

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



Date of Order: February 15, 2022
Case No.: H-2021-0094
Applicant: Alpha Development Group
In the Matter of: Request for development agreement modification to remove the subject property from the boundary of the existing development agreement (Summerwood Subdivision, H-2019-0001, Instrument No. 2019-055407) for the purpose of creating a new development agreement consistent with a new concept plan and proposal for a multi-family development of 16.6 acres of land in the R-15 zoning district.

Pursuant to testimony and evidence received regarding this matter at the public hearings before the City Council of the City of Meridian (“City Council”) on December 21, 2021, and February 1, 2022, as to this matter, the City Council enters the following findings of fact, conclusions of law, final decision, and order.

A. Findings of Fact. The City Council finds that:

1. The City of Meridian (“City”) and Bridgetower Investments, LLC, entered into a development agreement on June 25, 2019, which was recorded in the records of Ada County, Idaho, as Instrument No. 2019-055407 (“Development Agreement”).
2. The Development Agreement encumbers a certain tract of land in Meridian, Idaho, as set forth in Exhibit A of the Development Agreement.
3. The Applicant has purchased approximately 16.6 acres of said tract of land (“Subject Property”).
4. The Subject Property is part of a larger mixed-use area encumbered by the Development Agreement. The Development Agreement includes a conceptual site plan (“Conceptual Site Plan”) for the overall mixed-use area from 2008 when the area received a Comprehensive Plan map amendment. The Conceptual Site Plan depicts a large-scale business park consisting of a private hospital or other large employer, large- and small-scale retail, professional and personal services, restaurants, and, specific to the Subject Parcel, an area of assisted living facilities with supportive medical offices.
5. Pursuant to Section 5.1(a) of the Development Agreement, development shall generally be consistent with the Conceptual Site Plan. Failure to generally adhere to the Conceptual Site Plan shall constitute a default under section 7.1 of the Development Agreement.
6. The Applicant wishes to develop the Subject Property as a multi-family project with up to 249 multi-family units. Therefore, the Applicant has requested that the City modify the Development Agreement for the purpose of creating a new development agreement with a new concept plan consisting of a multi-family development.

7. The Applicant's request is described in detail in the staff report for Case No. H-2021-0094 dated December 21, 2021, and in a supplemental memorandum concerning Case No. H-2021-0094 dated January 25, 2022, both of which are incorporated herein by reference.
8. The City Council held a public hearing on December 21, 2021, to consider the Applicant's request to modify the Development Agreement. The City Council received testimony from the Applicant and the public concerning numerous issues, including traffic impacts, school impacts, and density. The public hearing was continued to February 1, 2022, to provide the Applicant with additional time to revise the Applicant's request.
9. The Applicant presented a revised concept plan to the City Council at the public hearing on February 1, 2022, and the City Council received additional testimony from the Applicant and the public relative to the Applicant's request to modify the Development Agreement.
10. After carefully considering all the testimony received and all the information in the record, the City Council finds that the Applicant has failed to demonstrate that the Applicant's proposed concept plan for a multi-family project is superior to the Conceptual Site Plan in the Development Agreement. Thus, the City Council finds that it would not be in the City's best interest to modify the Development Agreement.

B. Conclusions of law. The City Council concludes that:

1. The City Council takes judicial notice of the Unified Development Code of the City of Meridian ("UDC"), codified at Title 11, Meridian City Code; all current zoning maps; and the City of Meridian Comprehensive Plan.
2. The City Council takes judicial notice of the Local Land Use Planning Act ("LLUPA"), codified at Chapter 65, Title 67, Idaho Code.
3. A development agreement is a binding contract. *Wylie v. State*, 151 Idaho 26, 32, 253 P.3d 700, 706 (2011). The legal effect of a development agreement is determined by the plain meaning of the agreement. *Id.*
4. A decision to modify a development agreement shall be made by the City Council. UDC § 11-5B-3(F)(2).
5. The City Council **may** modify an existing development agreement, but it is not required to do so. UDC § 11-5B-3(F)(2). The City Council may deny a request to modify a development agreement if the proposed modification is not in the best interest of the City. *See id.*
6. The City Council's decision to approve or deny a request to modify a development agreement is not subject to judicial review. *Brown v. City of Meridian*, CV01-19-06894, slip op. at 12 (District Court of the Fourth Judicial District of the State of Idaho, County of Ada, Nov. 11, 2021).

C. Order. Pursuant to the above findings of fact and conclusions of law, the City Council hereby denies the Applicant's request to modify the Development Agreement because the proposed modification is not in the best interest of the City.

D. Final decision. Upon approval by majority vote of the City Council, this is a final decision of the governing body of the City of Meridian.

E. Judicial review. Pursuant to Idaho Code section 67-6521(1)(d), if this final decision concerns a matter enumerated in Idaho Code section 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 section 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 sections 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.

IT IS SO ORDERED by the City Council of the City of Meridian, Idaho, on this 15th day of February, 2022.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk