

**CITY OF MERIDIAN
FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION & ORDER**



In the Matter of the Request for Amendment to the Existing Development Agreement (H-2022-0046, Inst. #2022-033831) to Allow One (1) Building Permit to be Obtained Prior to Recordation of the Plat and Allowance for Submittal of a Certificate of Zoning Compliance and Design Review Application for Subsequent Proposed Uses Prior to Recordation of the Plat; and a Reduction of the Buffer Requirement in the C-G District to Residential Uses to the East, by KM Engineering, LLP.

Case No(s). H-2023-0030

For the City Council Hearing Date of: August 22, 2023 (Findings on September 5, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of August 22, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of August 22, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of August 22, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of August 22, 2023, incorporated by reference)

B. Conclusions of Law

1. The City of Meridian shall exercise the powers conferred upon it by the "Local Land Use Planning Act of 1975," codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. The Meridian City Council takes judicial notice of its Unified Development Code codified as Title 11 Meridian City Code, and all current zoning maps thereof. The City of Meridian has, by ordinance, established the Impact Area and the Comprehensive Plan of the City of Meridian, which was adopted December 17, 2019, Resolution No. 19-2179 and Maps.
3. The conditions shall be reviewable by the City Council pursuant to Meridian City Code § 11-5A.
4. Due consideration has been given to the comment(s) received from the governmental subdivisions providing services in the City of Meridian planning jurisdiction.
5. It is found public facilities and services required by the proposed development will not impose expense upon the public if the attached conditions of approval are imposed.
6. That the City has granted an order of approval in accordance with this Decision, which shall be signed by the Mayor and City Clerk and then a copy served by the Clerk upon the applicant, the Community Development Department, the Public Works Department and any affected party requesting notice.

7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of August 22, 2023, incorporated by reference. The conditions are concluded to be reasonable and the applicant shall meet such requirements as a condition of approval of the application.

C. Decision and Order

Pursuant to the City Council's authority as provided in Meridian City Code § 11-5A and based upon the above and foregoing Findings of Fact which are herein adopted, it is hereby ordered that:

1. The applicant's request for a modification to the existing development agreement; and reduced buffer width is hereby approved per the provisions in the Staff Report for the hearing date of August 22, 2023, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Development Agreement Duration

The city and/or an applicant may request a development agreement or a modification to a development agreement consistent with Idaho Code section 67-6511A. The development agreement may be initiated by the city or applicant as part of a request for annexation and/or rezone at any time prior to the adoption of findings for such request.

A development agreement may be modified by the city or an affected party of the development agreement. Decision on the development agreement modification is made by the city council in accord with this chapter. When approved, said development agreement shall be signed by the property owner(s) and returned to the city within six (6) months of the city council granting the modification.

A modification to the development agreement may be initiated prior to signature of the agreement by all parties and/or may be requested to extend the time allowed for the agreement to be signed and returned to the city if filed prior to the end of the six (6) month approval period.

E. Judicial Review

Pursuant to Idaho Code § 67-6521(1)(d), if this final decision concerns a matter enumerated in Idaho Code § 67-6521(1)(a), an affected person aggrieved by this final decision may, within twenty-eight (28) days after all remedies have been exhausted, including requesting reconsideration of this final decision as provided by Meridian City Code § 1-7-10, seek judicial review of this final decision as provided by chapter 52, title 67, Idaho Code. This notice is provided as a courtesy; the City of Meridian does not admit by this notice that this decision is subject to judicial review under LLUPA.

F. Notice of Right to Regulatory Takings Analysis

Pursuant to Idaho Code §§ 67-6521(1)(d) and 67-8003, an owner of private property that is the subject of a final decision may submit a written request with the Meridian City Clerk for a regulatory takings analysis.

G. Attached: Staff Report for the hearing date of August 22, 2023

By action of the City Council at its regular meeting held on the _____ day of _____, 2023.

COUNCIL PRESIDENT BRAD HOAGLUN VOTED_____

COUNCIL VICE PRESIDENT JOE BORTON VOTED_____

COUNCIL MEMBER JESSICA PERREAULT VOTED_____

COUNCIL MEMBER LUKE CAVENER VOTED_____

COUNCIL MEMBER JOHN OVERTON VOTED_____

COUNCIL MEMBER LIZ STRADER VOTED_____

MAYOR ROBERT SIMISON VOTED_____
(TIE BREAKER)

Mayor Robert Simison

Attest:

Chris Johnson
City Clerk

Copy served upon Applicant, Community Development Department, Public Works Department and City Attorney.

By: _____ Dated: _____
City Clerk's Office

EXHIBIT A

STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT



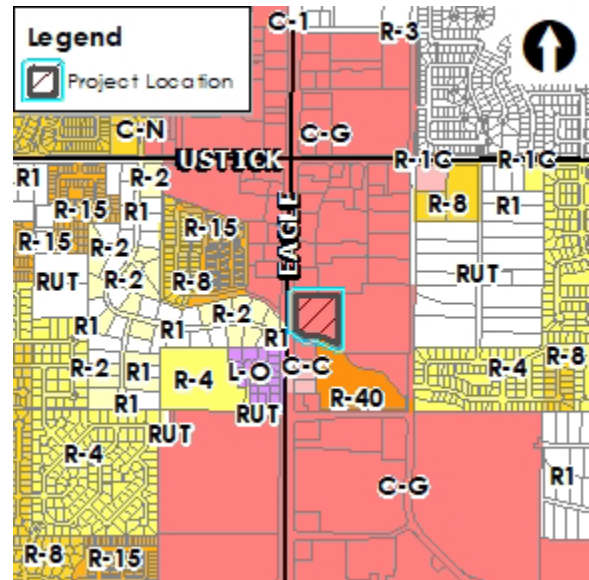
HEARING DATE: 8/22/2023

TO: Mayor & City Council

FROAM: Sonya Allen, Associate Planner
208-884-5533

SUBJECT: Sessions Parkway - MDA
[H-2023-0030](#)

LOCATION: 2700 N. Eagle Rd., in the NW 1/4 of
Section 4. T.3N., R.1E. (Parcel
#S1104233650)



I. PROJECT DESCRIPTION

Amendment to the existing Development Agreement ([H-2022-0046](#), Inst. #[2022-033831](#)) to allow one (1) building permit to be obtained prior to recordation of the plat and allowance for submittal of a Certificate of Zoning Compliance and Design Review application for subsequent proposed uses prior to recordation of the plat; and request for Council approval of a reduction of the buffer requirement in the C-G district to residential uses to the east from 25-feet to a minimum of 8-feet.

II. SUMMARY OF REPORT

A. Applicant:

Stephanie Hopkins, KM Engineering, LLP – 5725 N. Discovery Way, Boise, ID 83713

B. Owner:

GFI Meridian Investments, LLC – 74 East 500 South, Ste. 200, Bountiful, UT 84010

C. Representative:

Same as Applicant

III. NOTICING

	City Council Posting Date
Notification published in newspaper	8/6/2023
Notification mailed to property owners within 300 feet	8/4/2023

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Applicant posted public hearing notice on site	8/7/2023
Nextdoor posting	8/7/2023

IV. STAFF ANALYSIS

The Applicant requests a modification to the existing DA (Inst. #[2022-033831](#)) to allow one (1) building permit to be obtained prior to recordation of the plat and allowance for submittal of Certificate of Zoning Compliance and Design Review applications for subsequent uses prior to recordation of the plat.

A property boundary adjustment (A-2020-0115 – ROS #12423) was approved in 2020 that created the subject parcel (i.e. Parcel B) and the parcel to the east (i.e. Parcel A), which is currently under development by the same developer with multi-family apartments. A final plat (FP-2023-0002) is currently in process that includes the subject property.

While it's preferred that a subdivision plat is recorded prior to submittal of Certificate of Zoning Compliance and Design Review applications and subsequent building permit applications to ensure compliance with dimensional standards and construction of improvements for the overall site, it's not a UDC requirement. **Therefore, Staff is amenable to the request provided all of the required street buffer landscaping along N. Eagle Rd./SH-55, including the 10-foot wide multi-use pathway and pedestrian lighting; and the backage road along N. Eagle Rd./SH-55 from the north to the south boundary, with connections to N. Eagle Rd./SH-55 and the development to the east, are completed prior to issuance of the first Certificate of Occupancy within the development.** Staff has included these requirements as a provision of the amended DA in Section VI.B (new provision #5.1h).

The Applicant also requests City Council approval of a reduction of the buffer requirement in the C-G district to residential uses to the east from 25-feet to a minimum of 8-feet as allowed by UDC [11-3B-9C.2](#) with notice to surrounding property owners. This reduction, if approved, would only apply if a hotel develops on the site (i.e. development Option #2 in the DA). A reduction to the buffer width does not affect building setbacks; all structures are required to be set back from the property line a minimum of the buffer width required in the district. *Note: If the property develops in accord with the Option #1 conceptual development plan in the DA, the full 25-foot wide buffer will be provided.*

A 7-foot wide perimeter landscape buffer is being provided on the property to the east along the shared property line, which would result in a total buffer width of 15 feet if Council approves the reduced buffer width proposed. A mix of trees (1 per 35 lineal feet) and shrubs are being provided within the buffer as shown on the approved landscape plan in Section VI.C. With the perimeter buffer, parking, a drive aisle and pedestrian walkway, a minimum of 75-feet is being provided between the shared property line and the nearest residential structure to the east.

All buffers to residential uses are required to be comprised of, but not limited to, a mix of evergreen and deciduous trees, shrubs, lawn, or other vegetative groundcover that results in a barrier that allows trees to touch within five (5) years of planting. Trees that will not touch until maturity outside of this timeframe must be supplemented with additional materials such as tall columnar evergreen shrubs, or other qualifying materials. Where proposed adjacent land uses cannot be adequately buffered with plant material(s), the City may require inclusion of a wall, fence or other type of screen that mitigates noise and/or unsightly uses. If a wall or fence at least 6-foot tall is provided, the planting requirement may be reduced to a minimum of one (1) tree per 35 linear feet, plus shrubs, lawn, or other vegetative ground cover.

There is a 10-foot wide pressure irrigation easement that runs along the eastern boundary of this site

EXHIBIT A

which may prohibit trees. **If so, alternative compliance should be requested to the buffer material standards listed in UDC [11-3B-9C.1](#). Staff recommends at least a portion of the required trees be provided within the perimeter buffer on the adjacent property to the east resulting in a barrier that allows trees to touch within five (5) years of planting to screen the residential uses from the hotel; the remainder of the required trees could be planted elsewhere within the site.** Staff is of the opinion the reduced buffer width planted with extra trees that result in a barrier combined with the distance to the nearest residential structures, provides an adequate buffer to the future residential uses from the proposed commercial uses. **If Council believes additional buffering of the residential property is needed, a wall or fence at least 6-foot tall could be required on the shared property line.**

Development plan Options #1 and #2 in the DA, depict a north/south pathway within the perimeter buffer along the eastern boundary of the site and pedestrian connections to the east to the multi-family development (currently in the development process) at the north and south boundaries of the site. **Staff is of the opinion the pathway would be utilized more if it were located along the east side of the main north/south drive aisle in the commercial portion of the development rather than on the shared property line between the commercial and residential development. To better accommodate the pathway in this location and the hotel site plan (i.e. Option #2), Staff recommends a lesser buffer width of 5-feet is provided along the east boundary (totaling 12-feet with the 7-foot wide buffer on the adjacent residential property) with a minimum 4-foot wide sidewalk along the east side of the drive aisle. Staff further recommends decorative crosswalks are provided across internal drive aisles where walkways are proposed for pedestrian safety. Pedestrian walkways/connections should still be provided to the residential property to the east at the north and south ends of the site as depicted on the concept plans in the DA. Staff recommends changes to the DA accordingly (see Section VI.B).**

V. DECISION

A. Staff:

Staff recommends approval of the proposed modification to the DA with the changes noted in Section VI.B as discussed above in Section IV.

B. The Meridian City Council heard this item on August 22, 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: Stephanie Hopkins, KM Engineering (Applicant's Representative)
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: Stephanie Hopkins, KM Engineering (Applicant's Representative)
- e. Staff presenting application: Sonya Allen
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. None

3. Key issue(s) of discussion by City Council:

- a. Concern pertaining to the adequacy of the reduced buffer width to residential uses to the east;
- b. Reasoning for relocation of the north/south pathway from the east boundary of the site to the west boundary of the hotel site along the north/south drive aisle.

4. City Council change(s) to Commission recommendation:

- a. None

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VI. EXHIBITS

A. Existing Development Agreement Provisions:

4. **USES PERMITTED BY THIS AGREEMENT:** This Agreement shall vest the right to develop the Property in accordance with the terms and conditions of this Agreement.

4.1 The uses allowed pursuant to this Agreement are only those uses allowed as permitted, conditional and/or accessory uses under the UDC.

4.2 No change in the uses specified in this Agreement shall be allowed without modification of this Agreement.

5. **CONDITIONS GOVERNING DEVELOPMENT OF SUBJECT PROPERTY:**

5.1 The subject property shall no longer be subject to the terms of the Development Agreement (DA) (Inst. #2022-065403, MDA-15-012) for Village Apartments and shall instead be subject to a new agreement. The new DA shall be signed by the property owner and returned to the Planning Division within six (6) months of the City Council granting approval of the amendment. The specific provisions for the new DA are as follows:

- a. Development of this site shall be generally consistent with the conceptual development plans approved by City Council and the conditions of approval included in Section VIII.A and include the following:
 - i. Specific details for the integrated plaza/open areas shall be provided with the first certificate of zoning compliance. The applicant can relocate open space/plaza areas depicted on the plan with director approval once specific tenants are known.
 - ii. On concept plan option 1, some or all of the buildings along the eastern boundary may be rotated and/or relocated and a shared plaza area/green space added to a more central location within the development for better integration, including a central pathway connection to the open space and front pad sites.
 - iii. If the site develops consistent with concept plan option 2, the applicant shall construct a 5-foot sidewalk on the east boundary and provide a decorative crosswalk across the drive aisle of the multi-family portion of the development (SWC of the Village Apartments) to enhance pedestrian connectivity.

EXHIBIT A

- b. The subject property shall be subdivided prior to submittal of the first Certificate of Zoning Compliance application for the site.
- c. A 25-foot wide buffer shall be installed along the eastern boundary of the site adjacent to the future residential uses, landscaped per the standards listed in UDC 11-3B-9C, unless otherwise modified by City Council. Construction of the buffer may take place with lot development.
- d. Pedestrian connections shall be provided between the subject property and the future residential development to the east, the commercial properties to the north and south and to the multi-use pathway along N. Eagle Rd./SH-55 in accord with the approved pedestrian plans. Pedestrian walkways should be distinguished from the vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks in accord with UDC 11-3A-19B.4.
- e. Traffic calming shall be provided within the site between the subject property and the residential development to the east.
- f. Provide trash enclosures within the development capable of housing containers for both solid waste and recyclable materials in accord with MCC 4-1-4.
- g. City Council approved the request for a right-in/right-out access via N. Eagle Rd./SH-55 contingent upon final approval from ITD in accord with UDC 11-3H-3.

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B. Proposed & Recommended Revisions to Development Agreement Provisions:

~~#5.1a.iii – If the site develops consistent with concept plan option 2, the applicant shall construct a minimum 5-foot 4-foot wide sidewalk on along the east side of the north/south drive aisle boundary through the site (instead of along the east boundary of the site as shown on concept plan) and provide a decorative crosswalks across the where pedestrian walkways cross internal drive aisles. Pedestrian walkways shall be provided at the east boundary of the site to of the multi-family portion of the development (NWC and SWC of the Village Apartments) to enhance pedestrian connectivity.~~

~~#5.1b – The subject property shall be subdivided prior to submittal issuance of the first second Certificate of Zoning Compliance application building permit for the site; subsequent building permit applications shall not be submitted until after the property is subdivided. Certificate of Zoning Compliance and Design Review applications may be submitted and approved prior to recordation of the plat.~~

~~#5.1c – A minimum 25-foot 5-foot wide buffer shall be installed along the eastern boundary of the site adjacent to the future residential uses as approved by City Council, landscaped per the standards listed in UDC 11-3B-9C, unless otherwise modified by City Council approved through alternative compliance. Construction of the buffer may take place with lot development.~~

~~#5.1h – Prior to issuance of the first Certificate of Occupancy within the development, all of the required street buffer landscaping along N. Eagle Rd./SH-55, including the 10-foot wide multi-use pathway and pedestrian lighting; and the backage road along N. Eagle Rd./SH-55, from the north to the south boundary with connections to N. Eagle Rd./SH-55 and the development to the east, shall be completed.~~

Note: All other provisions remain the same; no other changes are proposed or recommended.

C. Landscape Plan Approved for Village Apartments with A-2021-0231

LANDSCAPE NOTES:

1. **GENERAL NOTES:**
All landscape work shall be conducted in accordance with (LSPVC) Standard Practice Book Construction, 2020 or most recent editions, and City of Mendota, IL codes, standards and state and local regulations.
2. **EXISTING CONDITIONS:**
a. All utilities shall be located prior to construction and protected. Any utility relocation, repairs or removal will be at owner's expense.
b. The site has many existing improvements such as underground utilities, water and gas, light poles and sidewalks.
c. All existing utilities for information about existing structures.
d. All existing structures shall be removed and replaced with new structures, unless otherwise noted.
3. **GRADING & SITE PREPARATION:**
a. Protect trees growing prior to grading and retaining walls.
b. All grading shall be done in accordance with the LSPVC Standard Practice Book Construction, 2020 or most recent editions.
c. All grading shall be done in accordance with the LSPVC Standard Practice Book Construction, 2020 or most recent editions.
d. All grading shall be done in accordance with the LSPVC Standard Practice Book Construction, 2020 or most recent editions.
e. All grading shall be done in accordance with the LSPVC Standard Practice Book Construction, 2020 or most recent editions.
4. **PLANTING:**
a. All plant material shall be installed per industry standards.
b. All plant material shall be installed per industry standards.
c. All plant material shall be installed per industry standards.
d. All plant material shall be installed per industry standards.
e. All plant material shall be installed per industry standards.

LANDSCAPE PLAN - OVERALL

LANDSCAPE REQUIREMENTS:

CODE REQUIREMENTS PER STATE, IL:

STREET BUFFER	THICKNESS PER LINEAL FOOT	THICKNESS PER LINEAL FOOT	THICKNESS PER LINEAL FOOT
STREET NAME	LENGTH (ft)	THICKNESS REQUIRED	THICKNESS PROVIDED
DOLLARD	147' (MINUS CURB CUTS)	10	10

COMMON LOT LANDSCAPE REQUIREMENTS:

COMMON LOT	AREA (sq ft)	THICKNESS REQUIRED	THICKNESS PROVIDED
COMMON LOT	AREA (sq ft)	THICKNESS REQUIRED	THICKNESS PROVIDED

