

EXHIBIT B

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



In the Matter of the Request for Development Agreement Modification to modify the existing Oaks North & Oaks South Development Agreement (Inst. #114030972) to remove the Oakmore Subdivision (H-2018-0118) area and create a new Development Agreement for this area consistent with the previously approved plat, by Toll Southwest, LLC.

Case No(s). H-2021-0058

For the City Council Hearing Date of: October 5, 2021 (Findings on October 19, 2021)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of October 5, 2021, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of October 5, 2021, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of October 5, 2021, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of October 5, 2021, 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.

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7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of October 5, 2021, 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 Development Agreement Modification is hereby approved per the conditions of approval in the Staff Report for the hearing date of October 5, 2021, 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 Conditional Use Permit Duration

Please take notice that the conditional use permit, when granted, shall be valid for a maximum period of two (2) years unless otherwise approved by the City. During this time, the applicant shall commence the use as permitted in accord with the conditions of approval, satisfy the requirements set forth in the conditions of approval, and acquire building permits and commence construction of permanent footings or structures on or in the ground. For conditional use permits that also require platting, the final plat must be signed by the City Engineer within this two (2) year period.

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-5B-6.G.1, the Director may authorize a single extension of the time to commence the use not to exceed one (1) two (2) year period. 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 conditional use comply with the current provisions of Meridian City Code Title 11(UDC 11-5B-6F).

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 October 5, 2021

By action of the City Council at its regular meeting held on the 19th day of October, 2021.

COUNCIL PRESIDENT TREG BERNT

VOTED AYE

COUNCIL VICE PRESIDENT BRAD HOAGLUN

VOTED AYE

COUNCIL MEMBER JESSICA PERREAULT

VOTED AYE

COUNCIL MEMBER LUKE CAVENER

VOTED AYE

COUNCIL MEMBER JOE BORTON

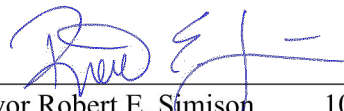
VOTED AYE

COUNCIL MEMBER LIZ STRADER

VOTED AYE

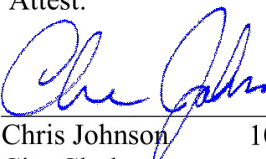
MAYOR ROBERT SIMISON
(TIE BREAKER)

VOTED _____



Mayor Robert E. Simison 10-19-2021

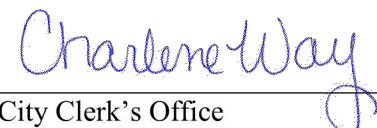
Attest:



Chris Johnson 10-19-2021
City Clerk



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

By:  _____ Dated: 10-19-2021
City Clerk's Office



STAFF REPORT
COMMUNITY DEVELOPMENT DEPARTMENT



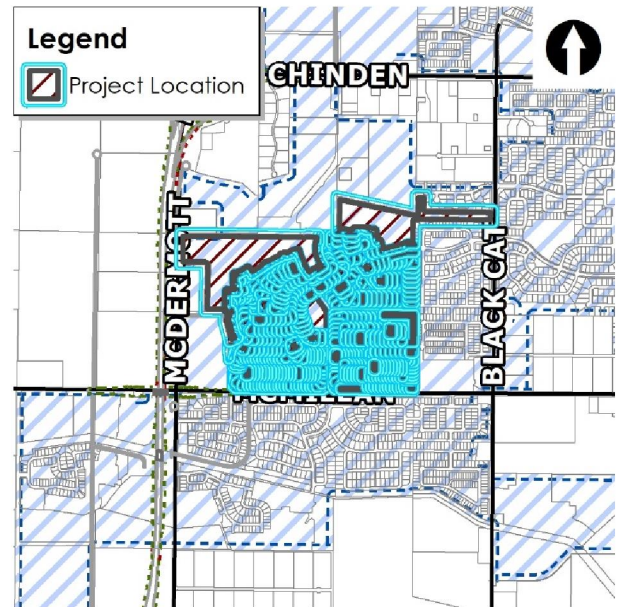
HEARING 10/5/2021
 DATE:

TO: Mayor & City Council

FROAM: Joseph Dodson, Associate Planner
 208-884-5533

SUBJECT: H-2021-0058
 Oaks North & Oakmore DA
 Modification

LOCATION: The site is located on over 200 acres on
 the north side of W. McMillan Road,
 between N. Black Cat Road and N.
 McDermott Road, in the S ½ and NE ¼
 of Section 28, Township 4N., Range 1W.



I. PROJECT DESCRIPTION

Modification to the existing Development Agreement (Inst. #114030972) to remove the Oakmore Subdivision (H-2018-0118) area and create a new Development Agreement for this area consistent with the approved plat.

NOTE: When this application was submitted, the applicant intended to amend the original development agreement for the purpose of modifying the overall concept plan, adding new provisions and removing provisions that have been satisfied through the development process. After further discussions with the applicant and the City Attorney's office, staff concluded that a new DA was the preferred path forward. The staff report has been updated to reflect these discussions, including new exhibits and DA provisions that narrowed the focus of the application from an area that encompasses approximately 220 acres to 7 acres. The Oaks North project will remain subject to the terms of the original 2014 agreement.

II. SUMMARY OF REPORT

A. Applicant:

Adam Capell, Toll Southwest, LLC – 3103 W. Sheryl Drive, Suite 100, Meridian, ID 83642

B. Owner:

Toll Brothers, LLC – 3103 W. Sheryl Drive, Suite 100, Meridian, ID 83642

EXHIBIT A

C. Representative:

Jeff Bower, Givens Pursley – 601 W. Bannock Street, Boise ID 83702

III. STAFF ANALYSIS

The Applicant proposes to amend the existing Development Agreement (DA) from 2014 for the approved Oaks North Subdivision (Inst. #114030972) to remove the approximate 7 acre area known as Oakmore Subdivision (H-2018-0118) from the original DA and create a new DA consistent with the approved preliminary plat. With this request, Staff is recommending that the existing DA for Oaks North and Oaks South remain.

See Section V for Staff's recommended DA provisions.

History: The Oakmore Subdivision was approved on August 6, 2019 (findings approved) and modified a portion of the original Oaks North preliminary plat in the northeast segment of the overall project that has frontage on Black Cat Road and encompassed approximately 7.4 acres of land; this application removed a multi-family component of the project to include more single-family residential and included a rezone that changed the zoning of the property from the R-15 zoning district to the R-4 zoning district. In addition, at the time of the Oakmore preliminary plat and rezone, the Applicant also received approval of a DA Modification for the Oaks North and Oaks South project area (H-2018-0117) to do what this DA Modification aims to do, update the concept plan by creating a new DA for the Oakmore Subdivision 7.4 acres. However, the modified DA from this application was never executed and is no longer valid or applicable. In short, the Applicant was required to submit this DA modification prior to the plat expiring on August 6, 2021 to keep the Oakmore preliminary plat valid and to move forward with a new DA for the subject 7.4 acres.

In summary, Staff recommends approval of the Development Agreement Modification to create a new DA for the Oakmore Subdivision.

IV. DECISION

A. Staff:

Staff recommends approval of the modification to the DA of Oaks North Subdivision (Inst. #114030972) for the purpose of entering into a new DA for the 7.4 acres of land in the R-4 zoning district as recommended by Staff's analysis above and with the specific provisions noted below.

B. The Meridian City Council heard these items on October 5, 2021. At the public hearing, the Council moved to approve the subject Development Agreement Modification request.

1. Summary of the City Council public hearing:

- a. In favor: Jeff Bowers, Applicant Legal Representative
- b. In opposition: None
- c. Commenting: Jeff Bowers
- d. Written testimony: 1 piece – opposing any changes to the zoning that would increase density of Oaks North project.
- e. Staff presenting application: Joseph Dodson, Associate Planner
- 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. History of why previous DA was never signed;
- b. Context of request being entirely administrative in order to formalize the approved Oakmore Plat and is not changing any other component of the existing Oaks North DA.

EXHIBIT A

4. City Council change(s) to Staff recommendation:
a. None

V. CITY/AGENCY COMMENTS & CONDITIONS

A. Planning:

1. The Applicant shall enter into a new DA subject to provisions below and the updated conceptual development plan for the subject area outlined in the attached legal description (see Exhibit V.B). The subject area will no longer be bound by the existing DA (Inst. # 114030972). The agreement shall be signed by the Developer and returned to the City & Planning Division within six (6) months of the City Council the granting modification.

The Developer shall develop the property in accordance with the following provisions:

- a. **Future development of the Property shall be generally consistent with the submitted preliminary plat, site plan, landscape plan, open space exhibit, and conceptual building elevations included in Section VII of the Oakmore Subdivision (H-2018-0117) and Exhibit V.D of this report.**
- b. **For phasing purposes, the Oakmore plat shall be considered a phase of the Oaks North Subdivision and shall remain valid as successive phases receive City Engineer's signature. As long as the submittal and recordation of a final plat is completed in the timeline outlined in UDC 11-6B-7, both projects remain valid and do not expire.**
- c. **The Developer shall comply with all City ordinances in effect at the time of final plat submittal for each phase of development.**

EXHIBIT A

- B. DA Legal Description and Exhibit Map of the Area Subject to the New DA (dated: August 7, 2019):

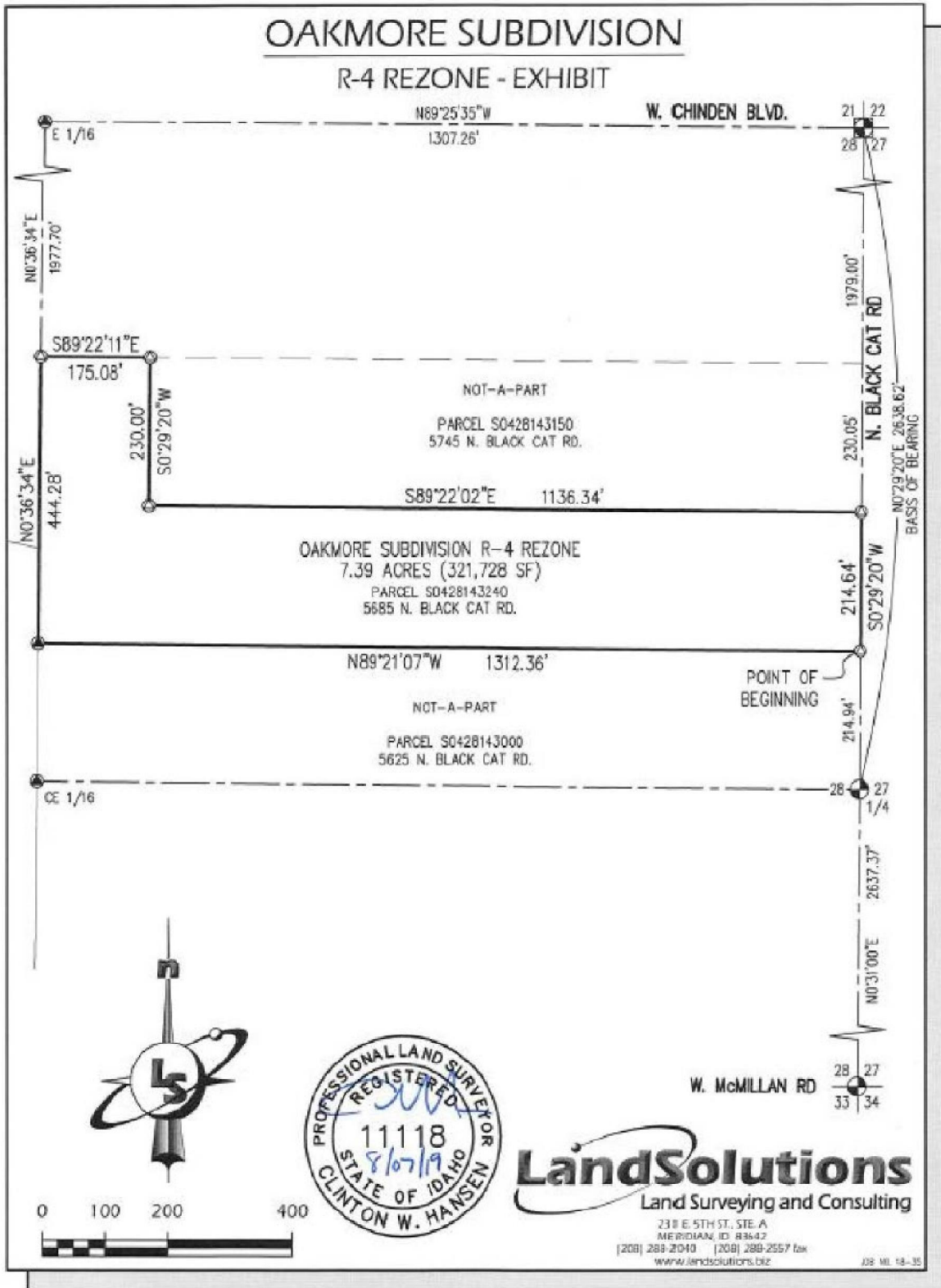


EXHIBIT A

LEGAL DESCRIPTION OAKMORE SUBDIVISION REZONE – R-4

A parcel of land located in the NE ¼ of Section 28, T. 4N., R. 1W., B.M., Meridian, Ada County, Idaho, more particularly described as follows:

