

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



In the Matter of the Request for a Short Plat to Condominiumize an Existing Building to Create Ten (10) Units for Ownership Purposes, on 2.419 Acres of Land in the C-G Zoning District, by BVA Development.

Case No(s). SHP-2022-0002

For the City Council Hearing Date of: March 22, 2022 (Findings on April 5, 2022)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of March 22, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of March 22, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of March 22, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of March 22, 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 Conditions of Approval all in the attached Staff Report for the hearing date of March 22, 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 Short Plat is hereby approved per the conditions of approval in the Staff Report for the hearing date of March 22, 2022, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Preliminary Plat Duration

Please take notice that approval of a preliminary plat, combined preliminary and final plat, or short plat shall become null and void if the applicant fails to obtain the city engineer's signature on the final plat within two (2) years of the approval of the preliminary plat or the combined preliminary and final plat or short plat (UDC 11-6B-7A).

In the event that the development of the preliminary plat is made in successive phases in an orderly and reasonable manner, and conforms substantially to the approved preliminary plat, such segments, if submitted within successive intervals of two (2) years, may be considered for final approval without resubmission for preliminary plat approval (UDC 11-6B-7B).

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-6B-7.A, the Director may authorize a single extension of time to obtain the City Engineer's signature on the final plat not to exceed two (2) years. Additional time extensions up to two (2) years as determined and approved by the City Council may be granted. With all extensions, the Director or City Council may require the preliminary plat, combined preliminary and final plat or short plat to comply with the current provisions of Meridian City Code Title 11. If the above timetable is not met and the applicant does not receive a time extension, the property shall be required to go through the platting procedure again (UDC 11-6B-7C).

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 March 22, 2022

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

COUNCIL PRESIDENT TREG BERNT VOTED_____

COUNCIL VICE PRESIDENT BRAD HOAGLUN VOTED_____

COUNCIL MEMBER JESSICA PERREAULT VOTED_____

COUNCIL MEMBER LUKE CAVENER VOTED_____

COUNCIL MEMBER JOE BORTON 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.

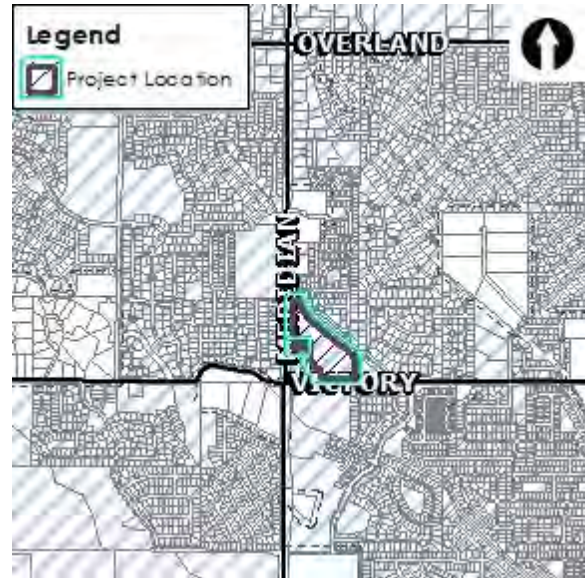
By: _____ Dated: _____
City Clerk's Office

EXHIBIT A

STAFF REPORT COMMUNITY DEVELOPMENT DEPARTMENT



HEARING DATE: 3/22/2022
TO: Mayor & City Council
FROM: Alan Tiefenbach, Associate Planner
208-884-5533
SUBJECT: SHP-2022-0002
Victory Commons Condominiums
LOCATION: The site is located at 2976 S. Meridian Rd., in the southwest ¼ of Section 19, T.3N. R.1E.



I. PROJECT DESCRIPTION

Short plat to condominiumize an existing building to create ten (10) units for ownership purposes, by BVA Development.

II. APPLICANT INFORMATION

A. Applicant:

Jackson Cleverley, BVA Development – 2775 W. Navigator Dr, Meridian, ID 83642

B. Owner:

BVA Victory Commons Flex No 1 LLC - PO Box 51298, Idaho Falls, Idaho 83405

C. Representative:

Same as Applicant

III. NOTICING

	City Council Posting Date
Legal notice published in newspaper	3/6/2022
Radius notice mailed to property owners within 500 feet	3/7/2022
Posted to Next Door	3/8/2022

IV. STAFF ANALYSIS

The subject property contains an existing 29,600 sq. ft. flex building which was approved by Certificate of Zoning Compliance in April of 2020 (A-2020-0007). At the time the CZC was approved, the property was being constructed on a lot that was platted with the Mussell Corner Subdivision.

In June of 2020, the property was replatted as Lot 4, Block 1 of Victory Commons Subdivision (H-2020-0086). In March of 2022, the lot was reconfigured as Lot 4, Block 2 of Victory Commons Subdivision No. 2 (H-2021-0054).

The present proposal is to condominiumize the existing building into 10 units of air space. The individual unit spaces can be seen on Page 2 of the short plat shown in Section VI.A.

Staff has reviewed the proposed short plat for substantial compliance with the criteria set forth in UDC 11-6B-5A.2 and deems the short plat to be in compliance with said requirements.

V. DECISION

A. Staff:

Staff recommends approval of the proposed short plat with the conditions noted in Section VII of this report and in accord with the findings in Section VIII.

B. The Meridian City Council heard these items on March 22, 2022. At the public hearing, the Council moved to approve the subject short plat request.

1. Summary of the City Council public hearing:

- a. In favor: Tom Peterson
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: None
- e. Staff presenting application: Alan Tiefenbach
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. One citizen testified with concerns regarding traffic and construction impacts of the Victory Commons development.

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

- a. None

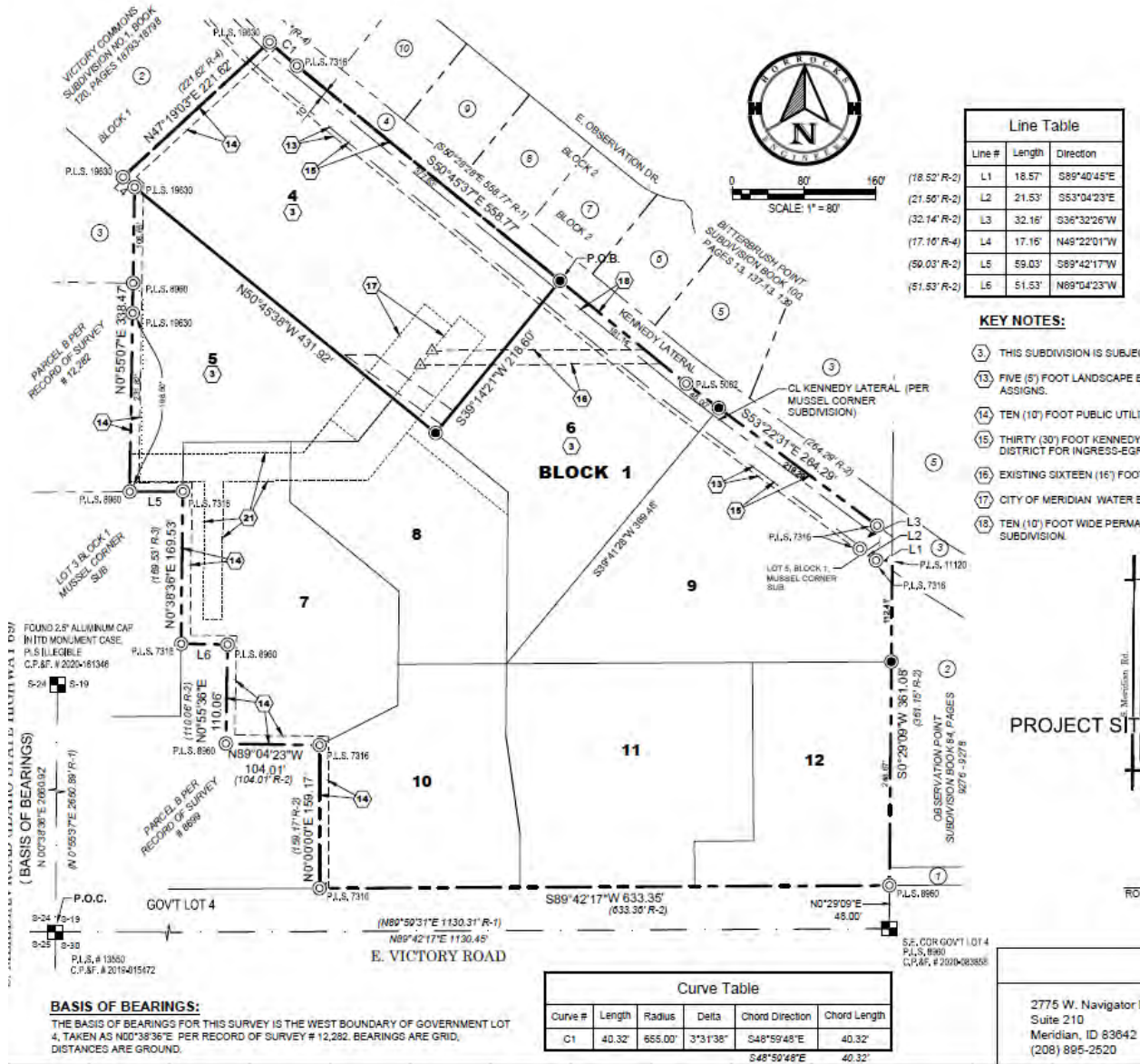
4. City Council change(s) to Commission recommendation:

- a. None

VI. EXHIBITS

A. Short Plat (date: 11/8/2021)

-2021-



Line #	Length	Direction
L1	18.57'	S89°40'45"E
L2	21.53'	S53°04'23"E
L3	32.16'	S36°32'26"W
L4	17.16'	N49°22'01"W
L5	59.03'	S89°42'17"W
L6	51.53'	N89°04'23"W

- KEY NOTES:**
- ③ THIS SUBDIVISION IS SUBJECT TO
 - ⑬ FIVE (5) FOOT LANDSCAPE ASSIGNMENTS.
 - ⑭ TEN (10) FOOT PUBLIC UTILITY
 - ⑮ THIRTY (30) FOOT KENNEDY DISTRICT FOR INGRESS-EGRESS
 - ⑯ EXISTING SIXTEEN (16) FOOT
 - ⑰ CITY OF MERIDIAN WATER E
 - ⑱ TEN (10) FOOT WIDE PERMANENT

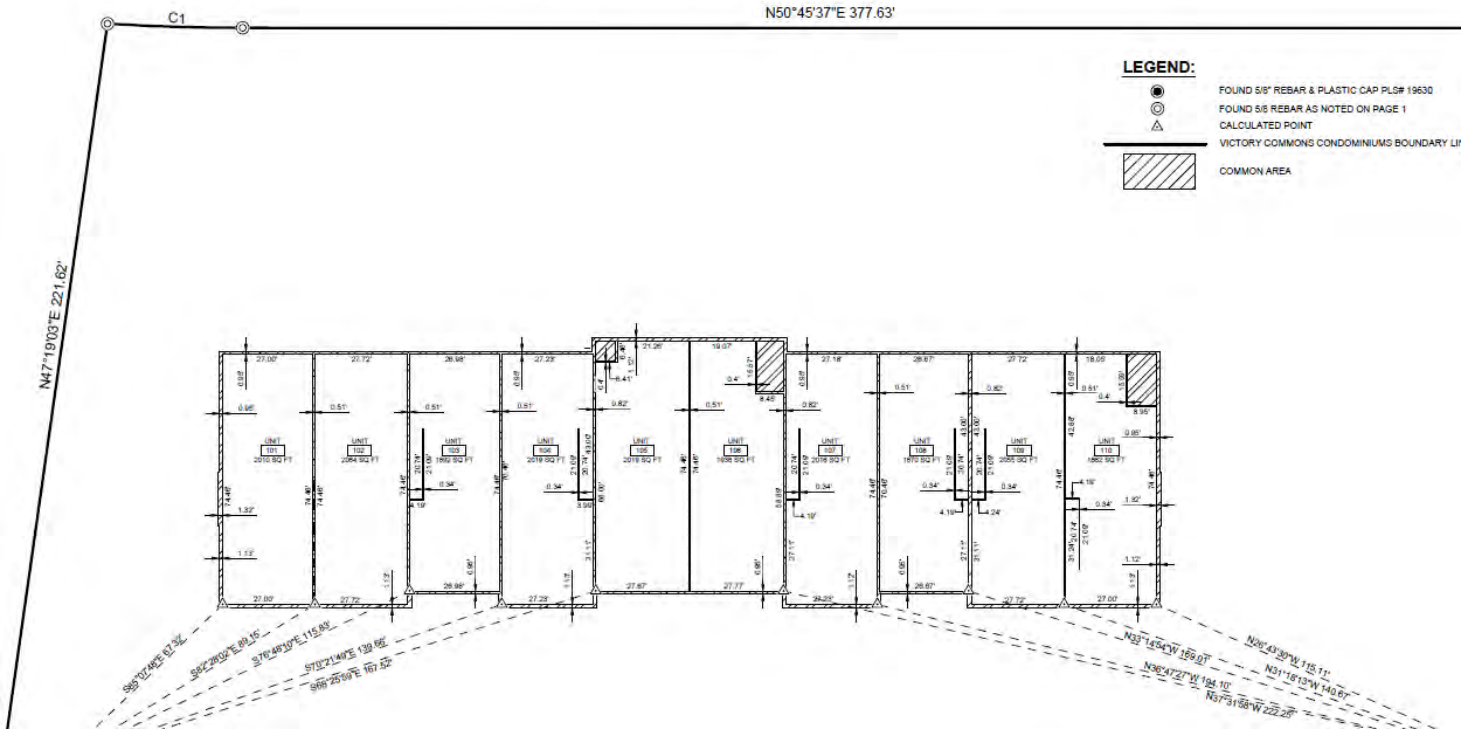
Curve #	Length	Radius	Delta	Chord Direction	Chord Length
C1	40.32'	655.00'	3°13'38"	S48°59'48"E	40.32'
				S48°59'48"E	40.32'

BASIS OF BEARINGS:
 THE BASIS OF BEARINGS FOR THIS SURVEY IS THE WEST BOUNDARY OF GOVERNMENT LOT 4, TAKEN AS N00°38'36"E PER RECORD OF SURVEY # 12,282. BEARINGS ARE GRID. DISTANCES ARE GROUND.

2775 W. Navigator I
 Suite 210
 Meridian, ID 83642
 (208) 895-2520

VICTORY COMMONS CONDOMINIUMS

BOOK _____ PAGE _____



VII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING DIVISION

Site Specific Conditions:

1. All development shall comply with the terms of the approved preliminary plat (H-2019-0150), development agreement (Inst. 2019-119405), final plat (H-2021-0054), certificate of zoning compliance (A-2020-0007) and any future amendments to that agreement as applicable.
2. Prior to submittal for the City Engineer's signature, have the Certificate of Owners and the accompanying acknowledgement signed and notarized, as well as the signatures of the Ada County Highway District and the Central District Health Department.
3. Staff's failure to cite specific ordinance provisions or conditions from the previous approvals noted above does not relieve the Applicant of responsibility for compliance.

