

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



Date of Order: June 6, 2023
Case No.: H-2023-0006
Applicant: Penelope Riley, Riley Planning Services LLC
In the Matter of: Request for annexation of 1.002 acres of land at 4135 W. Cherry Lane with an R-8 zoning district; a preliminary plat consisting of five (5) residential building lots (including one existing home to remain) and one (1) common lot; and alternative compliance for Crowley Park Subdivision.

Pursuant to testimony and evidence received regarding this matter at the public hearing before the Meridian City Council on May 23, 2023, as to this matter, the City Council enters the following findings of fact, conclusions of law, final decision, and order.

A. Findings of Fact.

1. The facts pertaining to the 1.002 acres of land (“the Property”), the Applicant’s request, and the process are set forth in the staff report for Case No. H-2023-0006, which is 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 common driveway for the proposed subdivision (“Common Driveway”) provides access to five (5) dwelling units, and all of the dwelling units take access from the same side of the Common Driveway.
6. The Common Driveway does not comply with the standards set forth in the Unified Development Code of the City of Meridian (UDC): “Common driveways shall serve a maximum of four (4) dwelling units. In no case shall more than three (3) dwelling units be located on one (1) side of the driveway.” UDC § 11-6C-1(D)(1).
7. Because the Common Driveway does not comply with the standards set forth in UDC section 11-6C-1(D)(1), the Applicant sought and received Director approval to deviate from City standards via alternative compliance.
8. The City Council finds, however, that the Common Driveway does not provide adequate access for emergency vehicles, especially for incidents requiring multiple emergency vehicles.

9. The Common Driveway is the only access to the proposed subdivision, resulting in a safety concern for residents and emergency responders.
10. Based on the foregoing, the City Council finds that the proposed annexation is not in the best interest of the City of Meridian.
11. The City Council further finds that the Applicant could provide better emergency access by eliminating one (1) dwelling unit and modifying the Common Drive.

B. Conclusions of law.

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 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 6th day of June, 2023.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk