

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



In the Matter of the Request for Conditional Use Permit (CUP) for a drive-through establishment within 300-Feet of a Residential Zoning District on 5.31-Acres of Land in the C-G Zoning District for Pine 43 Pad G, Located at 1492 N. Webb Way in the C-G Zoning District, by CSHQA.

Case No(s). H-2021-0097

For the Planning & Zoning Commission Hearing Date of: January 20, 2022 (Findings on February 3, 2022)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of January 20, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of January 20, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of January 20, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of January 20, 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 Planning & Zoning Commission takes judicial notice of its Unified Development Code codified at Title 11 Meridian City Code, and all current zoning maps thereof. The City of Meridian has, by ordinance, established the Impact Area and the Amended Comprehensive Plan of the City of Meridian, which was adopted April 19, 2011, Resolution No. 11-784 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 Chairman of the Commission and City Clerk and then a copy served by the Clerk

upon the applicant, the Planning Department, the Public Works Department and any affected party requesting notice.

7. That this approval is subject to the conditions of approval in the attached staff report for the hearing date of January 20, 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 Planning & Zoning Commission'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 conditional use permit is hereby approved in accord with the conditions of approval in the staff report for the hearing date of January 20, 2022, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Two (2) Year Conditional Use Permit Duration

Please take notice that the conditional use permit, when granted, shall be valid for a maximum period of two (2) years unless otherwise approved by the City in accord with UDC 11-5B-6F.1. During this time, the applicant shall commence the use as permitted in accord with the conditions of approval, satisfy the requirements set forth in the conditions of approval, and acquire building permits and commence construction of permanent footings or structures on or in the ground. For conditional use permits that also require platting, the final plat must be signed by the City Engineer within this two (2) year period in accord with UDC 11-5B-6F.2.

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-5B-6.F.1, the Director may authorize a single extension of the time to commence the use not to exceed one (1) two (2) year period. Additional time extensions up to two (2) years as determined and approved by the Commission may be granted. With all extensions, the Director or Commission may require the conditional use comply with the current provisions of Meridian City Code Title 11.

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 January 20, 2022

By action of the Planning & Zoning Commission at its regular meeting held on the _____ day of _____, 2022.

COMMISSIONER RHONDA MCCARVEL, CHAIRMAN VOTED_____

COMMISSIONER ANDREW SEAL, VICE CHAIRMAN VOTED_____

COMMISSIONER NATE WHEELER VOTED_____

COMMISSIONER STEVEN YEARSLEY VOTED_____

COMMISSIONER WILLIAM CASSINELLI VOTED_____

COMMISSIONER NICK GROVE VOTED_____

COMMISSIONER MARIA LORCHER VOTED_____

Rhonda McCarvel, Chairman

Attest:

Chris Johnson, City Clerk

Copy served upon the Applicant, the Planning and Development Services divisions of the Community Development Department, the Public Works Department and the City Attorney.

By: _____ Dated: _____
City Clerk's Office

EXHIBIT A



STAFF REPORT

COMMUNITY DEVELOPMENT DEPARTMENT

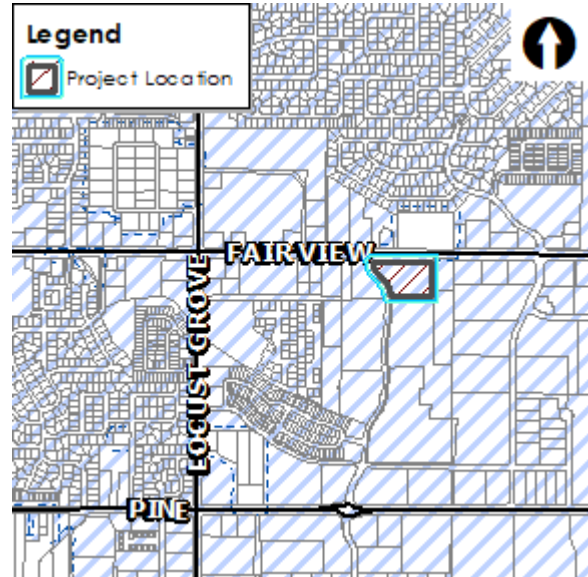
HEARING DATE: 1/20/2022

TO: Planning & Zoning Commission

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

SUBJECT: H-2021-0097
Pine 43 Pad G Drive-Through – CUP

LOCATION: 1492 N. Webb Way, in the NW 1/4 of Section 8, T.3N., R.1E. (Parcel #R7104250566)



I. PROJECT DESCRIPTION

Conditional Use Permit (CUP) for a drive-through establishment within 300' of a residential zoning district on 5.31-acres of land in the C-G zoning district.

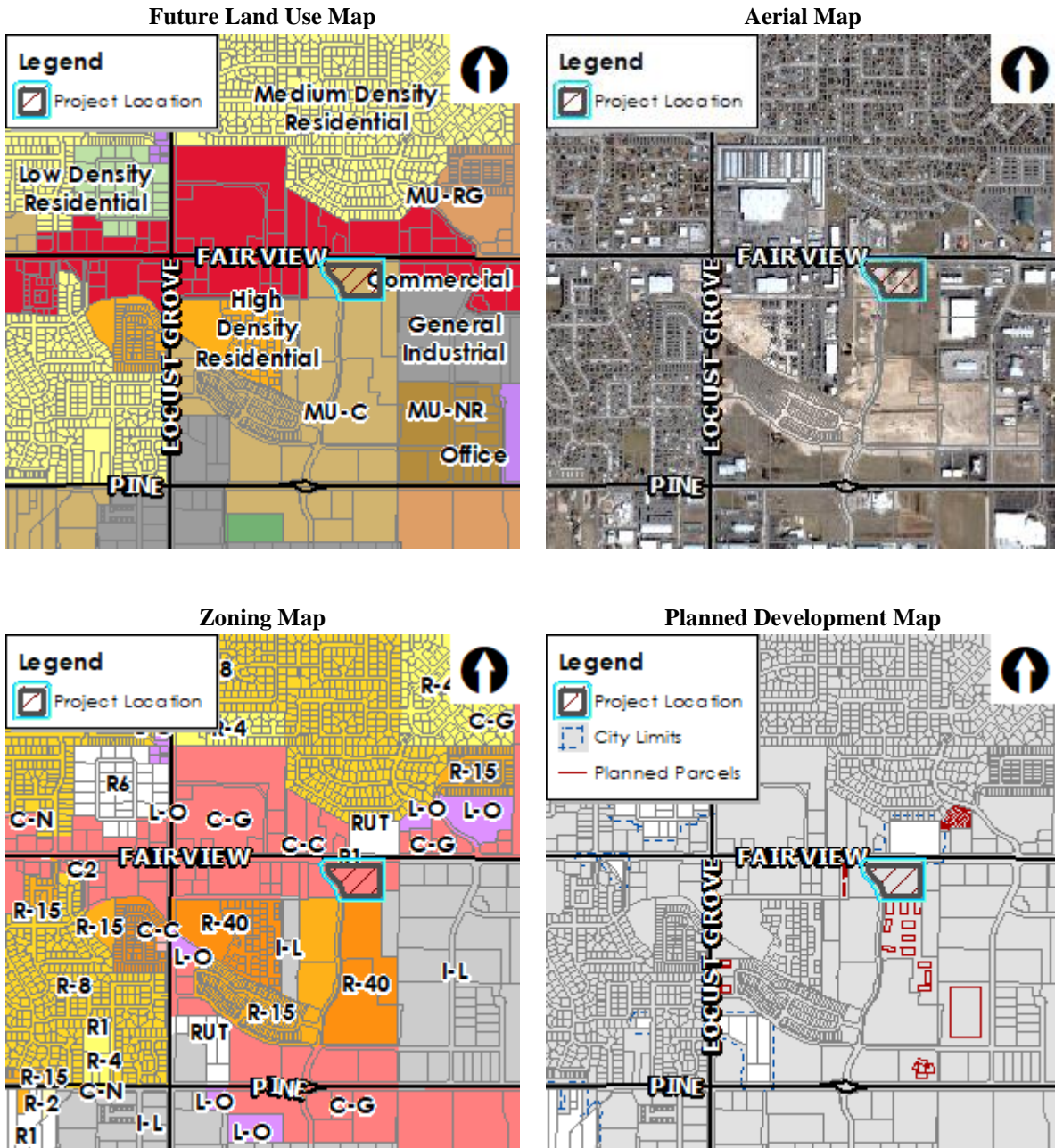
II. SUMMARY OF REPORT

A. Project Summary

Description	Details	Page
Acreage	5.31-acres	
Future Land Use Designation	Mixed Use – Community (MU-C)	
Existing Land Use	Vacant/undeveloped land	
Proposed Land Use(s)	Drive-through establishment	
Current Zoning	General Retail & Service Commercial District (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	None	
History (previous approvals)	H-2017-0058 (Development Agreement Inst. 2018-000751)	

EXHIBIT A

A. Project Area Maps



III. APPLICANT INFORMATION

A. Applicant:

Mandie Brozo, CSHQA – 200 Broad Street, Boise, ID 83702

B. Owner:

Eric Centers, C & O Development, Inc. – 6149 N Meeker Place, Suite 110, Boise, ID 83713

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C. Representative:
Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper Notification	1/4/2022
Radius notification mailed to properties within 300 feet	1/3/2022
Site Posting Date	1/6/2022
Next Door posting	1/6/2022

V. STAFF ANALYSIS

The proposed drive-through establishment is associated with a restaurant use in a 9,800 square foot multi-tenant building located within 300-feet of a residential zoning district, which requires Conditional Use Permit approval (CUP) in the C-G zoning district per UDC Table 11-2B-2 and 11-4-3-11A.1. The residential district (and future multi-family apartments) directly abuts the site at the south boundary.

This site currently consists of 5.31-acres of land. A preliminary plat (H-2017-0058) was approved which includes this site; however, a final plat has not yet been approved to create the lot for this site which is intended to consist of 0.88-acre. **If the portion of this site that is the subject of this application develops prior to a final plat being recorded to subdivide the overall property, the Developer is responsible for constructing all of the street buffer improvements on the existing parcel along N. Webb Way and E. Fairview Ave. These improvements consist of a 20-foot wide street buffer along N. Webb Way, landscaped per the standards listed in UDC 11-3B-7C and 11-3B-12C; and a 25-foot wide street buffer along E. Fairview Ave. with a detached 5-foot wide sidewalk, landscaped per the standards listed in UDC 11-3B-7C. If the property hasn't been subdivided prior to submittal of an application for Certificate of Zoning Compliance for the proposed use, these street buffers and associated improvements should be included on the site and landscape plans and constructed with development of the site.**

Development Agreement: There is an existing Development Agreement (DA) that governs future development of this site ([H-2017-0058](#) – Inst. [2018-000751](#)). The proposed development plan is in substantial conformance with the previously approved conceptual development plan for this site as required.

The DA requires the commercial/office buildings within this development to be arranged to create some form of common, usable area, such as plaza or green space. The DA also requires community serving facilities such as hospitals, churches, schools, parks, daycares, civic buildings, or public safety facilities to be provided within the development. Although Staff is supportive of the proposed development, the Developer should plan for these areas and uses in the remainder of the development.

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Access: Access is proposed from two (2) future driveways from N. Webb Way along the north and south boundaries of the site. The driveway along the south boundary labeled as future Wilson Rd. is not planned to be extended east of Webb so the name should be removed and it should be constructed as a typical driveway. **A cross-access/ingress-egress easement should be granted to the property to the south for interconnectivity; a recorded copy of the agreement should be submitted prior to issuance of Certificate of Occupancy of the proposed structure.**

Pedestrian Pathways/Sidewalks: The DA requires pedestrian connections to be constructed between buildings in the form of pathways distinguished from vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks; the site plan should be revised to include these and should also include a pedestrian connection to the future residential development to the south. A minimum 5-foot wide walkway is depicted from the perimeter sidewalk/pathway along N. Webb Way to the main building entrance as set forth in UDC 11-3A-19B.4a.

The Pathways Master Plan depicts a segment of the City's 10-foot wide multi-use pathway system along the north boundary along Fairview Ave. However, the Park's Dept. isn't requiring one to be provided. ACHD plans to widen Fairview in this area in the future, which will likely include a 7-foot wide sidewalk. Therefore, Staff recommends a minimum 5-foot wide sidewalk is provided in accord with UDC 11-3A-17.

Specific Use Standards: The proposed drive-through establishment is subject to the specific use standards listed in UDC [11-4-3-11](#), Drive-Through Establishment. **A site plan is required to be submitted that demonstrates safe pedestrian and vehicular access and circulation on the site and between adjacent properties.** At a minimum, the plan is required to demonstrate compliance with the following standards: *Staff's analysis is in italics.*

1) Stacking lanes have sufficient capacity to prevent obstruction of driveways, drive aisles and the public right-of-way by patrons;

The stacking lane appears to have capacity for at least seven (7) vehicles and shouldn't obstruct driveways, drive aisles within the site or adjacent public right-of-way.

2) The stacking lane shall be a separate lane from the circulation lanes needed for access and parking, except stacking lanes may provide access to designated employee parking.

The stacking lane meets this requirement.

3) The stacking lane shall not be located within ten (10) feet of any residential district or existing residence;

The stacking lane is not located within 10' of any residential district or residence.

4) Any stacking lane greater than one hundred (100) feet in length shall provide for an escape lane; and

The stacking lane exceeds 100' in length and an escape lane is proposed.

5) The site should be designed so that the drive-through is visible from a public street for surveillance purposes.

The drive-through window is visible from N. Webb Way, a collector street adjacent to the west boundary of the site.

Based on the above analysis, Staff deems the proposed drive-through in compliance with the specific use standards as required.

The site plan submitted with the Certificate of Zoning Compliance application should

EXHIBIT A

identify the menu and speaker location (if applicable), and window location as set forth in UDC 11-4-3-11B.

A 6-foot tall sight obscuring fence is required to be provided where a stacking lane or window location adjoins a residential district or an existing residence as set forth in UDC 11-4-3-11D. A 6-foot tall sight obscuring fence is depicted on the site plan as required.

The proposed restaurant is subject to the specific use standards listed in UDC [11-4-3-49](#) Restaurant, which requires at a minimum, one (1) parking space to be provided for every 250 square feet of gross floor area. **The site plan depicts a total of 48 off-street parking spaces in accord with and exceeding this standard; however, most of the parking is depicted outside the boundary of this site. The boundary of the site/future lot should be expanded so that all of the required parking is on this site.**

Hours of Operation: The hours of operation for the proposed use are limited to 6:00 am to 11:00 pm in the C-G zoning district per UDC 11-2B-3B because the property abuts a future residential use to the south.

Dimensional Standards: Future development should be consistent with the dimensional standards listed in UDC Table [11-2B-3](#) for the C-G zoning district.

Parking: Off-street vehicle parking is proposed in accord with UDC standards as discussed above.

A minimum one (1) bicycle parking space is required to be provided for every 25 vehicle spaces or portion thereof per UDC [11-3C-6G](#); bicycle parking facilities are required to comply with the location and design standards listed in UDC [11-3C-5C](#). Parking for five (5) bicycles is depicted on the site plan in front of the building. **A detail of the bicycle rack should be depicted on a revised site plan submitted with the Certificate of Zoning Compliance application meeting the aforementioned standards.**

Landscaping: Street buffer landscaping is required as noted above.

Parking lot landscaping is required to be provided in accord with the standards listed in UDC 11-3B-8C. The landscape plan does not include the entire site. The plan submitted with the Certificate of Zoning Compliance application should depict the entire site and landscaping in accord with UDC standards.

A 25-foot wide buffer to residential uses is required to be provided to the adjacent residential property to the south, landscaped per the standards listed in UDC [11-3B-9C](#). The buffer area is required to be comprised of a mix of evergreen and deciduous trees, shrubs, lawn, or other vegetative groundcover and shall result in a barrier that allows trees to touch within 5 years of planting. A 15-foot wide landscape buffer and 20-foot wide driveway is depicted on the site plan along the southern boundary of the site between the drive-through and future residential uses. With landscaping that provides a dense buffer and a fence adjacent to the drive-through window, Staff is of the opinion the driveway will assist in providing a spatial buffer and does not recommend a wider landscaped buffer is required; if Commission feels a full 25-foot wide landscaped buffer is needed, they have the authority to add a condition as such.

Mechanical Equipment: All mechanical equipment on the back of the building and outdoor service and equipment should be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets as set forth in UDC [11-3A-12](#).

Building Elevations: Conceptual building elevations for the proposed single-story structure were submitted as shown in Section VII.C that incorporate a mix of materials consisting of wood siding, corrugated metal siding, stucco, concrete, metal, glazing and stone accents.

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The proposed elevations are not approved with this application; final design shall be consistent with the design standards listed in the [Architectural Standards Manual](#) and with the Development Agreement.

Certificate of Zoning Compliance & Design Review: A Certificate of Zoning Compliance and Design Review application is required to be submitted for the proposed use/structure prior to submittal of a building permit application to ensure consistency with the conditions in Section VII, UDC standards and design standards.

VI. DECISION

A. Staff:

Staff recommends approval of the proposed conditional use permit with the conditions included in Section VIII per the Findings in Section IX.

B. The Meridian Planning & Zoning Commission heard this item on January 20, 2022. At the public hearing, the Commission voted to approve the subject CUP request.

1. Summary of the Commission public hearing:

- a. In favor: Mandie Brozo, CSHQA
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: Mandie Brozo, CSHQA (Applicant's Representative) – in agreement with staff report.
- e. Staff presenting application: Bill Parsons
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. None

3. Key issue(s) of discussion by Commission:

- a. Commission discussed how truck deliveries would be accommodated on the site.

4. Commission change(s) to Staff recommendation:

- a. None

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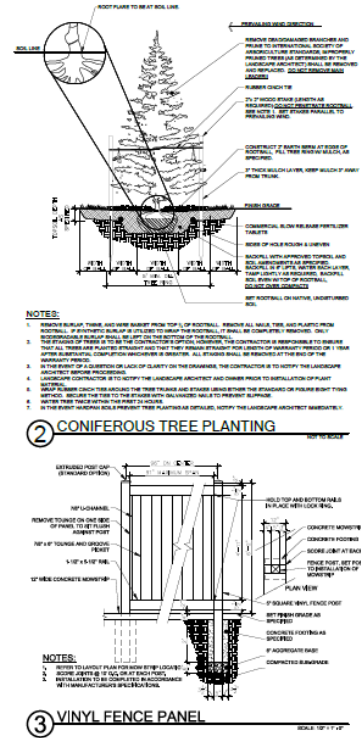
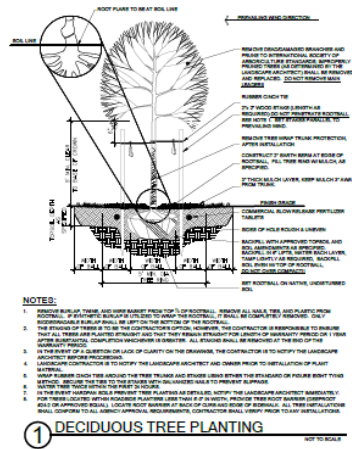


EXHIBIT A

C. Conceptual Building Elevations (dated: 10/19/21)



MATERIAL LEGEND	
A. WOOD	1. LONGBOARD SIDING, #7
B. METAL	CONCRETE BRICKS, COLOR LIGHT GRAY
C. CORRUGATED METAL SIDING	2. POLYON SANDY OULOUS, 2X, COLOR: BROWN
D. CONCRETE	3. COUNTRY LEADSTONE, COLOR: BROWN COUNTRY
E. STONE	4. ANVISED ALUMINUM, COLOR: BLACK
F. STUDIO DRIVET OPS, FINISH: SAND STRIKE, FINE SPARKLE EDGE COLOR	5. NATURAL COLOR
	6. BERRIDGE WOOD, COLOR: DRAY GRAY
	7. 6X BIRCH/ALN WEDGE
	8. DARK GRAY
	9. BERRIDGE STAINING, 6X6 METAL, ROOFING, 2X2 LOCK, COLOR: CHARCOAL GRAY



ELEVATIONS
DESIGN REVIEW | SD51

21285.00

EXHIBIT A

VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING

1. Future development of this site shall comply with the previous conditions of approval, terms of the existing Development Agreement ([H-2017-0058](#) – Inst. [2018-000751](#)) and the conditions contained herein.
2. The site plan and landscape plan submitted with the Certificate of Zoning Compliance (CZC) application shall be revised as follows:
 - a. If the subject property hasn't been subdivided to create a lot for the proposed development prior to submittal of the CZC application, depict a 20-foot wide street buffer along N. Webb Way landscaped per the standards listed in UDC 11-3B-7C and 11-3B-12C; and a 25-foot wide street buffer along E. Fairview Ave. with a detached 5-foot wide sidewalk, landscaped per the standards listed in UDC 11-3B-7C. *The Developer is required to construct these improvements for the overall 5.31-acre property if this future lot is proposed to develop prior to the final plat being recorded to subdivide the overall property.* The entire site (whatever that is at the time of application for Certificate of Zoning Compliance) shall be depicted on the site and landscape plans.
 - b. The boundary of the site/future lot shall be expanded so that all of the required parking is located within the boundary of this site.
 - c. All mechanical equipment on the back of the building and outdoor service and equipment areas shall be incorporated into the overall design of buildings and landscaping so that the visual and acoustic impacts of these functions are fully contained and out of view from adjacent properties and public streets as set forth in UDC [11-3A-12](#).
 - d. Depict a detail of the bicycle rack on the plan that demonstrates compliance with the design standards listed in UDC [11-3C-5C](#).
 - e. Depict landscaping within all planter islands within the parking area in accord with the standards listed in UDC 11-3B-8C.
 - f. Depict pedestrian connections between the proposed building, future buildings within the overall development and to the future residential development to the south in the form of pathways distinguished from vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks as set forth in the Development Agreement.
 - g. Depict a minimum 5-foot wide walkway from the perimeter sidewalk/pathway along N. Webb Way to the main building entrance as set forth in UDC 11-3A-19B.4a.
 - h. Identify the menu and speaker location (if applicable), and window location of the drive-through establishment as set forth in UDC 11-4-3-11B.
3. Future development shall comply with the dimensional standards listed in UDC [Table 11-2B-3](#) for the C-G zoning district.
4. Compliance with the standards listed in UDC [11-4-3-11](#) – Drive-Through Establishment is required.
5. Compliance with the standards listed in UDC [11-4-3-49](#) – Restaurant is required.
6. Parking for the overall site shall be provided in accord with the standards listed in UDC 11-4-3-49 for restaurants.
7. A cross-access/ingress-egress easement shall be granted to the property to the south (Parcel #R1914280100) for interconnectivity; a recorded copy of the agreement shall be submitted to

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- the Planning Division prior to issuance of Certificate of Occupancy of the proposed structure.
8. The hours of operation for the proposed use shall be limited to 6:00 am to 11:00 pm because the property abuts a future residential use to the south as set forth in UDC 11-2B-3B.
 9. A Certificate of Zoning Compliance and Design Review application shall be submitted and approved for the proposed use prior to submittal of a building permit application. The design of the site and structure shall comply with the standards listed in UDC 11-3A-19; the design standards listed in the Architectural Standards Manual and with the Development Agreement.
 10. The conditional use permit is valid for a maximum period of two (2) years unless otherwise approved by the City. During this time, the Applicant shall commence the use as permitted in accord with the conditions of approval, satisfy the requirements set forth in the conditions of approval, and acquire building permits and commence construction of permanent footings or structures on or in the ground as set forth in UDC 11-5B-6. A time extension may be requested as set forth in UDC 11-5B-6F.

B. NAMPA & MERIDIAN IRRIGATION DISTRICT (NMID)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=250045&dbid=0&repo=MeridianCity>

IX. FINDINGS

Conditional Use (UDC 11-5B-6)

Findings: The commission shall base its determination on the conditional use permit request upon the following:

1. That the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the district in which the use is located.

The Commission finds the site is large enough to accommodate the proposed development and meet all dimensional and development regulations of the C-G zoning district.

2. That the proposed use will be harmonious with the Meridian comprehensive plan and in accord with the requirements of this title.

The Commission finds the proposed drive-through establishment will be harmonious with the Comprehensive Plan and is consistent with applicable UDC standards with the conditions noted in Section VIII of this report.

3. That the design, construction, operation and maintenance will be compatible with other uses in the general neighborhood and with the existing or intended character of the general vicinity and that such use will not adversely change the essential character of the same area.

The Commission finds the design, construction, operation and maintenance of the proposed use will be compatible with other uses in the general neighborhood, with the existing and intended character of the vicinity and will not adversely change the essential character of the area.

4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity.

The Commission finds the proposed use will not adversely affect other properties in the vicinity if it complies with the conditions in Section VIII of this report.

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5. That the proposed use will be served adequately by essential public facilities and services such as highways, streets, schools, parks, police and fire protection, drainage structures, refuse disposal, water, and sewer.

The Commission finds the proposed use will be served by essential public facilities and services as required.

6. That the proposed use will not create excessive additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.

The Commission finds the proposed use will not create additional costs for public facilities and services and will not be detrimental to the economic welfare of the community.

7. That the proposed use will not involve activities or processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

The Commission finds the proposed use will not be detrimental to any persons, property or the general welfare by the reasons noted above.

8. That the proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance. (Ord. 05-1170, 8-30-2005, eff. 9-15-2005)

The Commission finds the proposed use will not result in the destruction, loss or damage of any such features.

9. Additional findings for the alteration or extension of a nonconforming use:

- a. That the proposed nonconforming use does not encourage or set a precedent for additional nonconforming uses within the area; and,

This finding is not applicable.

- b. That the proposed nonconforming use is developed to a similar or greater level of conformity with the development standards as set forth in this title as compared to the level of development of the surrounding properties.

This finding is not applicable.