

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



In the Matter of the Request for a Development Agreement Modification to amend the first addendum of the Champion Park Addition Development Agreement (Inst. #106048480) to remove the provision requiring all future uses to obtain a Conditional Use Permit, by Jessica Petty, 12.15 Design, Applicant Representative.

Case No(s). H-2021-0009

For the City Council Hearing Date of: March 23, 2021 (Findings on April 6, 2021)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of March 23, 2021, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of March 23, 2021, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of March 23, 2021, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of March 23, 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.

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7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of March 23, 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 March 23, 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 March 23, 2021

By action of the City Council at its regular meeting held on the 6th day of April, 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 _____

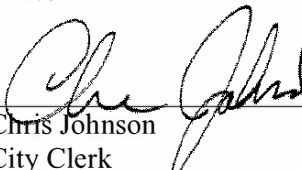
MAYOR ROBERT SIMISON
(TIE BREAKER)

VOTED _____



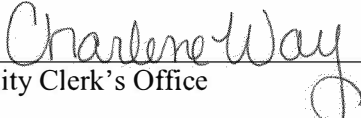
Mayor Robert E. Simison

Attest:


Chris Johnson
City Clerk



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

By:  Dated: 4-6-2021
City Clerk's Office

STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT



HEARING 3/23/2021

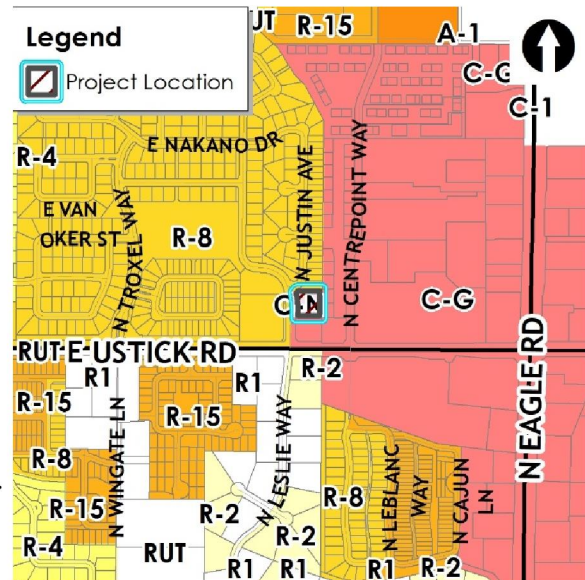
DATE:

TO: Mayor & City Council

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

SUBJECT: H-2021-0009
Cornerstone Dental MDA

LOCATION: The site is located at 3250 N. Leslie Way, in the SW ¼ of the SE ¼ of Section 32, Township 4N., Range 1E.



I. PROJECT DESCRIPTION

Development Agreement Modification to amend the first addendum of the Champion Park Addition Development Agreement (Inst. #106048480) to remove the provision requiring all future uses to obtain a Conditional Use Permit, by 12.15 Design.

II. SUMMARY OF REPORT

A. Applicant:

Jessica Petty, 12.15 Design – 6584 E. Playwright Drive, Boise, ID 83716

B. Owner:

Dr. Matthew Tuft, Copperstone Dental – 3200 N. Leslie Way, Ste. 100, Meridian, ID 83646

C. Representative:

Same as Applicant

III. STAFF ANALYSIS

The Applicant proposes to amend the first addendum of the Champion Park Addition Development Agreement (Inst. #106048480) to remove an existing provision of the original agreement (Inst. #103085229) attached to the addendum as Exhibit B. The existing provision of the original Development Agreement (DA) is still valid because it is attached to the amended one as an exhibit. The existing provision requires that all future commercial uses obtain a Conditional Use Permit (CUP).

The subject site is the last remaining undeveloped commercial property within the Champion Park Subdivision. The property is zoned C-N (Neighborhood Business District) and the proposed use is a new two tenant commercial building with the main user being a dentist office. The proposed use of a

Exhibit A

dental office is a principally permitted use under current development code within the C-N zoning district. Because this is the last remaining undeveloped lot, the Applicant is choosing to amend the DA and remove the provision instead of obtaining a CUP as it will no longer be a necessary provision with the entire development being developed following construction of the new building.

The existing DA provision specifically points out limiting hours of operation as the reasoning for requiring a CUP. Current development code limits the hours of operation within the C-N zoning district to the hours of 6:00AM to 10:00PM. Staff finds the already limited hours of operation of the zone in conjunction with the location of the site to be sufficient for future development and provide adequate evidence to remove the existing provision. Therefore, staff recommends the development agreement modification with the recommended change in Exhibit A below.

The applicant has submitted a site plan that is from their Certificate of Zoning Compliance application that is ready to be approved by Staff should Council approve this modification to the DA. The site plan is site specific so it should not be part of the DA that encompasses the overall and much larger development. The site plan depicts adequate parking, drive aisles widths, and landscaping to be approved. The elevations show a standard office building seen here in Meridian with earth tone colors, a pitched roof with dormers, stucco walls, and stone accents.

In addition to the request for the DA Modification, the Applicant is requesting a Council Waiver to reduce the required landscape buffer along the eastern property line from 20 feet to 15 feet to match the existing buffer along the east boundary and adjacent to the existing office building to the south. The property to the east of the site is a multi-family development and there are approximately two structures directly abutting the subject site. The reason for the waiver request is to accommodate a wide enough drive aisle that allows two-way traffic and can meet the required fire access radii. Furthermore, there is only a portion of the required buffer that is actually adjacent to the noted drive aisle that truly requires the reduced buffer. The Applicant is showing more than the required buffer width of landscaping beyond this area. For these reasons, Staff supports their request and does not see the change in buffer width as becoming detrimental to the adjacent development to the east.

IV. DECISION

A. Staff:

Staff recommends approval of the modification to the DA (Inst. #106048480) as recommended by Staff's analysis above and with the specific change below.

B. The Meridian City Council heard these items on March 23, 2021. At the public hearing, the Council moved to approve the subject Development Agreement Modification and Council Waiver requests.

1. Summary of the City Council public hearing:

- a. In favor: Jessica Petty, Applicant Representative
- b. In opposition: None
- c. Commenting: Jessica Petty.
- d. Written testimony: None
- e. Staff presenting application: Joseph Dodson, Current Associate Planner
- f. Other Staff commenting on application: Bill Nary, City Attorney

2. Key issue(s) of public testimony:

- a. None

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

- a. The ramifications of removing this DA provision;
- b. Does this modification remove the requirement for any future Conditional Use Permit? – No; future uses shall comply with the underlying zoning and development code, including any need for a conditional use permit.

Exhibit A

4. City Council change(s) to Commission recommendation:
a. None

V. EXHIBITS

- A. Development Agreement Provision #6.A.2 from the original DA (Inst. #103085229) attached to the amended DA (Inst. #106048480) as “Exhibit B”:

Existing:

“All future commercial uses shall obtain detailed conditional use permits prior to development. The conditional use permits will place limits on the hours of operation of the commercial uses. Owner shall be allowed continued use of the land for agricultural and livestock purposes (not to exceed 150 head of cattle) until 12/21/05 or final plat approval of all phases.”

Staff’s Recommended Change:

~~Strike the condition - “All future commercial uses shall obtain detailed conditional use permits prior to development. The conditional use permits will place limits on the hours of operation of the commercial uses. Owner shall be allowed continued use of the land for agricultural and livestock purposes (not to exceed 150 head of cattle) until 12/21/05 or final plat approval of all phases.”~~

Exhibit A

B. Existing DA Provisions from original DA noted as Exhibit B in addendum:

ANEXATION AND ZONING CONDITIONS OF APPROVAL

1. Remove any existing domestic wells and/or septic systems within this project from their domestic service, per City Ordinance Section 5-7-517, when services are available from the City of Meridian. Wells may be used for non-domestic purposes such as landscape irrigation. The Davis home (2740 Ustick) shall connect to City services when the phase of the proposed subdivision that includes the house is submitted for final plat.
2. All future commercial uses shall obtain detailed conditional use permits prior

DEVELOPMENT AGREEMENT (AZ-02-033)

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to development. The conditional use permits will place limits on the hours of operation of the commercial uses. Owner shall be allowed continued use of the land for agricultural and livestock purposes (not to exceed 150 head of cattle) until 12/21/05 or final plat approval of all phases.

Exhibit A

C. CZC Site Plan (reference only):

