

**Public Hearing for Meridian OZ Apartments (H-2022-0073) by Realm Venture Group, located at 1475 E. Franklin Rd.**

- A. Request: Development Agreement Modification to the existing Development Agreement (Inst.#99121334 AZ-99-005 Cobblestone Village) to remove the subject property from the agreement and enter into a new agreement for the proposed multi-family development.
- B. Request: Conditional Use Permit for a multi-family development consisting of 60 dwelling units on 2.39 acres of land in the R-40 zoning district.

Seal: We will get there tonight, I promise. All right. Thank you very much. And with that we will open the public hearing for File No. H-2022-0073 for Meridian OZ Apartments and we will begin with the staff report. As long as you can make all the technology work for the rest of the evening, Bill.

Parsons: I think I can do that. All right. Perfect. Thank you, Mr. Chair, Members of the Commission. I think we are up and running now. So, here I am tonight presenting to you the Meridian OZ project. This was continued from the last hearing in order for the applicant to massage the plan -- modify the plan so that it could address some of staff's comments and, then, also ACHD's comments in their staff report. So, you can see here on the first slide tonight that the future land use map on this property is mixed-use community. Current zoning is R-40 and, then, the property is located on the northwest - - or, excuse me, southwest corner of Franklin and Locust Grove. In 1999 this property was actually annexed in as part of the Cobblefield Village project -- or Cobblestone Village project, excuse me, and received conditional use permit approval to develop 96 multi-family units on the site. You can see here in this particular graphic at the time that this came in -- here is a graphic here for you, it showed what was approved officially in '99 when it was annexed. When that intersection was improved and that road was widened ACHD went in and took a portion of that property and developed their storm retention facility on it and, then, also put up chain link fencing around it, so, again, it's part of a natural riparian area for the File Mile Creek, so it's -- it's a little bit more enhanced in that area, but what it did was actually leave this particular property in the current configuration that you see in the graphic to your right. So, the applicant is here to talk with you about - - submit an application for a conditional use permit and also a development agreement modification and, again, you can see the reason for the DA modification is because the - - the property has just changed and so they need to modify the concept plan and the density that was approved with that plan. So, staff also dug deep into our history of what was the Comprehensive Plan designation on this property back in '99. It was actually a mixed -- mixed-use plan development, which basically allowed for apartments and the project at the time that it was approved was 15 dwelling units to the acre. In this current configuration and what the application is proposing this evening is 60 multi-family units at a density of 25 dwelling units to the acre. Now as -- as this body knows, a mixed-use community designation, we anticipate densities between six and dwelling -- six and 15 -- between six to 15 dwellings to the acre. So, again, it is on the higher density type side,

but, again, the property is zoned R-40 and if you look at the purpose statement in the -- the zoning ordinance, it does anticipate higher densities occurring on that. So, again, Council will take action on the development agreement modification and determine whether or not density is appropriate for this site, if 25 is the right number, or if -- if something should change. But as far as what we are showing with you tonight, we feel like -- whether it's four buildings at 40 units to the -- eight units to the acre -- or eight units to -- per structure or 12 units per structure, it's pretty much going to be a similar design as you are seeing. So, it's really whether or not three stories is appropriate, two stories is appropriate, as -- as we move forward through the development process. As I mentioned to you, this application was condition -- was continued because ACHD actually required the applicant -- the applicant to relocate their access. When they originally submitted their application to the city the primary access was from Franklin and ACHD actually required the applicant to reconfigure their site plan and require that their access to this development come off of Locust Grove, because it's the lesser classified arterial roadway and so that's why we reached out to the applicant and said, hey, are you aware of this? They indicated they were and they realized they had to redesign, so they did accommodate our request to continue, so they could make those modifications. I will also mention to you -- if you had a chance to look at the staff report, staff wasn't confident that the site met the open space requirements of the code and so the applicant revised the plan, submitted in that revised plan today, and that's why you see that -- that word revised in parentheses on the graphic to the left. So, we are confident that what the applicant is proposing now meets the minimum open space requirements for the multi-family development. As I mentioned to you, the conditional use permit is for 60 dwelling units. There is -- it's a mix of 30 one bedroom and 30 two bedroom units, again, at a gross density of 25 dwelling units to the acre. Access, again, is Locust Grove, and that is the only access that they will have. I know typically we would like to have more accesses for these types of developments, but because this is a multi-family development and it's under 200 units, the code does not require an additional access point. So, the -- the fire code allows you -- I'm putting my -- my Chief Bongiorno hat on for you this evening, so we don't go down that discussion for another access to Franklin, because it's not going to happen. But, essentially, you can have a multi-family development, you can have up to 200 units before you need a secondary access. So, this is well under what's required by code. But just to make -- because the -- the property owner -- property to the south of this project is also part of that mixed-use designation, we are recommending cross-access to that piece, so that it could integrate or potentially a new access point could be provided or readjusted in the future if something were to happen on that property. We want to make sure we limit those access points in the near future. Amenities for the -- for this site -- we are looking at -- you have to have three qualifying amenities, one from quality of life, open space and recreation, and the applicant is proposing enclosed bike storage, a community garden and, then, a children's place structure. If you had a chance to review the staff report as well, originally the applicant was proposing an interconnected pathway along Locust Grove that ran -- ran along the south side of the detention facility and ran up the east side of this development to -- to add it as a recreational amenity. Because of site constraints that was removed and they elected to go with the tot lot, which we think is a better amenity for this site, as there is -- there is limited parks in this area. They are about, what, a mile, two miles down the road to Storey Park, if I -- if I remember

correctly. And, then, the applicant also provided revised open space to show how they are meeting the intent of the code and, then, here are the conceptual building elevations that you guys look at as well. Again, it looks like it's a mix of fiber cement panels, window stuccos, synthetic wood cladding and, then, all done in neutral color. So, again, more of a modern aesthetic on the site. Keep in mind that this -- this site will screen somewhat that ACHD facility. There are some topographies on this site as well,, so the site is built up a little bit compared to what that -- that -- from the detention pond as well. But a lot of that parking will be skewed from the adjacent streets. I had a chance to look at the public record before the hearing tonight. It looked like we did -- did receive written testimony from Travis Perrin. He is actually -- represents the Intermountain Wood Products property, which is just directly -- a couple lots south of this. If you remember they came through and annexed in a piece of property with the I-L zoning district to develop a warehouse, so he is concerned with that access to Locust Grove and how that will impact some of the -- he is fearful that the -- the additional traffic -- it's a dangerous situation with the amount of truck traffic that will be coming in and out of that roadway to serve their facility. So, again, staff is recommending with the conditions in the staff report and we are -- I will conclude my presentation and stand for any questions you may have.

