

**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. #104129529) to Remove the Subject Property from the Agreement and Prepare a New Development Agreement with an Updated Conceptual Development Plan; and Removal of the Requirement for Conditional Use Approval of any Future Uses on the Site; Requirement for Access to be Taken from the North via the Future Backage Road with Emergency Only Access from the South, by ALC Architecture.**

**Case No(s). H-2022-0009**

**For the City Council Hearing Dates of: March 22 and April 12, 2022 (Findings on April 26, 2022)**

**A. Findings of Fact**

1. Hearing Facts (see attached Staff Report for the hearing date of April 12, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of April 12, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of April 12, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of April 12, 2022, 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 provisions in the attached Staff Report for the hearing date of April 12, 2022, 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 existing Development Agreement is hereby approved with changes made by the Commission as noted in the Staff Report for the hearing date of April 12, 2022, 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 April 12, 2022

By action of the City Council at its regular meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

COUNCIL PRESIDENT BRAD HOAGLUN VOTED\_\_\_\_\_

COUNCIL VICE PRESIDENT JOE BORTON VOTED\_\_\_\_\_

COUNCIL MEMBER JESSICA PERREAULT VOTED\_\_\_\_\_

COUNCIL MEMBER LUKE CAVENER VOTED\_\_\_\_\_

COUNCIL MEMBER TREG BERNT 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



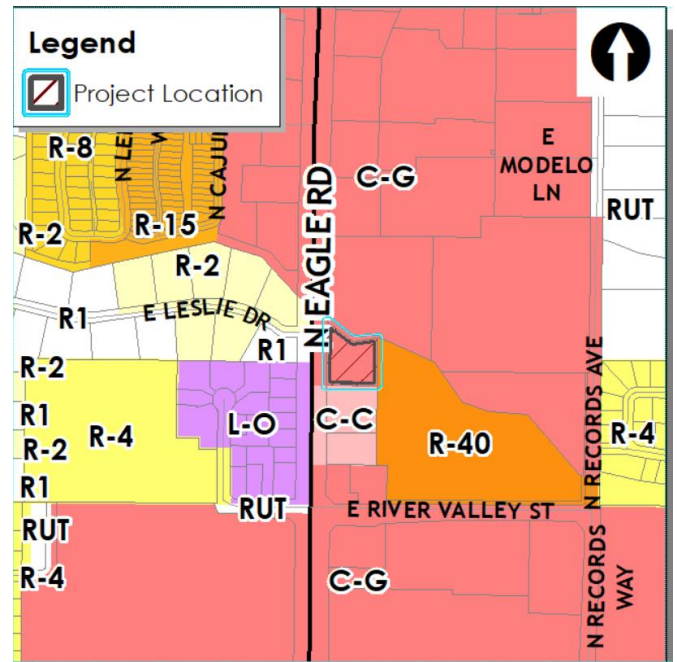
HEARING DATE: April 12, 2022  
*Continued from: March 22, 2022*

TO: Mayor & City Council

FROAM: Sonya Allen, Associate Planner  
208-884-5533

SUBJECT: H-2022-0009  
Copper Canary

LOCATION: 2590 N. Eagle Rd., in the NW 1/4 of  
Section 4, T.3N., R.1E.



### I. PROJECT DESCRIPTION

Modification to the existing development agreement (Inst. #104129529) to remove the subject property from the agreement and prepare a new development agreement with an updated conceptual development plan; removal of the requirement for conditional use approval of any future uses on the site; requirement for access to be taken from the north via the future backage road with emergency only access from the south.

