

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



In the Matter of the Request for Conditional Use Permit for Black Rock Coffee, Located at 3300 S. Eagle Rd in the C-C Zoning District, by Tamara Thompson, the Land Group.

Case No(s). H-2022-0019

For the Planning & Zoning Commission Hearing Date of: May 19, 2022 (Findings on June 2, 2022)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of May 19, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of May 19, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of May 19, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of May 19, 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 May 19, 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 May 19, 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-6F.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. 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.

F. 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.

G. Attached: Staff Report for the hearing date of May 19, 2022

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

COMMISSIONER ANDREW SEAL, CHAIRMAN VOTED_____

COMMISSIONER NICK GROVE, VICE CHAIRMAN VOTED_____

COMMISSIONER NATE WHEELER VOTED_____

COMMISSIONER STEVEN YEARSLEY VOTED_____

COMMISSIONER PATRICK GRACE VOTED_____

COMMISSIONER MARIA LORCHER VOTED_____

COMMISSIONER MANDI STODDARD VOTED_____

Andrew Seal, 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: 5/19/2022
 TO: Planning & Zoning Commission
 FROM: Alan Tiefenbach, Associate Planner
 208-884-5533
 SUBJECT: H-2022-0019
 Black Rock Coffee CUP
 LOCATION: 3300 S. Eagle Rd
 At the southeast corner of S. Eagle Rd
 and E. Victory Rd.



I. PROJECT DESCRIPTION

This is a request for a Conditional Use Permit to allow a drive through establishment within 300 feet of an existing residence and another drive through facility on 0.84 acres in the C-C zoning district.

II. SUMMARY OF REPORT

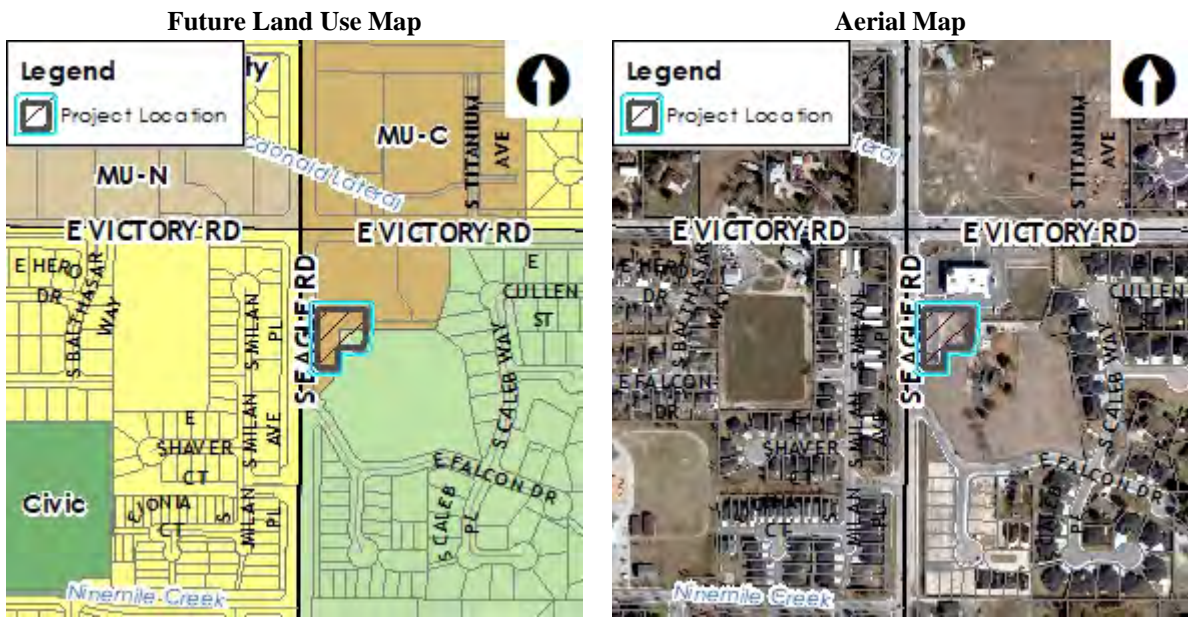
A. Project Summary

Description	Details	Page
Acreage	0.84 acres	
Future Land Use Designation	Mixed Use Community	
Existing Land Use(s)	Vacant	
Proposed Land Use(s)	Drive through establishment (coffee shop)	
Lots (# and type; bldg./common)	1	
Phasing Plan (# of phases)	1	
Physical Features (waterways, hazards, flood plain, hillside)	None	
Neighborhood meeting date; # of attendees:	1/26/22 – 4 in attendance	
History (previous approvals)	AZ-008-007, PP-08-006, ALT-08-012, H-2016-0029	

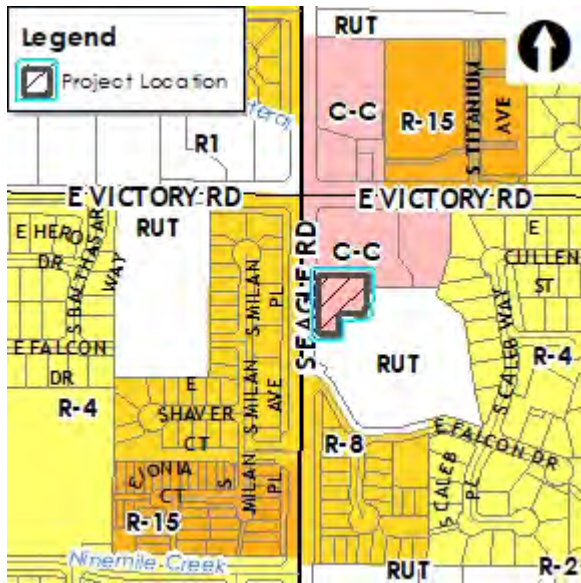
B. Community Metrics

Description	Details	Page
Ada County Highway District		
<ul style="list-style-type: none"> • Staff report (yes/no) 	No	
<ul style="list-style-type: none"> • Requires ACHD Commission Action (yes/no) 	No	
<ul style="list-style-type: none"> • Traffic Impact Study (yes/no) 	No	
Access (Arterial/Collectors/State Hwy/Local)(Existing and Proposed)	S. Eagle Rd and E. Victory Rd	
Stub Street/Interconnectivity/Cross Access	Cross access is provided with the remainder of the Shops at Victory Center to the north	
Existing Road Network	S. Eagle Rd and E. Victory Rd	
Existing Arterial Sidewalks / Buffers	There are existing 5 ft sidewalks and 25 ft. wide buffers along S. Eagle Rd and E. Victory Rd.	
Proposed Road Improvements	None	
Fire Service		
<ul style="list-style-type: none"> • No comments 		
Police Service		
<ul style="list-style-type: none"> • No comments 		
Wastewater		
<ul style="list-style-type: none"> • Flow is committed • Site is subject to a reimbursement agreement with the City for water and sewer that was installed. 		
Water		
<ul style="list-style-type: none"> • Site is subject to a reimbursement agreement with the City for water and sewer that was installed. 		

C. Project Area Maps



Zoning Map



Planned Development Map



III. APPLICANT INFORMATION

A. Applicant / Representative:

Tamara Thompson, the Land Group – 462 E. Shore Dr, Ste 110, Eagle, ID 83616

B. Owner:

Ken Lenz, WL Victory Crossing, LLC – PO Box 1277, Boise, ID 83701

IV. NOTICING

	Planning & Zoning Posting Date	City Council Posting Date
Notification published in newspaper	5/3/2022	
Notification mailed to property owners within 500'	4/27/2022	
Applicant posted public hearing notice sign on site	5/9/2022	
Nextdoor posting	4/27/2022	

V. STAFF ANALYSIS

This is a proposal for a conditional use to allow a drive through coffee shop within 300 feet of an existing residence and within 300 feet of another drive through establishment.

The property is 0.84 acres in area, is zoned C-C and is one of the three commercial lots comprising the Shops at Victory Development which was annexed in 2008 (AZ-008-007, PP-08-006, DA instr. 111032845). The Development Agreement allows all uses allowed in the C-C zoning district, with hours of operation limited to 6am to 10pm. A conditional use permit was also approved with the annexation to allow a Rite-Aid with a drive through establishment within 300 feet of a residential zone district on Lot 2 (northernmost lot adjacent to the S. Eagle Rd / E. Victory Rd intersection).

Alternative Compliance was approved as part of the annexation to allow a residential buffer with widths as little as 10 feet where 25 feet is required along the south and eastern property line, with a condition that a 6 ft tall verti-crete wall be constructed within the reduced buffer. The final plat for this property was completed in 2016 after four time-extensions were approved (H-2016-0029). The CZC for the Rite Aid was approved in 2015 (A-2015-0061) with construction occurring in 2016.

The present proposal is to allow a 1,975 sq. ft. drive through coffee shop on Lot 1 (southernmost lot). Because the proposed drive-through is within 300 feet of both the existing Rite Aid drive through establishment and an existing residence, a conditional use permit is required per UDC 11-4-3-11.

A. Future Land Use Map Designation (<https://www.meridiancity.org/compplan>)

This site is designated as "Mixed Use -Community" on the Comprehensive Plan Future Land Use Map. The purpose of this designation is to allocate areas where community-serving uses and dwellings are seamlessly integrated into the urban fabric. The intent is to integrate a variety of uses, including residential, and to avoid mainly single-use and strip commercial type buildings. Non-residential buildings in these areas tend to be larger than in Mixed Use Neighborhood (MU-N) areas, but not as large as in Mixed Use Regional (MU-R) areas. Goods and services in these areas tend to be of the variety that people will mainly travel by car to, but also walk or bike to (up to three or four miles).

During the annexation of the Shops at Victory development it was determined the C-C zoning and the types of uses allowed would generally conform to this designation. The property is within a small-scale commercial center which presently includes a Rite Aid and one additional commercial lot, adjacent to existing residential on two sides, and across the street (south) of the Inglewood Place Senior Housing Development and another drive through coffee shop (Inglewood Coffee Shop Drive through, CUP H-2021-0073). A drive-through coffee shop and restaurant is a use determined to be appropriate in this zone district as well as the existing Development Agreement, subject to the specific use standards listed in UDC 11-4-3-11 and restaurant specific use standards in UDC 11-4-3-49.

B. Comprehensive Plan Policies (<https://www.meridiancity.org/compplan>):

Goals, Objectives, & Action Items: Staff finds the following Comprehensive Plan policies to be applicable to this application and apply to the proposed use of this property (staff analysis in italics):

- Encourage infill development. (3.03.01E)

The Comprehensive Plan defines infill as “development on vacant parcels, or redevelopment of existing parcels to a higher and better use that is surrounded by developed property within the City of Meridian.” The subject property is a vacant lot in an existing commercial center which allows this use, surrounded by existing development on all sides. The property has available water and sewer. This project would be considered infill development.

- Preserve private property rights and values by enforcing regulations that will prevent and mitigate against incompatible and detrimental neighboring uses. (3.05.01C)

The conditional use is a process to ensure any impacts associated with a particular use are mitigated. Restaurants and drive-through establishments are principally permitted uses in the C-C zone district.

The applicant has proposed outdoor speakers located at the east portion of the site, approximately 200 feet from the existing residence at 3300 E. Falcon Dr. Staff did initially express concerns about this placement and requested the applicant submit information

regarding the decibel level that is anticipated from the property line. The applicant submitted information that indicated decibel level would be approximately 36 decibels at 16 feet from the speaker, whereas the speaker is approximately 50 ft. from the property line.

The property owner in the adjacent residence to the east submitted a letter in support stating the applicant had been very receptive to all their requests with the initial development, they had installed a verti-crete fence along their property line that was higher quality than would have been required, ensured lighting impacts were mitigated and expressed their faith that the applicant's choice of location was acceptable.

- Require appropriate building design, and landscaping elements to buffer, screen, beautify, and integrate commercial, multifamily, and parking lots into existing neighborhoods. (5.01.02D)

A landscape plan has been submitted with this application that appears to meet the requirements of UDC 11-3B. Building design and landscaping will be reviewed as part of the Certificate of Zoning Compliance (CZC) and administrative design review that would follow this proposal if it were approved.

C. Existing Structures/Site Improvements:

The site is presently vacant. There is an existing Rite Aid on Lot 2 to the north.

D. Proposed Use Analysis:

The proposed use is a drive through coffee kiosk (restaurant) with the hours limited to 6AM to 10PM by the development agreement. This use is allowed by right within the C-C zone district subject to the specific use standards listed in UDC 11-4-3-11 and UDC 11-4-3-49. Because the drive through is within 300 feet of another drive through (Rite Aid) and an existing residential use, conditional use permit approval as required.

E. Specific Use Standards (UDC 11-4-3):

A "Drive-Through Establishment" is subject to specific use standards as outlined in UDC 11-4-3-11 as follows:

1. All establishments providing drive-through service shall identify the stacking lane, menu and speaker location (if applicable), and window location on the certificate of zoning compliance or the conditional use permit.

The concept site plan submitted with this application identifies the location of the stacking lane, and window location.

2. A site plan shall be submitted that demonstrates safe pedestrian and vehicular access and circulation on the site and between adjacent properties. At a minimum the plan shall demonstrate compliance with the following standards:

- a. Stacking lanes shall have sufficient capacity to prevent obstruction of driveways, drive aisles, and the public right-of-way by patrons.

The concept plan shows the stacking lane is a separate lane from the drive aisles and parking which provides access to the rest of the development. If there was additional or excessive overflow from the drive through lane which does sometimes occur from drive-through establishments at peak times, it would stack into the parking lot to the west, not into S. Eagle. Rd.

- b. 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 is a separate lane from the circulation lanes at the west needed for access and parking.

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

The stacking lane is approximately 20 ft. from the nearest residential district and more than 150 ft. from the closest residence.

- d. Any stacking lane greater than one hundred 100 feet in length shall provide for an escape lane.

The stacking lane provides an escape lane which parallels the stacking land and allows an exit into the drive aisles for the Rite Aid to the north.

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

The drive-through window is oriented to the north, which allows visibility from S. Eagle Rd.

- f. The applicant shall provide a six-foot sight obscuring fence where a stacking lane or window location adjoins a residential district or an existing residence.

There is already a 6 ft. high verti-crete fence installed at the east of the stacking lane where the existing residence is located.

The drive through establishment is also considered a restaurant. Per the specific use standards in UDC 11-4-3-49, a restaurant is required to provide a minimum of one (1) parking space for every two hundred fifty (250) square feet of gross floor area. As discussed below, adequate parking has been provided.

F. Dimensional Standards (*UDC 11-2*):

Dimensional standards in the Community Business District (C-C) include a 25' landscape buffer adjacent to arterial roads, 10' buffer adjacent to local roads and a maximum building height of 50'. There are no front, side or rear setbacks in this zone district. The proposed drive through facility meets these dimensional standards and the landscape buffers are already existing. Because this use is directly adjacent to residential uses, a 25 ft wide residential buffer is required. As mentioned above, alternative compliance was approved for lesser residential buffer with the annexation.

G. Access (*UDC 11-3A-3*):

The Shops at Victory development was approved with two access points from Eagle

Road and two access points from Victory Road. Each road has one right-in-right-out access and one full access. All accesses and associated road improvements have already been constructed, with two remaining vacant pad sites primed for development.

Access to this development will occur from S. Eagle Rd into an existing parking lot and drive aisle and run along a one-way drive-aisle in a counter-clockwise direction. Cars will enter the site and will either park in a lot or continue along a "u-shaped" 10' wide drive aisle to the coffee kiosk and exit back to the same parking lot / drive aisle. There is also an escape lane paralleling

the stacking lane for cars that have already entered the drive-through aisle. It does appear the drive aisle between the parking and the stacking lane is at least 25 ft. in width as required per UDC 11-3C-5, but this width is not dimensioned on the plans. Staff has added this as a recommended condition of approval.

H. Parking (*UDC 11-3C*):

The subject property is within the C-C Zone District. UDC 11-3C-6 requires one off-street vehicle parking space for every 500 square feet of gross floor area in commercial districts. The total building square footage which was depicted on the concept plan with the Shops at Victory annexation was 29,910. Based on this amount, 60 parking stalls would be required. 133 parking stalls have already been constructed, which significantly exceeded the parking requirements.

A drive through coffee establishment is considered a restaurant. Per the specific use standards for a restaurant per UDC 11-4-3-49, parking is based on one (1) parking space per 250 square feet of gross floor area. With a square footage of approximately 1,975 sq. ft. for the kiosk, eight parking spaces are required for this use. The site plan indicates 17 parking spaces on the subject property directly adjacent to the coffee kiosk as well as 2 bicycle spaces.

I. Sidewalks (*UDC 11-3A-17*):

8 ft. wide attached sidewalks exist along S. Eagle Rd and E. Victory Rd. There is an additional 8 ft. wide pedestrian walkway from the S. Eagle Rd sidewalk stubbing to the subject pad. The site plan and landscape plan show the coffee establishment connecting to this walkway. However, the pedestrian walkway shows striping where it crosses the stacking lane. Per the structure and site design standards of 11-3A-19, all internal pedestrian walkways shall be distinguished from the vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks.

J. Landscaping (*UDC 11-3B*):

Landscape buffers and a residential buffer were installed with the Shops at Victory Final Plat. This subject development proposes additional parking lot islands and drive aisle landscaping that exceeds the requirements of UDC 11-3B-8.

K. Fencing (*UDC 11-3A-6, 11-3A-7*):

There is an existing 6 ft high verti-crete wall installed along the south and west property line. This was required as a condition of approval with the Shops at Victory development to allow alternative compliance from the required 25 ft. residential buffer width to allow portions of the buffer to be reduced to as little as 10 ft. in width.

L. Utilities (*UDC 11-3A-21*):

All utilities for the proposed development are already in place. No additional services are needed.

M. Building Elevations (*UDC 11-3A-19 | Architectural Standards Manual*):

The applicant submitted conceptual elevations with this conditional use application. The elevations show architecture similar to most of the kiosks in this franchise, with materials consisting of brick, prefinished and corrugated metal and several types of stone veneer.

Overall, the proposed architecture is good quality, but additional treatment may be required to completely comply with the Architectural Standards Manual, such as at least two field materials (neither of which should not be metal paneling). Proposed elevations will be reviewed in detail at the time of Certificate of Zoning Compliance (CZC) and Design Review (DES) submittal.

VI. DECISION

A. Staff:

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

B. The Meridian Planning & Zoning Commission heard this item on May 19, 2022. At the public hearing, the Commission moved to approve the subject conditional use permit request.

1. Summary of the Commission public hearing:

- a. In favor: Jeff Huber, Applicant
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: Bob Aldridge
- e. Staff presenting application: Alan Tiefenbach
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. Bob Aldridge commented that he was the adjacent neighbor, that the developer had “bent over backwards” to address all his issues with the initial development of the center, and that he was confident he would have no concerns with the result.

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

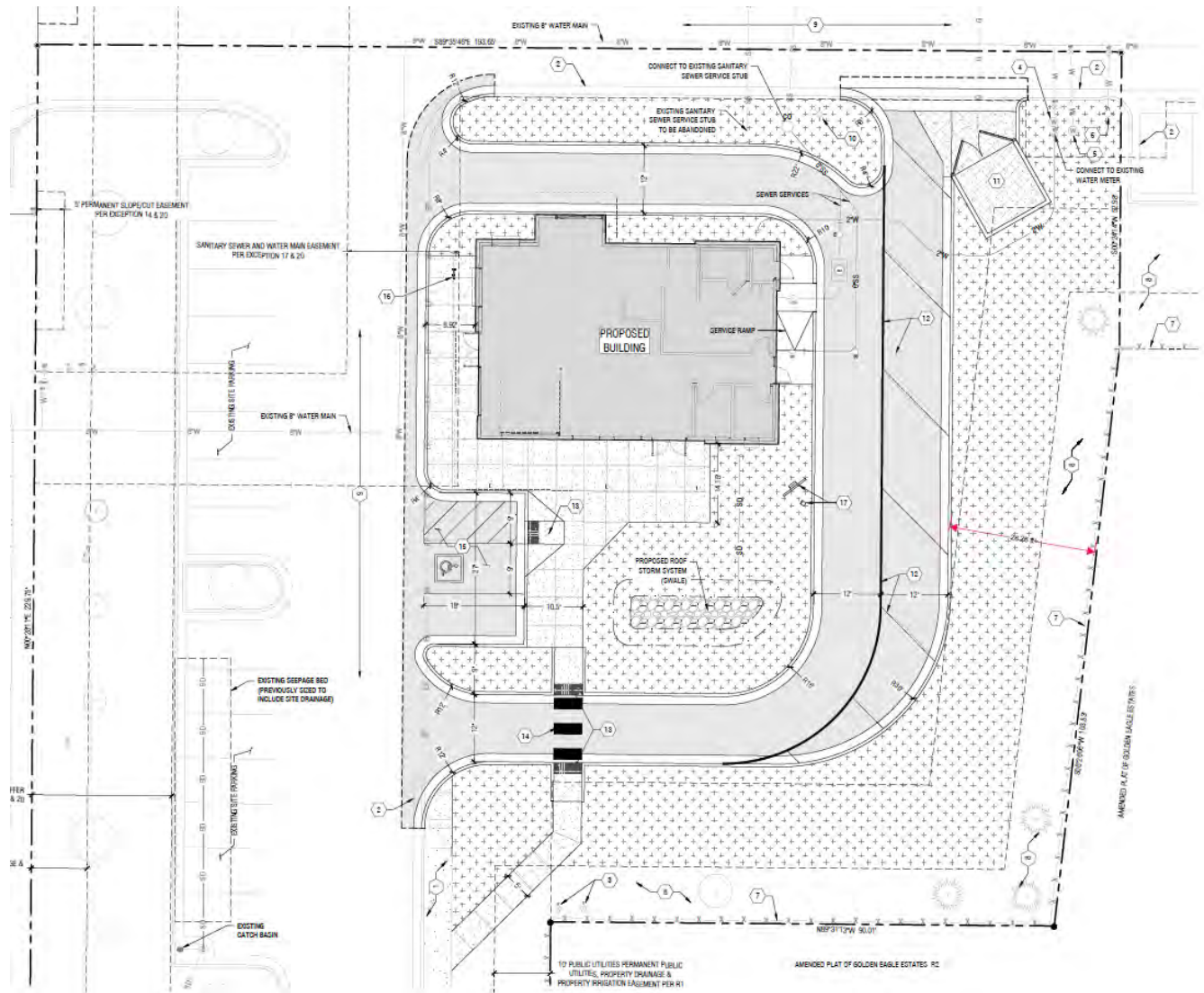
- a. None

4. Commission change(s) to Staff recommendation:

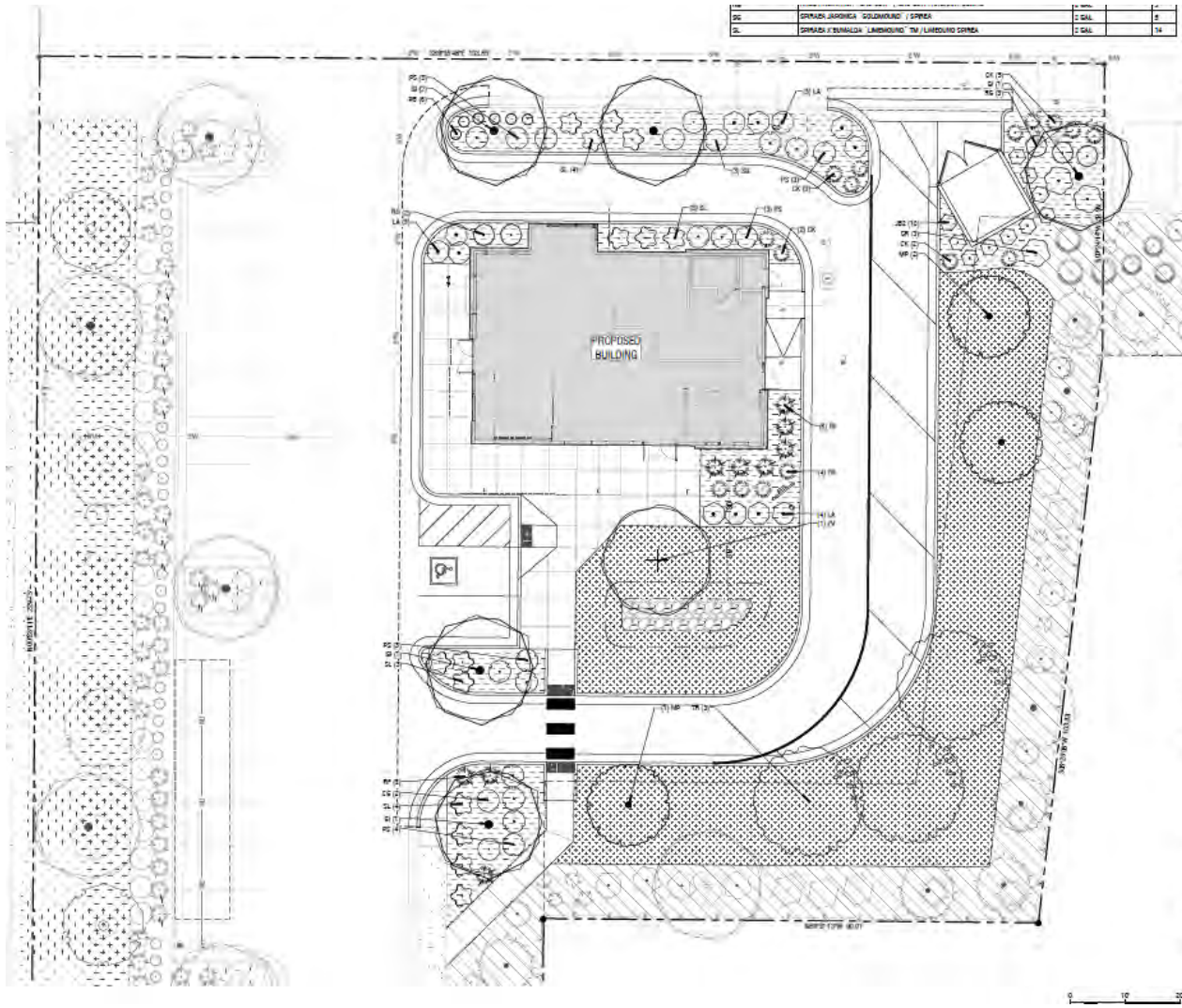
- a. None

VII. EXHIBITS

A. Site Plan (date: 5/9/2022)



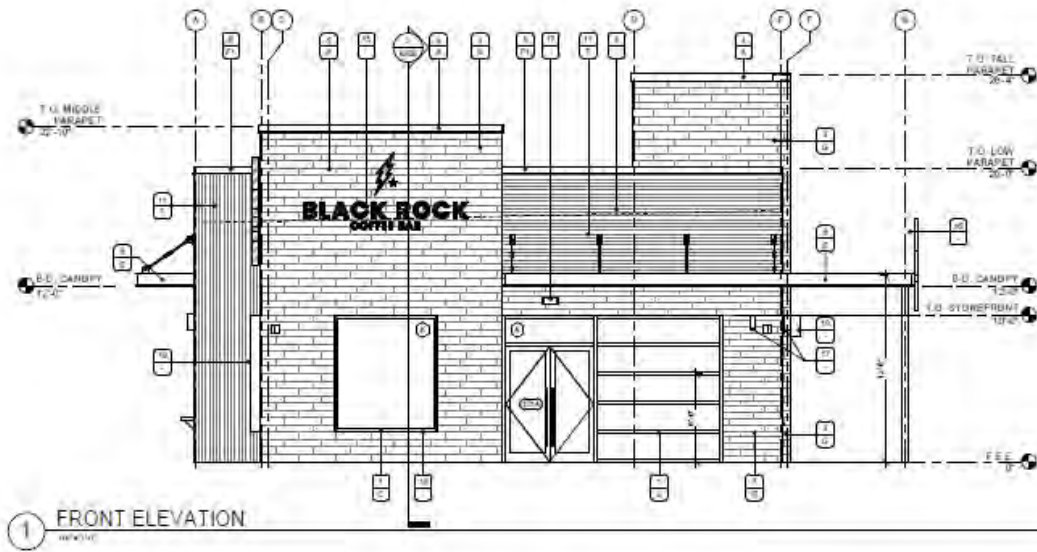
B. Landscape Plan (date: 5/9/2022)



NO.	DESCRIPTION	DATE	BY
10	CONTRACT JOURNAL - GOLDENLAND / EPENEA	12/20/22	JL
11	CONTRACT JOURNAL - GOLDENLAND / EPENEA	12/20/22	JL

- PRODUCE TOPS**
 RE-LOCATE IN
 VIDEO SERIES IN
 TOPICAL CODE
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 METHOD: 1/2" DIA
 VIDEO SUBMIT
- PROPOSED BUILDING**
- E. REPORTED TO
 F. REPORTED TO
 G. REPORTED TO
 - H. REPORTED TO
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 C. 100% W/ 100%
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C. Building Elevations (date: 3/4/2022)



VII. CITY/AGENCY COMMENTS & CONDITIONS

A. Planning

1. A Certificate of Zoning Compliance and administrative design review application is required to be submitted to the Planning Division and approved prior to submittal of building permit applications. The applicant will either meet all architectural requirements of the Architectural Standards Manual (ASM) or apply for a design exception as part of the CZC submittal.
2. The Applicant shall have a maximum of two (2) years to commence the use as permitted in accord with the conditions of approval listed above. If the use has not begun within two (2) years of approval, a new conditional use permit must be obtained prior to operation or a time extension must be requested in accord with UDC 11-5B-6F.
3. Hours of operation are limited from 6AM to 10PM per the recorded development agreement unless otherwise modified.
4. All drive aisles shall meet the requirements of UDC 11-3C-5.
5. The site plan prepared by the Land Group, dated May 9, 2022, is approved as submitted.
6. The landscape plan prepared by the Land Group, dated May 9, 2022, is approved as submitted.
7. The architectural elevations prepared by HFA Associates LTD, dated March 03, 2022, are generally approved as submitted but additional revisions may be necessary at time of CZC as described in Section V.M.
8. Parking requirements associated with the drive through coffee kiosk shall comply with the commercial parking standards; 1 per 250 square feet of gross floor area.
9. Per the site-specific standards of UDC 11-3A-19-B, all internal pedestrian walkways shall be distinguished from the vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks.
10. The Applicant shall comply with all bulk, use, and development standards of the applicable district listed in UDC Chapter 2 District regulations.
11. The Applicant shall comply with the outdoor service and equipment area standards as set forth in UDC 11-3A-12.
12. The Applicant shall comply with the structure and site design standards as set forth in UDC 11-3A-19 and the Architectural Standards Manual.
13. The applicant shall comply with standards and installation for landscaping as set forth in UDC 11-3B-5 and maintenance thereof as set forth in UDC 11-3B-13.
14. The applicant shall comply with the specific use standards for a drive through establishment and a restaurant as set forth in UDC 11-4-3-11 and 11-4-3-49.
15. The project is subject to all current City of Meridian ordinances and previous conditions of approval associated with this site (AZ 08-007, PP-08-006, ALT-08-012, DA Instr. #111032845, FP 2016-0029).

B. Public Works

1. This site is subject to a reimbursement agreement with the city for the water and sewer mains that were previously installed.

C. Boise Project Board of Control

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=257268&dbid=0&repo=MeridianCity>

D. NMID

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=258432&dbid=0&repo=MeridianCity&r=1>

VIII. FINDINGS

A. Conditional Use Permit

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 site meets all dimensional and development regulations of the C-C zoning district. The site already contains landscape buffers, parking is adequate, and the parking area will be landscaped as required by UDC 11-3B-8. Commission finds the site is large enough to accommodate the proposed use.

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

Commission finds the proposed drive through coffee kiosk will be harmonious with the Comprehensive Plan per the analysis in Section V of this staff 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 subject site is within a commercially zoned area. Directly north of the property is a Rite Aid, across E. Victory Rd to the north is another drive through coffee establishment, a daycare and senior housing complex is planned, and there are residential uses across S. Eagle Rd. to the west. Although there is an existing single family residential directly adjacent to the property at the south and east, the applicant worked with this property owner during the initial development of the Shops at Victory development, installed a verti-crete fence to mitigate impacts, and the owner of the residential property has written a letter in support of this project. There already existing landscape buffers along S. Eagle Rd., E. Victory Rd, there is a (reduced) residential buffer to the south and east, and internal parking lot landscaping meets the requirements of UDC 11-3B. Architecture will be required to meet the Architectural Design Manual (ASM) at time of Certificate of Zoning Compliance (CZC).

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

As discussed above, the proposed use will not adversely affect other property in the vicinity.

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 proposed use will be served adequately by all public facilities and services.

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.

Commission finds the proposed use should not create any 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.

This proposal is for a drive through establishment that will operate between 6AM and 10PM in an area zoned for commercial uses, at a minimum of 200 feet from the nearest residence, on a high intensity commercial arterial intersection within an approved commercial development. The proposed facility is appropriate in this location.

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)

Commission is unaware of any natural, scenic, or historic features on this site; thus, Staff finds the proposed use should not result in damage of any such features.