

EXHIBIT A

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



In the Matter of the Request for a Modification to the Existing Development Agreement (H-2018-0006 - Inst. #2018-042029) to Remove the Requirement for a Driveway to be Constructed and a Cross-Access/Ingress-Egress Easement Provided to the Adjacent Property to the North (Parcel #R4582530202, 13984 W. Jasmine Ln.), by Fast Eddy's.

Case No(s). H-2021-0068

For the City Council Hearing Date of: November 23 and 30, 2021 (Findings on December 14, 2021)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of November 30, 2021, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of November 30, 2021, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of November 30, 2021, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of November 30, 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.

7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of November 30, 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 a modification to the Development Agreement is hereby approved as modified by City Council during the hearing on November 30, 2021.

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. 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 November 30, 2021

By action of the City Council at its regular meeting held on the 14th day of December, 2021.

COUNCIL PRESIDENT TREG BERNT

VOTED AYE

COUNCIL VICE PRESIDENT BRAD HOAGLUN

VOTED AYE

COUNCIL MEMBER JESSICA PERREAULT

VOTED _____

COUNCIL MEMBER LUKE CAVENER

VOTED AYE

COUNCIL MEMBER JOE BORTON

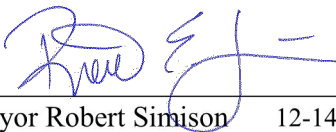
VOTED AYE

COUNCIL MEMBER LIZ STRADER

VOTED _____



MAYOR ROBERT SIMISON
(TIE BREAKER)

VOTED _____



Mayor Robert Simison 12-14-2021

Attest:

Chris Johnson 12-14-2021
City Clerk

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


By:  _____ Dated: 12-14-2021
City Clerk's Office

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STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT



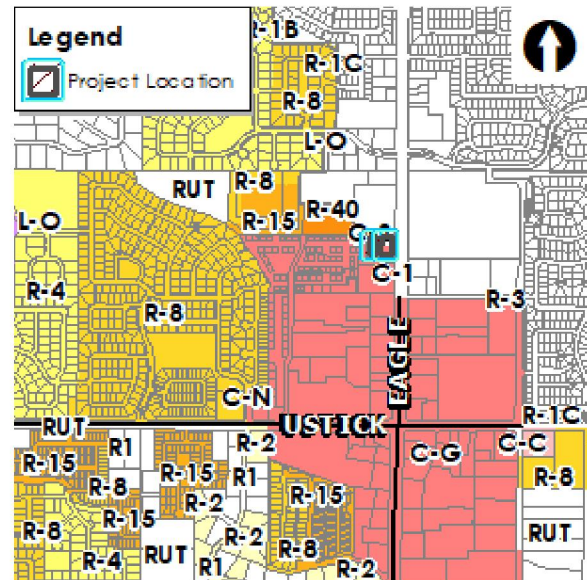
HEARING 11/30/2021
DATE: *Continued from: 11/23/2021*

TO: Mayor & City Council

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

SUBJECT: H-2021-0068
Fast Eddy's at Eagle

LOCATION: 3775 N. Eagle Rd., in the SE ¼ of
Section 32, Township 4N., Range 1E.



I. PROJECT DESCRIPTION

Modification to the existing Development Agreement (H-2018-0006 - Inst. #2018-042029) to remove the requirement for the driveway along the west side of the retail store to be extended to the north property boundary for future extension and interconnectivity in accord with UDC 11-3A-3A; and a cross-access/ingress-egress easement to be provided to the property to the north (Parcel #R4582530202, 13984 W. Jasmine Ln.).

II. SUMMARY OF REPORT

A. Applicant:

Steve Eddy, Fast Eddy's – 2151 N. Greenview Ct., Eagle, ID 83616

B. Owner:

Same as Applicant

C. Representative:

Same as Applicant

III. STAFF ANALYSIS

The UDC (11-3A-3A.2) requires cross-access easements to be granted to adjoining properties where access to a local street is not available unless otherwise waived by City Council. The abutting property to the north fronts on a state highway (N. Eagle Rd./SH-55) and does not have access via a local street. Thus, the reason the driveway access and easement were required. Without this access, the undeveloped parcel to the north would have no access other than the state highway until such time as the property to the west (i.e. Delano Subdivision) develops, which granted a [cross-access easement](#) to them through their multi-family development for access via the future extension of N. Centrepont Way.

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The driveway was required to be constructed and an access easement granted with development of this site prior to issuance of the first Certificate of Occupancy (see provisions in Section V). The Applicant did not wish to construct the driveway or provide an access easement at that time so the Planning Division recommended the Applicant apply for an amendment to the DA to remove the requirements. A temporary Certificate of Occupancy was issued in order for the Applicant to apply for an amendment, which has since expired.

The Applicant proposes to meet with the property owner to the north at the time of development to see if it makes sense to both of them to install an access at that time. *Note: An assisted living facility was approved to develop on the abutting property to the north through a Conditional Use Permit ([CAR20-00004](#) & [PUD20-00008](#)) for a Planned Residential Development in the City of Boise. This approval will expire on March 9, 2022 if a building permit hasn't been obtained by that time; or unless a time extension is approved. The site plan approved with the PUD depicts a driveway access to this site for cross-access/ingress-egress.*

Because this is a UDC requirement, Staff cannot waive the requirement and therefore, cannot support the request. The UDC *does* allow for a Council waiver to this standard if deemed appropriate by City Council.

IV. DECISION

A. Staff:

Staff recommends denial of the modification to the DA as proposed; however, City Council has the authority to waive the requirement in UDC 11-3A-3A.2 and approve the Applicant's request if they deem appropriate.

B. The Meridian City Council heard this item on November 30, 2021. At the public hearing, the Council moved to approve a modification the DA as discussed during the hearing.

1. Summary of the City Council public hearing:

- a. In favor: Steve Eddy
- b. In opposition: None
- c. Commenting: Dave Martin, Stellar Senior Living
- d. Written testimony: None
- e. Staff presenting application: Sonya Allen
- f. Other Staff commenting on application: Joe Bongiorno

2. Key issue(s) of public testimony:

- a. The owner/developer of the property to the north wants the driveway and cross-access to be provided; or at a minimum, an emergency access driveway and easement provided.

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

- a. The possibility of providing an emergency only access instead of a full access to the property to the north;
- b. Concern pertaining to not having an access driveway to the property to the north for cross-access and emergency access.

4. City Council change(s) to Commission recommendation:

- a. Council approved a modification to the DA that only requires an emergency access easement and driveway with bollards acceptable to the Fire Department to be provided to the property to the north. The work associated with the project should be complete within 6 months if possible. Another temporary Certificate of Occupancy should be issued until that time.

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V. EXISTING DEVELOPMENT AGREEMENT PROVISIONS ~~PROPOSED TO BE REMOVED~~ MODIFIED:

5.1

- d. The driveway along the west side of the retail store shall extend to the north property boundary for future extension ~~and interconnectivity in accord with UDC 11-3A-3A as an emergency only access with installation of bollards acceptable to the Fire Department.~~
The work associated with the driveway access shall be completed within six (6) months, if possible, from the date of approval of the Findings for this application (by June 14, 2022).
- e. A cross-access/ingress-egress easement shall be provided to the property to the north (Parcel #R4582530202, 13984 W. Jasmine Ln.) with development of this site in accord with UDC 11-3A-3A.2 for an emergency access only. A recorded copy of said easement shall be submitted to the City prior to issuance of the ~~first~~ Certificate of Occupancy for the convenience store on the site.