B. PUBLIC WORKS

(Common) SITE SPECIFIC CONDITIONS:

1. Developer is required to enter into a reimbursement agreement for the installation of one streetlight that was installed on Chinden Boulevard as part of the widening project. The developer is required to sign the reimbursement agreement and pay the installation amount of \$8,465.00 prior to signature of the plat.
2. No changes to public works infrastructure was shown with the application, any public works changes must be reviewed by public works engineering prior to approval or construction.

GENERAL CONDITIONS:

1. Sanitary sewer service to this development is available via extension of existing mains adjacent to the development. The applicant shall install mains to and through this subdivision; applicant shall coordinate main size and routing with the Public Works Department, and execute standard forms of easements for any mains that are required to provide service. Minimum cover over sewer mains is three feet, if cover from top of pipe to sub-grade is less than three feet than alternate materials shall be used in conformance of City of Meridian Public Works Departments Standard Specifications.
2. Water service to this site is available via extension of existing mains adjacent to the development. The applicant shall be responsible to install water mains to and through this development, coordinate main size and routing with Public Works.
3. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures. Where approved by the City Engineer, an owner may post a performance surety for such improvements in order to obtain City Engineer signature on the final plat as set forth in UDC 11-5C-3B.
4. Upon installation of the landscaping and prior to inspection by Planning Department staff, the applicant shall provide a written certificate of completion as set forth in UDC 11-3B-14A.
5. A letter of credit or cash surety in the amount of 110% will be required for all incomplete fencing, landscaping, amenities, pressurized irrigation, prior to signature on the final plat.
6. The City of Meridian requires that the owner post with the City a performance surety in the amount of 125% of the total construction cost for all incomplete sewer, water infrastructure prior to final plat signature. This surety will be verified by a line item cost estimate provided by the owner to the

City. The applicant shall be required to enter into a Development Surety Agreement with the City of Meridian. The surety can be posted in the form of an irrevocable letter of credit, cash deposit or bond. Applicant must file an application for surety, which can be found on the Community Development Department website. Please contact Land Development Service for more information at 887-2211.

7. The City of Meridian requires that the owner post to the City a warranty surety in the amount of 20% of the total construction cost for all completed sewer, and water infrastructure for a duration of two years. This surety amount will be verified by a line item final cost invoicing provided by the owner to the City. The surety can be posted in the form of an irrevocable letter of credit, cash deposit or bond. Applicant must file an application for surety, which can be found on the Community Development Department website. Please contact Land Development Service for more information at 887-2211.
8. In the event that an applicant and/or owner cannot complete non-life, non-safety and non-health improvements, prior to City Engineer signature on the final plat and/or prior to occupancy, a surety agreement may be approved as set forth in UDC 11-5C-3C.
9. Applicant shall be required to pay Public Works development plan review, and construction inspection fees, as determined during the plan review process, prior to the issuance of a plan approval letter.
10. It shall be the responsibility of the applicant to ensure that all development features comply with the Americans with Disabilities Act and the Fair Housing Act.
11. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
12. Developer shall coordinate mailbox locations with the Meridian Post Office.
13. All grading of the site shall be performed in conformance with MCC 11-1-4B.
14. Compaction test results shall be submitted to the Meridian Building Department for all building pads receiving engineered backfill, where footing would sit atop fill material.
15. The engineer shall be required to certify that the street centerline elevations are set a minimum of 3-feet above the highest established peak groundwater elevation. This is to ensure that the bottom elevation of the crawl spaces of homes is at least 1-foot above.
16. The applicants design engineer shall be responsible for inspection of all irrigation and/or drainage facility within this project that do not fall under the jurisdiction of an irrigation district or ACHD. The design engineer shall provide certification that the facilities have been installed in accordance with the approved design plans. This certification will be required before a certificate of occupancy is issued for any structures within the project.
17. At the completion of the project, the applicant shall be responsible to submit record drawings per the City of Meridian AutoCAD standards. These record drawings must be received and approved prior to the issuance of a certification of occupancy for any structures within the project.
18. Street light plan requirements are listed in section 6-7 of the Improvement Standards for Street Lighting (http://www.meridiancity.org/public_works.aspx?id=272). All street lights shall be installed at developer's expense. Final design shall be submitted as part of the development plan set for approval, which must include the location of any existing street lights. The contractor's work and materials shall conform to the ISPWC and the City of Meridian Supplemental Specifications to the ISPWC. Contact the City of Meridian Transportation and Utility Coordinator at 898-5500 for information on the locations of existing street lighting.