Commencing at a brass cap marking the southeast corner of said NE ¼, from which an aluminum cap marking the northeast corner of said NE ¼ bears N 0°29'20" E a distance of 2638.62 feet;

Thence N 0°29'20" E along the easterly boundary of said NE ¼ a distance of 214.94 feet to the **POINT OF BEGINNING**;

Thence leaving said easterly boundary North 89°21'07" West a distance of 1312.36 feet;

Thence N 0°36'34" E a distance of 444.28 feet;

Thence S 89°22'11" E a distance of 175.08 feet;

Thence S 0°29'20" W a distance of 230.00 feet;

Thence S 89°22'02" E a distance of 1136.34 feet to a point on said easterly boundary of the said Section 28;

Thence S 0°29'20" W along said easterly boundary a distance of 214.64 feet to the **POINT OF BEGINNING**.

This parcel contains 7.39 acres and is subject to any easements existing or in use.

Clinton W. Hansen, PLS
Land Solutions, PC
Revised: August 7, 2019



EXHIBIT A

C. Existing DA Concept Plan

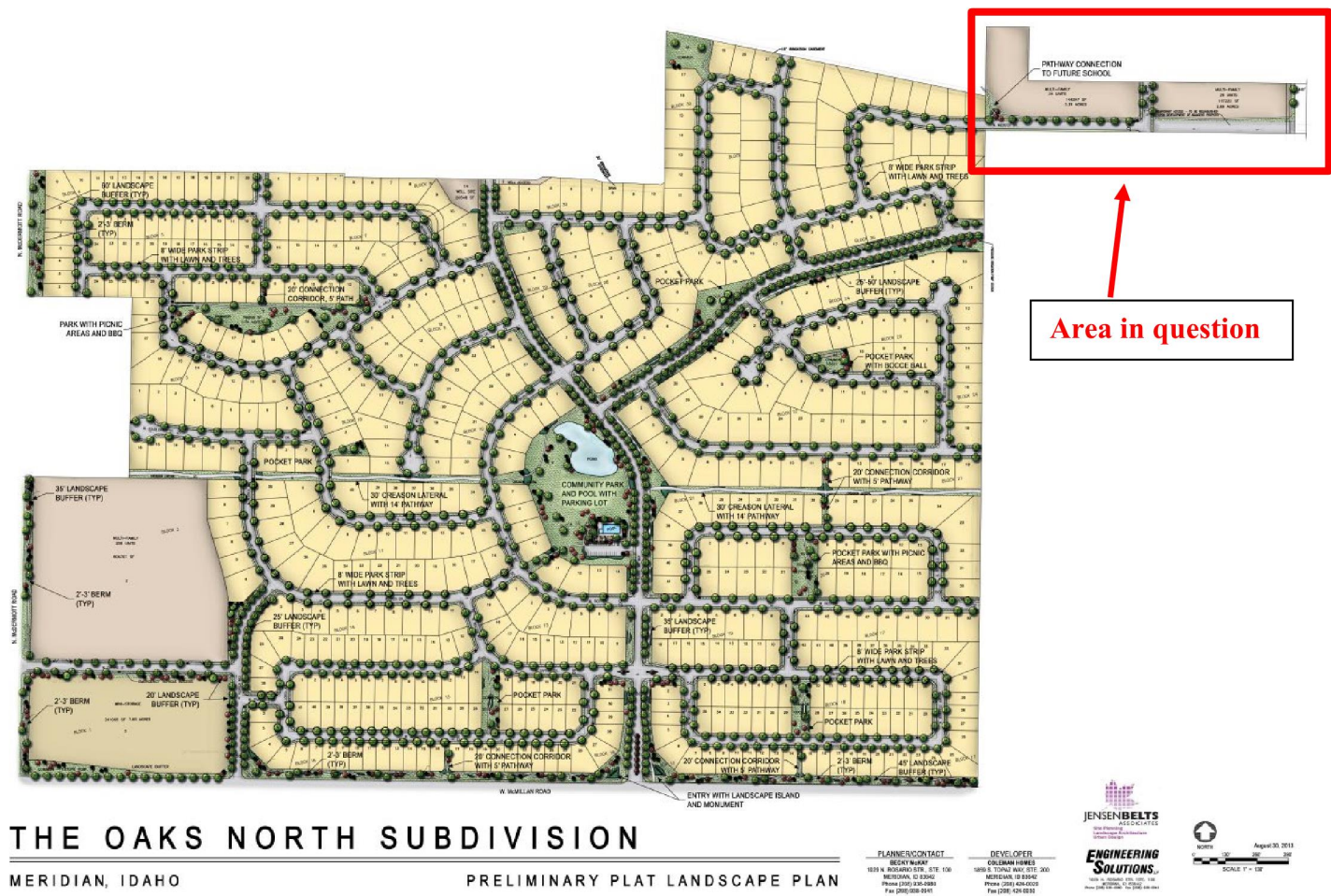


EXHIBIT A

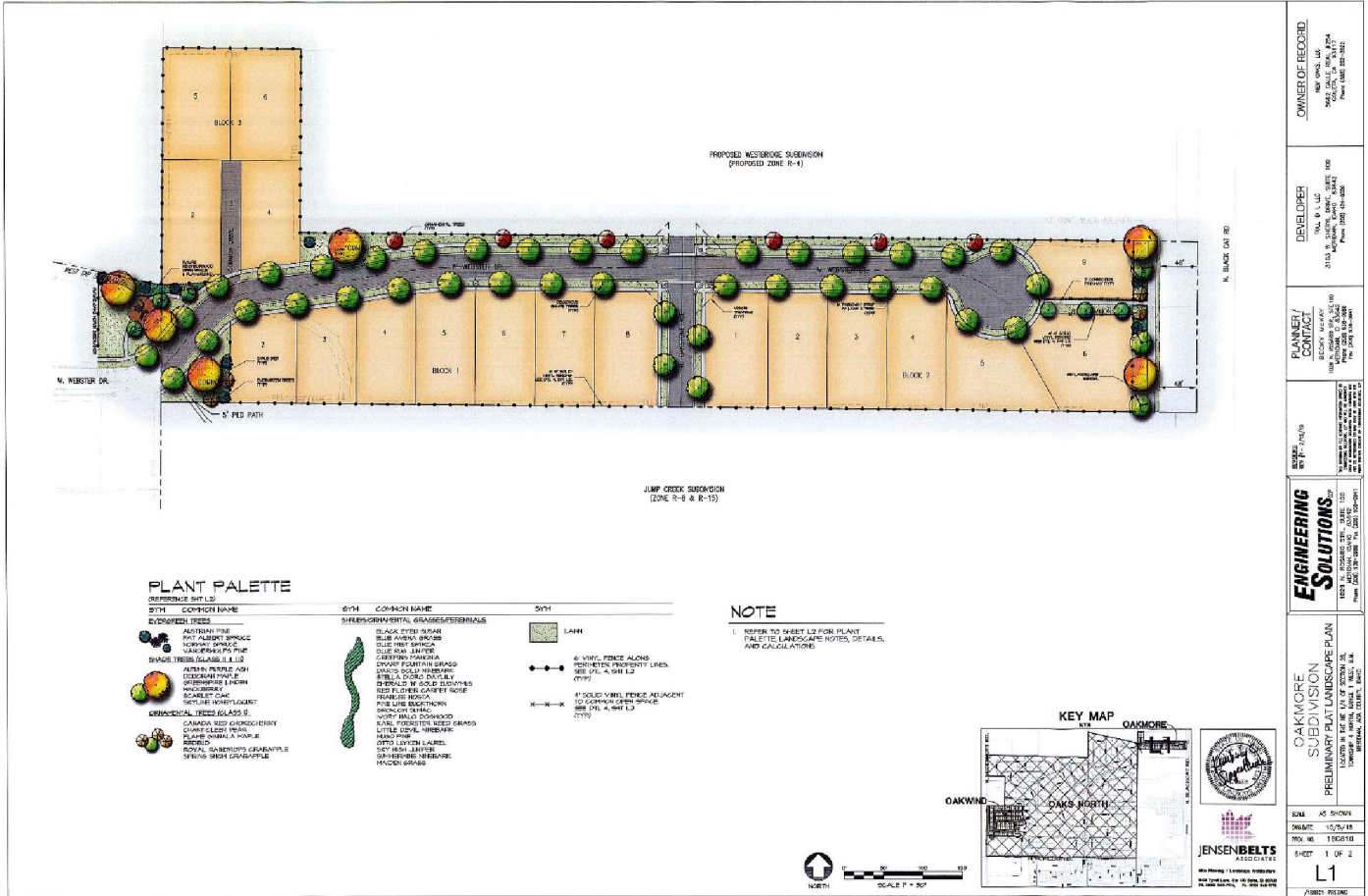




EXHIBIT A

The Andrew



The Barrett



The Chapman



The Emerson



The Gilbert



EXHIBIT A

The Harrington



The Jamison



The Kirkham



The Mallory



The Mathison



EXHIBIT A

The Richland



The Walden

