C zone from approximately 8 acres to 4.23 acres and increasing the R-15 zone from approximately 15.1 acres to 19.39 acres of land; a Short Plat consisting of 2 building lots and 2 common lots on 21.59 acres of land in the C-C and R-15 zoning districts; and a Conditional Use Permit for a multi-family development consisting of 196 residential units on 20.13 acres in the R-15 zone.

Development Agreement Modification

The approved DA (Inst. #2020-174261) includes a provision that requires the proposed commercial building located near the intersection of N. Black Cat Road and W. Chinden Boulevard to be constructed as a two-story structure. The two-story option, though a larger floorplate and building, provided only 5,185 square-feet of ground floor retail and active use area; the remaining 8,538 square feet is dedicated to a tuck-under parking area. Approximately 131'-0" of the Chinden Boulevard elevation is attributed to the parking garage which provides no active ground floor use along this extent of the façade. The Applicant believes that the parking garage prevents visibility to the ground floor retail areas from Chinden Boulevard limiting areas of tenant visibility; therefore, providing challenging leasing for the ground floor commercial area and flexible tenant layouts. Currently, the anticipated restaurant tenant and other potential retailers necessitate modifying the previous building design and parking quantities to be better align to meet the commercial market demands while lessening potential impacts on the surrounding neighborhood.

The Applicant is proposing a 7,004-square-foot one-story commercial building that is highly visible and establishes a cornerstone for the overall Modern Craftsman at Black Cat residential development. Tenant visibility is provided on all sides of the building to the retail and restaurant activities within the building. Additionally, a 563 square-foot outdoor covered patio area is planned for a restaurant tenant to use activating the façade along Chinden Boulevard by showcasing the restaurant activity within the building. The proposed building varies in parapet heights ranging from 25'8" and 22'0", presenting a ground-floor window height of 12'0" along all facades. The design echoes the previous quality design with the same modern/contemporary architectural materials originally presented such as stucco, cultured stone, composite wood, dark bronze aluminum storefront glazing, and standing seam metal roofing reflecting the similar quality and colorways of the overall Modern Craftsman at Black Cat Development. Staff has analyzed the parking using the restaurant standards requiring one (1) parking stall for every 250 square feet of gross floor area to ensure adequate parking. Per this standard, 28 parking stalls would be required if the site developed per the submitted revised concept plan and 42 parking stalls were provided. Additionally, the commercial square footage was a topic of discussion during the initial Hearing. Ultimately, Council agreed with Staff and required the two-story commercial building to ensure the MU-C (Mixed Use Community) area would develop with a higher commercial square footage to provide more of a balance with the proposed residential development on this site. Fundamentally, the Applicants proposal for a one-story building on this site includes more retail square footage than the required two-story building, as the two-story building essentially provided less ground floor square footage for retail space, presenting the illusion it was larger due to the tuck-under parking area.

The Applicant is therefore requesting the following modification to provision 5.1.h:

“The proposed commercial building located near the intersection of N. Black Cat Road and W. Chinden Boulevard (SH20/26) shall be constructed as a ~~two-story~~ one-story structure as generally depicted in the revised concept renderings (see Exhibit VI.E), and as noted on the revised ~~CUP~~ Conceptual Site Plan on Exhibit C.”

Staff recommends the development agreement modification with the recommended changes in Exhibits E and C below.

V. DECISION

A. Staff:

Staff recommends approval of the proposed MDA per the modified provision in Section VI.B.

B. The Meridian City Council heard this item on January 17, 2023. At the public hearing, the Council moved to approve the subject MDA request.

1. Summary of the City Council public hearing:

- a. In favor: Elizabeth Koeckeritz, Givens Pursley; Ryan Sexton, Baron Properties; Greg Hector, Senior VP Construction Development for Baron
 - b. In opposition: None
 - c. Commenting: None
 - d. Written testimony: Jamie Knight; Evelyn and Albert Joens
 - e. Staff presenting application: Stacy Hersh
 - f. Other Staff commenting on application: None
- #### 2. Key issue(s) of public testimony:
- a. Parking
- #### 3. Key issue(s) of discussion by City Council:
- a. Parking
- #### 4. City Council change(s) to Commission recommendation:
- a. None

VI. EXHIBITS

A. Existing DA Provisions

- e. Additional right-of-way shall be reserved for dedication to Idaho Transportation District for the future widening of Chinden Boulevard, as shown on the plat as Lot 1, Block 1.
- f. The required landscape street buffers shall be constructed and vegetated along the entire perimeter (along N. Black Cat and Chinden Boulevard) with the first phase of development.
- g. The Applicant shall vegetate the common lot (Lot 1, Block 1), reserved for future dedication to Idaho Transportation Department (ITD), with grass and not gravel until such time that this lot is dedicated to ITD.
- h. The proposed commercial building located near the intersection of N. Black Cat Road and W. Chinden Boulevard (SH 20/26) shall be constructed as a two-story structure as generally depicted in the submitted concept renderings (see exhibit VII.I) and as noted on the revised CUP Site Plan.
- i. The Vertically Integrated Residential Project area of the site shall adhere to the specific use standards as outlined in UDC 11-4-3-41.
- j. The required land use buffer between the C-C zoning district and the R-15 zoning district is hereby waived as approved by City Council; the minimum distance between buildings and across zoning districts is ten (10) feet per the multi-family specific use standards (UDC 11-4-3-27).

6. **COMPLIANCE PERIOD** This Agreement must be fully executed within six (6) months after the date of the Findings for the annexation and zoning or it is null and void.

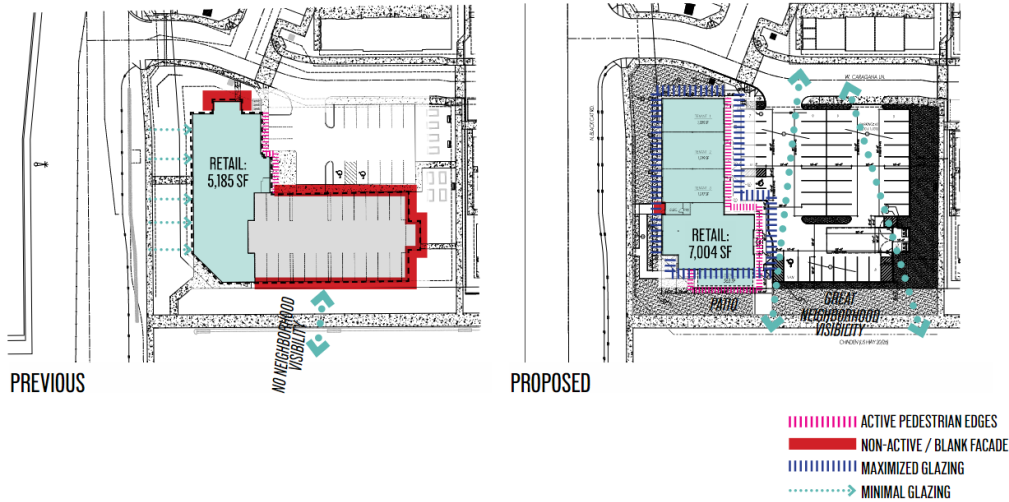
7. **DEFAULT/CONSENT TO DE-ANNEXATION AND REVERSAL OF ZONING DESIGNATION:**

B. Proposed Revisions to the existing Development Agreement Provision 5.1.h:

Staff's Recommended Changes:

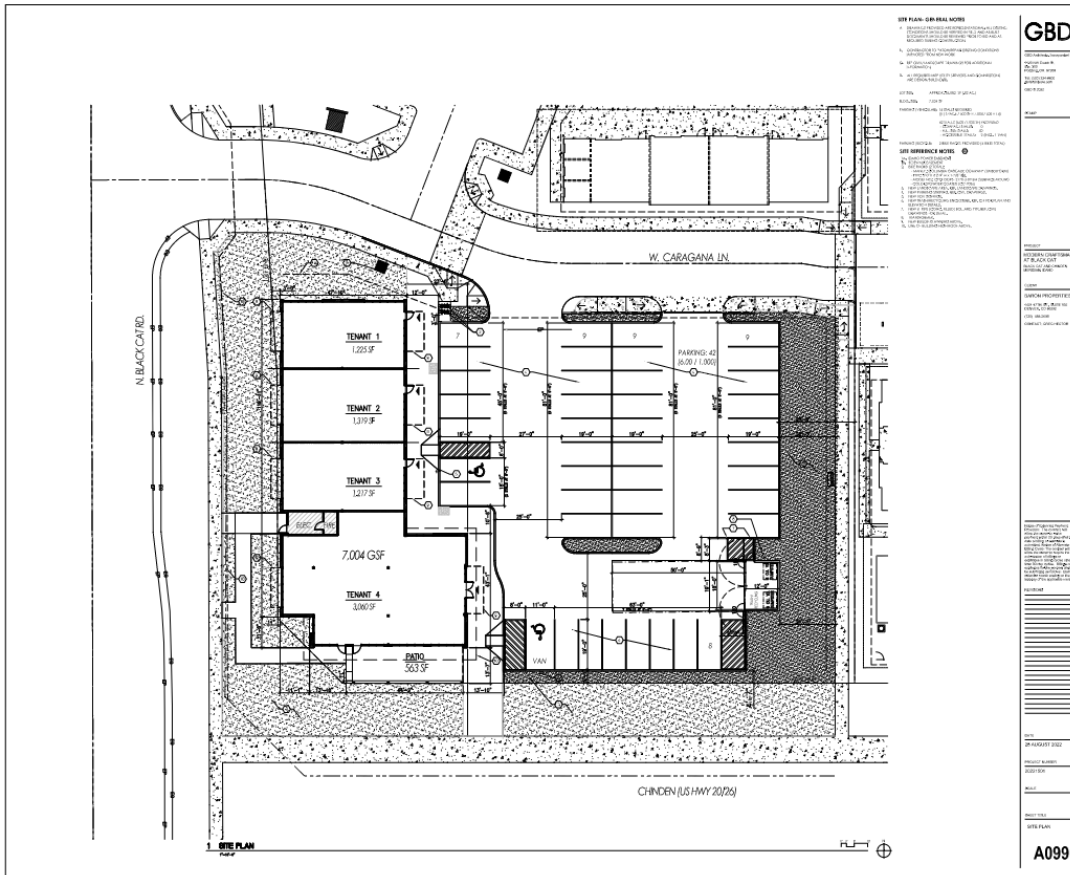
“The proposed commercial building located near the intersection of N. Black Cat Road and W. Chinden Boulevard (SH20/26) shall be constructed as a ~~two-story~~ one-story structure as generally depicted in the revised concept renderings (see Exhibit VII.E), and as noted on the revised CUP Site Plan in Exhibit C.”

C. Existing and Conceptual Site Plan:



THE PREVIOUS CONCEPT DESIGN PROVIDES MINIMAL, ACTIVE AND VISIBLE RETAIL OPPORTUNITIES- CHALLENGING TENANT LEASING.
 THE CURRENT DESIGN ACTIVATES ALL SIDES OF THE BUILDING MAXIMIZING TENANT VISIBILITY AND PROVIDES AN ENHANCED PEDESTRIAN EXPERIENCE.

SITE PLAN (ACTIVE AND NON-ACTIVE (BLANK FACADES))



D. Previous 2-Story Elevations:

Item #5.

I. Corner Commercial Rendering – 2-story Concept



PRELIMINARY NOT FOR CONSTRUCTION
NO. 1000-0000 0000
MODERN CRAFTSMAN AT BLACK CAT 2-STORY CONCEPT COMMERCIAL BUILDING
PREPARED BY: [unreadable] CHECKED BY: [unreadable] DATE: [unreadable]
PROJECT NO.: [unreadable] SHEET NO.: [unreadable]
SCALE: [unreadable]
PERSPECTIVE VIEWS A0.0

E. Proposed 1-Story Elevations:



SW CORNER: VIEW FROM CORNER (SHEET 201/202) / N. BLACK CAT DR.



SE CORNER: VIEW FROM CORNER (SHEET 201/202)



NE CORNER

EXTERIOR MATERIAL LEGEND

	WD	COMPOSITE WOOD SIDING (P-PLANK) FINISH: PINKISH COLOR: GRAY
	CP-1	CEMENT PLASTER (STUCCO) - LIGHT TONE COLOR: SHERWIN WILLIAMS "CHELSEA GRAY" SW 2850
	CP-2	CEMENT PLASTER (STUCCO) - MEDIUM TONE COLOR: SHERWIN WILLIAMS "CATTELBOE GRAY" SW 7055
	CS-1	COLORADO STONE FINISH: FRO-FIT TERRAZO TYPE/COLOR: LEDGESTONE ("CINOS")
	CA	CANVAS BINNING MATERIAL: SUPERHEIL FABRIC COLOR: "BLACK"
	FM	FLASHING / COATING / SHEET METAL TYPING / BOX-FIT METAL PANEL (2' X 1' DEEP) / COLOR: "BLACK"
	SR	STANDING SEAM METAL ROOFING RIP-UP / COLOR: ZINC GRAY
	GS-1	GLAZING: SOLARBAN XL 70
	CS-1	STONE TRIM - BANNER 154-1 (FINISH ANNOTATED)
	CONC.	CONCRETE (NATURAL, SACHED FINISH)

GBD

SHEET NO. 201/202
 PROJECT NO. 2024-001
 DATE: 10/20/2024
 SCALE: AS SHOWN
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 APPROVED BY: [Name]
 PROJECT LOCATION: [Address]
 CLIENT: [Company Name]
 PROJECT PHASE: [Phase]
 SHEET TITLE: [Title]
 A201.1