19. The applicant shall provide easement(s) for all public water/sewer mains outside of public right of way (include all water services and hydrants). The easement widths shall be 20-feet wide for a single utility, or 30-feet wide for two. The easements shall not be dedicated via the plat, but rather dedicated outside the plat process using the City of Meridian's standard forms. The easement shall be graphically depicted on the plat for reference purposes. Submit an executed easement (on the form available from Public Works), a legal description prepared by an Idaho Licensed Professional Land Surveyor, which must include the area of the easement (marked EXHIBIT A) and an 8 1/2" x 11" map with bearings and distances (marked EXHIBIT B) for review. Both exhibits must be sealed, signed and dated by a Professional Land Surveyor. DO NOT RECORD. Add a note to the plat referencing this document. All easements must be submitted, reviewed, and approved prior to signature of the final plat by the City Engineer.
20. Applicant shall be responsible for application and compliance with and NPDES permitting that may be required by the Environmental Protection Agency.
21. Any wells that will not continue to be used must be properly abandoned according to Idaho Well Construction Standards Rules administered by the Idaho Department of Water Resources. The Developer's Engineer shall provide a statement addressing whether there are any existing wells in the development, and if so, how they will continue to be used, or provide record of their abandonment.
22. Any existing septic systems within this project shall be removed from service per City Ordinance Section 9-1-4 and 9 4 8. Contact the Central District Health Department for abandonment procedures and inspections.
23. The City of Meridian requires that pressurized irrigation systems be supplied by a year-round source of water (MCC 9-1-28.C.1). The applicant should be required to use any existing surface or well water for the primary source. If a surface or well source is not available, a single-point connection to the culinary water system shall be required. If a single-point connection is utilized, the developer will be responsible for the payment of assessments for the common areas prior to development plan approval.
24. All irrigation ditches, canals, laterals, or drains, exclusive of natural waterways, intersecting, crossing or laying adjacent and contiguous to the area being subdivided shall be addressed per UDC 11-3A-6. In performing such work, the applicant shall comply with Idaho Code 42-1207 and any other applicable law or regulation.

VIII. REQUIRED FINDINGS FROM THE UNIFIED DEVELOPMENT CODE

In consideration of a short plat, the decision-making body shall make the following findings:

A. The plat is in conformance with the Comprehensive Plan and is consistent with the Unified Development Code;

The Comprehensive Plan designates the future land use of this property as Commercial. The current zoning district of the site is C-G. Council finds the proposed short plat complies with the Comprehensive Plan and the dimensional standards in the UDC for the C-N district.

B. Public services are available or can be made available and are adequate to accommodate the proposed development;

Council finds that public services are adequate to serve the site.

C. The plat is in conformance with scheduled public improvements in accord with the City's capital improvements program;

Council finds that the development will not require the expenditure of capital improvement funds. All required utilities are being provided with the development of the property at the developer's expense.

D. There is public financial capability of supporting services for the proposed development;

Council finds that the development will not require major expenditures for providing supporting services. Sewer, water, utilities and pressurized irrigation already serve the project.

E. The development will not be detrimental to the public health, safety or general welfare; and

Council finds the proposed short plat to condominiumize the existing structure will not be detrimental to the public health, safety or general welfare.

F. The development preserves significant natural, scenic or historic features.

Council is not aware of any significant natural, scenic or historic features associated with short platting the structure on this site.