PERMITTER BUFFER:

STREET NAME	LENGTH (ft)	THICKNESS REQUIRED	THICKNESS PROVIDED
STREET NAME	LENGTH (ft) <td>THICKNESS REQUIRED <td>THICKNESS PROVIDED </td></td>	THICKNESS REQUIRED <td>THICKNESS PROVIDED </td>	THICKNESS PROVIDED

PERMITS ONLY:

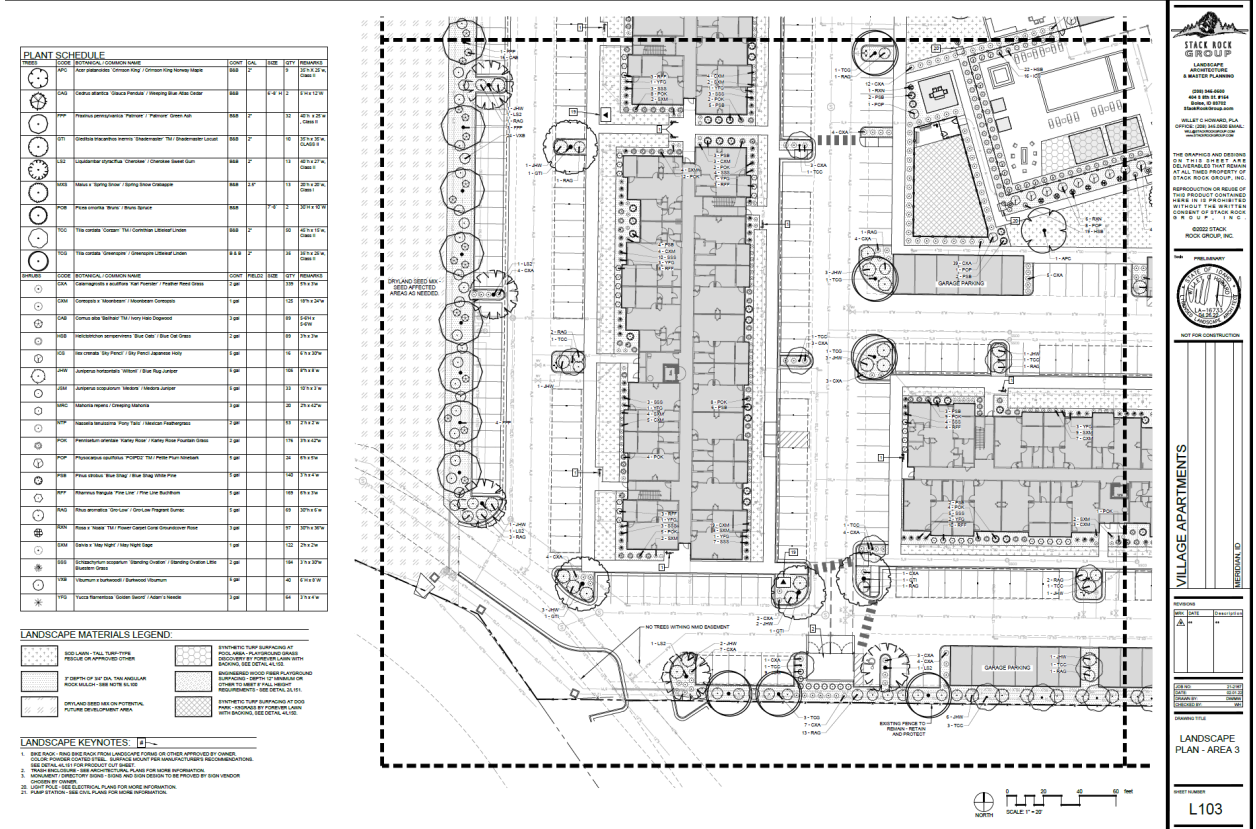
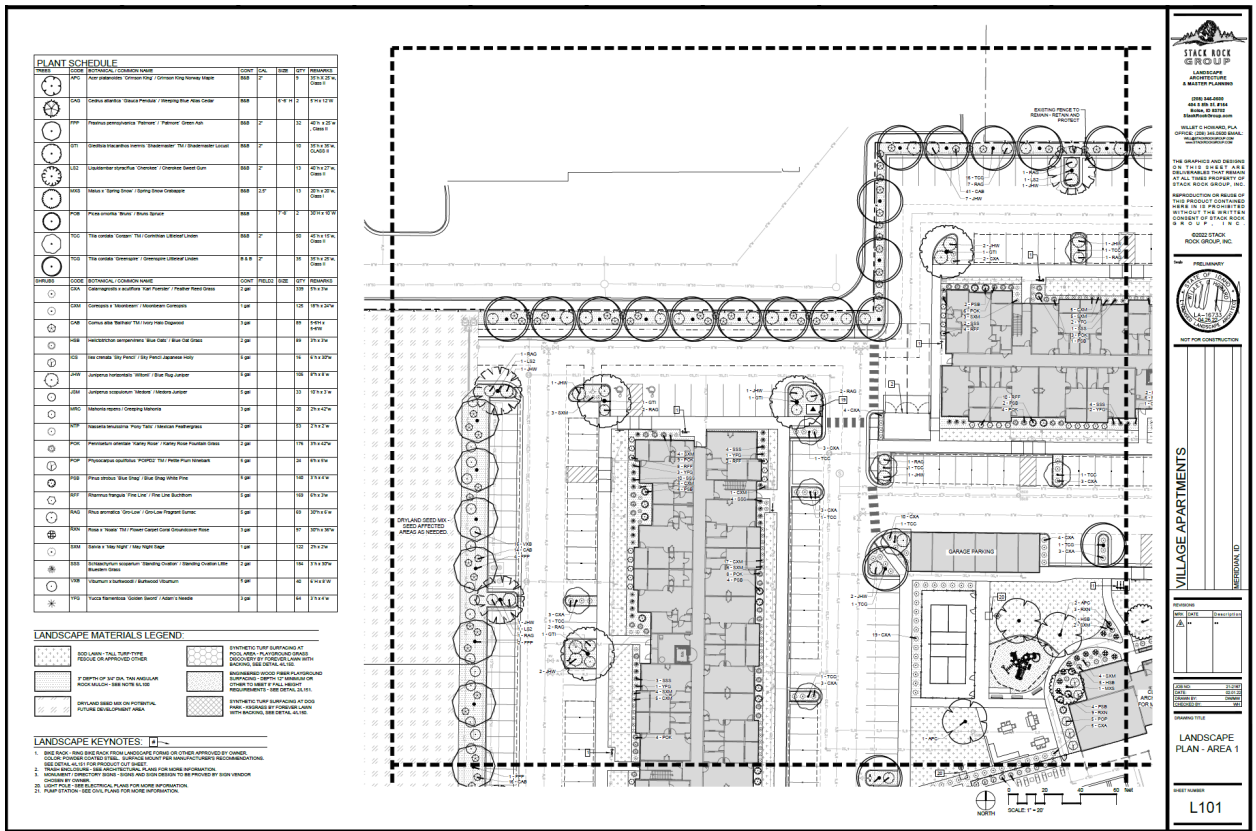
1. TREE PER PARKING (SCALED/ANNUAL PLANTING) PROVIDED: SEE PLAN.

2. TREE PER PARKING (SCALED/ANNUAL PLANTING) PROVIDED: SEE PLAN.

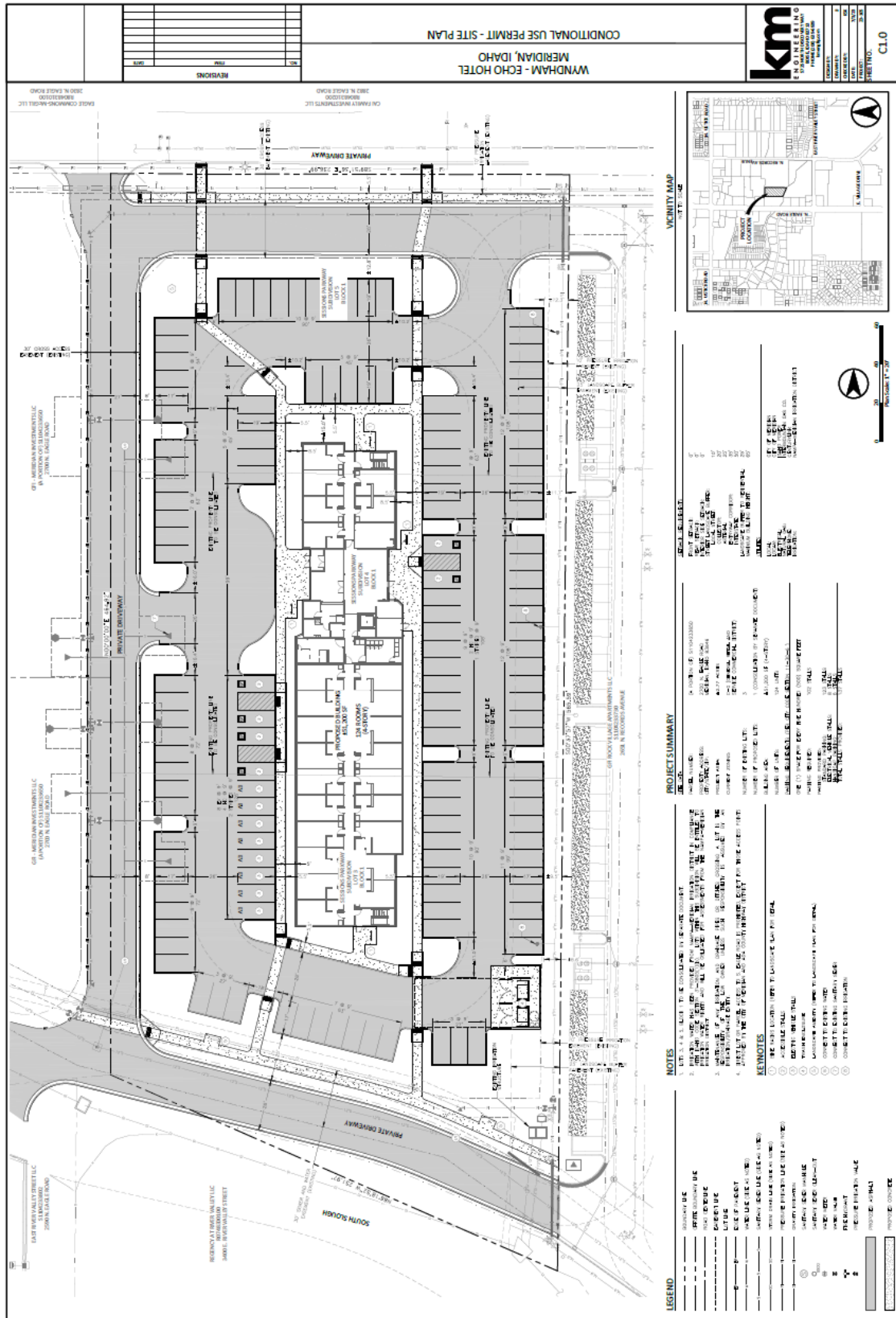
3. TREE PER PARKING (SCALED/ANNUAL PLANTING) PROVIDED: SEE PLAN.

LANDSCAPE PLAN - OVERALL

EXHIBIT A



D. Proposed Site Plan (dated: 7/3/23) – *Not Approved*



E. Proposed Landscape Plan (dated: July 10, 2023) – *Not Approved*

