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May 3, 2022

Mayor Simison and Meridian City Council
c/o City Clerk
33 East Broadway Avenue
Meridian, Idaho 83642
via email to: cityclerk@meridiacity.org

RE: Request for Reconsideration in Case No. H-2021-0074, Jamestown Ranch

Dear Mayor Simison and City Council Members:

Givens Pursley LLP represents the applicant, the Walsh Group, LLC (“**Walsh**” or “**Applicant**”), who requested to annex, zone and plat 294 lots (including 65 age-restricted 55+ lots) on 80 acres in Meridian’s Area of Impact in Case No. H-2021-0074 (collectively the “**Application**” or “**Development**”). The Planning & Zoning Commission originally heard the Application on November 18, 2021; at that time it set the Application over for a second hearing so that ACHD could submit a staff report and Walsh could address some of their concerns with the Application. On February 17, the Planning & Zoning Commission heard the Application for the second time. At the conclusion of the hearing, the Planning & Zoning Commission indicated that it appreciated the changes that Walsh had made to the Application but nonetheless recommended denial of the Application based on traffic concerns. On April 5, 2022, the Application came before the City Council who voted to deny the Application. The City Council adopted its Findings of Fact, Conclusions of Law, and Decision & Order (the “**Decision**”) denying the Application on April 19, 2022.

The Decision denies the Application for the reasons set forth in the Findings that are attached to this letter as Exhibit A. Per the Decision, the Council denied the Application for one primary reason: perceived traffic impacts on McMillan and Black Cat Roads.

For the reasons described in this letter, we respectfully request that you reconsider your denial and approve the application. In the alternative, we request that you reconsider the denial

and provide specific feedback to the Applicant to change the Application in order to gain approval.¹ This request for reconsideration is submitted pursuant to UDC § 1-7-10 and Idaho Code § 67-6535.

1. Traffic Impacts are Mitigated on Surrounding Streets.

The Council's findings conclude that the Project will result in adverse impacts on Black Cat and McMillan Roads. However, the Ada County Highway District ("ACHD") provided a report on the Application agreeing that all roads have current capacity except for one hour on McMillan. Specifically, ACHD's report provides: (i) all intersections and road segments operate acceptably under all conditions except for the segment of McMillan Road from the site to Ten Mile Road under 2025 total conditions; and (ii) this segment will meet level of service ("LOS") thresholds in the shoulder hour for a 3-lane minor arterial road under 2025 total conditions.

As submitted into evidence, the only time that McMillan road is expected to operate at an unacceptable LOS is during the peak PM hour. Per ACHD policy, if, by examining the shoulder hours the roadways and intersections meet the minimum acceptable level of service planning thresholds, the applicant may suggest feasible, alternative mitigation measures. Because all intersections and road segments operate acceptably in the shoulder hours, Applicant proposed feasible, alternative mitigation measures. ACHD approved those mitigation measures as appropriate.

Despite ACHD's approval of the mitigation measures, which were entirely consistent with ACHD policy, the Council nonetheless denied the Project. The Applicant has taken every step necessary to mitigate traffic concerns while still developing a quality residential neighborhood, consistent with the City's comprehensive plan. The Applicant incorporated all traffic recommendations from ACHD and is ready and willing to incorporate additional traffic recommendations upon Council's reconsideration of this development.

2. Annexation Is In The Best Interest Of Meridian.

The Project (i) complies with Meridian's comprehensive plan; (ii) complies with the regulations for the proposed R-6 zone; (iii) is not materially detrimental to the public health, safety and welfare; (iv) does not result in an adverse impact upon the delivery of services; and (v) is in the best interest of the City.

As stated in recent public hearings, "road improvements follow development." In order for the City to receive much-needed road and pathway infrastructure improvements in this area in a timely manner, the property must be developed. There was a steep embankment on Black Cat Road where the edge of the road dropped into the Lemp Canal. At their sole expense, the Applicant moved the Lemp Canal out of the Black Cat right-of-way and filled in the vacated canal. With approval of the Application, the Black Cat Road corridor will continue to be improved at the Applicant's expense. The Applicant will widen Black Cat Road to 17 feet of pavement from

¹ If this request for reconsideration is approved, Walsh is prepared to submit an updated preliminary plat that mitigates the concerns raised by Council in its deliberations.

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centerline (pavement is currently as narrow as 12 feet from centerline), construct a 3-foot gravel shoulder, build a 10-foot wide multi use pathway, and install a left-hand turn lane upon request. The pathway improvements provide much-needed pathway continuity through this area, and will keep pedestrians and bicyclists safe by removing them from the roadways they are currently forced to use. These improvements result in a much safer, wider road and will not occur without development.

Similarly, McMillan Road has a steep embankment where the edge of the road drops into the Lemp Canal (just 3 feet away in some places). The Applicant will relocate the Lemp Canal away from McMillan Road, which will eliminate the dangerous embankment. Walsh will widen McMillan Road to 17 feet of pavement from the centerline (pavement is currently 11 feet from centerline), install a left-hand turn lane, construct a 3-foot gravel shoulder, and build a 10-foot wide pathway. These improvements will allow traffic on McMillan to flow more smoothly, especially after the McMillan/Black Cat intersection is signalized this summer. As mentioned above, these improvements provide much-needed pathway continuity through this area, and will keep pedestrians and bicyclists safe by removing them from the roadways. These Black Cat and McMillan Road improvements will not occur without approval of the Application.

The Applicant is proposing a quality residential development in an area designated Medium Density Residential on the FLUM. Any development on the property will generate increased traffic to the neighborhood. The traffic generated by this project is less than other more intense residential uses contemplated by the comprehensive plan for this location and was deemed acceptable by ACHD.

For these reasons, the Development is in the best interests of Meridian and we ask you to reconsider the denial. Specifically, upon reconsideration, Walsh requests the Council to:

- (1) Approve the Annexation and Zoning as recommended by City Planning Staff; and
- (2) Approve the Preliminary Plat as recommended by City Planning Staff.

In the alternative, Walsh requests the Council to provide specific feedback for changes to this Development in order to gain approval.

Thank you for your consideration of this request.

Sincerely,

Elizabeth A. Koeckeritz

cc. Bill Nary, City Attorney's Office at bnary@meridiancity.org
Community Development Department at planning@meridiancity.org

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

Date of Order: April 19, 2022
Case No.: H-2021-0074
Applicant: Walsh Group, LLC
In the Matter of: Request for (1) annexation and zoning of 80 acres of land with an R-8 zoning district and (2) a preliminary plat consisting of 294 building lots and 25 common lots.

Pursuant to testimony and evidence received regarding this matter at the public hearing before the Meridian City Council on March 15, 2022, and April 5, 2022, as to this matter, the City Council enters the following findings of fact, conclusions of law, final decision, and order.

A. Findings of Fact. The City Council finds that:

1. The facts pertaining to the 80 acres of land (“the Property”), the Applicant’s request, and the process are set forth in the staff report for Case No. H-2021-0074, which is fully incorporated herein by reference.
2. The Property is not located within the incorporated area of the City of Meridian.
3. The Applicant is requesting annexation of the Property in order to develop a residential subdivision.
4. The proposed annexation is a Category A annexation under Idaho Code section 50-222(3)(a).
5. The proposed annexation will generate additional traffic on W. McMillan Road that will be detrimental to the community.
6. Under the Ada County Highway District (ACHD) Capital Improvements Plan (CIP), W. McMillan Road, from N. Black Cat Road to N. Ten Mile Road, will not be widened to three lanes until 2031, at the earliest.
7. The proposed annexation will generate additional traffic on N. Black Cat Road that will be detrimental to the community.
8. Under the ACHD CIP, N. Black Cat Road, from W. Ustick Road to W. McMillan Road, will not be widened to five lanes until 2031, at the earliest.
9. Under the ACHD CIP, a multi-lane roundabout at the intersection of N. Black Cat Road and W. McMillan Road will not be constructed until 2031, at the earliest.
10. Based on the foregoing, the proposed annexation is not in the best interest of the City of Meridian.

B. Conclusions of law. The City Council concludes that:

1. The City Council takes judicial notice of Idaho Code section 50-222, which governs annexations by cities.
2. The City Council takes judicial notice of the Local Land Use Planning Act (“LLUPA”), codified at Chapter 65, Title 67, Idaho Code.
3. The City Council takes judicial notice of the Unified Development Code of the City of Meridian (UDC), all current zoning maps, and the City of Meridian Comprehensive Plan.
4. In order to grant an annexation and rezone, the City Council must make certain findings as delineated in UDC section 11-5B-3, including a finding that the proposed annexation is in the best interest of the City of Meridian. UDC § 11-5B-3(E)(5).
5. Because the City Council found that the proposed annexation is not in the best interest of the City of Meridian, the requirements set forth in UDC section 11-5B-3 have not been satisfied, and the proposed annexation shall not proceed.
6. A city’s decision to deny a Category A annexation is not subject to judicial review under Idaho Code section 50-222(6). *Black Labrador Investing, LLC v. Kuna City Council*, 147 Idaho 92, 97, 205 P.3d 1228, 1233 (2009).
7. The purpose of the UDC is to “[c]arry out the policies of the comprehensive plan by classifying and regulating the uses of property and structures **within the incorporated areas of the City of Meridian**[.] UDC § 11-1-2(B) (emphasis added). Because the Property is not located within the incorporated area of the City of Meridian, and because the proposed annexation shall not proceed, the City Council is precluded from granting the Applicant’s request for a preliminary plat.
8. Pursuant to Idaho Code § 67-6503, the City of Meridian has properly exercised the powers conferred by LLUPA.

C. Order. Pursuant to the above findings of fact and conclusions of law, the City Council hereby denies Applicant’s request for annexation of the Property. Further, because the Property is not located within the incorporated area of the City of Meridian, the City Council hereby denies Applicant’s request for a preliminary plat.

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 19th day of April, 2022.



Robert E. Simison 4-19-2022
Mayor

Attest:

 

Chris Johnson 4-19-2022
City Clerk