

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



In the Matter of the Request for Modification to the existing Development Agreement (Inst. #2016-097989) for the purpose of replacing the previous agreement with a new one to incorporate a new concept plan consisting of commercial and residential uses., by Brighton Development, Inc.

Case No(s). H-2021-0072

For the City Council Hearing Date of: December 7, 2021 (Findings on December 21, 2021)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of December 7, 2021, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of December 7, 2021, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of December 7, 2021, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of December 7, 2021, incorporated by reference)

B. Conclusions of Law

1. The City of Meridian shall exercise the powers conferred upon it by the “Local Land Use Planning Act of 1975,” codified at Chapter 65, Title 67, Idaho Code (I.C. §67-6503).
2. The Meridian City Council takes judicial notice of its Unified Development Code codified as Title 11 Meridian City Code, and all current zoning maps thereof. The City of Meridian has, by ordinance, established the Impact Area and the Comprehensive Plan of the City of Meridian, which was adopted December 17, 2019, Resolution No. 19-2179 and Maps.
3. The conditions shall be reviewable by the City Council pursuant to Meridian City Code § 11-5A.
4. Due consideration has been given to the comment(s) received from the governmental subdivisions providing services in the City of Meridian planning jurisdiction.
5. It is found public facilities and services required by the proposed development will not impose expense upon the public if the attached conditions of approval are imposed.
6. That the City has granted an order of approval in accordance with this Decision, which shall be signed by the Mayor and City Clerk and then a copy served by the Clerk upon the applicant, the Community Development Department, the Public Works Department and any affected party requesting notice.

- 7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of December 7, 2021, incorporated by reference. The conditions are concluded to be reasonable and the applicant shall meet such requirements as a condition of approval of the application.

C. Decision and Order

Pursuant to the City Council’s authority as provided in Meridian City Code § 11-5A and based upon the above and foregoing Findings of Fact which are herein adopted, it is hereby ordered that:

- 1. The applicant’s request for Development Agreement Modification is hereby approved per the conditions of approval in the Staff Report for the hearing date of December 7, 2021, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Preliminary Plat Duration

Please take notice that approval of a preliminary plat, combined preliminary and final plat, or short plat shall become null and void if the applicant fails to obtain the city engineer’s signature on the final plat within two (2) years of the approval of the preliminary plat or the combined preliminary and final plat or short plat (UDC 11-6B-7A).

In the event that the development of the preliminary plat is made in successive phases in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of two (2) years, may be considered for final approval without resubmission for preliminary plat approval (UDC 11-6B-7B).

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-6B-7.A, the Director may authorize a single extension of time to obtain the City Engineer’s signature on the final plat not to exceed two (2) years. Additional time extensions up to two (2) years as determined and approved by the City Council may be granted. With all extensions, the Director or City Council may require the preliminary plat, combined preliminary and final plat or short plat to comply with the current provisions of Meridian City Code Title 11. If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the platting procedure again (UDC 11-6B-7C).

Notice of Conditional Use Permit Duration

Please take notice that the conditional use permit, when granted, shall be valid for a maximum period of two (2) years unless otherwise approved by the City. During this time, the applicant shall commence the use as permitted in accord with the conditions of approval, satisfy the requirements set forth in the conditions of approval, and acquire building permits and commence construction of permanent footings or structures on or in the ground. For conditional use permits that also require platting, the final plat must be signed by the City Engineer within this two (2) year period.

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-5B-6.G.1, the Director may authorize a single extension of the time to commence the use not to exceed one (1) two (2) year period. Additional time extensions up to two (2) years as

determined and approved by the City Council may be granted. With all extensions, the Director or City Council may require the conditional use comply with the current provisions of Meridian City Code Title 11(UDC 11-5B-6F).

Notice of Development Agreement Duration

The city and/or an applicant may request a development agreement or a modification to a development agreement consistent with Idaho Code section 67-6511A. The development agreement may be initiated by the city or applicant as part of a request for annexation and/or rezone at any time prior to the adoption of findings for such request.

A development agreement may be modified by the city or an affected party of the development agreement. Decision on the development agreement modification is made by the city council in accord with this chapter. When approved, said development agreement shall be signed by the property owner(s) and returned to the city within six (6) months of the city council granting the modification.

A modification to the development agreement may be initiated prior to signature of the agreement by all parties and/or may be requested to extend the time allowed for the agreement to be signed and returned to the city if filed prior to the end of the six (6) month approval period.

E. Notice of Final Action and Right to Regulatory Takings Analysis

1. **Please take notice** that this is a final action of the governing body of the City of Meridian. When applicable and pursuant to Idaho Code § 67-6521, any affected person being a person who has an interest in real property which may be adversely affected by the final action of the governing board may within twenty-eight (28) days after the date of this decision and order seek a judicial review as provided by Chapter 52, Title 67, Idaho Code.

F. Attached: Staff Report for the hearing date of December 7, 2021.

By action of the City Council at its regular meeting held on the 21st day of December, 2021.

COUNCIL PRESIDENT TREG BERNT VOTED AYE

COUNCIL VICE PRESIDENT BRAD HOAGLUN VOTED AYE


COUNCIL MEMBER JESSICA PERREAULT VOTED AYE

COUNCIL MEMBER LUKE CAVENER VOTED AYE

COUNCIL MEMBER JOE BORTON VOTED AYE

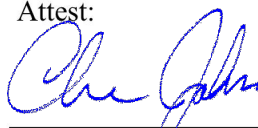
COUNCIL MEMBER LIZ STRADER VOTED _____

MAYOR ROBERT SIMISON VOTED _____
(TIE BREAKER)




Mayor Robert Simison 12-21-2021

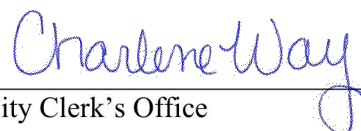
Attest:



Chris Johnson 12-21-2021
City Clerk



Copy served upon Applicant, Community Development Department, Public Works Department and City Attorney.

By:  _____ Dated: 12-21-2021
City Clerk's Office



COMMUNITY DEVELOPMENT DEPARTMENT

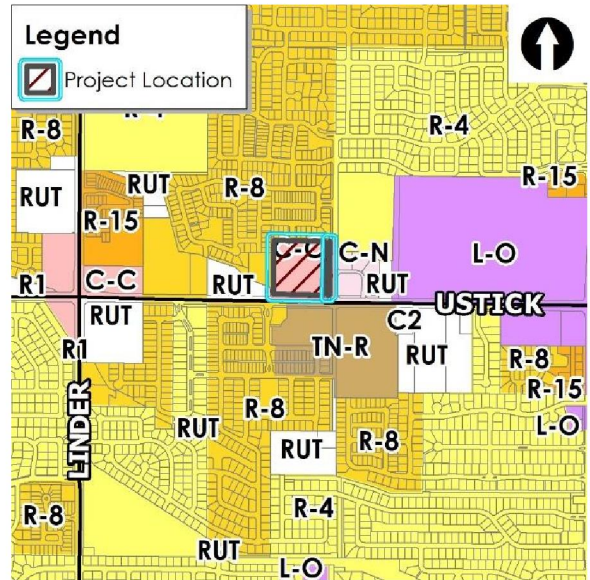
HEARING DATE: ~~11/9/2021~~ 12/7/2021

TO: Mayor & City Council

FROAM: Joseph Dodson, Associate Planner
208-884-5533

SUBJECT: H-2021-0072
Settlers Square MDA

LOCATION: The site is located on the northwest corner of W. Ustick Road and N. Venable Avenue, adjacent to the mid-mile mark between Linder Road and Meridian Road, in the SE ¼ of the SW ¼ of Section 36, Township 4N., Range 1W.



I. PROJECT DESCRIPTION

Modification to the existing Development Agreement (Inst. #2016-097989) for the purpose of replacing the previous agreement with a new one to incorporate a new concept plan consisting of commercial and residential uses.

NOTE: The Applicant has submitted revised concept plans and narrative leading to Staff changing its recommendation for denial to approval based on the changes to the proposed concept plan. Analysis has been updated in a strike-through and underline format below.

II. SUMMARY OF REPORT

A. Applicant:

Joshua Beach, Brighton Development, Inc. – 2929 W. Navigator Drive, Suite 400, Meridian, ID 83642

B. Owner:

Brighton Development, Inc. – 11650 S. State Street, Draper, UT 84020

C. Representative:

Same as Applicant

III. STAFF ANALYSIS

The existing Development Agreement (DA) for the subject property requires the entire site to be developed with commercial and office uses and incorporates two private roads through the development; one north-south road and one east-west. In 2016, Council approved a DA Modification for this site to change the internal roads from public roads to private streets. There are existing DA

EXHIBIT A

provisions regarding the desired placement of buildings along Ustick and the desired integration of pedestrian facilities throughout the site for safe pedestrian circulation that Staff finds imperative to keep within the DA to assist in compliance with mixed-use policies and the desired site design.

The Applicant proposes to replace the existing DA with a new one for the purpose of incorporating a new conceptual development plan. A multi-family development is proposed to develop on the north half of the site consisting of approximately 60 apartment units, according to the submitted concept plan. Per the submitted plan and conceptual elevations, the apartment units are proposed as townhome style units in the form of two-story 3-plexes and 4-plexes with ~~each most units~~ having a front-loaded garage and parking pad; the revised concept plan shows the central units as alley-loaded with some of the units now fronting on the east-west street between the proposed residential area and the commercial area shown to remain. In addition, the submitted conceptual development plan depicts the east-west street shown on the existing concept plan as remaining but appears to be a public road—this east-west road connects to Venable on the east boundary as the main access point for the site and also provides future connectivity to the west should the adjacent property redevelop in the future. In addition, this east-west street is also shown as remaining from the conceptual plan in the existing DA but is now shown as a drive aisle instead of a public street. Staff supports this change to the plan because it offers the Applicant the opportunity to provide bulb-outs for dedicated on-street parking and street trees to provide an urban canopy as proposed on the revised concept plan. The revised concept plan also shows additional pedestrian facilities within the residential portion of the site, detached sidewalks along the east-west drive aisle, and a shared plaza. The additional pedestrian facilities and the overall revisions to the site plan add more pedestrian connectivity between the proposed commercial and residential uses and offers safer circulation for pedestrians moving throughout the site. **Staff can better support the revised concept plan with the revisions shown.**

Furthermore, ~~In addition,~~ the public street stubbed to the north property boundary is shown as terminating within the site as part of the multi-family drive aisles instead of continuing through the site and connecting to Ustick Road, which concerns Staff (further analysis is below). Therefore, no connection to Ustick is proposed either via public street or commercial drive aisle with the new conceptual development plan. ~~Furthermore, a~~ In addition, this Applicant has agreed to provide cross-access to the remaining county zoned parcel at the very southwest corner property boundary of this site for future pedestrian and vehicular connectivity. This connection to Ustick would align with an existing access on the south side of Ustick and provide both projects an access point to Ustick—Staff finds it important to have this cross-access connection because of the opportunity to provide easier access to the future commercial uses on this subject site and help disperse traffic from both projects onto Ustick by having a second connection to Ustick beyond that of only Venable. **As noted above, Staff can better support this revised concept plan and has proposed recommended DA provisions in line with the revised concept plan and need for cross-access to the west.**

A rezone application has not been submitted so the proposed multi-family use in the existing C-C zoning district will require conditional use permit (CUP) approval. Staff would analyze specific development criteria and specific use standards at the time of the CUP submittal.

Off-street parking would be required per the standards listed in UDC Table 11-3C-6 for multi-family developments. Qualified open space would also be required, per the standards listed in UDC 11-4-3-27C. Compliance with the specific use standards listed in UDC 11-4-3-27 for multi-family developments is required and would be reviewed with the CUP application. Adjustments may be necessary to the concept plan to comply with these standards and any ACHD required revisions.

The subject site is part of a Mixed-Use Community (MU-C) future land use area—this designation calls for a mix of residential and commercial land uses that are thoughtfully integrated. One of the reasons the Applicant has stated for requesting this DA Modification is the subject site has sat vacant in its current configuration and entitlements for over a decade. The Applicant’s revised narrative sheds

EXHIBIT A

additional light on the history of this parcel, the intention of the future land use designation, and the Applicant’s justification to modify the concept plan to include multi-family residential and reduce the commercial area at this mid-mile location. Within this MU-C area, detached single-family, apartments, office/retail, and Civic uses are existing and planned (future land use designations are not parcel specific so an area of the baseball fields in Settlers Park are within this MU-C area). There is existing multi-family directly south of the subject site on the south side of Ustick; additional multi-family is approved at the southeast corner of the Venable and Ustick intersection. Directly to the east is a relatively small office park with five (5) buildings and is the only commercial component in this MU-C area. **Because of the multi-family development on the south side of Ustick, this may be the only area that could develop with neighborhood serving commercial uses. During the review of the Summertown project (SEC of Venable and Ustick), staff did forego recommending a commercial component as part of that project because this property was already zoned for commercial and Staff was in favor of preserving this property for future commercial uses.**

~~Although the proposed development would be a new type of residential in this area (townhome style instead of traditional garden style walk-up apartments), the submitted concept plan lacks many of the design concepts shown and outlined in the comprehensive plan for mixed-use areas. In general, the future commercial area is being reduced while increasing the residential area and its impact in this area of the City with little to no neighborhood serving commercial uses. At a minimum, the following mixed-use policies are not met with the proposed plan whereas the existing one does comply: With the Applicant’s revised narrative and concept plans, Staff finds the following mixed-use policies are better satisfied with the subject project and surrounding area:~~

- Mixed use areas should be centered around spaces that are well-designed public and quasi-public centers of activity. Spaces should be activated and incorporate permanent design elements and amenities that foster a wide variety of interests ranging from leisure to play. These areas should be thoughtfully integrated into the development and further placemaking opportunities considered. ~~Staff does not find the proposed concept plan meets this policy as no integration of the residential and commercial areas are shown; no placemaking or thoughtful integration of the mix of uses is present in the proposed concept plan especially when compared to the existing commercial concept plan.~~
- Supportive and proportional public and/or quasi-public spaces and places including but not limited to parks, plazas, outdoor gathering areas, open space, libraries, and schools that comprise a minimum of 5% of the development area are required. Outdoor seating areas at restaurants do not count towards this requirement. ~~Based on the submitted concept plan, there are not enough details to show compliance with this plan. The proposed multi-family residential area appears to be isolated and no shared areas are shown, as noted in this policy.~~
- All mixed use projects should be accessible to adjacent neighborhoods by both vehicles and pedestrians. Pedestrian circulation should be convenient and interconnect different land use types. Vehicle connectivity should not rely on arterial streets for neighborhood access. ~~Although the proposed concept plan does not require arterial streets for neighborhood access, the plan would force residents from the north to drive through the multi-family development to get to the commercial which could force them to utilize Venable for ease of access, further reducing accessibility for this mixed-use area. Furthermore, there are minimal pedestrian facilities shown on the proposed plan to connect the existing residential and the proposed residential to the commercial along Ustick; it appears the intent is for residents to use the multi-family drive aisles which does not provide adequate pedestrian safety.~~

EXHIBIT A

- A mixed use project should include at least three types of land uses. Exceptions may be granted for smaller sites on a case-by-case basis. This land use is not intended for high density residential development alone. *As noted, not each mixed-use project is intended to provide at least three types of land uses. However, with the existing and approved development in this MU-C area, a vast majority of the area will be medium and high-density residential which is not a desired outcome. Staff finds reducing the last remaining area of undeveloped commercial area to incorporate more residential is in direct contradiction to this policy.*

~~Overall, Staff is concerned the proposed plan is more residentially focused, lacks integration with the commercial area, and does not comply with the mixed-use policies in the comprehensive plan. For the reasons and concerns noted, Staff is not supportive of the proposed DA modification and has recommended denial of the request.~~

Overall, with the Applicant’s revised concept plan, color rendering, and additional context provided within the revised narrative, Staff finds the project now complies with a majority of the mixed-use policies, provides new housing types within this area for residents of different income levels and housing preferences, and provides adequate cross-access between parcels to relieve the stress on the arterial street system.

IV. DECISION

A. Staff:

~~Staff recommends denial of the modification to the DA as proposed by the Applicant and finds the existing concept plan and DA provisions are better suited to address development of the subject property.~~

Staff recommends approval of the modification to the DA pursuant to the recommended provisions in Section VI of this report.

B. The Meridian City Council heard these items on December 7, 2021. 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 Wardle, Applicant.
- b. In opposition: None
- c. Commenting: Jon Wardle.
- d. Written testimony: One piece – discussing parcel not part of project; general objection to apartments in this area of the City.
- e. Staff presenting application: Joseph Dodson, Associate Planner
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. None

3. Key issue(s) of discussion by City Council:

- a. Reduction of commercial area for the purpose of multi-family residential in the context of this site as well as the overall MU-C designation this site is a part of;
- b. History of MU-C area and its intended purpose at this location;
- c. How Staff analyzed the project in terms of the Comprehensive Plan and its proposed use of multi-family with some commercial along Ustick;
- d. Viability of commercial after inclusion of St. Luke’s clinic;
- e. Future connectivity between uses and parcels on the property.

4. City Council change(s) to Staff recommendation:

EXHIBIT A

- a. Addition of one new DA provision consistent with Applicant's request to be allowed up to two (2) building permits prior to any property subdivision.

V. EXHIBITS

A. Approved Conceptual Development Plans (dated: October 2016)

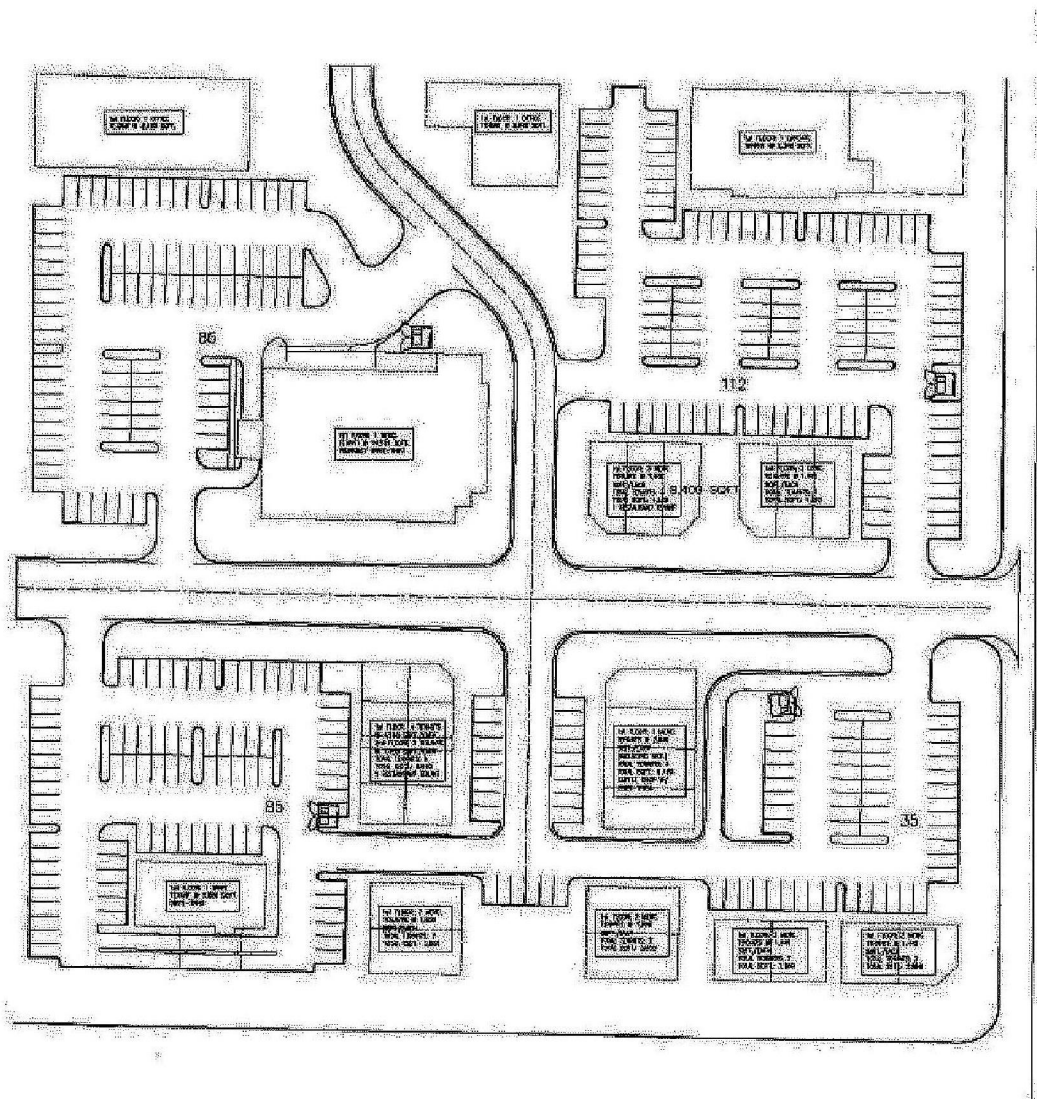
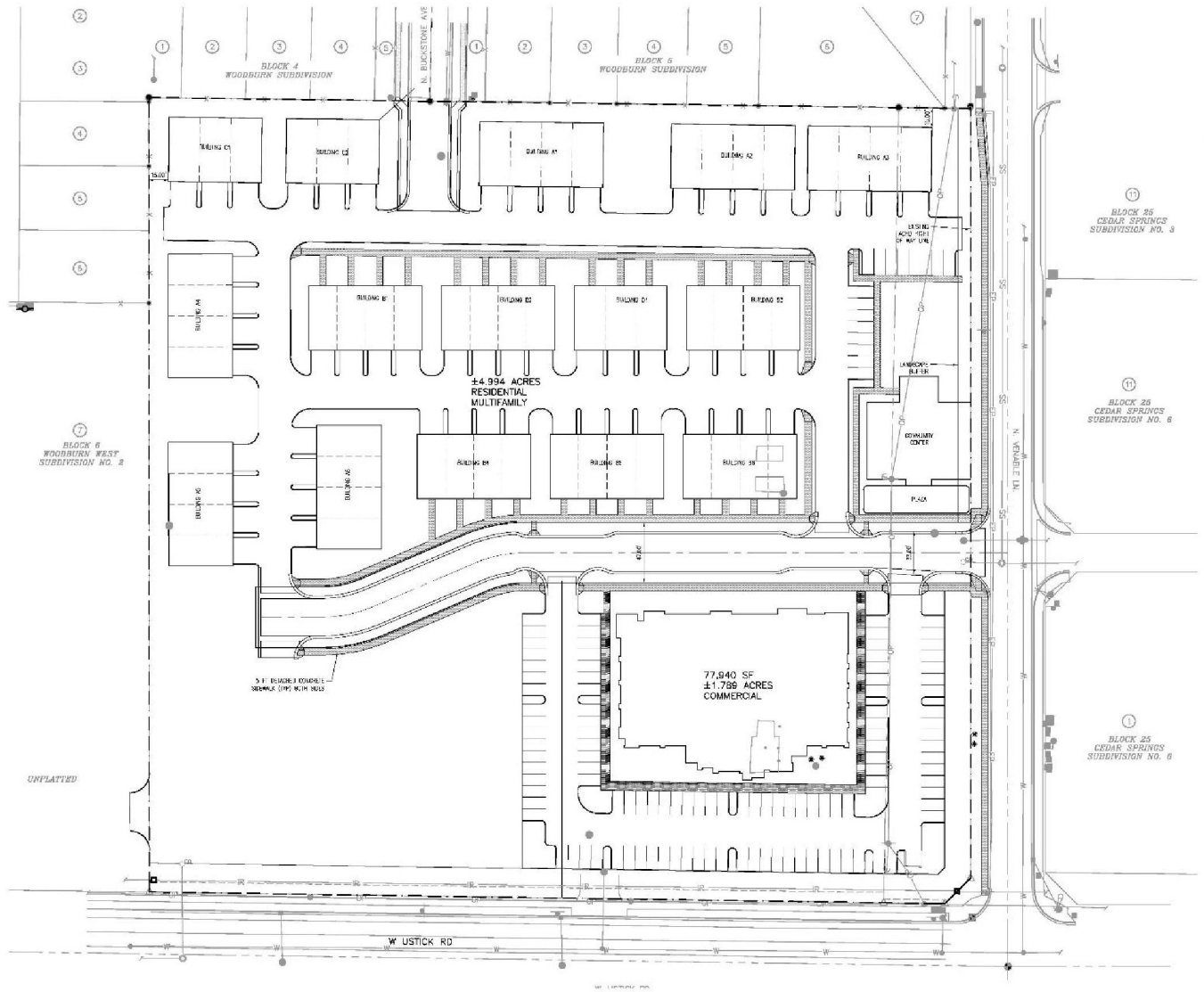


EXHIBIT A

B. Proposed Conceptual Development Plan (dated: November 2021)



September 20, 2021
Page 3

EXHIBIT A
Conceptual Architectural Elevations



EXHIBIT A

D. Legal Description for Property Subject to Development Agreement

Legal Description:

Parcel I:

The South 660 feet of the East one-half of the East one-half of the Southwest quarter of Section 36, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho.

Except the East 29 feet.

Further Except:

A parcel of land located in the East half of the East half of the Southwest quarter of Section 36, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Beginning at an iron pin marking the Southwest corner of Section 36, Township 4 North, Range 1 West, Boise Meridian; thence, along the South section line of said Section 36, also being the center line of Ustick Road South 88°44'00" East 2662.19 feet to an iron pin marking the South quarter corner of said Section 36; thence, leaving said South section line, and along the North-South center quarter section line of said Section 36 North 0°26'40" East 25.00 feet to a point on the North right-of-way line of said Ustick Road, also being the Real Point of Beginning; thence, leaving said North right-of-way line, and continuing along said North-South center quarter section line North 0°26'40" East 639.49 feet to a point; thence, leaving said North-South center quarter section line North 88°50'42" West 84.71 feet to an iron pin; thence South 1°31'09" West 639.26 feet to an iron pin on the said North right-of-way line; thence along said North right-of-way line South 88°44'00" East 96.71 feet to the Real Point of Beginning.

Further Excepting:

A parcel of land disclosed in Warranty Deed to Ada County Highway District recorded April 9, 2010 as Instrument No. 110032208, records of Ada County, Idaho.

Parcel II:

A parcel of land located in the East half of the East half of the Southwest quarter of Section 36, Township 4 North, Range 1 West, Boise Meridian, Ada County, Idaho, more particularly described as follows:

Beginning at an iron pin marking the Southwest corner of Section 36, Township 4 North, Range 1 West, Boise Meridian; thence along the South section line of said Section 36, also being the center line of Ustick Road South 88°44'00" East, 2662.19 feet to an iron pin marking the South quarter corner of said Section 36; thence leaving said South section line, and along the North-South center quarter section line of said Section 36 North 0°26'40" East, 25.00 feet to a point on the North right-of-way line of said Ustick Road, also being the Real Point of Beginning; thence leaving said North right-of-way line, and continuing along said North-South center quarter section line North 0°26'40" East, 639.49 feet to a point; thence leaving said North-South center quarter section line North 88°50'42" West, 84.71 feet to an iron pin; thence South 1°31'09" West, 639.26 feet to an iron pin on the said North right-of-way line; thence along said North right-of-way line South 88°44'00" East, 96.71 feet to the Real Point of Beginning.

Except:

A parcel of land disclosed in Warranty Deed to Ada County Highway District recorded April 9, 2010 as Instrument No. 110032208, records of Ada County, Idaho.

VI. PLANING DIVISION COMMENTS

A. Development Agreement Provisions

1. Development of the subject property shall no longer be subject to the terms of the existing Development Agreement (H-2016-0074, Inst. #2016-097989).
2. Future development of the subject site shall be substantially consistent with the conceptual development plan, conceptual rendering, conceptual elevations, and provisions contained herein.
3. Direct lot access to W. Ustick Road is prohibited, as shown on the submitted conceptual development plans.
4. A cross-access easement shall be granted to the property abutting the southwest property boundary (Parcel # S0436346613). A copy of the recorded easement shall be submitted to the Planning Division prior to issuance of Certificate of Occupancy for the western commercial pad site OR when parcel S0436346613 develops, whichever occurs first.
5. An additional north-south pedestrian connection to the proposed east-west drive aisle shall be added in the west half of the residential site with the future conditional use permit application for added pedestrian connectivity.
6. Future development shall comply with the design standards listed in the Architectural Standards Manual; future commercial structures shall incorporate similar architectural themes and elements as the residential portion of the project for consistency.
7. A conditional use permit is required to be submitted and approved by the Planning and Zoning Commission for the proposed multi-family development in the C-C zoning district as set forth in UDC Table 11-2B-2. The proposed use is subject to the specific use standards listed in UDC 11-4-3-27 Multi-Family Development.
8. A maximum of 57 multi-family units and a minimum of two commercial buildings shall be constructed on the subject site per the submitted concept plans.
9. A Certificate of Zoning Compliance and administrative Design Review applications shall be reviewed and approved by the Planning Division prior to submittal of any building permit application(s).
10. The Applicant shall be allowed to obtain no more than two (2) buildings permits for the commercial portion of the site prior to any subdivision of the property.