

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



Date of Order: August 23, 2022
Case No.: H-2022-0037
Applicant: Laren Bailey
In the Matter of: Request for a development agreement modification to remove single-level limitation on single-family residences within Impressive East Ridge Subdivision No. 2 and No. 3 (Village Product Area).

Pursuant to testimony and evidence received regarding this matter at the public hearing before the City Council of the City of Meridian (“City Council”) on August 9, 2022, as to this matter, the City Council enters the following findings of fact, conclusions of law, decision, and order.

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

1. The facts pertaining to the Applicant’s property (“Property”), the Applicant’s request, and the process are set forth in the staff report for Case No. H-2022-0037, which is incorporated herein by reference.
2. The Property is encumbered by an existing development agreement (Instrument No. 2018-052339, Instrument No. 2019-021791, and Instrument No. 2021-025636, collectively referred to as the “Development Agreement”).
3. Pursuant to Section 5.1(g) of the Development Agreement, “All product in the Village [Product Area] is to be single level with a maximum roof height of 25 feet.”
4. The Applicant wishes to amend the Development Agreement to remove to the single-level restriction in order to facilitate the construction of single-family residences with second-story bonus rooms.
5. The Applicant’s request is described in the staff report for Case No. H-2022-0037, which is incorporated herein by reference.
6. The City Council held a public hearing on August 9, 2022, and received testimony from the Applicant and the public centering on whether allowing second-story bonus rooms would be compatible with adjacent homes in Impressive East Ridge Subdivision No. 1 and Lavender Heights Subdivision No. 2.
7. Removing the single-level restriction is inconsistent with the Applicant’s original proposal for the Village Product Area, as previously approved by the City Council and reflected in the Development Agreement.
8. Removing the single-level restriction would result in a less desirable transition between the Village Product Area and the adjacent homes in Impressive East Ridge Subdivision No. 1

and Lavender Heights Subdivision No. 2 due, in part, to the massing of structures that would create a “wall effect” and the impact of second-story windows on privacy and tranquility.

9. The Applicant has failed to demonstrate that the proposed modification, which would allow for second-story bonus rooms, is superior to the existing Development Agreement.
10. Based on the foregoing, 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. Courts in the Fourth Judicial District of the State of Idaho have held that a 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 23rd day of August, 2022.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk