

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



In the Matter of the Request for an Amendment to the Existing Development Agreement (Inst. #104027941) to Remove the subject property from this agreement for the purpose of allowing the property to develop consistent with the allowed uses in the existing C-G zoning district removing the requirement of a conditional use permit approval for all future uses prior to development on the property for Jennie's Retail, by Chrysalis Architecture and Planning.

Case No(s). H-2022-0071

For the City Council Hearing Date of: February 7, 2023 (Findings on February 21, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of February 7, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of February 7, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of February 7, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of February 7, 2023, 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 February 7, 2023, 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 a modification to the Development Agreement is hereby approved per the provisions in the Staff Report for the hearing date of February 7, 2023, attached as Exhibit A.

D. Notice of Applicable Time Limits

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. Judicial Review

Pursuant to Idaho Code § 67-6521(1)(d), if this final decision concerns a matter enumerated in Idaho Code § 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 § 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 §§ 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.

G. Attached: Staff Report for the hearing date of February 7, 2023

By action of the City Council at its regular meeting held on the _____ day of _____, 2023.

COUNCIL PRESIDENT BRAD HOAGLUN VOTED_____

COUNCIL VICE PRESIDENT JOE BORTON VOTED_____

COUNCIL MEMBER JESSICA PERREAULT VOTED_____

COUNCIL MEMBER LUKE CAVENER VOTED_____

COUNCIL MEMBER JOHN OVERTON VOTED_____

COUNCIL MEMBER LIZ STRADER VOTED_____

MAYOR ROBERT SIMISON VOTED_____
(TIE BREAKER)

Mayor Robert Simison

Attest:

Chris Johnson
City Clerk

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

By: _____ Dated: _____
City Clerk's Office

Exhibit A

STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT



HEARING 02/07/2023

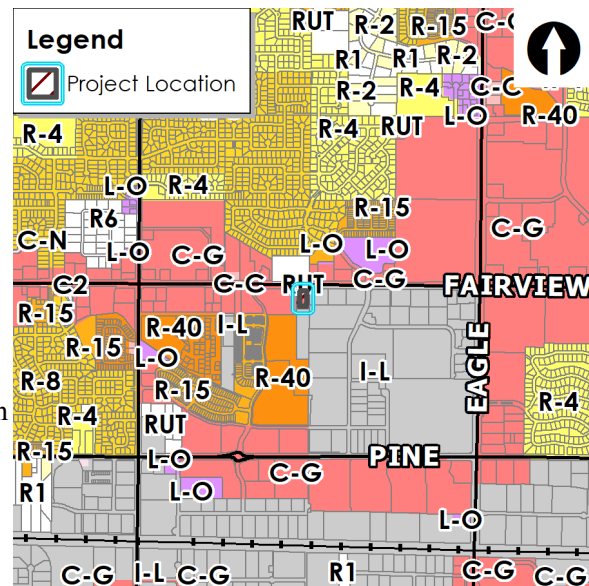
DATE:

TO: Mayor & City Council

FROM: Stacy Hersh, Associate Planner
208-884-5533

SUBJECT: H-2022-0071
Jennie' Retail MDA

LOCATION: The site is located at 2365 E. Fairview Avenue, near the half-mile mark between N. Eagle Road and N. Locust Grove Road, in the NE 1/4 of the NW 1/4 of Section 8, Township 3N, Range 1E (R7104250004).



I. PROJECT DESCRIPTION

Development Agreement Modification (MDA) to amend the existing agreement (DA Inst. #104027941) to remove the subject property from this agreement for the purpose of allowing the property to develop consistent with the allowed uses in the existing C-G zoning district. Currently, the recorded DA requires conditional use permit approval for all future uses prior to development on the property.

NOTE: City Council approved the subject MDA on January 3rd. After the hearing, it was discovered that this property did not include the entire boundary of the property that was part of the original DA. Staff met with the applicant to discuss all of the options. Both staff and the applicant agreed that the best course of action was to update the staff report and renotice/reschedule the project. Staff has prepared Findings in the affirmative for Council's approval since the project did not have any public testimony or Council discussion during the previous hearing.

II. SUMMARY OF REPORT

A. Applicant:

Richard Wilmot – 3130 W. State Street, Boise, ID 83703

B. Owner: Mauricio and Ilene Garcia – 4863 N. Larkwood Place, Meridian, ID 83646

C. Representative:

Same as Applicant

III. STAFF ANALYSIS

The Applicant proposes to amend the Cortabitarte Development Agreement (Inst. #104027941) to

Exhibit A

remove the subject property from the existing development agreement. When this property was originally annexed it included the I-L property directly south of the subject property. Since the applicant wasn't able to obtain the property owner's consent to amend the terms of the original DA, a new DA is being requested so the property can develop consistent with the C-G zoning district without the need of obtaining CUP approval for every use. Below is the legal description and exhibit map of the C-G zoned property attached to the original annexation ordinance. This is the area that will be subject to the new DA.

A concept plan was submitted showing how the property could potentially develop. The new DA will not include this as an exhibit, it is meant for illustrative purposes only. Due to the size of the property, compliance with the City's design standards, and the inclusion of staff's other recommended DA provisions, staff believes the inclusion of a concept plan is not warranted. The proposed site plan depicts a mix of retail, restaurants, a drive-through, and associated site improvements. Because the site has the potential to develop with multiple drive-throughs and restaurants, staff has analyzed the parking on the plan using the restaurant standards requiring one (1) parking stall for every 250 square feet ([*UDC 11-4-3-49*](#)) of gross floor area to ensure adequate parking. Per this standard, 68 parking stalls would be required if the site develops per the submitted concept plan. Currently, the plan depicts 50 parking stalls. Therefore, staff recommends adding a provision to the Development Agreement to address potential parking issues by requiring a parking ratio of 1 parking stall for every 250 square feet of gross floor area regardless of the use.

Currently, the City is processing a CZC and DES application for a drive-through use on the west boundary in the Pine 43 development. If the abutting property does develop with a drive-through, the proposed drive-through would be within 300 feet of another drive-through which would require CUP approval.

Access to the property is proposed from E. Fairview Avenue; a shared access drive with the property to the east (R8525101800). Staff has reviewed the Pine 43 Development Agreement (#2018-000751) conditions of approval and cross-access was required to be provided to this property for future cross-access and interconnectivity between the two commercial areas. The plan as submitted doesn't contemplate the cross access with the adjacent property. Staff recommends the applicant grant cross access with the adjacent property to improve interconnectivity.

Staff recommends approval of the development agreement modification for the purpose of entering a new agreement with the provisions in Exhibit A below.

IV. DECISION

A. Staff:

Staff recommends approval of the modification to the DA (Inst. #104027941) as recommended by Staff's analysis above and with the specific changes below.

Exhibit A

V. EXHIBITS

A. Legal Description and Exhibit Map

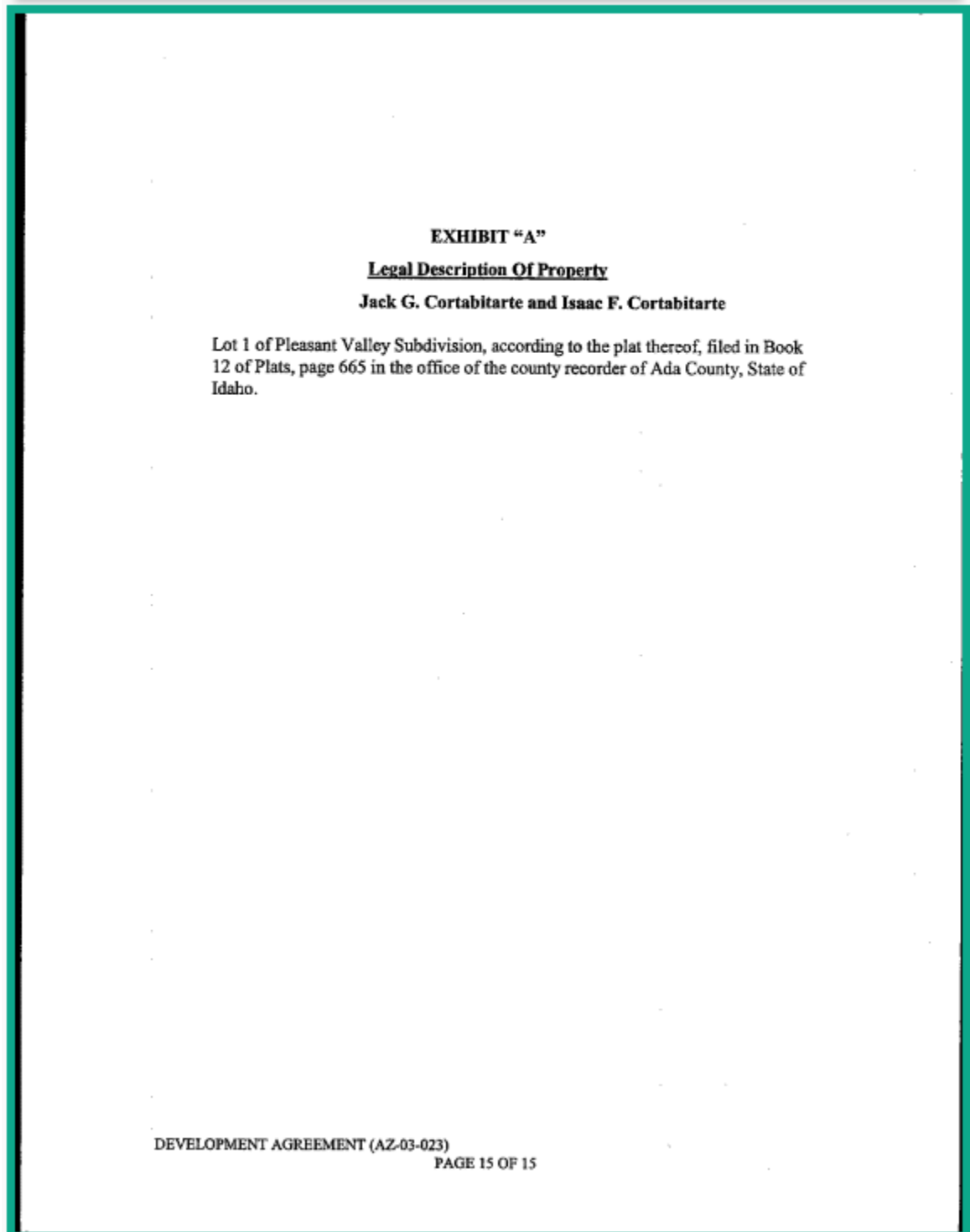


Exhibit A

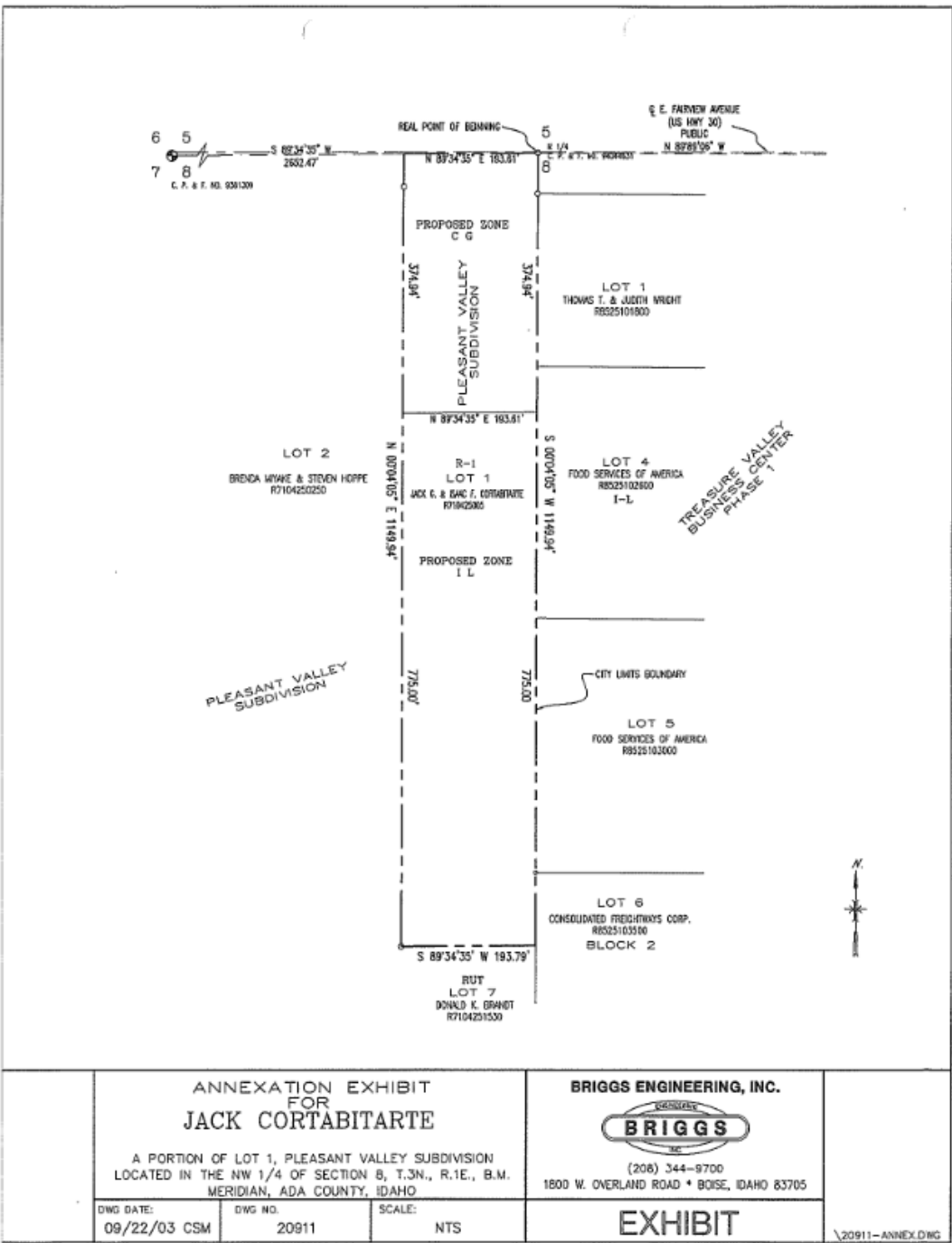


Exhibit A

B. New Development Agreement Provisions Recommended by Staff:

Add a new DA provision - A cross-access/ingress-egress easement shall be granted and the shared driveway constructed to Parcel #R7104250566 (Pine 43 Subdivision) to the west. A copy of the recorded easement shall be submitted with the first certificate of zoning compliance application.

Add a new DA provision – Parking for the development shall be based on the parking ratio of one (1) parking space for every two hundred fifty (250) square feet of gross floor area regardless of use.

C. Conceptual Site Plan (reference only):

