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RECEIVED

AUG 23 2022

CITY OF MERIDIAN
IDaho
CITY CLERKS OFFICE

August 23, 2022

Sent by personal service to:

Mayor and City Council
c/o City Clerk
33 E. Broadway Ave., Suite 104
Meridian, Idaho 83642

With copies sent via hand-delivery to:

City Attorney's Office	and	Community Development Department
33 E. Broadway Ave., Suite 306		33 E. Broadway Ave., Suite 102
Meridian, Idaho 83642		Meridian, Idaho 83642

Re: Second Request for Reconsideration¹ -- H-2021-0070.

Dear Mayor and Council,

As the Applicant, Linder Holdings, LLC, led by Dave Young, has worked on Burnside (Jackson) Ridge over the past three years, it has been apparent that the City Council members and Planning Staff of the City of Meridian are dedicated to maintaining a high standard for Meridian growth and projects. We appreciate their work and dedication. In particular, Sonya and Joe have helped and counseled us as we prepared a compatible, upscale neighborhood design. Our goal from the beginning has been to achieve a higher standard for single-family residential development in the City of Meridian, with a focus on preserving our local agricultural heritage and history. We also spent two years diligently listening to our neighbors and working with them to resolve their concerns. Ultimately, our project enjoyed overwhelming support from its neighbors—in fact, we are not aware of any testimony, at either Planning and Zoning or the City Council, that was opposed to our Burnside (Jackson) Ridge project. We also resolved the Planning and Zoning

¹ The City Council's August 9, 2022, Findings of Fact and Conclusions of Law modified its findings from its original June 21, 2022, Findings of Fact and Conclusions of Law. The City's legal department has taken the position that we need to ask for reconsideration of modified decisions in order to preserve appeal rights. Therefore, we submit this request for reconsideration.

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Commission's concerns, and we were pleased that the P&Z commission unanimously recommended approval of our project.

We pursued this project because we were following the City's lead. In the summer of 2019, the City invested significant resources to construct new water and sewer lines to serve the area in which our project is located. Additionally, a new fire station was constructed nearby to provide fire protection service. The contiguity of previously annexed land² (the Brundage Estates subdivision), the project's compliance with the Comprehensive Plan, and the City's considerable investments in infrastructure and services in this area conclusively demonstrate that annexation of this property is:

...reasonably necessary to assure the orderly development of [the City of Meridian] in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

Idaho Code § 50-222.(1).

Burnside (Jackson) Ridge also complies with the City's required findings for annexation under the City of Meridian's Unified Development Code (*see* Unified Development Code § 11-5B-3.E):

- it "complies with the applicable provisions of the comprehensive plan" (E.1);
- it "complies with the regulations outlined for the proposed district, specifically the purpose statement" (E.2);
- it is not "materially detrimental to the public health, safety, and welfare" (E.3);
- it does not "result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city including, but not limited to, school districts" (E.4); and
- it "is in the best interest of city" (E.5).

Burnside (Jackson) Ridge achieves the annexation policy established by the Idaho Legislature and complies with the required findings for annexation found in the City of Meridian's Unified Development Code (*see* Unified Development Code § 11-5B-3.E), and it has overwhelming

² This project is required to come before the City precisely *because* it is contiguous, per the City's area of impact agreement with Ada County. Ada County Code § 9-4-4.C.

support from our neighbors. Additionally, it received an extremely positive staff recommendation and a unanimous recommendation of approval from the Planning and Zoning Commission.

With all evidence indicating a likely approval, we were taken aback when the City Council denied our project. We were also confused by the reasons for the City's denial. Originally, the reasons given by the City Council for its denial of our project included the following:

5. The Property is not located in an area that the City has prioritized for near-term growth.
6. The proposed annexation and residential subdivision would place additional burdens on City services, including, but not limited to, public safety services.
7. The proposed annexation and residential subdivision would place additional burdens on local roads.

[Original] Findings of Fact, Conclusions of Law, Final Decision, and Order, dated June 21, 2022, in Case No. H-2021-0070. These rationales created an impossible and unenforceable standard for the City and were appropriately reconsidered.

After reconsidering its decision “for the limited purpose of clarifying the Findings of Fact and Conclusions of Law concerning adverse impacts on public services” (oral Motion to Reconsider at the July 26, 2022 Regular City Council Meeting), however, the City Council's revised reasons for denying our project were significantly different—all three of the above reasons had been deleted, with the following reason substituted in their place:

5. The Property is contiguous to land to the east (“Brundage Estates”), which serves as a point of contiguity for the Applicant's proposed annexation. The City approved a preliminary plat for Brundage Estates in 2016, but a final plat has not yet been recorded, leading the City Council to find that annexation of additional land to the west of Brundage Estates is not a logical expansion of the city limits at this time.

[Revised] Findings of Fact, Conclusions of Law, Final Decision, and Order, dated August 9, 2022, in Case No. H-2021-0070.

Denying our project because a final plat has not been recorded for the Brundage Estates subdivision (our project's point of contiguity to the City) is similarly flawed. It imposes a standard not found in Idaho Code or the City's Unified Development Code and, to our knowledge, has never before imposed on an annexation application. **In fact, in 2016, the same parcels of real property that comprise the Brundage Estates subdivision were used by the City as the sole “point of contiguity” to annex 1,322.14 acres of real property in what was called the “South Meridian Annexation” (see Case No. 2015-0019).** The southernmost portion of the Brundage Estates

Also, the City's revised reason for denial (that "annexation of additional land to the west of Brundage Estates is not a logical expansion of the city limits at this time") misstates the applicable standards, stated above.

By denying Jackson Ridges Estates, even though *all* services are available, the Council is acting arbitrarily. The record before you shows that fire station #6 is in the immediate vicinity (1.4 miles away), the City's police department can respond within critical response times, the dry line sewer and water lines are directly adjacent and readily accessible, and the traffic impact study's few proposed needs will easily be met.

It doesn't have to be this way. The Council can still do the right thing. An abundance of evidence in the record demonstrates that each of the *actual* standards for annexation under UDC § 11-5B-3(E) are met, allowing you to find that:

- ✓ Jackson Ridge Estates does comply with Meridian's Comprehensive Plan;
- ✓ It complies with Meridian's R-2 and R-4 zoning districts;
- ✓ It is not materially detrimental to the public's health, safety, and welfare;
- ✓ It would not result in an adverse impact upon political subdivisions; and
- ✓ Annexing Jackson Ridge Estates is in the best interest of the City of Meridian.

After great time and effort by City staff, the Mayor, the Council, , and Dave and his team, the matter, it seems, ultimately comes down to a policy choice: whether this is in the "best interest of Meridian." All involved have read the Council's policy choice in its August 9, 2022, Findings, which is why we wish to convey our genuine disappointment.

Dave and his team, therefore, respectfully request that the Council reconsider its prior policy choice and find that annexing Jackson Ridge Estates *is* in fact in the best interests of our City. The record overwhelmingly supports such a finding, which, if adopted, would put the Council on far more defensible grounds. To not act on this request, the Council would be applying an annexation standard that does not exist in the Unified Development Code to deny a truly magnificent addition to its community. That certainly cannot be in the City's best interest.

Very truly yours,



Joshua J. Leonard