### II. SUMMARY OF REPORT

#### A. Applicant:

Jeff Likes, ALC Architecture – 1119 E. State St., Ste. 120, Eagle, ID 83616

#### B. Owner:

East River Valley Street, LLC – 2832 State St., Carlsbad, CA 92008

#### C. Representative:

Same as Applicant

### III. NOTICING

|                                        | City Council<br>Posting Date |
|----------------------------------------|------------------------------|
| Notification published in<br>newspaper | 3/6/2022                     |

## EXHIBIT A

|                                                        |           |
|--------------------------------------------------------|-----------|
| Notification mailed to property owners within 300 feet | 3/7/2022  |
| Applicant posted public hearing notice on site         | 3/30/2022 |
| Nextdoor posting                                       | 3/8/2022  |

### IV. STAFF ANALYSIS

The existing Development Agreement (DA) (Inst. #[104129529](#) – Red Feather AZ-03-021) originally encompassed a larger 114.52-acre area that includes Redfeather Estates, a residential development to the east and adjacent commercial properties. The DA requires any future uses of the property to only be approved through the Conditional Use Permit (CUP) process and requires either a public or private backage street generally parallel with Eagle Rd./SH-55 to be incorporated into the design of future site plans. A conceptual master plan demonstrating interconnectivity, transitional uses, access points and other key land planning issues is required prior to any detailed CUP applications being submitted. *See Section VI.A for more information.*

A variance (VAR-08-004) was approved in 2008 for a temporary access via N. Eagle Rd./SH-55 until such time as access can be provided to the site from either the south via a frontage road from the extension of E. River Valley St. or from the north across the South Slough. At such time, the temporary access to Eagle Rd. is required to be removed and the street buffer landscaping adjacent to Eagle Road is required to be completed. *Currently, there is no access to the site from either the north or the south.*

The Applicant requests a modification to the existing DA to remove the subject property from the agreement and prepare a new DA with an updated conceptual development plan; removal of the requirement for conditional use approval of any future uses on the site; and requirement for access to be taken from the north via the future backage road with emergency only access from the south.

A conceptual development plan was submitted as shown in Section VI.C that depicts a reconfigured parking area, extension of the street buffer and pedestrian pathway across the existing driveway from N. Eagle Rd./SH-55, a drive aisle along the east boundary of the site connecting to the north for future access via Eagle Rd./SH-55 and to the south for emergency access only. *Note: A driveway from Eagle Rd./SH-55 is depicted on the concept plan partially on this site and partially on the property to the north that has not been approved; an approved access via Eagle/SH-55 exists approximately 500' to the north of the subject property. The UDC (11-3H-4B.2) does not allow new approaches directly accessing a state highway. The City Council may consider and approve a modification to this standard upon specific recommendation of the Idaho Transportation Department per UDC 11-3H-3. Staff anticipates a request for this access will be part of a future development application on the adjacent property to the north.*

The Applicant proposes new DA provisions, which are included in Section VI.D below. Staff is amenable to the request to remove the requirement for a conceptual master plan to be submitted for the overall area as much of this area has already been developed and/or has entitlements. Staff is also supportive of the removal of the requirement for any future uses to be approved through the CUP process as the UDC ([Table 11-2B-2](#)) governs the allowed uses in the C-G zoning district and a CUP is not required for all uses. **Staff is *not* in favor of removal of the requirement for a public or private backage street generally parallel with Eagle Rd./SH-55 to be provided as UDC [11-3H-4B.3](#) requires such to provide future connectivity and access to all properties fronting the state highway that lie between the Applicant's property and the nearest section line road and/or half mile collector road. Although a drive aisle/backage road is depicted on the conceptual site plan,**

## EXHIBIT A

it's proposed to dead-end at the southern boundary with an emergency only access to the south. Because access is limited in this area, Staff believes it's important for this backage road to provide through unrestricted public access to the north and the south. The Fire Dept. does not support the backage road being blocked for emergency access only and states the road needs to run through unobstructed for fast access to businesses in this area.

Based on the aforementioned recommendation, Staff recommends the conceptual site plan is revised to depict a backage road along the east boundary of the site with unrestricted access to the south. DA provision #5.1d should be revised to include vehicular access to the south. DA provision #5.1e should be replaced with a requirement for cross-access easements to be granted to the properties to the south and to the north; a recorded copy of the easements should be submitted to the Planning Division with the Certificate of Zoning Compliance application.

### V. DECISION

#### A. Staff:

Staff recommends approval of the modification to the DA with the changes noted in Section V.D as discussed above in Section IV.

#### B. The Meridian City Council heard this item on March 22 and April 12, 2022. At the public hearing on April 12, 2022, the Council moved to approve the subject MDA request.

##### 1. Summary of the City Council public hearing:

- a. In favor: JoAnn Butler, Butler Spink, LLP; Jeff Likes, ALC Architecture; Brian Carlisle, Bach Homes; and Jeff Bower, Givens Pursley, representing GFI-Meridian Investments, LLC.
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: Jeff Bower, Givens Pursley, representing GFI-Meridian Investments, LLC
- e. Staff presenting application: Bill Parsons
- f. Other Staff commenting on application: Kris Blume, Fire Chief

##### 2. Key issue(s) of public testimony:

- a. The property owner to the south, Bach Homes, supports the emergency only access to the south as they plan to develop the property with a multi-family residential use which will connect to the existing Regency at River Valley apartment development to the east;
- b. The property owner to the north, GFI-Meridian Investments, LLC, is generally supportive of the proposed DA modifications requested by the Applicant and does not object to the proposed emergency only access to the south.
- c. In response to a question from the Council, the Fire Chief clarified that it may have been the Fire Marshall that had communicated with Staff and responded to the Council: "As long as an emergency access is preserved and not blocked, that's all we care about. Certainly, the applicant's concern about protecting the community as well as the people trafficking the area, we certainly agree with that, we just want to make sure the Fire Department has adequate access, and Code-compliant emergency access only would meet the needs of the Fire Department without any blockages."

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

- a. The backage road along Eagle Rd. and whether or not access should be restricted to emergency only at the southern boundary of the site.

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

- a. Council approved the Applicant's request for emergency only access to be provided at the southern boundary of the property provided the adjacent property to the south

## EXHIBIT A

develops with residential uses; however, if the adjacent property to the south develops with commercial uses, a through access shall be provided and shall not be limited to emergency access only (modify DA provision #5.1e accordingly).

### VI. EXHIBITS

#### A. Existing Development Agreement Provisions (Inst. #[104129529](#))

##### 4. **USES PERMITTED BY THIS AGREEMENT:**

- 4.1 The uses allowed pursuant to this Agreement are only those uses allowed under “City’s” Zoning Ordinance codified at Meridian City Code Section 11-7-2 (K) which are herein specified as follows:

***Any future uses of the property shall be approved only through the conditional use permit process. Additionally, either a public or private backage street generally parallel with Eagle Road/SH 55 shall be incorporated into the design of the future site plans. A conceptual master plan demonstrating interconnectivity, transitional uses, access points and other key land planning issues is required prior to any detailed CUP applications being submitted on either the Bryson or Schrammeck properties for the C-G zone.***

- 4.2 No change in the uses specified in this Agreement shall be allowed without modification of this Agreement.

## EXHIBIT A

### 5. CONDITIONS GOVERNING DEVELOPMENT OF SUBJECT PROPERTY:

5.A "Owner" shall develop the "Property" in accordance with the following special conditions:

1. Removal of any existing domestic wells and/or septic systems within this project from their domestic service must be accomplished at such time as the "Owners" change the current use of "Property" or otherwise develop the "Property" in accordance with the terms hereof.
2. Any future uses of the property shall be approved only through the conditional use permit process. In addition, there is a requirement that either a public or private backage street generally parallel with Eagle Road/SH 55 shall be incorporated into the design of future site plans. A conceptual master plan demonstrating interconnectivity, transitional uses, access points and other key land planning issues is required prior to any detailed CUP applications being submitted on either the Bryson or Schrammeck properties.

The following Comprehensive Plan policies (from Chapter VI and VII) shall be applicable to these properties:

#### Transportation Policies Applicable to the Bryson/Schrammeck Annexation:

- "Large development proposals that are likely to generate significant traffic should be assessed for their impact on the transportation system and surrounding land uses. They should be examined for ways to encourage all forms of transportation such as transit, walking, and cycling.
- New development should not rely on cul-de-sacs since they provide poor fire access, walkability, and neighborhood social life. New development and streets should be designed to encourage walking and bicycling.
- In addition to providing for enhanced automobile traffic, Meridian should seek ways to encourage alternative modes of transport. Improvement in and encouraged use of public transit systems is an important first step. Public transit includes bus systems and ridesharing. By fostering such means of high vehicle occupancies, congestion on roadways can be decreased.

## EXHIBIT A

- Pathways that encourage use by bicyclists and pedestrians can decrease road congestion and add to the community's quality of life. The proposed off-street and multiple-use pathway systems are depicted in Figures VI-3 and VI-4. New and existing developments should ensure that the guidelines laid out in this plan are adopted.
- Eagle Road is the major north-south arterial in Ada County. The capacity of this arterial should be protected by minimizing the number and location of private driveway access connections to this important roadway. The City should recognize, adopt, and help implement the Eagle Road Access Control Study, prepared by ACHD in 1997."

### Mixed Use Development Policies Applicable to the Bryson/Schrammeck Annexation:

- "Where feasible, multi-family residential uses will be encouraged, especially for projects with the potential to serve as employment destination centers and when the project is adjacent to State Highways 20-26, 55 or 69;
- In developments where multiple commercial and/or office buildings are proposed (not residential), the buildings should be arranged to create some form of common, usable area, such as a plaza or green space;
- Where the project is developed adjacent to low or medium density residential uses, a transitional use is encouraged."

3. All irrigation ditches, laterals or canals, exclusive of natural waterways, intersecting, crossing or lying adjacent and contiguous to the parcel shall be tiled per City Ordinance 12-4-13. Plans will need to be approved by the appropriate irrigation/drainage district, or lateral users association, with written confirmation of said approval submitted to the Public Works Department.

# EXHIBIT A

## B. Legal Description & Exhibit Map for Property Subject to New Development Agreement

### EXHIBIT "A"

#### Legal Description of the Property

A portion of the Southwest quarter of the Northwest quarter of Section 4, Township 3 North, Range 1 East, Boise Meridian, more particularly described as follows:

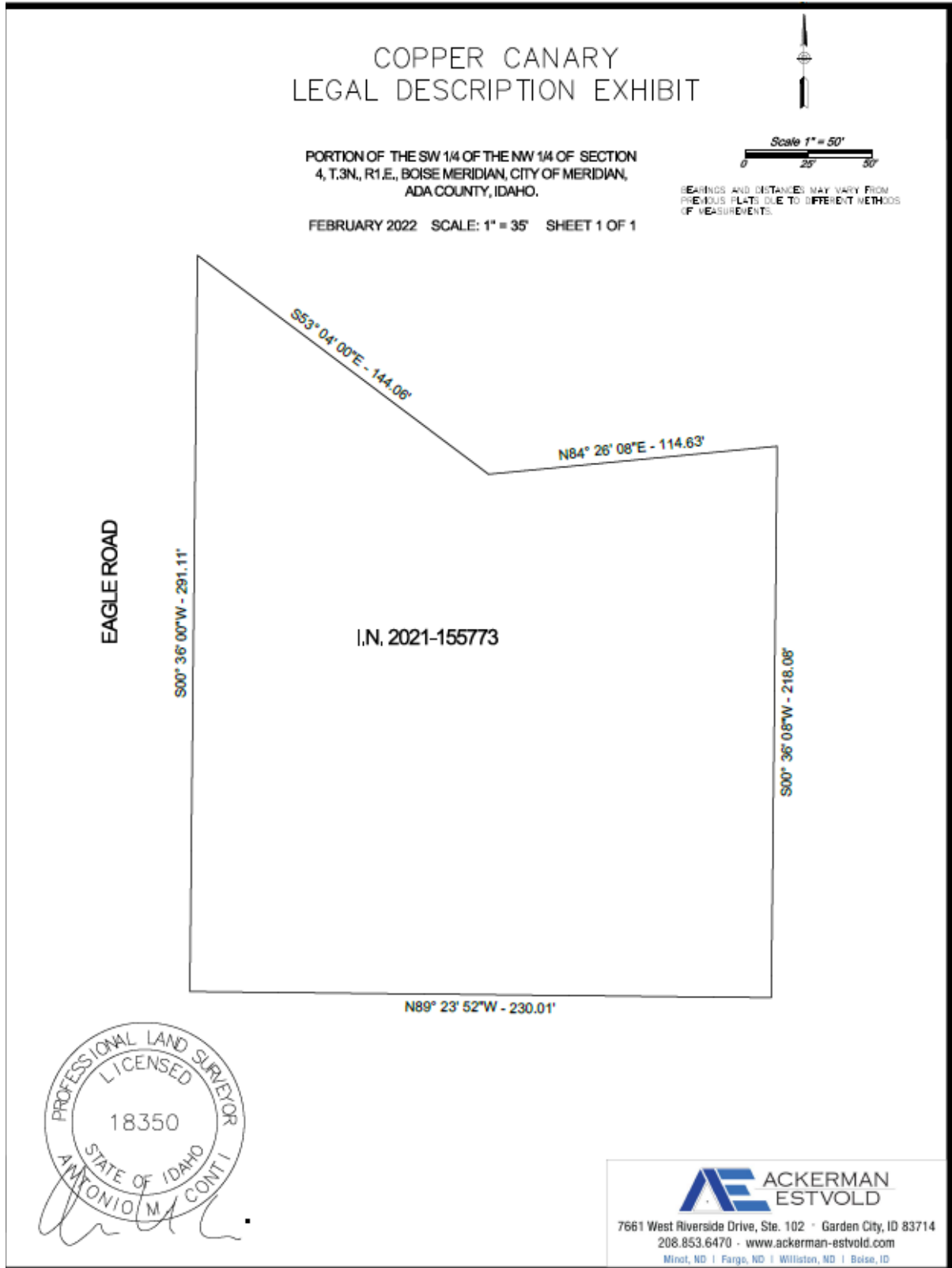
Commencing at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 4, Township 3 North, Range 1 East, Boise Meridian, Ada County, Idaho; thence South along the West line of said Section 4, a distance of 433.62 feet to the Real Point of Beginning; thence South 53° 40' East 231.00 feet to a point; thence North 83° 50' East 114.57 feet to a point; thence South 218.05 feet to a point; thence West 300.00 feet to a point on the West line of said Section 4; thence North 342.64 feet to the Point of Beginning.

Excepting a 25 foot strip on the West side for highway right-of-way.

Also Excepting a parcel of land being on the Easterly side of the centerline of State Highway No. 55 (Eagle Road), Project No. NH-F-3271(037) Highway Survey, as shown on the plans thereof now on file in the office of the Idaho Transportation Department, and being a portion of the Southwest quarter of the Northwest quarter of Section 4, Township 3 North, Range 1 East, Boise Meridian, described as follows to-wit:

Commencing at the Northwest corner of the Southwest quarter of the Northwest quarter of Section 4, Township 3 North, Range 1 East, Boise Meridian that bears North 89° 23' 47" West 0.34 feet from Station 155+31.73 of said State Highway No. 55 (Eagle Road), Project NH-F-3271(037) Highway Survey; thence South 0° 36' 13" West (shown of record to be South) along the West line of said Southwest quarter of the Northwest quarter a distance of 765.43 feet (shown of record to be 776.26 feet) to the Southwest corner of the tract of land as described in that certain Warranty Deed dated January 24, 1975, recorded January 24, 1975, as Instrument No. 912958, records of Ada County, Idaho, said corner being a point in the centerline of said State Highway No. 55, that is coincident with Station 147+66.31 of said Highway Survey and being the Real Place of Beginning; thence South 89° 23' 47" East (shown of record to be East) along the South line of said tract of land 70.0 feet to a point in a line parallel with and 70.0 feet Easterly from the centerline and bears South 89° 23' 47" East from Station 147+66.31 of said Highway Survey; thence North 0° 36' 13" East along said parallel line a distance of 291.05 feet to a point in the Northerly line of said tract of land and being opposite Station 150+57.35 of said Highway Survey; thence North 53° 03' 47" West (shown of record to be North 53° 40' West) along said Northerly line 86.89 feet to the Northwest corner of said tract of land, said corner being a point in the West line of said Southwest quarter of the Northwest quarter, said West line being coincident with the centerline of said State Highway No. 55, and said point being coincident with Station 151+08.84 of said Highway Survey; thence South 0° 36' 13" West along said West line being coincident with said centerline 342.53 feet to the Real Place of Beginning.

# EXHIBIT A



# EXHIBIT A

## C. Proposed Conceptual Development Plan

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE. DATE OF DECLASSIFICATION IS INDEFINITE. AUTHORITY: 25 U.S.C. 1621. REVIEWED BY: [REDACTED]



### CONCEPTUAL SITE PLAN

SCALE: 1/32" = 1'-0"

1

COPPER CANARY SITE WORK  
2500 N. EAGLE RD  
CONCEPTUAL SITE PLAN  
12.13.21  
BC- 21111

# EXHIBIT A

## D. Proposed Development Agreement Provisions

*Staff's recommended changes to the proposed provisions are shown in strike-out/underline format.*

1. USES PERMITTED BY THIS AGREEMENT: This Agreement shall vest the right to develop the Property in accordance with the terms and conditions of this Agreement.

1.1 The uses allowed pursuant to this Agreement are only those uses allowed as permitted, conditional and/or accessory uses under the UDC.

1.2 No change in the uses specified in this Agreement shall be allowed without modification of this Agreement.

2. CONDITIONS GOVERNING DEVELOPMENT OF SUBJECT PROPERTY:

5.1. Owner/Developer shall develop the Property in accordance with the following special conditions:

a. Development of the Property shall no longer be subject to the terms of the Development Agreement recorded as Instrument No. 104129529.

b. Development of the Property shall be generally consistent with the conceptual development plan depicted on Exhibit "C", attached hereto, and the provisions contained herein.

c. Owner/Developer shall make application for administrative Design Review. Future development shall comply with the structure and site design standards listed in the Architectural Standards Manual. Strict design review of all four sides of the remodeled existing building is required.

d. The existing direct access to the Property via N. Eagle Rd./SH-55 shall continue until vehicular access to the north across the South Slough and to N. Eagle Rd./SH-55 or to the south to E. River Valley St. is provided. At such time, the temporary access to Eagle Rd./SH-55 shall be removed and the street buffer landscaping adjacent to Eagle Road shall be completed consistent with the UDC standards. *Note: The access via N. Eagle Rd./SH-55 depicted on the conceptual development plan along the northern boundary of this site is not approved with this application.*

e. The drive aisle on the east side of the Property shall terminate at the south boundary of the Property as an emergency vehicle access if the adjacent property to the south develops with a residential use. Access will be restricted by a gate that will allow for emergency vehicle. The Owner/Developer shall coordinate the design of the gate with the Meridian Fire Department. However, if the adjacent property to the south develops with a commercial use, access shall not terminate and a through access shall be provided. Cross-access easements shall be granted to the properties to the north and to the south and recorded copies of the easements shall be submitted to the Planning Division with the Certificate of Zoning Compliance application.

## **EXHIBIT A**

f. A Certificate of Zoning Compliance and administrative Design Review applications shall be submitted to and approved by the Planning Division prior to submittal of a building permit application(s).