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Via Electronic Mail ([dfluke@cityofboise.org](mailto:dfluke@cityofboise.org))

September 6, 2019

Daren Fluke, AICP  
Deputy Director, Comprehensive Planning  
Planning & Development Services  
150 N. Capitol Boulevard  
Boise, Idaho 83701

**Re: CPA18-00003 – DevCo Real Estate Development**

Dear Daren:

As discussed by phone, I am working with the applicant in connection with Meridian City Application No. H-2019-0027, also known as the proposed Delano Subdivision (the “**Project**”). With this letter, we are requesting that the Boise City Council take up the previously submitted request to discuss an amendment to the area of city impact boundaries in the location of the Project.

As further detailed below, this case is much like CAR17-00001, in which Boise City de-annexed the Fast Eddy’s property to allow that project to develop under one jurisdiction. As was the case in the Fast Eddy’s example, “it is easier and less costly for the project to be developed within the City of Meridian.”<sup>1</sup> Here, Meridian has public services stubbed to the property boundary in two locations. Boise City services, meanwhile, would require not only boring under Eagle Road, but would require a lift station. The Project should move forward in one jurisdiction and we believe the appropriate choice is Meridian.

Everyone involved in the Project has a long, much-appreciated history with the City of Boise. There is no disrespect intended and, we hope, none taken by Boise City. We are simply trying to navigate a situation in which the Project and the individual properties are split across area of impact lines.

We look forward to further discussion with the Council at its nearest opportunity.

Very truly yours,

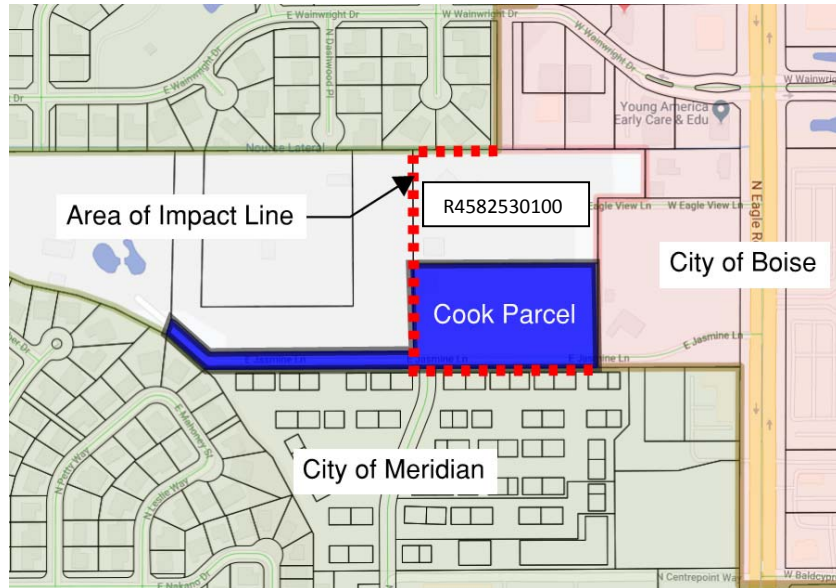
T. Hethe Clark  
HC/bdb

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<sup>1</sup> CAR17-00001 Staff Report, at 2.

### Background Regarding the Properties

As noted above, the Project and the specific properties are split by the area of impact boundary between Boise City and Meridian. As shown below, while much of the Cook Parcel is on the Boise side, it includes a flag leg that is on the Meridian side of the area of impact boundary:



The parcel to the northeast (R4582530100) is within the Boise City area of impact; however, it is not under the control of this applicant and is not part of the Project. The Project boundaries are shown below in purple. As you can see, the majority of the Project is in the Meridian area of city impact.



The red dots in the above figure show Meridian and Boise City sewer connections and illustrate why this Project is proposed to go forward in Meridian. Suez Water has agreed that it will not include this site within its project boundaries given its trunk line location on the other side of Eagle Road (requiring boring across Eagle Road) and the need for an easement across the property to the east of the Project. If Boise were to provide sewer, it would similarly require boring underneath Eagle Road and a third-party easement. Sewer service would also require a lift station. All of these factors point strongly to this Project moving forward in Meridian.

### **Background Regarding this Request**

Given the split in the area of impact boundary, this begs the question of how a property owner or developer should resolve this issue. There are two separate processes for annexation outside of an area of impact identified in Meridian and Boise City's area of impact agreements with Ada County. Meridian's agreement with Ada County is far simpler and states that Meridian may annex properties outside of its area of city impact if they are contiguous and the owner has requested annexation.<sup>2</sup> Boise's agreement with Ada County, on the other hand, states that Boise "shall renegotiate its area of city impact boundary with Ada County" if it is to annex outside its area of city impact.<sup>3</sup>

This distinction and the utility issues identified above lead to two significant points. First, annexation into Meridian makes significantly more sense from a public services perspective. Meridian can more easily and cost-effectively serve this property, and its future residents are more likely to take advantage of Meridian parks and city facilities. Second, annexation into Meridian is far more straight-forward from a process perspective as Meridian has authority to annex without a time-consuming and uncertain area of impact renegotiation. The specter of this re-negotiation process is significant, particularly to the Cook property, as it is located within both areas of city impact and could be left in limbo if the re-negotiation does not occur on a timely basis. We worry that this property, owned by a retired school teacher, may not get the attention needed to complete a re-negotiation under the timeline needed for development.

Given all these factors, the decision was made to request annexation into Meridian. As stated above, this is not intended as a slight to the City of Boise. Everyone involved in this Project works in the City of Boise on a regular basis and appreciates the chance to do so. This decision was based solely on factors specific to this Project, each of which suggest that this Project should be in Meridian. Accordingly, we commenced this discussion in April 2018 by letter explaining the quandary and request. On May 30, 2018, Meridian City Staff provided a letter to Hal Simmons that agreed with the applicant's position. It, first, outlined the City of Meridian's ability to serve the property in question, but also pointed out that development in Meridian would allow Centrepoint Way to connect to Wainwright Drive, completing the collector network between Ustick Road and Wainwright Drive.

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<sup>2</sup> Ada County Code Section 9-4-2.A

<sup>3</sup> Ada County Code Section 9-3-2.

Boise City Comprehensive Planning subsequently provided a Memorandum to the Mayor and Boise City Council regarding this request. As noted in that document, there is no formal application process nor are there specific standards for this request—it is a question of policy and discretion based on several factors. Critical among these is utilities. As noted in the report:

*While the property is serviceable with Boise City sewer and Suez Water via Eagle Road, an easement would be required across an intervening property. Upon review by Public Works staff, sewer service is feasible but is not recommended via Eagle Road due to the topography of the site and the resulting shallow depth of the line near the western terminus. The City of Meridian has indicated that they are amenable to the applicant's request and can serve the site with city services including sewer and water. Meridian sewer stubs currently exist to the south and north sections of the proposed subdivision that will need to be connected when developed.<sup>4</sup>*

In short, Meridian is prepared to serve the property through stubs on the north and south. Service in Boise City will be a financial and engineering challenge as it will require boring through Eagle Road, negotiation of a third-party easement, and overcoming the shallow depth of the existing sewer line. It is our understanding that it will require a lift station—something the City Council determined was a sufficient reason to deny an annexation request on Bogus Basin Road earlier this year.<sup>5</sup>

Largely for these reasons, Boise City staff recommended transferring both properties to the City of Meridian area of impact. At the May 8, 2018 working session, it appeared that Boise City Council would not be adopting the staff recommendation due, largely, to property tax implications. This put the applicant in the difficult position of asking one city to approve what the other city appeared ready to deny. Acting in good faith and with intent to avoid placing the cities in this conflict, the applicant withdrew the request for a determination in order to avoid a specific determination that Meridian would be asked to subsequently ignore.

Since that time, the applicant has proceeded with the Delano Subdivision application before the City of Meridian (H-2019-0027CPAM, PP, AZ). We have since received the letter from Boise City Planning and Development Services dated April 26, 2019, which requests that this application be denied or deferred until such time as the Boise City Council consents to a boundary adjustment.

We disagree with certain of the comments contained in the letter—for example, the suggestion that this application does not comply with Idaho Code 50-222 and the process for Category A annexations. This application includes a request for a comprehensive plan map amendment and the landowner has consented, meaning Category A annexation requirements are satisfied. We also would point the City to

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<sup>4</sup> CAR17-00001 Staff Report, at 3 (emphasis added).

<sup>5</sup> CAR18-00019, CFH18-00084, SUB18-00046.

its own staff responses regarding public utility costs and efficiencies in the City's own prior staff report recommending this change. Regardless, Mr. Fluke's letter prompted us to re-engage with Boise City to complete the process that was begun last year.

### **Difficulties Created if Boise City Denies Request**

While the position in which the applicant finds itself is uncomfortable, we remain convinced that Meridian is in a better position to serve the Project from a utilities perspective. Services from Boise will be costly with higher maintenance and service costs due to the likely requirement of a lift station. This emphasizes the need for the Project to be in one jurisdiction or the other—the cost of service for a return of half of the Project's units (if the Project is split across jurisdictions) will not be an effective use of either city's resources. Development in Meridian will also facilitate the area collector network by connecting Wainwright Drive to Centrepoint Way. The connection points for these roadways are on the Meridian side of these area of impact lines.

Finally, forcing the Project into Boise will beg procedural questions for Mr. Cook, in particular. As noted above, his property is split by the area-of-city-impact boundaries and he will be held hostage to a re-negotiation process of indeterminate length if his property cannot be taken into Meridian.

For all of the above reasons, we believe it is more appropriate for this Project to be developed in Meridian. We ask the Boise City Council to consider these factors and recommend that this Project move forward as proposed.