

EXHIBIT B

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



In the Matter of the Request to Rezone 32.21 Acres of Land from R-4 to the R-8 Zoning District, and Development Agreement Modification to Create a New DA to Develop the Proposed Preliminary Plat Consisting of 97 Residential Building Lots and 14 Common Lots, by Brighton Development.

Case No(s). H-2021-0086

For the City Council Hearing Date of: January 11, 2022 (Findings on February 15, 2022)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of January 11, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of January 11, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of January 11, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of January 11, 2022, 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 January 11, 2022, 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 rezoning, preliminary plat and development agreement modification is hereby approved per the conditions of approval in the Staff Report for the hearing date of January 11, 2022, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Preliminary Plat Duration

Please take notice that approval of a preliminary plat, combined preliminary and final plat, or short plat shall become null and void if the applicant fails to obtain the city engineer's signature on the final plat within two (2) years of the approval of the preliminary plat or the combined preliminary and final plat or short plat (UDC 11-6B-7A).

In the event that the development of the preliminary plat is made in successive phases in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of two (2) years, may be considered for final approval without resubmission for preliminary plat approval (UDC 11-6B-7B).

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-6B-7.A, the Director may authorize a single extension of time to obtain the City Engineer's signature on the final plat not to exceed two (2) years. Additional time extensions up to two (2) years as determined and approved by the City Council may be granted. With all extensions, the Director or City Council may require the preliminary plat, combined preliminary and final plat or short plat to comply with the current provisions of Meridian City Code Title 11. If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the platting procedure again (UDC 11-6B-7C).

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. Notice of Final Action and Right to Regulatory Takings Analysis

1. **Please take notice** that this is a final action of the governing body of the City of Meridian. When applicable and pursuant to Idaho Code § 67-6521, any affected person being a person who has an interest in real property which may be adversely affected by the final action of the governing board may within twenty-eight (28) days after the date of this decision and order seek a judicial review as provided by Chapter 52, Title 67, Idaho Code.

F. Attached: Staff Report for the hearing date of January 11, 2022

By action of the City Council at its regular meeting held on the 15th day of February, 2022.

COUNCIL PRESIDENT TREG BERNT

VOTED AYE

COUNCIL VICE PRESIDENT BRAD HOAGLUN

VOTED AYE

COUNCIL MEMBER JESSICA PERREAULT

VOTED

COUNCIL MEMBER LUKE CAVENER

VOTED AYE

COUNCIL MEMBER JOE BORTON

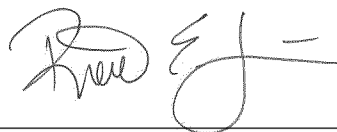
VOTED

COUNCIL MEMBER LIZ STRADER

VOTED AYE

MAYOR ROBERT SIMISON
(TIE BREAKER)

VOTED



Mayor Robert E. Simison

Attest:



Chris Johnson
City Clerk

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

By: Charlene Way Dated: 2-15-2022
City Clerk's Office

EXHIBIT A

STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT



HEARING DATE: 1/11/2022

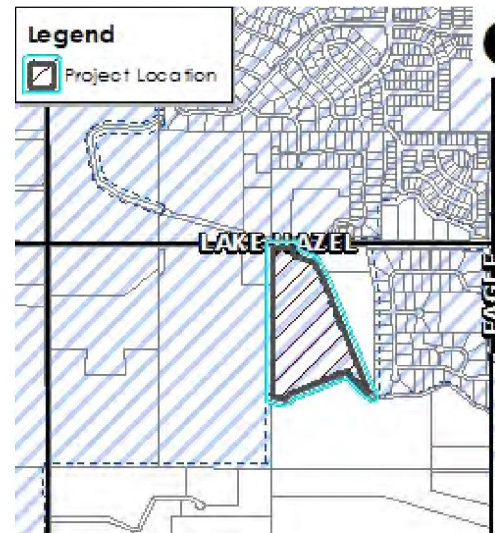
TO: Mayor & City Council

FROM: Alan Tiefenbach

208-884-5533

SUBJECT: MDA, PP, RZ - H-2021-0086
Apex East Subdivision

LOCATION: Parcel #S1405120902, located on the south side of E. Lake Hazel Road between S. Locust Grove Road and S. Eagle Road



I. PROJECT DESCRIPTION

Request to rezone 32.21 acres of land from R-4 to the R-8 zoning district, development agreement modification to create a new DA to develop the proposed preliminary plat consisting of 97 residential building lots and 14 common lots.

II. SUMMARY OF REPORT

A. Project Summary

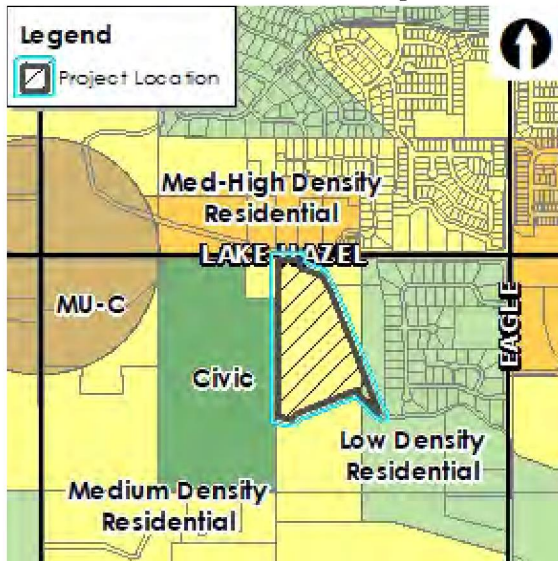
Description	Details
Acreage	32.21
Future Land Use Designation	Medium Density Residential 8-12 du/acre
Existing Land Use(s)	Vacant
Proposed Land Use(s)	Single Family Residential
Lots (# and type; bldg./common)	97 building lots, 11 common lots, 3 common driveway lots
Phasing Plan (# of phases)	2 phases
Number of Residential Units (type of units)	97
Density (gross & net)	3 du / ac gross, 5.1 du / ac net
Open Space (acres, total [%]/buffer/qualified)	7.05 acres of qualified open space (21.89 %)
Amenities	Two one-acre parks, tot lot, picnic area, pathway along the southern property line.
Physical Features (waterways, hazards, flood plain, hillside)	Farr Lateral parallels the east property line.
Neighborhood meeting date; # of attendees:	September 1, 2021, no attendees
History (previous approvals)	AZ H-2015-0019, DA Inst. 2016-007075