Seal: Okay. Thank you very much, Bill. Would the applicant like to come forward?

Parsons: I believe she's online.

Seal: Online? Okay.

Parsons: It should be Jorre. Jorre.

Hall: Jorre, you can speak now.

Delgado: Hello. Are you guys able to hear me?

Seal: Yes, we are. Need your name and address for the record and the floor is yours.

Delgado: Good evening, Commissioners. My name is Jorre Delgado. I'm here with Realm Venture Group, located at 1109 West Main Street, Boise, Idaho. 83702. And I'm here to discuss the Meridian OZ Apartments located at 1475 East Franklin Road in Meridian, Idaho. Bill did a great job of reiterating that staff report and Sonya did a great job of writing that staff report. I appreciate her help on getting me some of those comments early on and helping me make these adjustments, so that I could come back and, hopefully, get an approval on this quickly. A couple items that I would like to just make a note of is that our property is in -- within one mile of a Valley Regional Transit of Route 30 Pine. Our development agreement modifications -- we do agree with all of your guys' provisions that are being requested to be carried over from the previous development agreement. We plan to keep outside lighting, perimeter fencing and drainage sections of the previous DA agreement and carried it over to our new one. Also the access point, we do plan to provide a cross-access, ingress-egress easement and driveway with a pedestrian walkway to the property to the south for future connectivity, which we hope that there can be some connectivity on that and I know that we have had

a little bit of discussion about that, but nothing too extensive, but we do plan to have that easement there just in case that there is that potential of having a future development there and, then, another item that popped up was the trash enclosure. We are more than happy to relocate our trash enclosures to where ever is needed. I know in the staff report it said that it was -- that they wanted us to relocate it to the east boundary and add a recycling receptacle, which we are totally okay with adding the recycling, which we anticipated adding the recycling in there anyways, but the location of it is also going to be up to Republic Services and where they feel it is best that they can pick up the trash on a daily basis or whatever their schedule is for our development. And, then, bike parking also came up. We have already added a bike rack for every building, so every building has their own bike rack, along with we also have a covered bike rack parking that's one of our amenities. I have not submitted one of our bike parking -- our covered bike parking plan yet, just because we don't know what it actually is going to be built out as, but it will be a fully enclosed bike storage facility for the residents. And, then, our -- as Bill noted, our common open space has been revised and we do now meet the minimum standards for common open space and as well as our landscape plan. Our landscape plan has also been modified to meet all of those comments that have been made in the staff report. And, then, I'm open for questions.

Seal: Okay. Thank you, Jorre. Questions for the applicant or staff?

Lorcher: Mr. Chair?

Seal: Commissioner Lorcher, go ahead.

Lorcher: For the applicant is the 60 units or five buildings with 12 units a make or break deal for this project to go forward? This is pretty high density for this small L-shaped space, which would -- if we were to discuss it would any consideration be to lessen the density of the number of units?

Delgado: I would say that 60 units would be what we are set at. It would be hard for us to go any lower than that and I feel that we have been pretty code compliant with the 60 units in meeting the common open space and the amenity requirements and the ACHD recommends. So, I think 60 units is probably our -- our minimum that we are willing to hit.

Lorcher: Okay. Thank you.

Seal: I have a question real quick on the -- this is going to be a right-in, right-out onto Locust Grove; is that correct, Bill? I'm fairly certain it would have to be, but --

Delgado: Yeah. That's correct.

Seal: Okay. And, then, as far as the right-in, right-out, is that going to be just painted or is that going to be enforced by some -- like a curb -- curbing? I don't know if we do that, but --

Parsons: Mr. Chair, Members of the Commission, yeah, it's -- I don't think they use curbing -- or striping anymore. They are going to use a curb.

Seal: Okay.

Parsons: They like to put curbing --

Delgado: Yeah.

Parsons: -- out there and make sure it works. It functions.

Seal: Right. Okay.

Delgado: Yeah. It would be curbing.

Seal: Anyone else?

Smith: Mr. Chair?

Seal: Commissioner Smith, go ahead.

Smith: Another question about the Fire Department. I -- I noticed a conspicuous absence of comment here and -- and if -- and if there are any developments that I would especially like to see consideration of Fire Department response times it's those that are especially dense and just curious, again, to -- to -- Mr. Chair or other Commissioners or staff, about any potential reasons that we know that that might not -- those comments might not be there and if any discussion around fire response times and -- and -- and safety.

Seal: Sure. Bill, I will let you take that. You know the Fire Department.

Parsons: Mr. Chair, Commissioner Smith, this may be one where everything works right and so Fire is like it's good. Fire station is just a mile down the road, so I think we are good on fire response times. Two, multi-families require sprinklers. So, they are going to have a fire sprinkler system. So, I think -- and, then, access -- again, as I mentioned, it meets the fire code for access and, then, all of the other requirements as far as code compliance with building codes, that will happen at the time that they submit for a building permit. So, again, if -- if I had to guess why you didn't see a lot of that information, it's just because we -- we still get comments from Fire Department, they just may not raise to the level of where you are typically seeing it. So, Fire does provide comments as part of the -- the packet in laserfiche, and -- but in this particular case it was in line with what they anticipated with their goals.

Smith: Good to hear. Thank you very much.

Seal: Commissioner Grace, go ahead.

Grace: Mr. Chair, probably a question for staff. The -- the single ingress and egress on Locust, that's -- that's a highway district decision; is that accurate? Yeah. What happens if the property owner doesn't want to give an easement to the south? The city has no -- no control on that transaction; right?

Parsons: Mr. Chair, Members of the Commission, we do. That -- that would happen at the time of annexation. So, that property to the south is currently in the county. So, whenever they came in and requested annexation, we are -- we are going to -- we are going to pre-app with them.

Grace: Okay.

Parsons: We are going to let them know that the development of the north reciprocated an easement to them and that we expect them to -- to work with them on that. But to your -- because we anticipate other properties to the south also doing that or providing that access in the future, too -- so, if I can go back to that aerial real quick. So, you can see here there is still a -- a few properties that are in the county there. That's what that white is in the center graphic here. So, that RUT. So, that's where it's going to be critical for us to make sure that we look at the current -- the current accesses to the -- the county properties and, then, through redevelopment in the city that we -- we -- our code does speak to cross-access when you don't have the local street access and we are -- we are working with legal currently to tweak some of that language, but in this particular case, yes, we -- we have every right as part of our code requirements to do that when it's annexed into the city. We can't require them to do anything now, because they are not under our rules.

Grace: That's good to know. Thank you. I -- I, too, think that's a -- it is only one direction to go when you exit the -- the property and there is three other highly probably sought after directions from those people, so -- good to know. Thank you.

Smith: Mr. Chair?

Seal: Mr. Smith, go ahead.

Smith: Question for the applicant. Curious to know -- have you heard -- have they heard any feedback from Mr. Perrin or other local community members and -- and, if so, have they taken any efforts to -- to work to accommodate concerns slash would they be willing to work with community members, like Mr. Perrin, to ameliorate concerns going forward?

Delgado: I have not heard from anybody, but we are willing to work with any comments or concerns that we do have from anybody in the surrounding areas.

Seal: Real quick question on the -- one of the comments in the staff report was on -- there -- there are no sidewalks that kind of -- that go from the parking area into the entrances. Is that something that -- how -- how will that be mitigated or remedied?

Delgado: We -- we do have sidewalks. So, we do have a pathway that goes down this side. I don't know if you guys are able to see my -- my mouse on the screen.

Seal: No, we are not.

Delgado: Okay. We are -- we do have sidewalks and walkways that are attached to each building and around each building. Around each parking area there is a walkway and, then, when it does cross the road there is a crossing path there that will be noted with either some striping or a different type of material. But there is some type of walkway that surrounds each building.

Seal: Okay. Any other comments? Any other questions for applicant or staff? Okay. Madam Clerk, do we have anybody signed up for public testimony?

Hall: We do, Mr. Chair. Ann Witherall. Or Witherell.

Seal: Okay. Thank you, Jorre. We will be back to you shortly.

Delgado: Thank you.

Seal: Good evening. Just grab that microphone. We will need your name and address for the record, please.

Witherell: My name is Ann Witherell. 215 South Locust Grove Road. I live just south of the proposed development and I just had a conversation with the other owner. I guess I am now the homeowners association, so -- most of my concerns I would like to have taken up with the developer at a neighborhood meeting. One was proposed -- I think it was back in August or July. I showed up at the meeting. We did 20, 30 minutes. Nobody showed up, except the owner from -- operations manager from Basalight up around the pumice factory around the road on Franklin. We had a nice chat for about 20 minutes. Nobody showed up, so we went home. It was a thousand degrees. It was rescheduled for a month later. I went. Same story. Except Mr. Murphy, the operations manager, didn't show. I have his card. He is a witness. Nobody showed at those meetings. I would have concerned -- shared these concerns with them then. So, since we were not contacted about any further meetings or notified about anything, other than the initial Planning and Zoning meeting, which was rescheduled, and not notified about any other meeting, I'm here to say that I guess I do share the concern with the one in and out on Locust Grove. I have no plans to sell my home. The -- there is another issue that -- the dumpsters. I'm glad that those will possibly be moved, but they are very noisy on -- when they collect them. There is safety of the pond on the corner. How do I draw on this thing? There.

Seal: What do you need, ma'am?

Witherell: Right there is that big -- big pond. It's a beautiful -- it's full of cattails, marshes, beautiful birds in the summer. Fall. It's also a nice attraction for children to get in and play in and drown in. That's a safety hazard. I hope they can address that. The transition

between the developer or the development and the property immediately to the south, I don't see any significant transition there at all. Mitigation for sound. White noise. Foot traffic, for example, there is a -- well, it's supposed to be 20 feet. It's not. Transition between my property and the -- the development behind me, the light industrial. I don't want ten thousand children -- people of -- I don't know who they are -- traipsing behind my property. What kind of foot traffic mitigation will there be? I don't know. It's also the -- the minor problem of the irrigation. The irrigation pipe goes behind the property here. It's never on any plats ever and I have been dealing with the City Council now for 20 years. It's even a -- part of this irrigation pipe that's under a parking lot. Not a good place to maintain it, but when we address it at this point there is not that problem. The irrigation pipe is where we get our irrigation -- irrigation water that's very important to us. Especially my neighbor who has an acre field. I have a neighbor field. It's for watering down plants and pasture and our kids like to play on them. Without it we -- we would be using well water, which is a great expense on the pump especially. So, that needs to be addressed and maintained. The -- the -- the flow -- overflow water, the -- the drainage is fine. It drains down into this area here and into Five Mile Creek and also into the decorative pond at the -- at the entrance to the light industrial subdivision behind me.

Seal: Ma'am, I will need you to wrap up real quick if you would.

Witherell: Oh, I would love to. I could also go on for a few dozen things. But those are the main ones. Safety especially. I have two grandsons that live with me. One of them catches a bus and with all the traffic making right-hand turns onto Locust Grove Road, which is no longer a small side road, it's a five lane highway, there are safety concerns about children catching school buses. Anyway, for now I will -- I will be quiet and sit down for now.

Seal: All right.

Witherell: Thank you for listening.

Seal: Thank you very much. Appreciate your testimony. Madam Clerk?

Hall: Okay. We have Lynzey Uechi.

Seal: Good evening. Just need your name and address for the record and the floor is yours.

Uechi: My name is Lynzey Uechi.

Seal: Can you speak right into the microphone there?

Uechi: Can you hear me?

Seal: Yep.



Uechi: Okay. I live at 1376 West Whitehall Drive and I also own the property directly south of this -- of this application. So, before I begin what I was going to say today, I do want to mention that Ms. Delgado said that she has not received any public comments and we have e-mailed back and forth with my concerns. Okay. So, good evening. I would like to begin by thanking the Commission for information on the ongoing development of Meridian accessible and transparent for its residents. Without this service my input tonight would not have been possible. I'm also thankful to the Commission for upholding the Unified Development Code by requiring cross-access easement, lighting restrictions and enforcing a standard width and landscaping in the buffer zones and also acknowledge my appreciation for the developmental agreement modifications, which requires the continuance of accepting drainage and requiring a dividing fence. I would request an addition to the fence on the property line -- the Commission consider implementing an additional fence through the industrial zoned buffer on the western edge. Without such provisions, residents of the apartment complex can easily access the neighboring single family lots through their backyards. There is a high concern for the proposed location of the trash receptacle in the southwest corner. Because of the odor and noise caused by this I requested it be relocated or at minimum moved at least five feet away from the property line. The final and largest concern for the proposed development, which I'm sure has been a concern for the Commission as well, is the safety for motorists on Locust Grove. The proposed property has low visibility due to its unique L shape, which is wedged behind a retention pond. The only proposed entrance and exit comes after a very quick turn on a very busy intersection. If one of the up to 180 residents of the complex was not prepared for this turn, they may stop short, creating a traffic and safety concern. If the turn is missed, the subsequent driveway 30 meters to the south is likely to be misused as a turnaround point. This unpaved driveway proceeds for over 300 feet towards a single family home. The single lane driveway can only safely accommodate one direction of traffic and into the garage where the turnaround area is very limited. Please also consider the impact of all motorists proceeding on Locust Grove, as many citizens of Meridian choose to travel on Locust Grove as an alternative to facing the traffic on Eagle Road. The impact of this poorly visible and quick turn will remove this alternative route option. I requested the Commission -- if the Commission still finds this to be a reasonable design that you would require traffic slowing measures in addition to a solution for protecting the right to private use of a private driveway on a private property. For the benefit of the Commission I would also like to add that the house depicted on the survey submitted for the proposed development is not of concern, as it was demolished in August of 2022. I sincerely appreciate you for all your services that you have provided to ensure a safe and flourishing city for myself, my family and my neighbors. Thank you for your time.

Seal: Thank you very much. Any questions? All right. Thanks.

Hall: There is no one else, Mr. Chair.

Seal: Anybody else like to testify and you raise your hand? I don't see anybody online. All right. With that would the applicant like to come back up for -- and discuss what's been discussed with the open -- or the public comments.

Delgado: I just have a couple of comments. It appears that the dumpsters were mentioned in both public comments and, again, we are more than happy to move the dumpsters to where ever necessary. But, again, that is going to be in Republic Services -- it's going to be up to them as to where we locate and where they are able to easily access them day in and day out. So, we are able to move those where ever they would like. But, again, it's going to be at the discretion of Republic Services and, then, it appears the safety of their right-in, right-out of Locust Grove came up a couple times. Again, we are totally open to making whatever safety measures need to happen at that right-in and right-out happen, whether that is a curb cut or some type of striping or whatever it is, we are totally open to that, as well as the pond. We do plan to have a safety measure as to a larger fence on that back, which, if you guys have seen that fence, there is already a fence with some barbed wire on the top. If that needs to change we are happy to change that to something safer, but we are open to any safety measures that need to happen and that that is all I have.

Seal: A quick question for you on the -- the fencing portion of it. I -- I was under the impression that the fencing would be not only in the south, but it would be on the west. Is that not correct? So, all the fencing that is currently on that property we plan to keep. Again, I don't know if you can see my -- my mouse, but every fencing that is currently already there we plan to keep, unless advised by the city that we need to change, we are more than happy to change the fencing on any side of this property to make it better for any of the tenants, any of the safety of the public. But we are open to changing any of that fencing if that is an issue.

Seal: Commissioner Lorcher, go ahead.

Lorcher: Mr. Chair, to the applicant. What kind of fencing is currently there?

Delgado: There is currently just the typical chain link fence.

Lorcher: On all -- on both sides?

Delgado: That's correct.

Lorcher: And is it the standard six feet or does it also have barbed wire like around the retention pond?

Delgado: Around the retention pond there is barbed wire on the top of it. Around the exterior of the lot it is just regular chain link fencing.

Seal: Commissioner Grace, go ahead.

Grace: And that was -- how high is it?

Delgado: I believe it is six feet, but I'm not certain. I can go out there and measure that just to be exact, but I believe it is six feet.

Seal: Okay. Anything else? All right. Jorre, if there is nothing else, thank you for your time.

Delgado: Thank you.

Seal: And with that I will take a motion to close the public hearing for H-2022-0073 for the Meridian OZ Apartments.

Lorcher: So moved.

Smith: Second.

Seal: It's been moved and seconded to close the public hearing for File No. H-2022-0073 for the Meridian OZ Apartments. All in favor, please, say aye. Opposed nay? Okay. The public hearing is closed.

MOTION CARRIED: FIVE AYES. TWO ABSENT.

Seal: Discussion?

Lorcher: I will start, Mr. Chair.

Seal: Go right ahead.

Lorcher: What -- what does a Commission do when an applicant dots all the I's and crosses the T, yet it still feels like they are putting everything in that they possibly can for the sake of putting it in? This is a very strange project because of the retention pond in front of it and ACHD's requirements. Sixty units on this L-shaped parcel with a very narrow in and out seems very compact and looking at the aerial views of the area there are townhouses, there are single family houses, there is an LDS church. There are businesses. So, the product fits, right, but it's just -- I -- I'm uncomfortable with the number of people within this very small space going in and out of Locust Grove. I think the product is right. It should be multi-family housing. There are -- as far as I know there are no three stories within the current vicinity. There is industrial behind it. I would like to see something with maybe two stories or townhouses that would be less dense, but the applicant says that that's not financially feasible. So, I'm struggling with this, because even though they have followed code of R-40, they have done their amenities, they have done everything that, you know, the city has asked, but it doesn't mean it's the right density for this space. So, I would be actually in favor of denial.

Seal: Commissioner Grace?

Grace: Mr. Chair, I would echo -- echo some of those comments from Commissioner Lorcher. The density is what's giving me some concern. It is a tough piece of property

for sure and whatever they do, I -- I would hope there is ability to -- particularly since there is no access from Franklin to move the dumpsters as far away from the homes to the south as possible and I do think they need to address the fence on the west side and make sure it's adequate for the pond. I think the public comments were dead on that there is a potential safety concern there for kids and whatnot if -- if there is an ability to get to the pond. So, those are the things I would like to see them address. It is a tough piece of property. The traffic is -- I already asked the question about that earlier. I don't know that I would go -- I'm going as far as denial. I -- I guess I would like to see what the other commissioners have to say. There is bike storage, though, Mr. Chairman, which I'm sure makes you happy.

Seal: I like the bike storage idea. Absolutely. Commissioner Rivera.

Rivera: Mr. Chairman. I'm in agreement it's a tough property. I think they are trying to do everything they can to accommodate and I want to see -- I would like to see more of that to work with what was stated today by the public, especially with that -- with that fence and also, you know, it's tough just that one in and out on Locust Grove, especially, you know, if, you know, you have Republic Services big trucks coming in and -- you know, coming in around and all the traffic of having 60 units, we can -- can be a safety concern as well. But just -- I guess I want to see a little bit more clarity on how that's going to be, you know, worked out, where -- where the -- the dumpsters are going to end up and, then, you know, and the fence, what -- what other fence options are there that they are willing to accommodate to -- for more of a -- you know, less noise and safety from the other adjacent properties.

Smith: Mr. Chair?

Seal: Commissioner Smith, feel free.

Smith: At risk of turning this horse into glue, I agree this is a very difficult -- difficult location and I do want to comment that there is two sides to this coin. I do want to comment I appreciate the proximity to the VRT stop and I think that, you know, given -- given the -- the Comprehensive Plan and the need for a diverse mix of -- of housing and a diverse mix of density, you know, I think there is a place for -- for housing that is dense and perhaps this dense. I do think that there needs to be some consideration beyond the other concerns raised about, you know, if -- if we are -- if one of the benefits of this property being dense and being, quote, you know, close to housing -- or close to -- apologies -- close to public transit and if that's being presented as a benefit, I -- I would like to see some more commitment to encouraging residents to use public transit when possible. You know, like I said, one of the first things out of my mouth this evening was land use planning is transportation planning, in my opinion, and I think that is -- it's tough, because, to be frank, there is -- there is not as much infrastructure -- public transit infrastructure as some might like related to this -- this housing and this -- this dense of housing, but it's kind of a chicken and the egg problem of you have to have enough customers to make the -- the public transit worthwhile, but you also have to have public transit to serve a relatively dense area. So, those are some of my concerns. I -- I think

hearing -- having heard some of this testimony and giving the -- the benefit of the doubt seems to be there is -- there has been some miscommunication and confusion. Okay. My time is up. I'm waiting for the -- it seems to be -- you know, with a good faith position it seems to be that there has been some miscommunication or some confusion about communication between -- opportunities to communicate between residents and local stakeholders and the developer. I -- to give Commissioner Grace some -- some insight to where I'm at, I don't think I'm -- I also don't think I'm at the -- the spot of preferring a denial. Having been new here I do -- I would like to express that I don't know how much good a continuance would do, given kind of -- some of the heavy lifting of some of these or what standard practices are, but just wanted to throw out kind of where I'm at. I -- I think, if anything, a continuance might be preferable to my position, but I also don't know how much is accomplishable within the limits of that.

Rivera: Mr. Chair?

Seal: Go right ahead.

Rivera: And it's probably been discussed before, but is there a reason why the properties don't start further closer to Franklin and not as close to Locust Grove where that's going to be your access point. I know it's a weird shaped L, but just seems like that first building is really close to Locust Grove.

Seal: Well, I will -- I will -- I will weigh in here. So, I -- this is the be careful what you wish for speech here, so -- and I mean in looking at this if we were to, you know, request that they do two stories, instead of three, I -- I would imagine that's, you know, what -- what - - what we would end up with is we would probably end up with another building. You know, they are going to take the adequate space that they have and try to, you know, eliminate some of the parking that they have or some of the features that they have in order to, you know, fit this -- as many of the units in there that they possibly can. Townhomes and things like that seem like a good idea, but now all of a sudden you are going to have, you know, buildings right on the property lines, which I think in the future will actually inhibit, you know, traffic flow or the ability for them to use another -- use another road in order to get out to Franklin or, you know, another way to even get out to Locust Grove. So, I do share the heartburn with Locust Grove, that being the only in and out and it being a right-in -- right-in, right-out only. So, that's going to make it difficult for folks that live there. They are going to have to go -- you know, essentially, they are going to have to wind around, you know, cross the freeway, go over to Eagle Road and go over to, you know, Meridian Road or whatever to come out on the freeway. So, hopefully, we don't see a lot of illegal U-turns out of here, but I would imagine that will be par for the course. Yeah. It's -- I -- where this is at -- there is actually a lot of light industrial, a lot of jobs in this area, so, you know, with the bike storage that they have there, hopefully, that, you know, will help to motivate people to, you know, use that kind of transportation. I'm a person that does that myself, so I -- yeah. I -- do I wish it could be something else? Yes. Does it check all the boxes? Does it meet everything? Yes. Could it be something else? Possibly, but I don't know that we would get any better than this as far as what we can do with it in the future. So, that's my thoughts, helpful or not.

Grace: Mr. Chairman, could I ask one question of staff?

Seal: Absolutely.

Grace: It looks like he's busy right now, so I will --

Seal: Bill, we got a question for you when you are ready.

Grace: Bill, can you tell me what the proposed density is in relation to the -- the -- the density range that's allowable there?

Parsons: Yeah. As I -- Mr. Chair, Members of the Commission --

Grace: You probably already told us, Bill, but maybe just for my --

Parsons: Commissioner Grace, I did. So, before -- so, that's what I tried to describe to you in my presentation is the graphic on the right is what was approved in '99. Different comp plan designation than what we have on the books today. But that was approximately 15 dwelling units to the acre, the project on the right. So, let's fast forward. ACHD comes in and says we are redoing -- widening the road, we are redoing the intersection, we need a pond site. So, they come and they take two-thirds of the property and they develop that retention pond and we are left with this I-shaped 2.37 acre piece of property. So, the current Comprehensive Plan designation for this site is mixed-use community. Now -- and under that land use designation we anticipate densities between six and 15 dwelling units to the acre and this is at 25. So, you can see there is quite a range there. It's -- it's definitely up towards the higher spectrum, but keep in mind to -- to our point, at least in our analysis in the -- in the staff report, we realized it was a stretch. It is higher than what we anticipate. By giving the -- the circumstances of what's occurred on the property and that they were entitled to the somewhat 96 units and they were decreasing with this project, it made sense to support -- they didn't say that they are -- they are proposing here -- provided they meet all the dimensional standards of the code. Yeah. And that's why the -- to your point, by the time you look at the required open space, the required parking, and just how narrow this -- and the odd shape of this property, the only way you are probably going to get any kind of density on this side is to go vertical and that's -- that's the reality here. But I can tell you we have pre-apped on this property for two or three years and we encouraged the applicants to go change it to industrial, as you -- as we mentioned to you back when Kent Brown was here in front of you, when we changed the comp plan on the Intermountain property to industrial we thought the same thing, we are -- we are slowly carving away at the mixed-use community designation in this area and when you do that you kind of just pinch everything into a -- a little corner that may not always make sense at the end of the day and that's -- whereas staff is -- we have -- we have got a balancing act. We know we have zoning in place, we have an entitlement there, and now we have to make the most out of an odd situation and that's where we are at today, I guess is the way to put it. And so keep in mind that the only way this is going to move forward is if Council approves that DA modification. So, that's kind

of a -- the caveat. I -- again, your purview tonight is is it compatible. It's a conditional use permit. Is the density right? Is the open space right? Do you feel like the -- the parking is right for the site? They are three above minimum code requirements. So, again, there is no other places to park here. So, if you have a party, you have guests, you have three people renting one space, parking could be an issue. But, again, the project before you tonight does meet minimum code requirements.

Starman: Mr. Chairman, can I --

Seal: Go ahead.

Starman: -- add some additional advice for -- or some input for the Commission, but I want to ask a clarifying question first of Mr. Parsons. I just want to clarify, Bill, that -- we talked about the -- the current Comprehensive Plan is mixed-use. Current zoning allows, however, 40 units per acre; correct?

Parson: Mr. Chair, Council, not necessarily. There is nothing in the code that refers to density. Density is all driven by comp plan these days. So --

Starman: Let me ask the question differently. How -- what is the zoning district today for this L-shaped parcel?

Parsons: It is R-40, which, again, when you look at the purpose statement of the code, it -- of the zoning ordinance, it will say it's for apartments, you know, higher density, intensified residential uses. So, that's kind of where we have landed. It's -- it's not quite 40. I don't want to skew the discussion tonight talking too much about density, because density is not driven in code, density is all driven by comp plan and given the fact that, again, this was a larger piece, a piece of it taken by a government agency and reduced, it does make it a little unusual, if that's the best way to say it. So, again, your purview tonight if -- if you feel like -- I know Sonya and I talked about it when we were writing the staff report, about density and how to analyze that, and that's why we did go back and look at the research and look at the previous comp plan and try to understand the rationale of the body back in '99, 2000, to see how they felt this was right and, then, what happened with ACHD. So, at least we can put all the cards on the table for you and -- and make that decision. Again, if this Commission were to say no more than two stories, you are going to get 40 units, it's not going to change the design or -- unless they want to add that additional building to -- to your point, Commissioner Seal, but you -- you lop off a story it's still the same design. And, again, it -- to your point, we have met with many different people told them do lay this out this way, move the buildings away from the detention pond, because we were concerned about the -- the barbed wire fencing and all of that -- to, you know, put the parking up against that area, that way you move the living space away from that and we just -- as you know, we try not to design on the fly here. So, I think, again, if this body -- you have the option tonight, you can move it forward with approval or denial or if you feel like you want to see changes to see if it can increase that compatibility, redesign it a little bit to add -- require more fencing or have a vinyl fencing

or move some buildings differently on the site, but still meet the parking and the open space requirements, that's certainly within your purview tonight.

Starman: Mr. Chairman, I'm going to try to clarify from a legal perspective and I don't want to conflict with Bill from his planning -- or in his planning hat, but I wanted to just say that courts will interpret -- so, let me back up and say we have two different things at play. They both relate to one another. We have a Comprehensive Plan, which is an aspirational document and talks about how we want our community to grow on a going forward basis and we -- we have zoning districts and as Bill just mentioned, the zoning on this particular parcel is R-40. It has a Comprehensive Plan and our future land use map it has contemplated for mixed-use. Those are -- that's aspirational, it's not an entitlement. So, I guess I want to impress upon -- from a legal perspective the zoning is the entitlement and as R-40 zoning. The density being proposed here is consistent with that zoning district. So, if I -- from a legal perspective my advice to you is you focus from a -- what the entitlement is -- the entitlement is a zoning district and the Comprehensive Plan is informative, but not the driving factor. That's thought number one and Bill can help me out here if I'm misstating something. The second thing I will say, though, is that the city does have some discretion here, but this Commission, but ultimately the Council, because we have a development agreement that contemplated 15 units per acre and the applicant is seeking a modification to that development agreement that would increase that density considerably. So, that is a discretionary action on the part of the City Council. This Council is not required to amend the development agreement and certainly not required to amend it in such a way that would increase the density. So, I think really from the city's perspective, if the density is the concern both for the Commission and later for the Council, I would focus on the development agreement. For this body that's not really before you tonight. You certainly can make a recommendation to the Council that says, you know, from the Commission's perspective additional density is not desirable. We don't think the Council ought to amend the development agreement to allow for this additional density. I think that's all perfectly fine. But I was -- I guess back on that first topic, I really want to reiterate that the zoning district today is the entitlement for this property and that is R-40. So, we need to keep that in mind as you deliberate and as you make a recommendation to the City Council. So, that's my advice for the Commission this evening. Bill, if I missed the mark on that let me know.

Seal: Thank you.

Parsons: I -- I agree with -- with counsel. That makes a lot of sense.

Seal: Appreciate that. Always welcome your comments and your guidance to keep us on track for sure, so -- is there any discussion on that? Further comments?

Smith: Yeah. Mr. Chair?

Seal: Go right ahead.



Smith: I -- I'm thinking back and -- and I'm -- I'm trying to -- I'm trying to strike a balance here, because I know there -- there is two kind of disparate thoughts that I'm holding in my head at the moment and one of them is I don't -- Kurt, please, let me know if this is ex parte. Don't believe it is, since it was prior to my appointment. But I know in our conversations when I was interviewing for this Commissioner job something stuck out -- or Commissioner position. If only it were a job. When we were interviewing I -- one thing that stuck out to me was the Mayor expressing, hey, if there are questions that are less tangible and less code related, that that is something that, you know, Council should be able to grapple with as elected officials. At the same time I know there is kind of a desire for us to not send open questions to Council and load their plate up with things if we are able to -- to kind of answer those questions and find some solutions for them. To that point, I do think that this is -- now that I think about it more -- I don't -- I really don't know what a continuance would accomplish, so I -- I'm -- I'm actually in a position where -- I'm not making a motion here quite yet, because I would like to leave this open to some more discussion. But I'm -- I'm supportive of recommending this to Council, but also making clear some of the -- the issues that the developer is going to face if -- if they don't -- you know, if -- if residents and local stakeholders do show up and say we still haven't been able to communicate with them. They still haven't responded to us and answered our questions or we still haven't seen any -- any discussion around fencing and -- and right-in, right-out pedestrian traffic mitigation. But, as we said, I don't know that there is much that's going to benefit from -- from a continuance here and I don't think a denial is the answer. So, food for thought.

Seal: Yeah. That -- I mean to me on this, I'm -- you know, I -- I struggle with the right-in, right-out again, but I don't know -- you know, I mean if -- if somebody wants to, you know, go the way that Kurt had talked a little bit in here as far as, you know, recommending to Council that they -- they not allow the DA modification to go above the -- you know, the density that's -- that's in that existing agreement and that's -- that's perfectly -- you know, that's something that can be considered in the -- in the motion that you make. I mean for me it's -- you know, housing and population. You know, again, I -- if we limit these to two stories, instead of three, I think we get an additional building. If we try -- you know, if we try to scale it back, then, you know, it might just make this to where it's a very, very cramped location to live, where I think they -- you know, the -- the parking is close, but I can see that there is, you know, pretty adequate parking that's provided here. I mean they are not the only concern that I have, you know. Really, with the right-in, right-out is the -- you know, the -- where they show the giant trees right there by Locust Grove. It would be nice to have that wide open, nothing inhibiting your view of the traffic that's going to be coming your way. But other than that I -- you know, in-fill is tough. This is a really, really -- this is a really tough piece of property right here, so I -- I'm not seeing anything that makes me, you know, really adamant about denying it and I just know that we have had stuff come in after we recommended denial, it gets denied, and, then, the next thing that comes in is like, boy, I wish we could have that project back, so that's -- that's where I'm at on it. I mean I'm -- I could definitely see it going to Council.

Grace: Mr. Chairman?

Seal: Yes, sir.

Grace: In sketching out a little bit of emotion here, I -- just drawing upon maybe some of your experience, is it -- are we just punting to the Council, which I'm sure they wouldn't appreciate, if we said, well, give that some thought, consider it, or should we say you should or shouldn't accept that density in the -- in the development agreement? So, just based on some of your experience. Because the way it kind of reads now is that they -- they should consider a lower density and -- but I don't know if that's helpful to them.

Seal: And that's -- you know, again, if -- whoever makes the motion, if you feel strongly about the density piece of it I would definitely recommend that's -- again, that's not in our purview to approve or disapprove, but we are a recommending body to Council. So, that can go into the motion if -- if somebody feels -- you know, if you feel strongly about it, then -- then we are going to vote on it and see if everybody else does and, if not, then, we will see where we go again.

Grace: Mr. Chairman, I would be ready to make a motion, but I don't want to jump in front of anyone else if there is further discussion to be had.

Seal: Anyone else?

Smith: Okay. I just have a quick -- quick -- two quick procedural questions. I guess one quick procedural question.

Seal: Go ahead.

Smith: And this is more of just kind of trying to fine tune some things. But there are two requests in this -- in this file number and the question is around -- is there any possibility to like divide the question or is there any willingness to do so and how that might impact, for example, approving the CUP, but denying -- but requesting a denial on the development agreement modification. Is that doable? Is that reasonable? Is that desired at all?

Seal: Well, I was going to say, I know Kurt was reaching for his microphone there, because -- but -- but I -- but I almost have an answer to this, but I will -- I will take a crack at it and you tell me how wrong I am. But I -- I think if we went that route -- number one, I don't know if it's something that we can do as part of process, but, number two, if we approve the CUP, the conditional use permit, but, then, recommend a denial on what the entitlement is based on, I think that would probably put us in a legal bind, to be perfectly honest. But -- is that -- and, Kurt, feel free to jump in and correct me.

Starman: Thank you, Mr. Chairman. So, I think -- I will just say in general on this issue or other issues that, you know, the Commission can take -- take issues individually in terms of, you know, a motion on topic A, then topic B. In this instance I would recommend that you not do that for a couple reasons. One is really if you look at -- at our code, the Commission is not really a recommending body with respect to development agreements,

it's actually the department director that recommends to the -- to the City Council. The reason it's in the discussion today, however, is because it sort of goes hand in glove with the CUP discussion. It's almost impossible to separate them. So, I think, you know, to the extent the Commission entertains a motion later that discusses the development agreement or the proposed modification to the development agreement, that would make some sense, because it's so closely interwoven with the CUP itself. But to try to break them apart I think wouldn't make as much sense, because, really, this body is not the recommending body with respect to modifications to development agreements. Does that makes sense? So, that would be a thought there. And, then, secondly, I -- along the lines of Chairman Seal, it does seem -- it would seem odd I think in the sense counterintuitive, I guess, to recommend approval for the CUP, knowing that, you know, the density is not a good fit for the Commission and you are not prepared to recommend that to the Council. It seems sort of Contradictory I guess in the sense that they -- they sort of cancel each other out. So, it seems to be inconsistent.

Seal: Okay. Thank you.

Smith: Thank you very much. Appreciate the --

Parsons: Mr. Chair, Members of the Commission, if I could just kind of tag onto Kurt's comments, too. Keep in mind we just amended the ordinance that when a CUP accompanies a DA mod you are a recommending body at that point. So, it -- it has to go up to -- you can't -- we shouldn't bifurcate -- to Kurt's point, we shouldn't bifurcate the application and looking at the development agreement in the staff report, it says they are allowed to develop up to 40 dwellings to the acre in it and so they have -- to Kurt's point -- and this really is more of a development agreement issue, more than whether or not you are making a finding it's consistent with the comp plan or not, it -- again, they are allowed to build up to 40 units to the acre currently and, then, with the modification and tying them to this site plan, it's, essentially, saying you are -- you are going to develop 25 units to the acre based on what they are proposing now. So, Council will have to look at that and determine whether or not they will allow that or not as part of that DA modification. Just wanted to clarify that, too. So, very good points tonight. It -- it is, again, a very, very odd situation that we are in this evening with this type of project where you have so many moving parts -- essentially, what, almost 30 years later or whatever. I mean it's -- it's -- it's mind boggling to me how we are here doing this, but it does get tricky when zoning gets in place and that's why when we do all of our training with you we try to make it very clear to you that zoning really kind of does trump comp plan and this is one of those cases where we have not only a DA and we have zoning in place, so we can have two -- two things that we have to be very cognizant of as we deliberate on these types of applications.

Seal: Okay. Thanks, Bill. Thanks, Kurt. This is a good one this evening. I have learned a lot. Is there anymore discussion? Would anybody like to throw out a motion? Always happy to hear those.

Grace: Mr. Chairman, you are looking at me, so I --

Seal: Commissioner Grace, go right ahead. I wasn't trying to stare you down specifically.

Grace: And I invite anyone if -- if you feel like I get the -- the wording wrong on this to -- to correct me and we can -- we can redo it. After considering all staff, applicant, and public testimony, I move to recommend approval to the City Council of File No. H-2022-0073 as presented in the staff report for the hearing date of February 16th, 2023, with the following additional recommendations: One, that the applicant work to ensure adequate fencing around the entire property. Two. That the applicant work to ensure the appropriate placement of the trash receptacles. And, three, that a recommendation to City Council consider a low -- a lower allowable density in the development agreement.

Seal: Do I have a second?

Rivera: Second it.

Seal: Okay. It has been moved and seconded --

Parsons: Mr. Chair? Sorry. Before you --

Seal: Oh. Go ahead.

Parsons: -- deliberate -- didn't mean to inject. Now, I like -- I like the last part of that motion. I think -- but when you say consider a different density, are you saying that aligns with the current comp plan designation or do you want to put a number on it or do you just want to leave it open-ended? Typically we like specifics -- specifics I guess.

Grace: Yeah.

Parsons: Again, more -- they are allowed to do 40 dwellings to the acre. The plan is 25. Comp plan says 15. So, again, if it's your intention to have Council deliberate on something else, I will defer to Kurt, too, if he has any comments, but, again, to me tie it to something. Don't leave it arbitrary. Just think about density. Well, what -- what do you want Council to look at? That 15 is appropriate? Is -- what's the number for the body here? I don't know.

Grace: Well, Mr. Chairman and Bill, I guess I was --

Parsons: So, if Kurt even wants them to go that specific or not, but just -- just want to make sure Council knows what they are --

Grace: Yeah.

Parsons: -- referring to.

Grace: No. Thank you for that. That's -- that's a good point and that's why I sort of asked a question are we just punting if we say, well, consider this.

Seal: Right. And the only feedback I will give on that is that I -- I think if you attributed the comment to the original development agreement, maybe have -- look at density closer to the original development -- development agreement and that way it's -- it's understood. And -- and there is -- I mean there is a timing issue here, you know what I mean? In 1999 I was still young. So, it's been a while. So, you know, I mean we -- we do have a long spans of time here. So, that is -- that is definitely going to play into it. So, again, that's the only advice I would give on that.

Grace: Mr. Chairman, what if I modified my third recommendation to say that it's a recommendation to -- to -- to Council to consider a lower allowable density more in conformity with the original --

Seal: DA?

Grace: -- DA. When City Council considers the -- I guess the -- a modification to the development agreement that's currently on -- on this.

Seal: Does the second still stand?

Rivera: Yeah. I will second.

Seal: Okay. All right. Look around, making sure here. So, it has been moved and seconded to approve File No. H-2022-0073 for Meridian OZ Apartments, with the aforementioned modifications and suggestions. All in favor say aye.

Lorcher: Nay.

Seal: I hadn't even called for nay, but thank you. Motion passes.

MOTION CARRIED: FOUR AYES. ONE NAY. TWO ABSENT.