

ADDENDUM TO DEVELOPMENT AGREEMENT

- PARTIES:**
1. **City of Meridian**
 2. **LH Development, LLC, Owner/Developer**

THIS ADDENDUM TO DEVELOPMENT AGREEMENT is dated this _____ day of _____, 20____, (“ADDENDUM”), by and between **City of Meridian**, a municipal corporation of the State of Idaho (“CITY”), whose address is 33 E. Broadway Avenue, Meridian, Idaho 83642 and **LH Development, LLC** (“OWNER/DEVELOPER”), whose address is P.O. Box 344, Meridian, ID, 83646.

RECITALS

A. OWNER/DEVELOPER has submitted an application for a Modification to the Development Agreement recorded August 19, 2020 as Instrument #2020-106343 in Ada County Records) for the purpose of updating the concept plan and relevant provisions associated with the development of phase 4. The Meridian City Council approved said application with Findings of Fact and Conclusions of Law as in the attached Exhibit “A.”

B. CITY and OWNER/DEVELOPER now desire to amend said Development Agreement, which terms have been approved by the Meridian City Council in accordance with Idaho Code Section 67-6511.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. OWNER/DEVELOPER shall be bound by the terms of the Development Agreement recorded as Instrument #2020-106343, except as specifically amended as follows:
 - a. Future development of this site shall be generally consistent with the preliminary plat, landscape plan, updated phase 4 concept plan, and conceptual building elevations included in Section VII and the provisions contained herein.
 - b. The 10-foot multi-use pathway shall be constructed with Phase 1 of the development, except for that area located in the proposed future multi-family or Townhome development along the southern edge of the Farr Lateral, shown as Phase 4.
 - c. The required secondary access via extension of E. Brace Dr. shall be constructed with Phase 1 of the development.
 - d. Direct lot access to Lake Hazel Road shall be prohibited.
 - e. No more than 54 and no less than 30 units shall be allowed on the R-40 zoned property. Detailed Conditional Use Permit approval is required prior to any development on the R-40 zoned area if a multi-family project is

proposed consistent with the approved phase 4 concept plan—if a townhome development is proposed in this area, plat approval is required prior to any development in the R-40 area.

- f. With the sale of all future homes in the Lavender Heights Subdivision, all sales information shall have language regarding the future multi-family or Townhome project that will be a part of this development.
- g. Per City Council waiver, the Farr Lateral waterway shall remain open in accord with the standards in UDC 11-3A-6.
- h. The required street frontage improvements (sidewalk and landscaping) along E. Lake Hazel Road shall be constructed with Phase 1 of the development.

2. That Owner/Developer agrees to abide by all ordinances of the City of Meridian and the Property shall be subject to de-annexation if the Owner/Developer, or their assigns, heirs, or successor shall not meet the conditions of this Addendum, and the Ordinances of the City of Meridian as herein provided.

3. This Addendum shall be binding upon and insure to the benefit of the parties' respective heirs, successors, assigns and personal representatives, including City's corporate authorities and their successors in office. This Addendum shall be binding on the Owner/Developer of the Property, each subsequent owner and any other person(s) acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereon and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed. City agrees, upon written request of Owner/Developer, to execute appropriate and recordable evidence of termination of this Addendum if City, in its sole and reasonable discretion, had determined that Owner/Developer have fully performed its obligations under this Addendum.

4. If any provision of this Addendum is held not valid by a court of competent jurisdiction, such provision shall be deemed to be excised from this Addendum and the invalidity thereof shall not affect any of the other provisions contained herein.

5. This Addendum sets forth all promises, inducements, agreements, condition, and understandings between Owner/Developer and City relative to the subject matter herein, and there are no promises, agreements, conditions or under-standing, either oral or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Addendum shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to City, to a duly adopted ordinance or resolution of City.

- a. Except as herein provided, no condition governing the uses and/or conditions governing development of the subject Property herein provided for can be modified or amended within the approval of the City Council

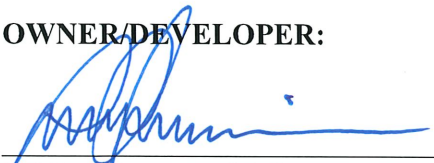
after the City has conducted public hearing(s) in accordance with the notice provisions provided for a zoning designation and/or amendment in force at the time of the proposed amendment.

- 6. This Addendum shall be effective as of the date herein above written.
- 7. Except as amended by the Addendums, all terms of the previous Agreements shall remain in full force and effect.

ACKNOWLEDGMENTS

IN WITNESS WHEREOF, the parties have herein executed this Addendum and made it effective as hereinabove provided.

OWNER/DEVELOPER:



 LH Development, LLC
 By: Larry Squires
 Its: Manager

CITY OF MERIDIAN

Attest:

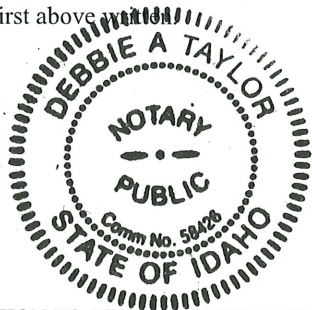
Mayor Robert E. Simison


Chris Johnson, City Clerk

STATE OF IDAHO)
) ss.
 County of Ada)

On this 19th day of December, 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared Larry Squires, known or identified to me to be the Manager of LH Development, LLC and the person who signed above and acknowledged to me that he executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.





 Notary Public for Idaho
 Residing at: Kuna, ID
 My commission expires: 11/30/2029

STATE OF IDAHO)
 : ss
County of Ada)

On this _____ day of _____, 2022, before me, a Notary Public, personally appeared **Robert E. Simison** and **Chris Johnson**, known or identified to me to be the Mayor and City Clerk, respectively, of the **City of Meridian**, who executed the instrument or the person that executed the instrument of behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

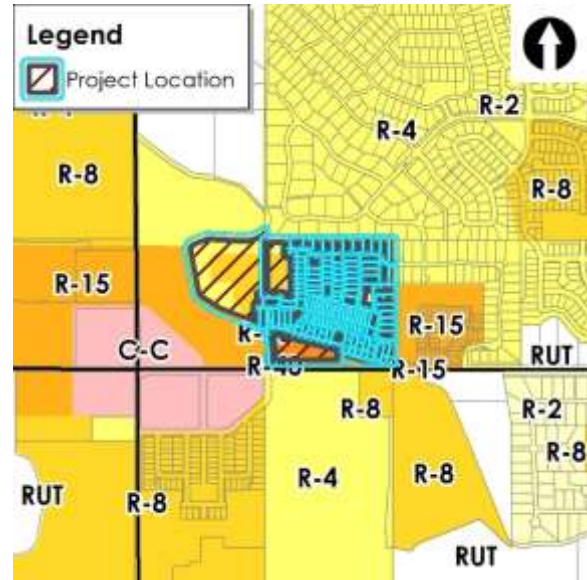
(SEAL)

Notary Public for Idaho
Residing at: _____
Commission expires: _____

STAFF REPORT
COMMUNITY DEVELOPMENT DEPARTMENT



HEARING DATE: 5/3/2022
 TO: Mayor & City Council
 FROM: Joseph Dodson, Associate Planner
 208-884-5533
 SUBJECT: H-2022-0017
 Lavender Heights MDA
 LOCATION: Site is located at 2160 E. Lake Hazel Road, at the northeast corner of E. Lake Hazel Road and S. Bloomerang Avenue, in the SE 1/4 of the SW 1/4 of Section 32, Township 3N, Range 1E.



I. PROJECT DESCRIPTION

Request to modify the existing Development Agreement of the Lavender Heights Subdivision (Inst. # 2020-106343) for the purpose of updating the concept plan and relevant provisions associated with the development of phase 4.

II. APPLICANT INFORMATION

- A. Applicant:
 Mary Wall, Breckon Land Design – PO Box 44465, Boise, ID 83711
- B. Owner:
 Taylor Merrill, LH Development, LLC – PO Box 344, Meridian, ID 83646
- C. Representative:
 Same as Applicant

III. NOTICING

	City Council Posting Date
Legal notice published in newspaper	4/17/2022
Radius notice mailed to properties within 500 feet	4/18/2022

Public hearing notice sign posted	4/13/2022
NextDoor Posting	4/18/2022

IV. STAFF ANALYSIS

History

In 2020, the property received annexation and subdivision approval to develop a mixed-use residential development in four (4) phases known as Lavender Heights (H-2020-0009). The first three phases of development depicted detached single family and the fourth phase depicted a basic concept for a multi-family project. The subject modification is specific to phase 4 and the multi-family portion of the development located along the E. Lake Hazel Road frontage. Since the approvals in 2020, the project has received final plat approval for the entire development but no conditional use permit has not been proposed for the approved multi-family lot.

Development Agreement Modification

The approved Development Agreement (DA) (Inst. #2020-106343) does not include a provision that ties the DA to the submitted multi-family concept plan but does include specific provisions for the subject property (Exhibit VI.A below). The existing multi-family concept plan depicts a drive aisle along the northern property boundary adjacent to the Farr Lateral with multiple apartment buildings along the southern boundary adjacent to Lake Hazel. The Applicant is proposing a new concept plan for the subject R-40 property that does not comport with the proposed multi-family use nor the minimum number of units outlined in the DA.

The new concept plan (Exhibit VI.B below) depicts a townhome development and a private street/drive aisle instead of a traditional garden style apartment complex. Further, the submitted concept plan contemplates 30 residential units instead of the anticipated minimum of 36 units outlined in DA provision 5.1e. For the overall Lavender Heights development, a loss of six (6) units does not affect its overall density in any measurable way but this area of the plat was intended to be the densest area of the development as it is along Lake Hazel and Staff anticipated higher density along this planned mobility corridor and because it is across from Discovery Park. According to the Applicant's narrative, the owner has not yet decided if the property will still be a multi-family project or be subdivided to allow the sale of each unit or groups of units. If the development is a multi-family or townhome project, a future conditional use permit (CUP) is required in the R-40 district. If the units are to be sold off individually or in groups, it also requires the applicant to further subdivide the property.

In summary, Staff supports either option as they would contribute to the housing diversity offered within this development and the surrounding area. Based on the process outlined above, Staff will ensure the future multi-family or townhome development complies with the most current UDC standards in effect at the time of application submittal.

V. DECISION

A. Staff:

Staff recommends approval of the proposed MDA per the modified provisions in Section VI.C.

B. The Meridian City Council heard these items on May 3, 2022. At the public hearing, the Council moved to approve the subject Development Agreement Modification request.

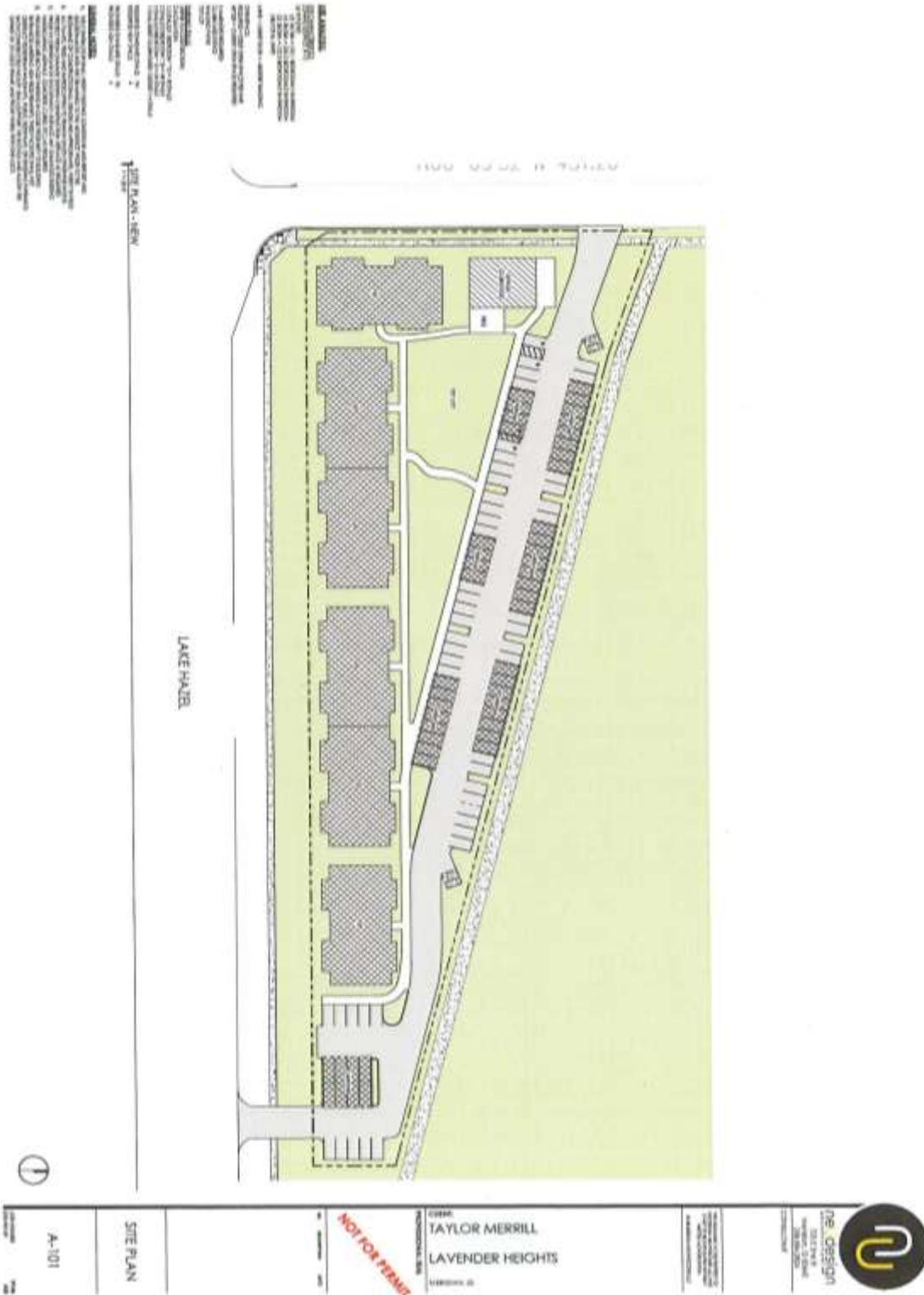
1. Summary of the City Council public hearing:

- a. In favor: Jon Breckon, Applicant Representative; Todd McDermott, future neighbor;
- b. In opposition: None
- c. Commenting: Jon Breckon; Todd McDermott;
- d. Written testimony: None

- e. Staff presenting application: Joseph Dodson, Associate Planner
- f. Other Staff commenting on application: None
- 2. Key issue(s) of public testimony:
 - a. Support for the proposed change from multi-family to townhomes;
- 3. Key issue(s) of discussion by City Council:
 - a. Confirmation of future applications required for development;
 - b. Details surrounding future development in terms of circulation, open space, parking, etc.
- 4. City Council change(s) to Commission recommendation:
 - a. None

VI. EXHIBITS

A. Existing Conceptual Development Plan (not specifically tied to the DA)



C. Proposed Revisions to the existing Development Agreement Provisions

1. Future development of this site shall be generally consistent with the preliminary plat, landscape plan, updated phase 4 concept plan, and conceptual building elevations ~~for the single family dwellings~~ included in Section VII and the provisions contained herein.
2. The 10-foot multi-use pathway shall be constructed with Phase 1 of the development, except for that area located in the proposed future multi-family or Townhome development along the southern edge of the Farr Lateral, shown as Phase 4.
3. The required secondary access via extension of E. Brace Dr. shall be constructed with Phase 1 of the development.
4. Direct lot access to Lake Hazel Road shall be prohibited.
5. No more than 54 and no less than ~~36~~ 30 units shall be allowed on the R-40 zoned property. Detailed Conditional Use Permit approval is required prior to any development on the R-40 zoned area if a multi-family project is proposed consistent with the approved phase 4 concept plan—if a townhome development is proposed in this area, plat approval is required prior to any development in the R-40 area.
6. With the sale of all future homes in the Lavender Heights Subdivision, all sales information shall have language regarding the future multi-family or Townhome project that will be a part of this development.
7. Per City Council waiver, the Farr Lateral waterway shall remain open in accord with the standards in UDC 11-3A-6.
8. The required street frontage improvements (sidewalk and landscaping) along E. Lake Hazel Road shall be constructed with Phase 1 of the development.