B. Community Metrics

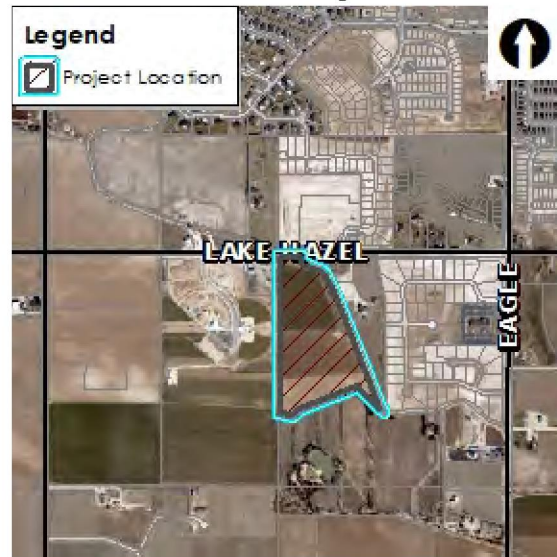
Description	Details
Ada County Highway District	
<ul style="list-style-type: none"> Staff report (yes/no) 	No
Access (Arterial/Collectors/State Hwy/Local)(Existing and Proposed)	Access will occur from S. Recreation Ave (a new collector) via E. Lake Hazel Rd.
Stub Street/Interconnectivity/Cross Access	Two stubs – one to the south and one to the east (both connect to presently undeveloped properties).
Existing Road Network	E. Lake Hazel Rd
Existing Arterial Sidewalks / Buffers	None along the subject property. 25 ft. wide buffer is required along E. Lake Hazel Rd., 20 ft. wide buffer required along S. Recreation Ave. 10 ft. pathways will be constructed along E. Lake Hazel Rd. and both sides of S. Recreation Ave.
Proposed Road Improvements	The applicant will be constructing S. Recreation Ave. from E. Lake Hazel Rd. to a cul-de-sac at the south property line.
Fire Service	
<ul style="list-style-type: none"> Distance to Fire Station 	3.1 miles to Fire Station 4. Will be adjacent to Fire Station 7 when it is constructed.
<ul style="list-style-type: none"> Fire Response Time 	Presently > 5 minutes, will change when Fire Station 7 is completed.
<ul style="list-style-type: none"> Resource Reliability 	> 78%
<ul style="list-style-type: none"> Risk Identification 	2, resources are not adequate
<ul style="list-style-type: none"> Accessibility 	Yes
<ul style="list-style-type: none"> Special/resource needs 	Aerial device will be required
<ul style="list-style-type: none"> Water Supply 	1,000 gpm required
<ul style="list-style-type: none"> Other Resources 	None
Police Service	
<ul style="list-style-type: none"> No comments 	
Wastewater	
<ul style="list-style-type: none"> Flow is committed Applicant must ensure no sewer services pass through infiltration trenches. 	
Water	
<ul style="list-style-type: none"> Distance to Water Services 	0
<ul style="list-style-type: none"> Pressure Zone 	5
<ul style="list-style-type: none"> Water Quality 	No concerns
<ul style="list-style-type: none"> Project Consistent with Water Master Plan 	Yes
<ul style="list-style-type: none"> Comments 	<ul style="list-style-type: none"> Eliminate the water main in E Wickham St. and install it in the common driveway at the northwest corner into S Recreation Ave. Coordinate with the CDA project to stub water main from S Recreation Ave. to the common drive.

Project Area Maps

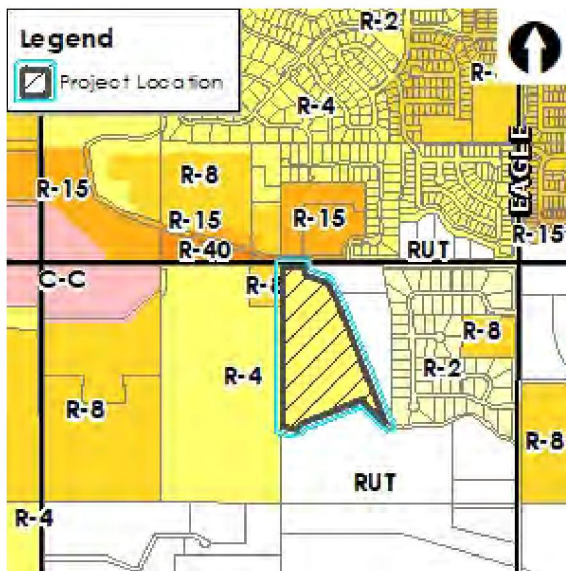
Future Land Use Map



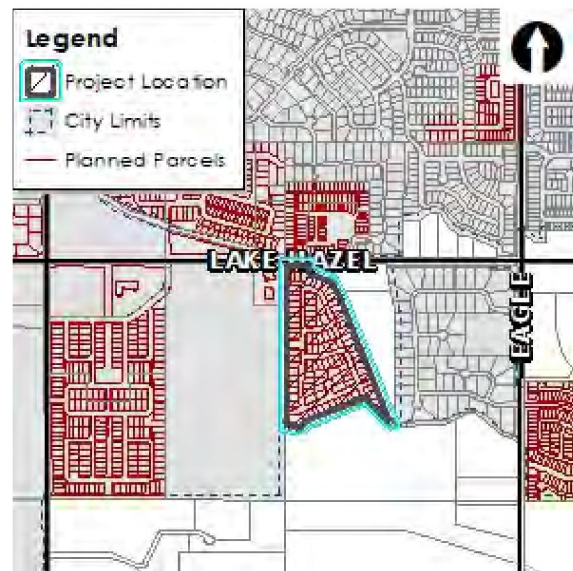
Aerial Map



Zoning Map



Planned Development Map



III. APPLICANT INFORMATION

A. Applicant Representative:

Josh Beach, Brighton Development Inc. – 2929 W. Navigator Wy, Boise, ID 83713

B. Owner:

Brighton Development – 2929 W. Navigator Wy, Boise, ID 83713

IV. NOTICING

	Planning & Zoning Posting Date	City Council Posting Date
Newspaper Notification	11/30/2021	
Radius notification mailed to properties within 300 feet	11/12/2021	
Nextdoor posting	11/28/2021	
Sign Posting	12/02/2021	

V. STAFF ANALYSIS

The property was annexed and zoned R-4 as part of the South Meridian Annexation (H-2015-0019). This annexation consisted of 1322.14 acres of land. There were numerous development agreements associated with this annexation; each development agreement was specific to the property being annexed.

The subject property is governed by the Murgoitio Development Agreement (Inst. #2016-007075). This DA allows County operations to continue until the property is developed. At the time the property was annexed, the City anticipated the rezone and platting of the subject property. Prior to any development, the DA requires a development plan be approved and anew DA created at no cost to the applicant.

A. Development Agreement Modification

Section 4.2 of the development agreement states *“no change in the uses specified in this Agreement shall be allowed without modification of this agreement.”*

Section 20.1 of the DA states *“no condition governing the uses and / or conditions governing re-zoning of the subject property herein provided for can be modified or amended without 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.”*

Section 5.1.2 of the development agreement states *“future development of the property shall comply with all bulk, use and development standards of the R-4 zoning district.”*

The purpose of this DA Modification is to include the proposed preliminary plat, landscape plan and proposed elevations as the approved development plans for the property.

If the property were rezoned to R-8 to allow the development as proposed, the new DA should require compliance with the preliminary plat, landscape plan and conceptual building elevations in the Exhibit section below.

B. Zoning:

This application proposes to rezone from R-4 to R-8. The property to the west (Discovery Park) is zoned R-4. To the east of the property is land still within Unincorporated Ada County. To the north of the property (across E. Lake Hazel Rd.) is R-40 and R-15 zoning.

The R-8 Zoning District requires a minimum lot size of 4,000 sq. ft. and minimum street frontage of 40 ft. The Preliminary Plat Data Table for this proposal indicates a minimum lot size of 6,967 sq. ft. and an average lot size of 8,485 sq. ft. These are lot sizes which are smaller than the Keep subdivision to the east, but larger lot sizes than the Impressive East Ridge and Lavender Heights Subdivisions across E. Lake Hazel Rd. to the north. The lot sizes are well within the FLUM designation of MDR, which allows densities of between 3-8 dwelling units per acre. The minimum 40 ft. street frontage is exceeded on all lots.

C. Future Land Use Map Designation (<https://www.meridiancity.org/compplan>)

This property is designated Medium Density Residential on the City's Future Land Use Map (FLUM) contained in the Comprehensive Plan. This designation allows for dwelling units at gross densities of three to eight dwelling units per acre. Density bonuses may be considered with the provision of additional public amenities such as a park, school, or land dedicated for public services.

As mentioned in the zoning section above, the gross density is 3 du / acre and the net density is 5.1 du / acre. This is well within and on the low end of the designated density for the site. Therefore, Staff finds the proposed preliminary plat and requested R-8 zoning district to be generally consistent with the Future Land Use Map designation of Medium Density Residential.

D. Comprehensive Plan Policies (<https://www.meridiancity.org/compplan>):

- Encourage a variety of housing types that meet the needs, preferences, and financial capabilities of Meridian's present and future residents. (2.01.02D)

The building elevations show a single-family attached product proposed for this development. Single-family attached housing tends to result in a more affordable product, which is a more attainable product for first time home buyers and / or younger families. This contributes to the variety of housing types that meets the needs, preferences, and financial capabilities of Meridian's present and future residents.

With new subdivision plats, require the design and construction of pathway connections, easy pedestrian and bicycle access to parks, safe routes to schools, and the incorporation of usable open space with quality amenities." (2.02.01A)

The proposed plat depicts 5 ft. wide detached sidewalks on both sides of roads internal to the subdivision, with 8 ft. parkways. There are also 10 ft. wide pathways on E. Lake Hazel Rd., along both sides of S. Recreation Ave., and running along the south property line to the Farr Lateral east of the site. The pathways provide a necessary link to the greater pathway system and provide pedestrian access to Discovery Park across the street although staff believes a segment of the southernmost pathway needs a slight realignment as described in the pathways section below.

- "Require pedestrian access in all new development to link subdivisions together and promote neighborhood connectivity." (2.02.01D)

As mentioned above, 5-ft. wide detached sidewalks are provided along all internal roadways, and there are 10 ft. wide pathways along both sides of S. Recreation Ave., E. Lake Hazel Rd. and the south perimeter of the property to the Farr Lateral. The sidewalks stub to the east and south, and

the pathways provide connectivity to Discovery Park on the opposite side of S. Recreation Ave. and future development to the south.

“Permit new development only where it can be adequately served by critical public facilities and urban services at the time of final approval, and in accord with any adopted levels of service for public facilities and services.” (3.03.03F)

The development can be adequately served by critical public facilities and urban services. Water and sewer will be extended from S. Recreation Ave. at the west.

- Reduce the number of existing access points onto arterial streets by using methods such as cross-access agreements, access management, and frontage/backage roads, and promoting local and collector street connectivity. (6.01.02B)

This development does not take access from E. Lake Hazel Rd. (an arterial road). Two points of access are proposed from S. Recreation Ave., a new collector that will be constructed by the applicant and will also provide access to Discovery Park and the South Meridian Fire Station No 7 and Police substation. Two internal stubs to the south and east are being provided.

E. Existing Structures/Site Improvements:

The property is presently vacant.

F. Proposed Use Analysis:

Single-family dwellings are listed as a principal permitted use in the R-8 zoning districts in UDC Table 11-2A-2. Per UDC 11-5B-8, design review is required for all new attached residential structures of more than one unit.

G. Dimensional Standards (*UDC 11-2*):

The preliminary plat and future development is required to comply with the dimensional standards listed in UDC Table 11-2A-6 for the R-8 district. All proposed lots and public streets appear to meet UDC dimensional standards per the submitted preliminary plat. This includes minimum lot size of 4,000 sq. ft., and required street frontages of at least 40 ft. Development of the subdivision is required to comply with the subdivision design and improvement standards listed in UDC 11-6C-3.

UDC 11-6C-3- regulates block lengths for residential subdivisions. Staff has reviewed the submitted plat for conformance with these regulations. The intent of this section of code is to ensure block lengths do not exceed 750 ft, although there is the allowance of an increase in block length to 1,000 feet if a pedestrian connection is provided. No block length exceeds 750 ft.

Three common driveways are proposed with this subdivision. The applicant has provided common drive exhibits which demonstrate no more than 3 units are served whereas a maximum of 4 units are allowed. The common driveways meet the minimum width of 20' and does not exceed the maximum length of 150'. The common driveways show landscaping of at least five feet wide along one side of each common driveway.

The elevations that were submitted suggest single family attached, although the plat as submitted does not reflect an even number of lots and does not indicate which lots would contain the attached product. Prior to Council, the applicant should revise the plat to depict the single family attached lots (zero setback side lot lines).

H. Access (*UDC 11-3A-3*):

The property abuts E. Lake Hazel Rd. to the north, although it will not take access from this road. Lake Hazel Road is improved with 2-travel lanes and there is no curb, gutter or sidewalk abutting the site. There is 50-feet of right-of-way for Lake Hazel Road. Lake Hazel Road is planned to be widened to 5-lanes from Locust Grove Road to Eagle Road between 2036 and 2040.

The plat proposes two access points from a new collector road (S. Recreation Ave.) which parallels the west property line. Primary access will occur at approximately the middle of the subject property's western property line (shown as E. Wickham Street). There will be a second southern access which will align with a drive aisle into Discovery Park (shown on the plat as E. Ambition Dr). S. Recreation Ave. will also provide primary access to Discovery Park as well as the South Meridian Fire Station No 7 and Police Substation. Two stub streets are proposed at the southeast portion of the property; one stubbing to the south and one stubbing to the east.

Per an Interagency Cooperative Development Agreement (Instr. 2016-007073), Brighton Development is required to construct S. Recreation Ave. (the new north/south collector) from a cul-de-sac at the south property line to Lake Hazel Road. They will also be required to install 10 ft. wide pathways on both sides of this collector.

ACHD has responded a traffic impact study is not required and has not submitted additional comments as of time of this staff report.

I. Parking (*UDC 11-3C*):

Off-street parking is required to be provided in accord with the standards listed in UDC Table 11-3C-6 for single-family dwellings based on the number of bedrooms per unit. Future development should comply with these standards.

J. Pathways (*UDC 11-3A-8*):

The Meridian Pathways Master Plan shows a 10 ft. wide multiuse pathway running along the site's northern property line and turning north (crossing E. Lake Hazel Rd.) at the site's eastern property line. The Pathways Plan also shows a 10 ft. wide multiuse pathway along the western side of S. Recreation Ave. The Plan shows another 10 ft. wide pathway connecting from S. Recreation Ave to the Farr Lateral along the southern property line. The landscape plan indicates 10' ft. wide pathways along all these alignments. In addition, although not shown on the pathway plan nor required by ACHD, the development also proposes a 10 ft. wide pathway on the east side of S. Recreation Ave. as well.

Staff does think the southern pathway (connecting to the Farr Lateral) should align with the eastern entrance into Discovery Park on the opposite side of S. Recreation Ave. (see the color landscape plan in Section VII). Staff has concerns the westernmost segment of the pathway will encourage people to cross S. Recreation Ave. out of a designated crosswalk or "cut across" the open space in the vicinity of the Williams Pipeline Easement. Staff recommends the plat and landscape plan be revised to provide a more direct and aligned connection between the southernmost pathway and the entrance into Discovery Park.

Sidewalks (*UDC 11-3A-17*):

Five-foot detached sidewalks are proposed along internal streets in accord with the standards listed in UDC 11-3A-17. All detached sidewalks include parkways which are meet the minimum 8 ft. with and are landscaped as required per 11-3A-17.

K. Parkways (*UDC 11-3A-17*):

Parkways are provided between the detached sidewalks and road on both sides of all local roads. As mentioned above, all parkways meet the requirements of 11-3A-17 and 11-3B-7 including at least 8 ft. in width and landscaped with at least 1 tree per 35 feet.

L. Landscaping (*UDC 11-3B*):

UDC 11-2A-6 requires 25 ft. wide buffers along arterial roads (E. Lake Hazel Rd.) and 20 ft. wide buffers required along collector roads (S. Recreation Ave). The landscape plan reflects a buffer of more than 75 ft. along E. Lake Hazel Rd., and a buffer of at least 50 ft. in width along S. Recreation Ave. The detached pathways are in these buffers, there are parkways of at least 8 ft. in width, and the landscape buffers meet the minimum planting requirements of 1 tree per 35 linear feet. Internal sidewalks also contain parkways of at least 8 feet in width. As described below, there are three parks provided with this subdivision that meet the density requirements of 1 tree per 8,000 sq. ft. The landscape plan indicates there are no healthy existing trees meeting the preservation requirements on the property.

M. Qualified Open Space (*UDC 11-3G*):

11-3G-3 has recently been revised to require 15% of qualified open space for properties within the R-8 zoning district. The applicant has submitted an open space exhibit which reflects 21.8% (7.05 acres) of qualified open space. This includes two one-acre parks at the south perimeter of the property, a ½-acre park toward the center of the development, 100% of the collector buffers, ½ of the arterial buffer, and several trail corridors meeting the minimum requirements of 20 ft. in width, 50 ft. long and with an access at each end.

The open space exhibit includes the 55 ft. wide Farr Lateral easement along the eastern property line. UDC 11-3G-3B states protective buffers a minimum of ten feet (10') in width dedicated for active access along laterals or ditches may count toward meeting the open space minimum requirements. However, as presently shown, staff is unsure this area provides the "active access" required to be counted as qualified open space. Because this lateral is behind existing homes, staff also has concerns regarding visibility and whether this area would comply with Crime Prevention Through Environmental Design (CPTED) standards. As a condition of approval, staff is recommending that prior to Planning Commission, the plat and landscape plan be revised to provide access to some or all of the open area shown along the Farr Lateral. Only areas accessible and useable to the residents as open space should be included on the open space exhibit. Also, if this area is to be credited as qualified open space, it should be landscaped as required by UDC 11-3B unless otherwise prohibited by the irrigation district.

N. Qualified Site Amenities (*UDC 11-3G*):

Based on the area of the proposed plat (32.1 acres), 6 amenity points are required. This application proposes two open space parks larger than one-acre (6 points), a ½ acre parcel at the center, a picnic area (2 points), a tot lot (1 point), and more than ½ mile of multi-modal pathway (4) points. This application exceeds the minimum requirements.

O. Waterways (*UDC 11-3A-6*):

The Farr Lateral runs along the eastern property line. The applicant has requested a waiver from UDC 11-3A-6 which requires piping the lateral with the explanation that piping the lateral would be cost-prohibitive. The landscape plan reflects turf sod in this area. Coordination will be ongoing with the irrigation district managing the waterways to meet their requirements.

P. Fencing (*UDC 11-3A-6, 11-3A-7*):

The landscape plan includes a fencing plan. 6 ft. high wooden fencing is provided along the S. Recreation Ave. landscape buffer, and along the side of interior trail connections adjacent to residential lots (leaving them visible from the roads). Open style metal fencing is provided along the portions of the open spaces visible from the internal roads, and along the portions of the Farr Lateral that are not visible from E. Lake Hazel Rd. The fencing appears to meet the requirements of 11-3A-6 and 11-3A-7.

Q. Utilities (*UDC 11-3A-21*):

Public services are available to accommodate the proposed development. Water and sewer will be extended from S. Recreation Ave to the east.

A 75 ft. wide Williams Pipeline Easement is indicated at the southwest corner of the property. The plat contains this easement within common lots. The landscape plan shows these common lots landscaped with sod. There are no trees shown within this easement.

R. Building Elevations (*UDC 11-3A-19 | Architectural Standards Manual*):

The Applicant has submitted building elevations of the single-family attached homes for this project (see Section VI.F below).

The single-family attached homes are depicted as one and two-story structures with attached garages and a variety of architectural elements and finish materials including gabled roofs, covered porches, dormers, and lap siding. The submitted sample elevations appear to meet design requirements for single-family homes but do not include elevations of the sides or rears of structures.

A large number of the houses will be very visible from E. Lake Hazel Rd. and S. Recreation Ave. Therefore, staff recommends a condition that the rear and/or sides of 2-story structures that face E. Lake Hazel Rd. and S. Recreation Ave. incorporate articulation through changes in two or more of the following: modulation (e.g. projections, recesses, step-backs, pop-outs), bays, banding, porches, balconies, material types, or other integrated architectural elements to break up monotonous wall planes and roof lines. Single-story structures are exempt from this requirement. Single-family attached structures require administrative design review approval prior to applying for a building permit.

VI. DECISION

A. Staff:

1. Staff recommends approval of the requested rezoning, development agreement modification and preliminary plat with the conditions noted in Section VIII. per the Findings in Section IX.

B. The Meridian Planning & Zoning Commission heard this item on December 16, 2021. At the public hearing, the Commission moved to deny the subject rezoning, preliminary plat and development agreement modification request.

1. Summary of the Commission public hearing:

- a. In favor: Josh Beach and Mike Wardle
- b. In opposition: None
- c. Commenting: Josh Beach and Mike Wardle. Josh Beach noted the elevations that were submitted were the wrong elevations and the development would be entirely single family detached.
- d. Written testimony: None
- e. Staff presenting application: Alan Tiefenbach
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. Wendy representing the Southern Rim Coalition commented that people are very disappointed with the “steps ups” that were occurring. She mentioned citizens were not aware of the development agreement that anticipated future rezonings. She mentioned too much R-4 property was being rezoned to R-8, and allowing this rezoning would set a precedent for additional requests for R-8 zoning.
- b. Several other citizens testified in opposition with concerns being density, and precedent that would be set by continuing to rezone from R-4 to R-8.

3. Key issue(s) of discussion by Commission:

- a. Commissioners expressed concerns with lots in the vicinity of the common drive at the northwest portion of the property, and there could be future issues with parking and trash services. They also commented it appeared too many lots were “squeezed in there.” They suggested eliminating the common drive and creating more “pie shaped” lots in this area and /or putting a “knuckle” in there.
- b. Commissioners suggested the applicant make additional adjustments in the circle surrounding Lot 1, Block 6 to create more useable open space.
- c. Commissioners commented that they would prefer the common drives to be eliminated.
- d. Commissioners suggested putting a pathway adjacent to the Farr Lateral Easement, directly behind all the houses to the east.
- e. Commissioners did not support the precedent of continuing to rezone R-4 property to R-8.
- f. Commissioners noted most of this already met R-4 standards, so they would prefer it just be reconfigured to meet R-4.

4. Commission change(s) to Staff recommendation:

- a. Commissioners recommended denial.

C. The Meridian City Council heard these items on January 11, 2022. At the public hearing, the Council moved to approve the subject rezoning, preliminary plat and development agreement modification requests.

1. Summary of the City Council public hearing:

- a. In favor: Jon Wardle, Mike Wardle
- b. In opposition: Wyn Lyn Webb with Southern Rim Coalition, Mary Affleck
- c. Commenting: Jon Wardle and Mike Wardle
- d. Written testimony: Melissa Phillips, Julie Edwards, Julie Langlois
- e. Staff presenting application: Alan Tiefenbach

- f. Other Staff commenting on application: None
- 2. Key issue(s) of public testimony:
 - a. Precedent from allowing “step ups in density”
 - b. Maintaining more R-4 properties
 - c. Lack of transparency from R-4 holding zones that are assumed to go to R-8.
 - c. Traffic and increased lighting
 - d. Loss of privacy
- 3. Key issue(s) of discussion by City Council:
 - a. Whether additional R-4 properties should be rezoned.
 - b. Whether the development could be reconfigured to meet R-4 standards
 - c. Whether it would be better to have more lots under R-4, or more open space if R-8 was allowed with the development as shown.
 - d. There was significant discussion regarding school overcrowding and public improvements Brighton had constructed.
 - e. Because the property was already entitled and annexed, the Council expressed concerns regarding whether it was better for it to remain R-4 or let it be up-zoned to R-8 with the development as shown.
 - f. What factors Southern Rim Coalition used to support or oppose a development.
- 4. City Council change(s) to Commission recommendation:
 - a. Council did not require a connection or open space within the Farr Lateral.

VII. EXHIBITS

A. Rezoning Exhibit (date: 10/11/2021)

Exhibit A
Legal Description for Rezone to R8

A parcel of land being a portion of Government Lot 2 and a portion of the Southwest 1/4 of the Northeast 1/4 of Section 5, Township 2 North, Range 1 East, B.M., City of Meridian, Ada County, Idaho being more particularly described as follows:

Beginning at a brass cap marking the North 1/4 corner of said Section 5, which bears N89°56'45"W a distance of 2,659.06 feet from an aluminum cap marking the Northeast corner of said Section 5, thence following the northerly line of said Government Lot 2, S89°56'45"E a distance of 287.51 feet to a 5/8-inch rebar;

Thence leaving said northerly line, S00°00'42"W a distance of 104.38 feet to a point on the centerline of the Farr Lateral, said point being witnessed by a 5/8-inch rebar which bears N00°00'42"E a distance of 40.76 feet from said point;

Thence following said centerline the following five (5) courses:

1. S69°11'54"E a distance of 194.76 feet;
2. 153.61 feet along the arc of a curve to the right, said curve having a radius of 200.00 feet, a delta angle of 44°00'19", a chord bearing of S47°11'44"E and a chord distance of 149.86 feet;
3. S25°11'35"E a distance of 135.17 feet;
4. S22°29'45"E a distance of 1,518.71 feet;
5. S49°59'18"E a distance of 27.38 feet;

Thence leaving said centerline, S00°59'12"E a distance of 31.97 feet to a 5/8-inch rebar;

Thence N65°00'09"W a distance of 64.53 feet to a 5/8-inch rebar;

Thence N46°01'41"W a distance of 379.52 feet to a 5/8-inch rebar;

Thence S68°36'58"W a distance of 694.76 feet to a 5/8-inch rebar;

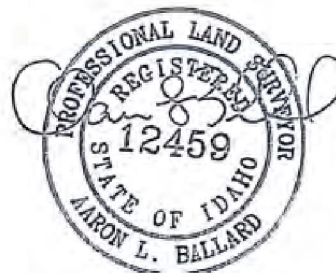
Thence S42°57'43"W a distance of 108.58 feet to a 5/8-inch rebar;

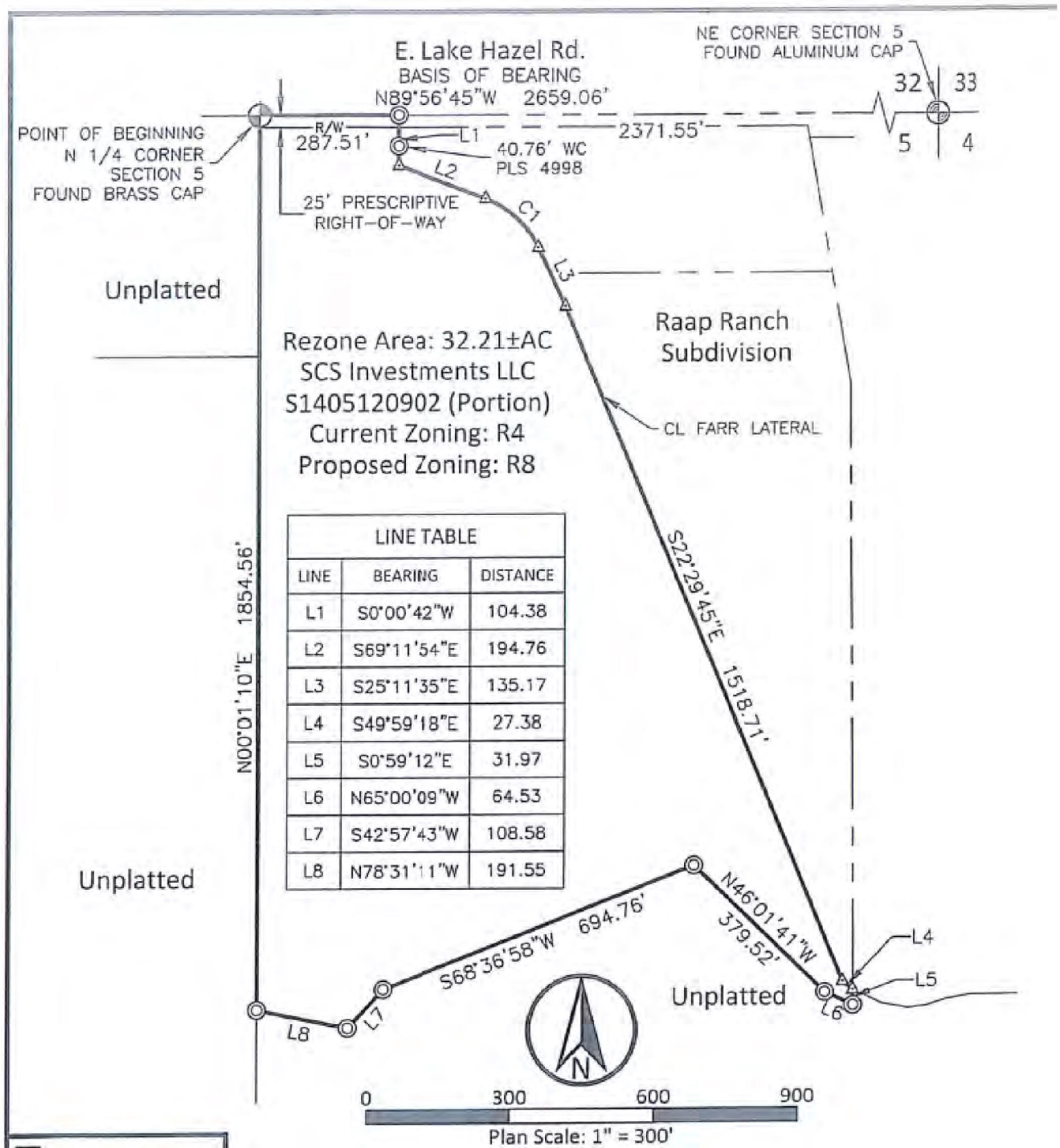
Thence N78°31'11"W a distance of 191.55 feet to a 5/8-inch rebar on the westerly line of the Northwest 1/4 of said Section 5;

Thence following said westerly line, N00°01'10"E a distance of 1,854.56 feet to the **POINT OF BEGINNING**.

Said parcel contains a total of 32.21 acres, more or less, and is subject to all existing easements and/or rights-of-way of record or implied.

Attached hereto is Exhibit B and by this reference is made a part hereof.



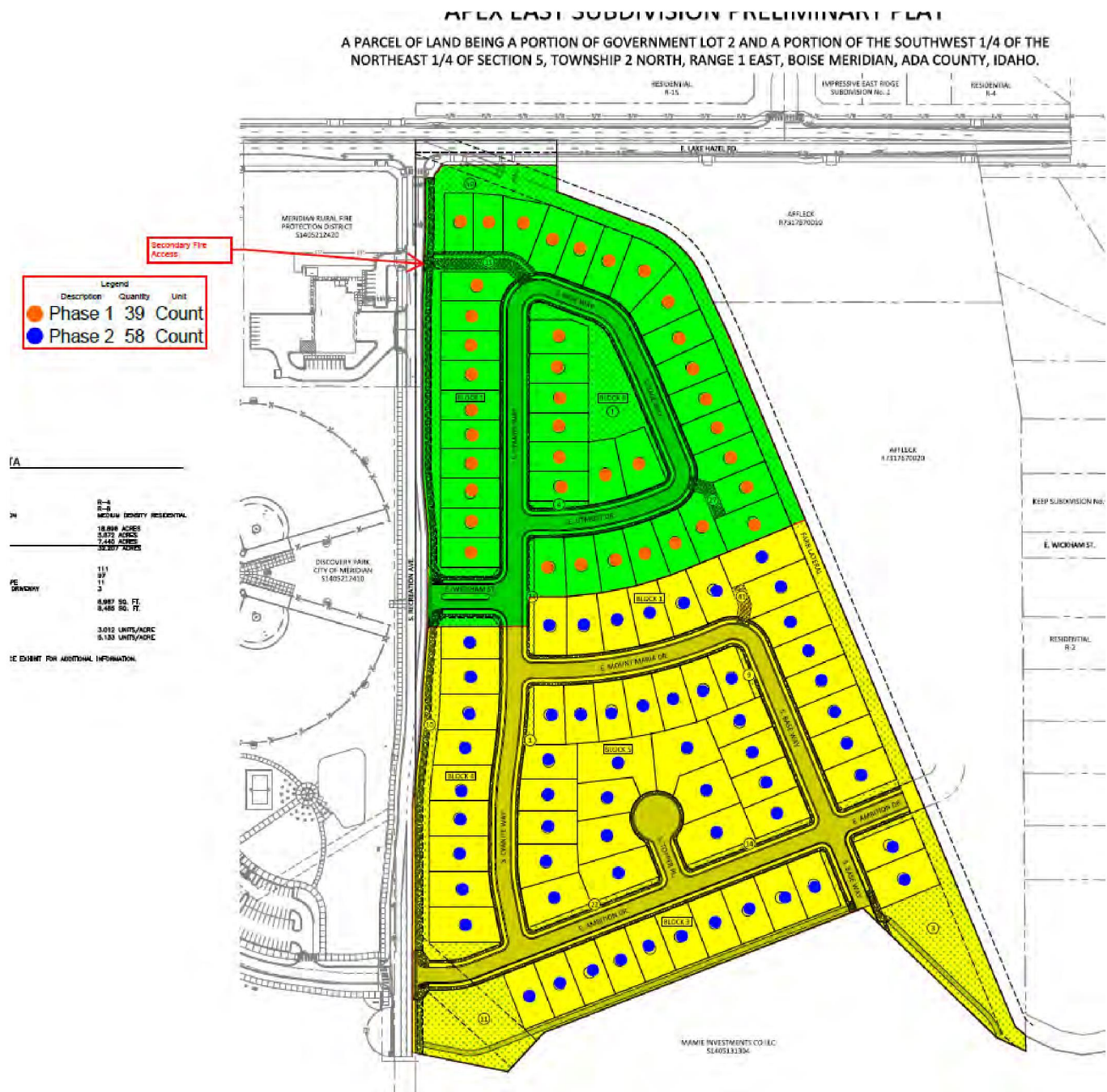


B. Preliminary Plat (date: 10/11/2021 1/11/2022)

NORTHEAST 1/4 OF SECTION 5, TOWNSHIP 2 NORTH, RANGE 1 EAST, BOISE MERIDIAN, ADA COUNTY, IDAHO.



C. Phasing Plan (Date: October 2021)

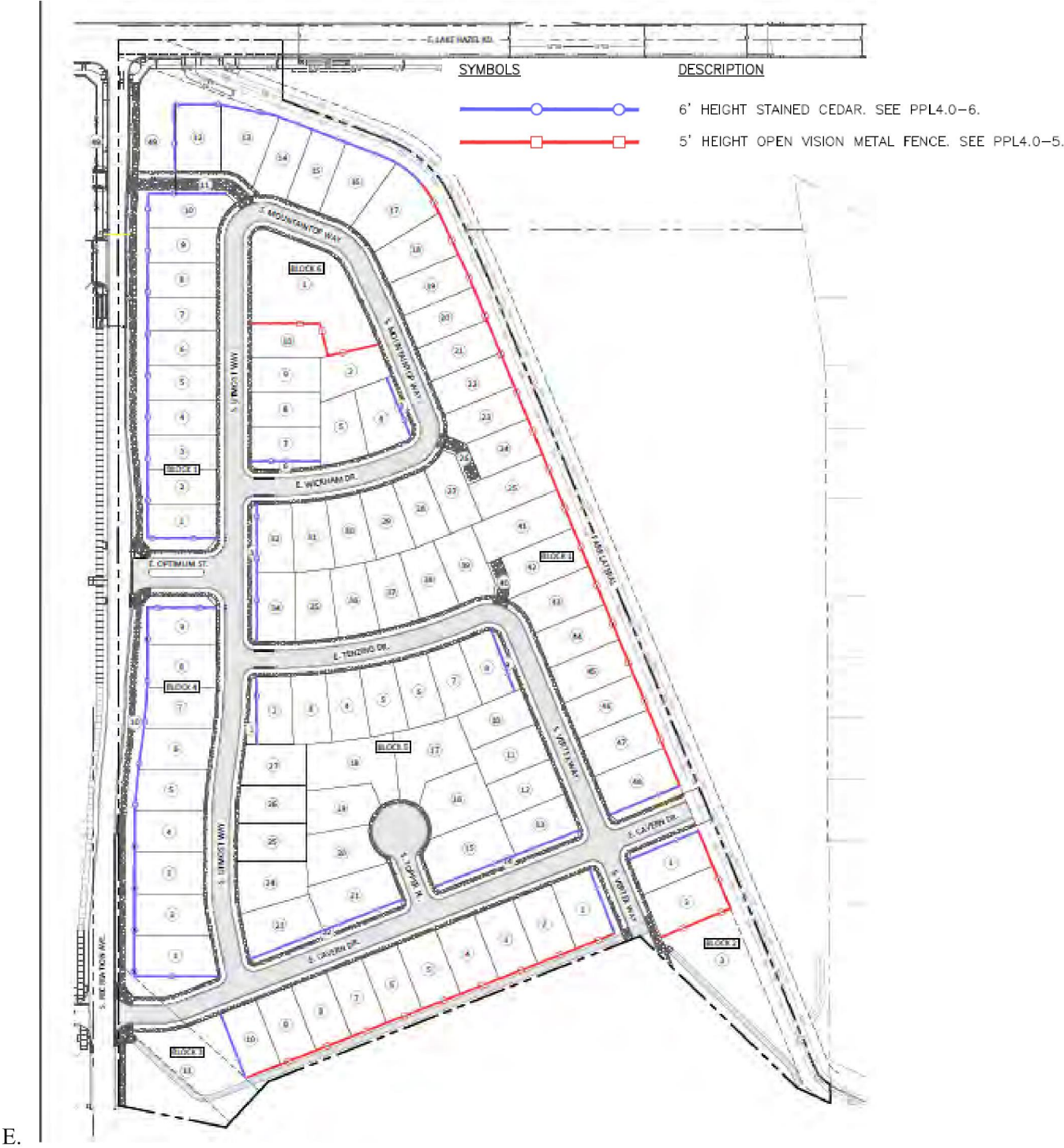


Color Landscape Plan (date: 10/11/2021 1/11/2022)



D.

Fence Exhibit (date: 10/11/2021 1/11/2022)



E.

F. Common Open Space Exhibit (date: ~~10/11/2021~~ **1/11/2022**)



G. NARY PI AT OPEN SPACE EXHIBIT

G. Conceptual Elevations (date: ~~10/11/2021~~ 1/11/2022)



Apex East Residential - Conventional

VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING DIVISION

1. A Development Agreement (DA) is required as a provision of annexation of this property. Prior to approval of the annexation ordinance, a DA shall be entered into between the City of Meridian, the property owner(s) at the time of annexation ordinance adoption, and the developer.

The DA shall be signed by the property owner and returned to the Planning Division within six (6) months of the City Council granting the annexation. The DA shall, at minimum, incorporate the following provisions:

- a. Future development of the Property shall comply with the ordinances in the Meridian City Code in effect at the time of development. Future development of this site shall comply with the preliminary plat, phasing plan, landscape plan and conceptual building elevations for the single-family **attached** dwellings included in Section VII. and the provisions contained herein.
 - b. The rear and/or sides of 2-story structures that face E. Lake Hazel Rd. or S. Recreation Ave shall incorporate articulation through changes in two or more of the following: modulation (e.g. projections, recesses, step-backs, pop-outs), bays, banding, porches, balconies, material types, or other integrated architectural elements to break up monotonous wall planes and roof lines. Single-story structures are exempt from this requirement. **Single family attached structures require administrative design review approval prior to applying for a building permit.**
 - c. Required street frontage improvements along E. Lake Hazel Rd. and the construction of S. Recreation Way including pathways, and landscape buffers shall be constructed with the first phase of construction.
2. The Preliminary Plat included in Section VI, dated 10/11/21, is approved with the following revisions:
 - a. ~~The plat should indicate which lots will contain single family attached (zero side lot lines).~~
 - b. Add notes which indicate Lots 33 and 49, Block 1, Lot 3, Block 2, Lot 11, Block 3, Lot 10, Block 4, Lots 1, 9, 14, and 22 Block 5, and Lots 1, 3 and 6 Block 6 are common lots which will be owned and maintained by the homeowner's association.
 - c. All utility easements reflected on the utility plan shall be included on the plat.
 - d. ~~Prior to Commission, the plat and landscape plan shall be revised to provide access to some or all of the open area shown along the Farr Lateral. Only areas accessible and useable as open space to the residents for active or passive recreation should be included on the open space exhibit.~~
 - e. ~~Prior to Commission, plat and landscape plan shall be revised to provide a more direct and aligned connection between the southernmost pathway and the entrance into Discovery Park at the west.~~
 3. The Landscape Plan included in Section VI, dated 10/11/21, is approved with revisions c, d, and e as listed in Condition No. 2 above, and the following additions:

- a. If the Farr Lateral Easement is to be credited as qualified open space, it should be landscaped as required per UDC 11-3B, or as allowed by the irrigation district.
- b. Prior to the Commission should provide details of the picnic area, tot lot, and other qualified amenities.
4. Prior to signature on the final plat by the City Engineer, the applicant shall submit a public access easement for the multi-use pathway along S. Recreation Ave., E. Lake Hazel Rd. and the southern property line to the Planning Division for approval by City Council and subsequent recordation.
5. The applicant shall comply with all provisions of 11-3A-3 with regard to access to streets.
6. The development shall comply with standards and installation for landscaping as set forth in UDC 11-3B-5 and maintenance thereof as set forth in UDC 11-3B-13.
7. Pathway and adjoining fencings and landscaping shall be constructed consistent with the standards as set forth in UDC 11-3A-7A7, 11-3A-8 and 11-3B-12C.
8. The applicant shall construct all proposed fencing and/or any fencing required by the UDC, consistent with the standards as set forth in UDC 11-3A-7 and 11-3A-6B, as applicable.
9. The development shall comply with all subdivision design and improvement standards as set forth in UDC 11-6C-3, including but not limited to driveways, easements, blocks, street buffers, and mailbox placement.
10. Off-street parking is required to be provided in accord with the standards listed in UDC Table 11-3C-6 for single-family dwellings based on the number of bedrooms per unit.
11. All common driveways shall meet the requirements of 11-6C-2-D including a perpetual ingress/egress easement being filed with the Ada County Recorder, which shall include a requirement for maintenance of a paved surface capable of supporting fire vehicles and equipment.
12. Development within the Williams Pipeline easement shall comply with the Williams Developers' Handbook.
13. All ditches shall comply with the provisions for irrigation ditches, laterals, canals and/or drainage courses, as set forth in UDC 11-3A-6 unless waived by City Council.
14. The Applicant shall have a maximum of two (2) years to obtain City Engineer's signature on a final plat in accord with UDC 11-6B-7.
15. The Applicant shall comply with all conditions of ACHD.

B. PUBLIC WORKS DEPARTMENT

Site Specific Conditions of Approval

1. Applicant shall coordinate with the CDA project to sub a water main from South Recreation Avenue to the common drive at the northwest corner of this subdivision which is currently designated as Block 1, Lot 11.
2. Eliminate the water main in East Wickham Street.
3. Ensure no sewer services pass through infiltration trenches.

General Conditions of Approval

1. Applicant shall coordinate water and sewer main size and routing with the Public Works Department, and execute standard forms of easements for any mains that are required to provide service outside of a public right-of-way. Minimum cover over sewer mains is three feet, if cover from top of pipe to sub-grade is less than three feet then alternate materials shall be used in conformance of City of Meridian Public Works Departments Standard Specifications.
2. Per Meridian City Code (MCC), the applicant shall be responsible to install sewer and water mains to and through this development. Applicant may be eligible for a reimbursement agreement for infrastructure enhancement per MCC 8-6-5.
3. The applicant shall provide easement(s) for all public water/sewer mains outside of public right of way (include all water services and hydrants). The easement widths shall be 20-feet wide for a single utility, or 30-feet wide for two. The easements shall not be dedicated via the plat, but rather dedicated outside the plat process using the City of Meridian's standard forms. The easement shall be graphically depicted on the plat for reference purposes. Submit an executed easement (on the form available from Public Works), a legal description prepared by an Idaho Licensed Professional Land Surveyor, which must include the area of the easement (marked EXHIBIT A) and an 8 1/2" x 11" map with bearings and distances (marked EXHIBIT B) for review. Both exhibits must be sealed, signed and dated by a Professional Land Surveyor. DO NOT RECORD. Add a note to the plat referencing this document. All easements must be submitted, reviewed, and approved prior to development plan approval.
4. The City of Meridian requires that pressurized irrigation systems be supplied by a year-round source of water (MCC 9-1-28.C). The applicant should be required to use any existing surface or well water for the primary source. If a surface or well source is not available, a single-point connection to the culinary water system shall be required. If a single-point connection is utilized, the developer will be responsible for the payment of assessments for the common areas prior to receiving development plan approval.
5. All existing structures that are required to be removed shall be prior to signature on the final plat by the City Engineer. Any structures that are allowed to remain shall be subject to evaluation and possible reassignment of street addressing to be in compliance with MCC.
6. All irrigation ditches, canals, laterals, or drains, exclusive of natural waterways, intersecting, crossing or laying adjacent and contiguous to the area being subdivided shall be addressed per UDC 11-3A-6. In performing such work, the applicant shall comply with Idaho Code 42-1207 and any other applicable law or regulation.
7. Any wells that will not continue to be used must be properly abandoned according to Idaho Well Construction Standards Rules administered by the Idaho Department of Water Resources. The Developer's Engineer shall provide a statement addressing whether there are any existing wells in the development, and if so, how they will continue to be used, or provide record of their abandonment.
8. Any existing septic systems within this project shall be removed from service per City Ordinance Section 9-1-4 and 9 4 8. Contact Central District Health for abandonment.

9. Street signs are to be in place, sanitary sewer and water system shall be approved and activated, road base approved by the Ada County Highway District and the Final Plat for this subdivision shall be recorded, prior to applying for building permits.
10. A letter of credit or cash surety in the amount of 110% will be required for all uncompleted fencing, landscaping, amenities, etc., prior to signature on the final plat.
11. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures. Where approved by the City Engineer, an owner may post a performance surety for such improvements in order to obtain City Engineer signature on the final plat as set forth in UDC 11-5C-3B.
12. Applicant shall be required to pay Public Works development plan review, and construction inspection fees, as determined during the plan review process, prior to the issuance of a plan approval letter.
13. It shall be the responsibility of the applicant to ensure that all development features comply with the Americans with Disabilities Act and the Fair Housing Act.
14. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
15. Developer shall coordinate mailbox locations with the Meridian Post Office.
16. Compaction test results shall be submitted to the Meridian Building Department for all building pads receiving engineered backfill, where footing would sit atop fill material.
17. The design engineer shall be required to certify that the street centerline elevations are set a minimum of 3-feet above the highest established peak groundwater elevation. This is to ensure that the bottom elevation of the crawl spaces of homes is at least 1-foot above.
18. The applicants design engineer shall be responsible for inspection of all irrigation and/or drainage facility within this project that do not fall under the jurisdiction of an irrigation district or ACHD. The design engineer shall provide certification that the facilities have been installed in accordance with the approved design plans. This certification will be required before a certificate of occupancy is issued for any structures within the project.
19. At the completion of the project, the applicant shall be responsible to submit record drawings per the City of Meridian AutoCAD standards. These record drawings must be received and approved prior to the issuance of a certification of occupancy for any structures within the project.
20. A street light plan will need to be included in the civil construction plans. Street light plan requirements are listed in section 6-5 of the Improvement Standards for Street Lighting. A copy of the standards can be found at http://www.meridiancity.org/public_works.aspx?id=272.
21. The City of Meridian requires that the owner post to the City a performance surety in the amount of 125% of the total construction cost for all incomplete sewer, water and reuse infrastructure prior to final plat signature. This surety will be verified by a line item cost

estimate provided by the owner to the City. The surety can be posted in the form of an irrevocable letter of credit, cash deposit or bond. Applicant must file an application for surety, which can be found on the Community Development Department website. Please contact Land Development Service for more information at 887-2211.

22. The City of Meridian requires that the owner post to the City a warranty surety in the amount of 20% of the total construction cost for all completed sewer, water and reuse infrastructure for duration of two years. This surety will be verified by a line item cost estimate provided by the owner to the City. The surety can be posted in the form of an irrevocable letter of credit, cash deposit or bond. Applicant must file an application for surety, which can be found on the Community Development Department website. Please contact Land Development Service for more information at 887-2211.

C. MERIDIAN FIRE DEPARTMENT

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=243086&dbid=0&repo=MeridianCity>

D. ACHD

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=243094&dbid=0&repo=MeridianCity>

E. NAMPA & MERIDIAN IRRIGATION DISTRICT

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=244628&dbid=0&repo=MeridianCity>

F. BOISE PROJECT BOARD OF CONTROL

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=244307&dbid=0&repo=MeridianCity>

G. DEPARTMENT OF ENVIRONMENTAL QUALITY

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=244320&dbid=0&repo=MeridianCity>

IX. FINDINGS

A. REZONE (UDC 11-5B-3E)

Required Findings: Upon recommendation from the commission, the council shall make a full investigation and shall, at the public hearing, review the application. In order to grant an annexation and/or rezone, the council shall make the following findings:

1. The map amendment complies with the applicable provisions of the comprehensive plan;

Council finds rezoning of the subject site with an R-8 zoning designation is consistent with the Comprehensive Plan MDR FLUM designation for this property.

2. The map amendment complies with the regulations outlined for the proposed district, specifically the purpose statement;

Council finds the lot sizes and layout proposed will be consistent with the purpose statement of the residential districts that more diverse housing opportunities will be provided consistent with the Comprehensive Plan.

3. The map amendment shall not be materially detrimental to the public health, safety, and welfare;

Council finds that the proposed zoning map amendment would not be detrimental to the public health, safety, or welfare. Council considered oral or written testimony that was provided when determining this finding.

4. The map amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts; and

Council finds that the proposed zoning amendment will not result in any adverse impact upon the delivery of services by any political subdivision providing services to this site.

5. The annexation (as applicable) is in the best interest of city

This property is already within the City.

B. PRELIMINARY PLAT (UDC 11-6B-6)

In consideration of a preliminary plat, combined preliminary and final plat, or short plat, the decision-making body shall make the following findings: (Ord. 05-1170, 8-30-2005, eff. 9-15-2005)

1. The plat is in conformance with the comprehensive plan and is consistent with this unified development code; (Ord. 08-1372, 7-8-2008, eff. 7-8-2008)

Council finds the proposed plat is generally in conformance with the comprehensive plan.

2. Public services are available or can be made available and are adequate to accommodate the proposed development;

Council finds public services can be made available to the subject property and will be adequate to accommodate the proposed development.

3. The plat is in conformance with scheduled public improvements in accord with the city's capital improvement program;

Council finds the proposed plat is in substantial conformance with scheduled public improvements in accord with the City's CIP.

4. There is public financial capability of supporting services for the proposed development;

Council finds there is public financial capability of supporting services for the proposed development.

5. The development will not be detrimental to the public health, safety or general welfare; and

Council finds the proposed development will not be detrimental to the public health, safety or general welfare.

6. The development preserves significant natural, scenic or historic features. (Ord. 05-1170, 8-30-2005, eff. 9-15-2005)

The Farr Lateral parallels the eastern property line, but are not natural features. According to the landscape plan, there are no healthy trees onsite meeting the requirements for preservation.