

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



In the Matter of the Request for Conditional Use Permit for Amina’s Daycare, Located at 4175 S. Leaning Tower Ave in the R-8 Zoning District, by Godelieve Mulonge.

Case No(s). H-2022-0012

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: 4/7/2022
 TO: Planning & Zoning Commission
 FROM: Alan Tiefenbach, Associate Planner
 208-884-5533
 SUBJECT: H-2022-0012
 Amina's Daycare
 LOCATION: 4175 S. Leaning Tower Ave.



I. PROJECT DESCRIPTION

Conditional use permit to operate a group daycare for up to 12 children on 0.14 acre of land in the R-8 zoning district.

II. SUMMARY OF REPORT

A. Project Summary

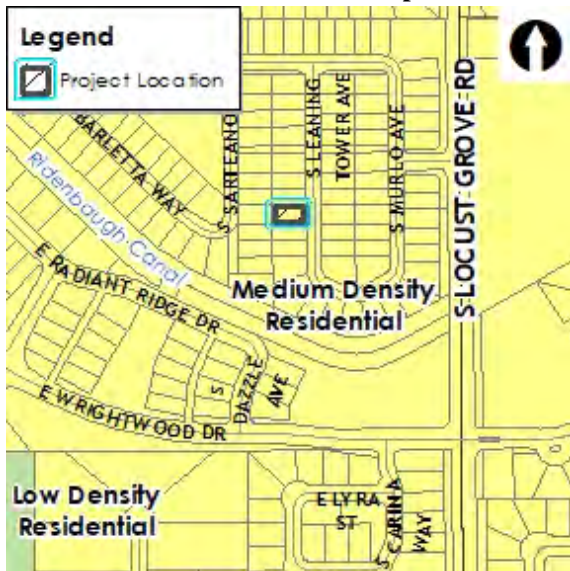
Description	Details	Page
Acreage	0.14 acres	
Future Land Use Designation	Medium Density Residential	
Existing Land Use(s)	SFR home	
Proposed Land Use(s)	SFR home with group daycare	
Neighborhood meeting date; # of attendees:	January 20, 2022, no attendees	
History (previous approvals)	AUP A-2020-0064 to allow for family daycare of up to 6 children	

B. Community Metrics

Description	Details	Page
Ada County Highway District		
<ul style="list-style-type: none"> Staff report (yes/no) Requires ACHD Commission Action (yes/no) 	No	
Access (Arterial/Collectors/State Hwy/Local)(Existing and Proposed)	One access from S. Leaning Tower Ave. via. S. Locust Grove Rd.	

C. Project Area Maps

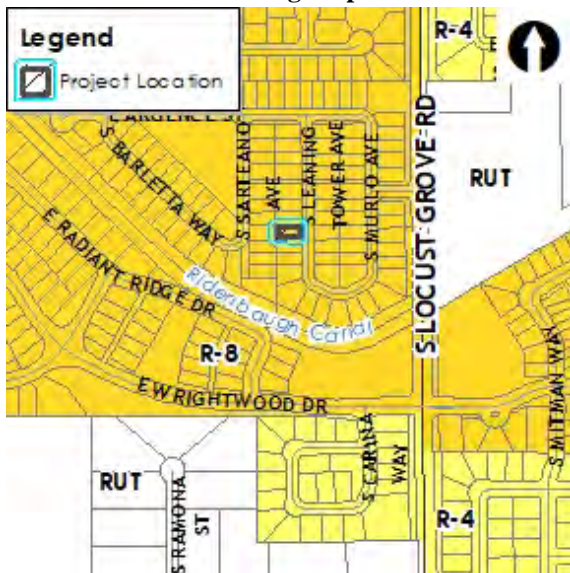
Future Land Use Map



Aerial Map



Zoning Map



Planned Development Map



III. APPLICANT INFORMATION

A. Applicant/Owner:

Godelieve Mulonge – 4175 S. Leaning Tower Ave, ID 83642

B. Representative:

Same as Applicant/Owner

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper notification published	03/22/22
Radius notification mailed to property owners within 300 feet	03/21/22
Public hearing notice sign posted on site	3/28/2022
Nextdoor posting	3/21/2022

V. STAFF ANALYSIS

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

MDR (Medium Density Residential) – This designation allows for dwelling units at gross densities of three to eight dwelling units per acre.

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

- “Plan for and encourage services like health care, daycare, grocery stores and recreational areas to be built within walking distance of residential dwellings.” (2.01.01C)

The existing and proposed daycare expansion is within walking distance of adjacent residential homes.

C. Existing Structures/Site Improvements:

There is an existing home and associated improvements on this property.

D. Proposed Use Analysis:

The applicant is presently operating under an approved accessory use permit to run a family daycare (6 or less children, AUP 2020-0064). A group daycare (7-12 children) is listed in UDC Table 11-2A-2 as a conditional use in the R-8 zoning district. The applicant states the daycare will operate from 6:30 AM to 7 PM on weekdays with outdoor playtime limited to one hour after 9AM and one hour after 1PM.

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

The specific use standards listed in UDC 11-4-3-9, Daycare Facility, applicable to the proposed use are as follows:

A. General standards for all child daycare and adult care uses, including the classifications of daycare center; daycare, family; and daycare, group:

1. In determining the type of daycare facility, the total number of children at the facility at one time, including the operator's children, is the determining factor.
The Applicant’s narrative states the plan is to have up to 12 children. The applicant is already operating a family daycare (6 children or less, which is allowed as an accessory use in the R-8 zoning district.), but wants to expand the use to allow up to 12 children.
2. On site vehicle pick up, parking and turnaround areas shall be provided to ensure safe discharge and pick up of clients.

The applicant states they presently provide and will continue to provide the transportation for the children. However, the subject house does have a parking pad which is approximately 30 feet wide which could provide an additional parking space for pick up or drop off. Parking spaces are also available along the curb in front of the house if needed.

Staff has received several letters from adjacent property owners stating there has been parking, traffic and safety issues from the existing daycare. Staff visited the site in the afternoon on a weekday. At that time, staff only observed two cars in front of the house and no other cars parked on the public street. Pictures have been included as part of the exhibit.

3. The decision-making body shall specify the maximum number of allowable clients and hours of operation as conditions of approval.

The Applicant proposes an in-home group daycare for up to 12 children. The applicant proposes to operate between 6:30 AM to 7PM.

4. The applicant or owner shall provide proof of criminal background checks and fire inspection certificates as required by title 39, chapter 11, Idaho Code. Said proof shall be provided prior to issuance of certificate of occupancy. The applicant or owner shall comply with all State of Idaho and Department of Health and Welfare requirements for daycare facilities.

This has been listed as a condition of approval.

5. In residential districts or uses adjoining an adjacent residence, the hours of operation shall be between six o'clock (6:00) A.M. and eleven o'clock (11:00) P.M. This standard may be modified through approval of a conditional use permit.

As mentioned above, the Applicant presently operates the family daycare between 6:30 AM and 7:00 PM on weekdays and this is not proposed to change.

6. All outdoor play areas shall be completely enclosed by minimum six foot (6') non-scalable fences to secure against exit/entry by small children and to screen abutting properties.

The outdoor play area will be in the backyard, which is surrounded by a 6 ft. tall fence.

7. Outdoor play equipment over six feet (6') high shall not be located in a front yard or within any required yard.

All outdoor play activities will occur in a fenced backyard.

8. Outdoor play areas in residential districts adjacent to an existing residence shall not be used after dusk.

As mentioned, the daycare will operate from 6:30 AM to 7:00 PM. Outdoor play will occur one hour after 9AM and one hour after 1PM.

F. Dimensional Standards (UDC 11-2):

Not Applicable

G. Access (UDC 11-3A-3, 11-3H-4):

Access is provided from S. Leaning Tower Ave. via S. Locust Grove Rd. According to the applicant, they generally pick up and deliver the children, although occasionally it would be the individual parent or guardian doing this. According to letters provided by residents, there are

ongoing traffic, parking and safety issues associated with the daycare. As mentioned above, staff did not observe these issues during a site visit.

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

Parking exists on the site in accord with the standards listed in UDC Table 11-3C-6 for a 4-bedroom single-family dwelling. A total of three (3) garage spaces and a 30 ft. x 20 ft. parking pad exist which exceeds UDC standards. On-street parking is also available (see exhibit in Section VII.A). As mentioned above, citizens have commented there are ongoing parking issues associated with the existing daycare.

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

A photo of the existing home on this property is included in Section VIII.C; no additions are proposed with this application.

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: Nicholas O'Bryant
- b. In opposition: None
- c. Commenting: Nicholas O'Bryant
- 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. None

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

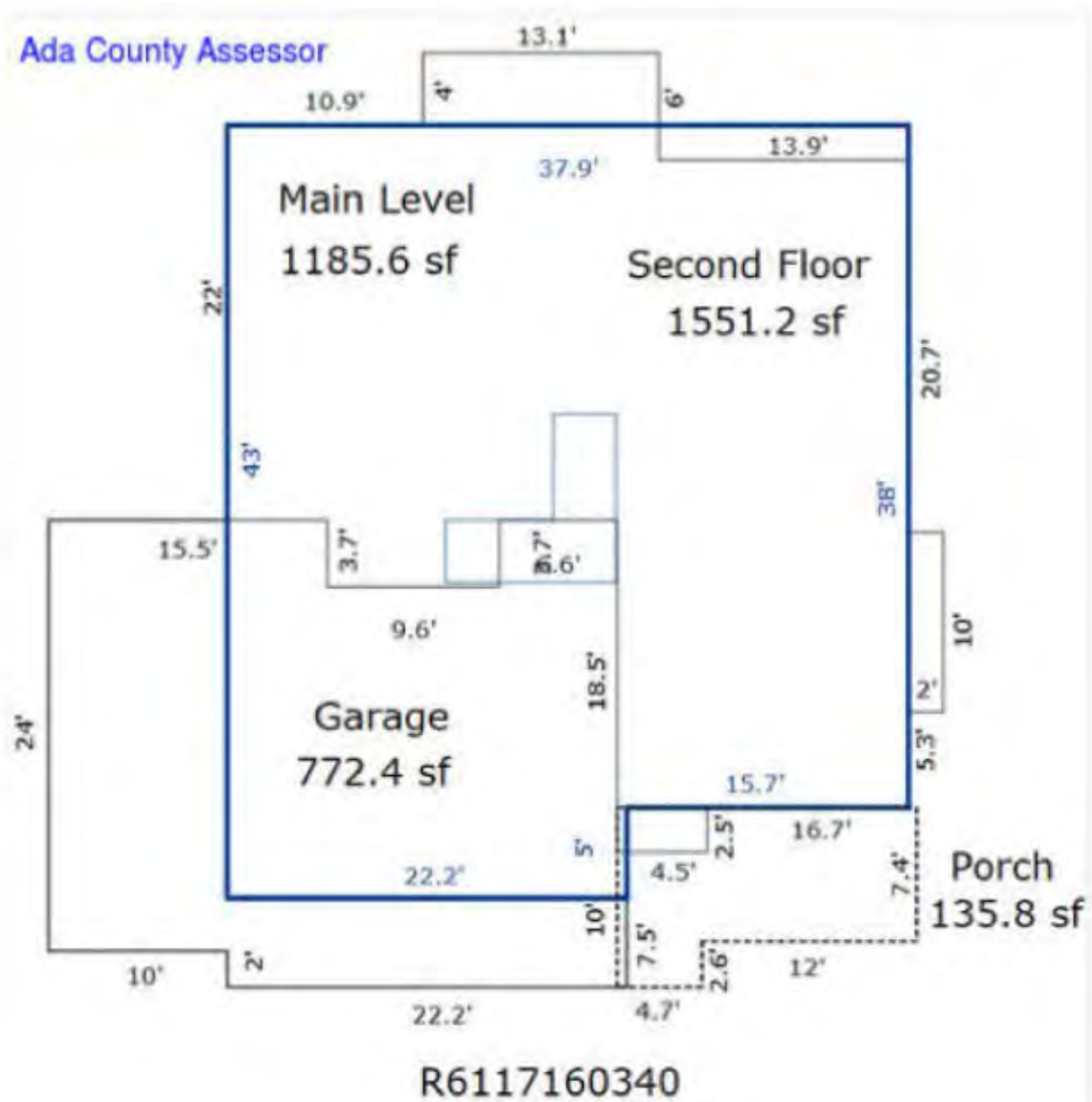
- a. None

4. Commission change(s) to Staff recommendation:

- a. None

VII. EXHIBITS

A. Site Plan (dated: 2/18/2022)





B. Existing Residence Pictures



VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. Planning

1. The Applicant shall comply with the specific use standards listed in UDC 11-4-3-9 Daycare Facilities, including but not limited to the following:
 - a. All outdoor play areas shall be completely enclosed by minimum six foot (6') non-scalable fences to secure against exit/entry by small children and to screen abutting properties.
 - b. Outdoor play equipment over six feet (6') high shall not be located in a front yard or within any required yard.
 - c. Outdoor play areas in residential districts adjacent to an existing residence shall not be used after dusk.
2. The maximum number of allowable clients at the facility at *one time* shall be limited to twelve (12).
3. The daycare/pre-school shall not operate beyond the hours of 6:30 AM to 7:00 PM on weekdays.
4. The applicant or owner shall provide proof of criminal background checks and fire inspection certificates as required by title 39, chapter 11, Idaho Code prior to issuance of Certificate of Occupancy. The applicant or owner shall comply with all State of Idaho and Department of Health and Welfare requirements for daycare facilities.

B. Ada County Highway District (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=254157&dbid=0&repo=MeridianCity>

C. NMID

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=255745&dbid=0&repo=MeridianCity>

IX. 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.

Commission finds the site is large enough to accommodate the proposed use and meet all the dimensional and development regulations in the R-8 zoning district.

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 in-home group daycare will be harmonious with the Comprehensive Plan in that it will provide a much-needed service for area residents within walking distance of homes within the neighborhood.

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.

This is a small in-home day-care in which the single-family home is the primary residence of the applicant. Commission finds the operation of the proposed in-home daycare should be compatible with the residential uses in the neighborhood and the existing and intended character of the neighborhood and not adversely affect such.

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

If the proposed in-home daycare complies with the condition of approval in Section VII as required, Commission finds the proposed use should not adversely affect other properties 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.

Because the site is within the City's Area of City Impact boundary and has been annexed into the City and these services are already being provided to the existing home, Commission finds the public facilities mentioned will be provided to the proposed use as well.

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.

The present operation picks up and delivers children, and this will remain the same. There could be occasional onsite pick up / drop off, but there is sufficient parking and staff finds it would not be detrimental to the general welfare.

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 in this area; however, finds the proposed use should not result in damage of any such features.