

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



**In the Matter of the Request for Variance and Vacation request to allow a one-foot reduction to the required five-foot interior side setback and the public utility, drainage, and irrigation easement on the east side of Lot 10, Block 8 for a newly built home in Southridge Subdivision No. 3, due to a staking error which resulted in the home being constructed one-foot within the setback and easement, by Engineering Solutions, LLP.**

**Case No(s). VAR-2023-0001**

**For the City Council Hearing Date of: April 25, 2023 (Findings on May 9, 2023)**

**A. Findings of Fact**

1. Hearing Facts (see attached Staff Report for the hearing date of April 25, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of April 25, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of April 25, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of April 25, 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 April 25, 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 Variance is hereby approved per the conditions of approval in the Staff Report for the hearing date of April 25, 2023, attached as Exhibit A.

D. 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.

E. 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.

F. Attached: Staff Report for the hearing date of April 25, 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



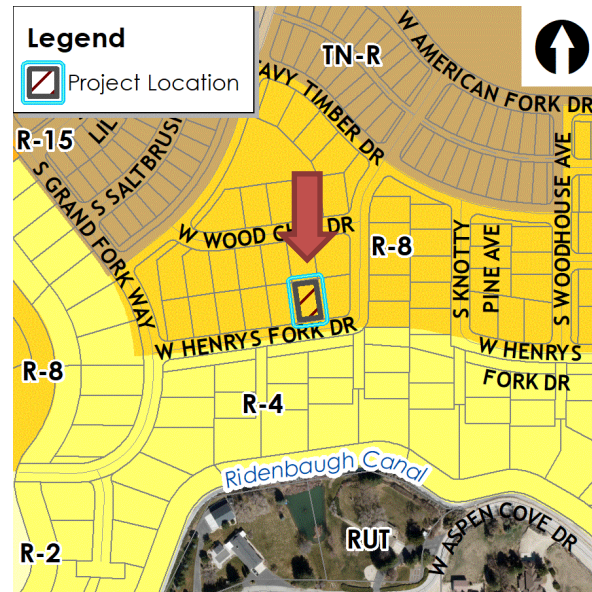
HEARING DATE: April 25, 2023

TO: Mayor & City Council

FROM: Stacy Hersh, Associate Planner  
208-489-0576

SUBJECT: VAR-2023-0001 &  
H-2023-0015  
Southridge No. 3 VAR, VAC

LOCATION: 1938 W. Henrys Fork Drive, in the NE  
1/4 of Section 23, T.3N., R.1W.



### I. PROJECT DESCRIPTION

Variance and vacation request to allow a one-foot reduction to the required five-foot interior side setback and the public utility, drainage and irrigation easement on the east side of Lot 10, Block 8 for a newly built home in Southridge Subdivision No. 3, due to a staking error which resulted in the home being constructed one-foot within the setback and easement.

#### Applicant Information

##### A. Applicant:

Shari Stiles, Engineering Solutions – 1029 N. Rosario Street, Suite 100, Meridian, ID 83642

##### B. Owner:

Jeff Herman, Open Door Rentals LLC – 1977 E. Overland Road, Meridian, ID 83642

##### C. Representative:

Becky McKay, Engineering Solutions, LLP – 1029 N. Rosario Street, Suite 100, Meridian, ID 83642

### II. UNIFIED DEVELOPMENT CODE

Per UDC [Table 11-5A-2](#), variance and vacation of a utility easement require approval from City Council at a public hearing.

### III. NOTICING

	City Council Posting Date
Newspaper Notification	4/9/2023
Radius notification mailed to properties within 300 feet	4/6/2023
Next Door posting	4/6/2023
Public hearing notice sign posted	4/14/2023

### IV. STAFF ANALYSIS

The Applicant requests approval for a variance and to vacate the one-foot wide public utility, drainage and irrigation easement to encroach within 1 foot of the five-foot side yard setback/easement on the east side of Lot 10, Block 8 in Southridge Subdivision No. 3.

Legal descriptions and exhibit maps of the portions of the easements proposed to be vacated are included in Section VII below.

The reason for the request is due to a staking error which resulted in the home being constructed one-foot within the five-foot side yard setback and PUDI easement. The City approved the structural footing inspection and layout of the building on the lot prior to pouring the foundation. The building received certificate of occupancy in 2021 from the City. The encroachment was discovered when the home was purchased in 2022. Because the home has already been built on the subject property, a remedy to correct the deviation is through the approval of a variance and vacation application. The preferred method to remedy this situation would be to process a property boundary adjustment and still vacate a portion of the PUDI the easement, however, there are existing homes adjacent to this property which makes it impractical to adjust the property lines to establish the correct 5-foot interior side yard setback in the R-8 district.

[Relinquishment letters](#) were received from Sparklight, Lumen, Idaho Power, and Intermountain Gas Company stating they have no objection to the vacation of the utility easements as proposed (see section VII.C below). In order for the City to approve the variance request, the Council has to make Findings in the affirmative. Based on the analysis above, Staff believes there is sufficient cause to support the request as noted in the Findings section below for the Council to approve the request.

### V. DECISION

#### A. Staff:

Staff recommends approval of the variance and vacation of utility easements as proposed by the Applicant per the Findings in section VII. below.

#### B. The Meridian City Council heard these items on April 25. At the public hearing, the Council moved to approve the subject Variance request.

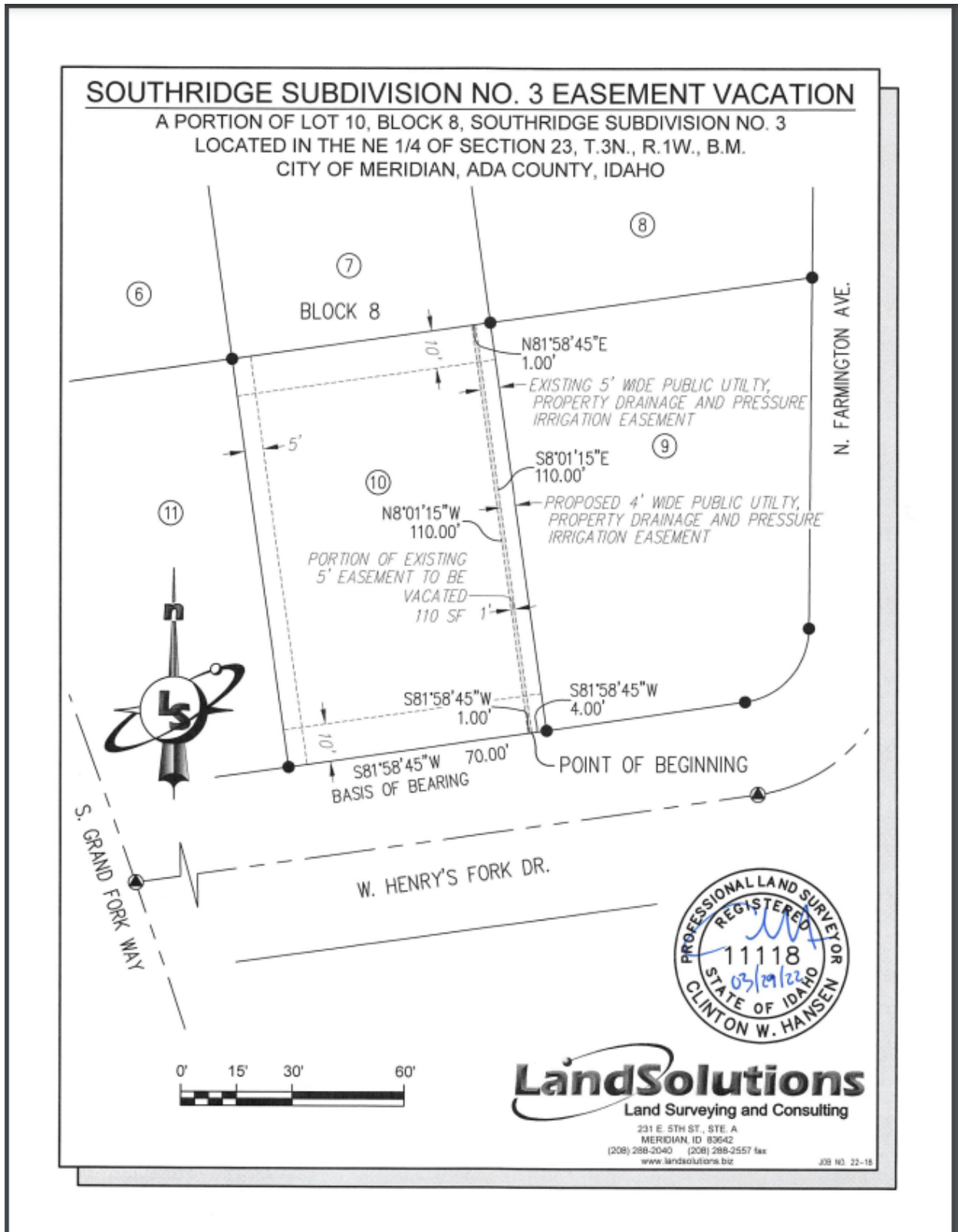
##### 1. Summary of the City Council public hearing:

- a. In favor: Becky McKay, Engineering Solutions
- b. In opposition: None
- c. Commenting: Becky McKay, Engineering Solutions
- d. Written testimony: None
- e. Staff presenting application: Stacy Hersh, Associate Planner
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:
  - a. None
3. Key issue(s) of discussion by City Council:
  - a. None

**VI. EXHIBIT**

Legal Descriptions & Exhibit Maps of the Portion of the Utility Easements Proposed to be Vacated



**Legal Description**  
**Public Utility, Property Drainage and Pressure Irrigation Easement Vacation**  
**Lot 10, Block 8, Southridge Subdivision No. 3**

A portion of an existing Public Utility, Property Drainage and Pressure Irrigation easement in Lot 10 of Block 8 of Southridge Subdivision No. 3, as shown in Book 118 of Plats on Pages 18003 through 18007, records of Ada County, Idaho, being located in the NE ¼ of Section 23, Township 3 North, Range 1 West, Boise Meridian, City of Meridian, Ada County, Idaho, and more particularly described as follows:

Commencing at a ½ inch iron pin monument marking the southeasterly corner of said Lot 10, from which a ½ inch diameter iron pin monument marking the southwesterly corner of said Lot 10 bears S 81°58'45" W a distance of 70.00 feet;

Thence along the southerly boundary of said Lot 10 S 81°58'45" W a distance of 4.00 feet to the **POINT OF BEGINNING**;

Thence continuing along said boundary S 81°58'45" W a distance of 1.00 feet to the endpoint of the westerly boundary of an existing 5.00 foot wide Public Utility, Property Drainage and Pressure Irrigation easement as shown on the plat of said Southridge Subdivision No. 3;

Thence along said westerly easement boundary N 8°01'15" W a distance of 110.00 feet to a point on the northerly boundary of said Lot 10;

Thence along said northerly boundary N 81°58'45" E a distance of 1.00 feet to a point;

Thence leaving said boundary S 8°01'15" E a distance of 110.00 feet to the **POINT OF BEGINNING**.

This easement vacation area contains 110 square feet (0.003 acres) and is subject to any other easements existing or in use.

This description was prepared from data of record and does not represent a field survey of the subject property.

Clinton W. Hansen, PLS  
Land Solutions, PC  
March 29, 2022



Southridge Subdivision No. 3  
Utility Easement Vacation  
Job No. 22-18  
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## VII. FINDINGS

### A. Variance (UDC 11-5B-4):

1. The variance relieves an undue hardship because of characteristics of the site;

*Staff finds there are characteristics that hinder this site because the home has already been built on the subject property. The preferred method to remedy this situation would be to process a property boundary adjustment and still vacate a portion of the PUDI easement, however, there are existing homes adjacent to this property which makes it impractical to adjust the property lines to establish the correct 5-foot interior side yard setback in the R-8 district.*

2. The variance shall not be detrimental to the public health, safety, and welfare.

*Staff finds granting the variance should not be detrimental to the public health, safety and welfare.*