

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



Date of Order: April 18, 2023
Case No.: H-2022-0073
Applicant: Jorre Delgado, Realm Venture Group
In the Matter of: Request for (A) a development agreement modification to the existing development agreement (Instrument No. 99121334, AZ-99-005, Cobblestone Village) to remove the subject property from the existing agreement and enter into a new agreement for a proposed multi-family development and (B) a 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

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 March 21, 2023, as to this matter, the City Council enters the following findings of fact, conclusions of law, decision, and order.

A. Findings of fact.

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-2022-0073, which is incorporated herein by reference.
2. The Property is encumbered by an existing development agreement (Instrument No. 99121334) (the “Existing Development Agreement”).
3. The Applicant is requesting a modification to the Existing Development Agreement to remove the Property from the Existing Development Agreement and enter into a new development agreement (the “New Development Agreement”) to facilitate a proposed multi-family development.
4. The Applicant is requesting a conditional use permit (“CUP”) for the proposed multi-family development, which is contingent on City Council approval of a modification to the Existing Development Agreement, because the proposed multi-family development is inconsistent with the Existing Development Agreement.
5. The Existing Development Agreement contemplates 96 multi-family units on 6.15 acres (15.6 units/acre).
6. The Existing Development Agreement contemplates ingress and egress to the multi-family units from both E. Franklin Road and S. Locust Grove Road.
7. A portion of the property encumbered by the Existing Development Agreement is now utilized by the Ada County Highway District as a detention pond, and cannot be easily developed as contemplated in the Existing Development Agreement.

8. The proposed multi-family development includes 60 multi-family units on 2.39 acres (25.1 units/acre).
9. S. Locust Grove Road is the only point of ingress and egress for the proposed multi-family development; no access would be provided via E. Franklin Road.
10. The City Council held a public hearing on March 21, 2023, and received testimony from the Applicant and the public concerning the CUP and the proposed modification to the Existing Development Agreement.
11. The City Council finds, based on testimony received and information in the record, that a single point of ingress and egress for the proposed multi-family development would result in significant traffic safety concerns on S. Locust Grove Road.
12. The City Council finds, based on testimony received and information in the record, that an increase in density from 15.6 units per acre to 25.1 units per acre (i.e., a 60.9 percent increase) is not consistent with the density contemplated in the Existing Development Agreement.
13. Based on the foregoing, the City Council finds that the proposed New Development Agreement is inferior to the Existing Development Agreement.
14. Because the New Development Agreement is inferior to the Existing Development Agreement, the City Council finds that it is not in the City's best interest to modify the Existing Development Agreement as proposed by the Applicant.
15. The City Council specified the actions the Applicant could take to obtain approval, including, but not limited to, reducing the density of the proposed multi-family development to better match the density contemplated in the Existing Development Agreement and providing better ingress and egress to the site.

B. Conclusions of law.

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, including, but not limited to, sections 67-6519(5) and 67-6535.
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 mandated to do so. UDC § 11-5B-3(F)(2). Similar to other binding contracts, 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 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 Existing Development Agreement because the proposed modification is not in the best interest of the City. Additionally, the City Council hereby denies the Applicant’s request for a CUP because the proposed multi-family development is inconsistent with the Existing Development Agreement.

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 18th day of April, 2023.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk