

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



Date of Order: September 27, 2022
Case No.: H-2022-0057
Applicant: Brian Carlisle, Bach Homes
In the Matter of: Request to modify the development agreement (Instrument No. 2020-062947) for 2480 N. Eagle Road and 3280 E. River Valley Street to (A) change the development plan for the site from self-service storage to multi-family apartments and (B) add an additional 0.65-acres of land at 3270 E. River Valley Street that is currently encumbered by a separate development agreement (Instrument No. 113005608)

Pursuant to testimony and evidence received regarding this matter at the public hearing before the City Council of the City of Meridian (the “City Council”) on September 6, 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 (the “Property”), the Applicant’s request, and the process are set forth in the staff report for Case No. H-2022-0057, which is incorporated herein by reference.
2. The Property is encumbered by two existing agreements (Instrument No. 2020-062947 and Instrument No. 113005608).
3. The Applicant wishes to amend Instrument No. 2020-062947 (the “Development Agreement”) to (A) change the development plan from self-service storage to multi-family apartments and (B) add 0.65-acres of land at 3270 E. River Valley Street that is currently encumbered by Instrument No. 113005608.
4. The City Council held a public hearing on September 6, 2022, and received testimony from the Applicant and the public concerning proposed modifications to the Development Agreement.
5. The proposed multi-family apartments will rely, in part, on the existing multi-family apartment complex to the east of the Property for ingress and egress.
6. Traffic circulation within the existing multi-family apartment complex is difficult, creating concerns for tenants, the Meridian Fire Department, and the general public. The proposed multi-family apartments would compound these existing concerns.
7. Ingress to the existing multi-family apartment complex is difficult due to the volume of traffic on E. River Valley Street, the prohibition of certain turning movements on E. River Valley Street, and the design of the primary entrance to the existing multi-family apartment

complex, which includes a roundabout. The proposed multi-family apartments would compound these existing concerns.

8. Egress from the existing multi-family apartment complex is already challenging due to the volume of traffic on E. River Valley Street and the design of the street, particularly for vehicles proceeding south on N. Eagle Road. The Applicant's proposed project, which includes a new point of egress near the intersection of E. River Valley Street and N. Eagle Road, would compound these existing concerns.
9. The Applicant has failed to demonstrate that the proposed modifications, which would change the development plan for the site from self-service storage to multi-family apartments, is superior to the existing Development Agreement.
10. Based on the foregoing, it is not 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 27th day of September, 2022.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk