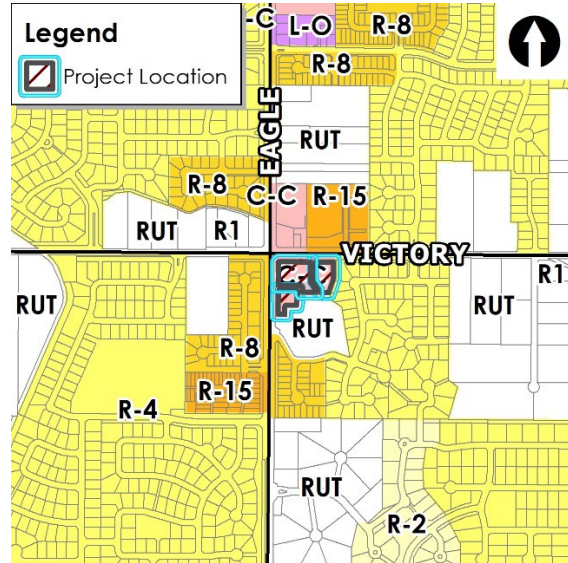




COMMUNITY DEVELOPMENT DEPARTMENT

HEARING DATE: 09/13/2022
TO: Mayor & City Council
FROM: Alan Tiefenbach, Associate Planner; Joseph Dodson, Associate Planner; 208-884-5533
SUBJECT: H-2022-0060; Shops at Victory - MDA
LOCATION: SEC of S. Eagle Rd. and E. Victory Rd.



I. PROJECT DESCRIPTION

Development Agreement Modification to change allowed opening hours for an approved drive-through establishment from 6AM to 5AM at 3300 S. Eagle Road.

II. SUMMARY OF REPORT

A. Applicant / Representative:

Ken Lenz, White Leisure Development – 8385 W. Emerald St, Boise ID 83701

B. Owner:

WL Victory Crossings LLC – 8385 W. Emerald St, Boise ID 83701

III. STAFF ANALYSIS

The property is 0.84 acres in area, zoned C-C, and is one of three commercial lots comprising the Shops at Victory Development which was annexed in 2008 (AZ-008-007, PP-08-006, DA Inst. #111032845). The existing Development Agreement allows all uses allowed in the C-C zoning district, with hours of operation limited to 6am to 10pm due to the adjacent residences to southeast and east.

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 typically required along the south and eastern property lines, with a condition that a 6 ft tall Verti-Crete wall be constructed within the reduced buffer—much of this buffer does meet the standard 25-foot width. The final plat for this property was completed in 2016 after four time-extensions were approved (H-2016-0029). The Rite Aid on the hard corner

received administrative approvals in 2015 (A-2015-0061) with construction occurring in 2016. The eastern most commercial has received conditional use permit approval and administrative approvals to construct a daycare center but construction of that facility has not yet started (H-2021-0003 & A-2021-0072, respectively).

In May of 2022, a conditional use permit (CUP) was approved for this subject property (3300 S. Eagle) to allow a drive-through establishment within 300 feet of an existing residence and another drive through facility (H-2022-0019); a CZC was issued in July of 2022 (A-2022-0134) for the coffee shop drive-through. With the CUP, the applicant mentioned their desire for an opening time of 5AM rather than the 6AM noted in the DA. As this was a development agreement requirement, the project was conditioned to operate from 6AM to 10PM per the recorded development agreement *unless otherwise modified through a subsequent development agreement modification*.

There is an existing single-family residence on a 5-acre lot directly east and south of the subject property. This would be the property owner most impacted by any proposed changes to the allowed hours of operation. At the time of the CUP for the drive through establishment, the property owner 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. Staff has not received any further correspondence from this property owner. North of the subject property is the existing Rite Aid and S. Eagle Rd is to the west so Staff finds the proposed additional hour of operation in the morning should not have any impact on the existing commercial use.

The existing development agreement states "The applicant shall be responsible for all costs associated with the sewer and water service extension as set forth in Exhibit C attached hereto and by this reference incorporated herein as if set forth in full. Said costs shall be paid prior to commencement of any building construction." As of August 16, 2022, this Applicant has paid their required proportionate share of this agreement and has satisfied this DA provision for the subject property. In addition, many of the existing provisions have been satisfied over the years and are no longer applicable for the subject site. Therefore, Staff is recommending this parcel be removed from the existing DA and placed into its own for the purpose of governing this lot in perpetuity. Staff's recommended DA provisions are below.

#### IV. DECISION

##### A. Staff:

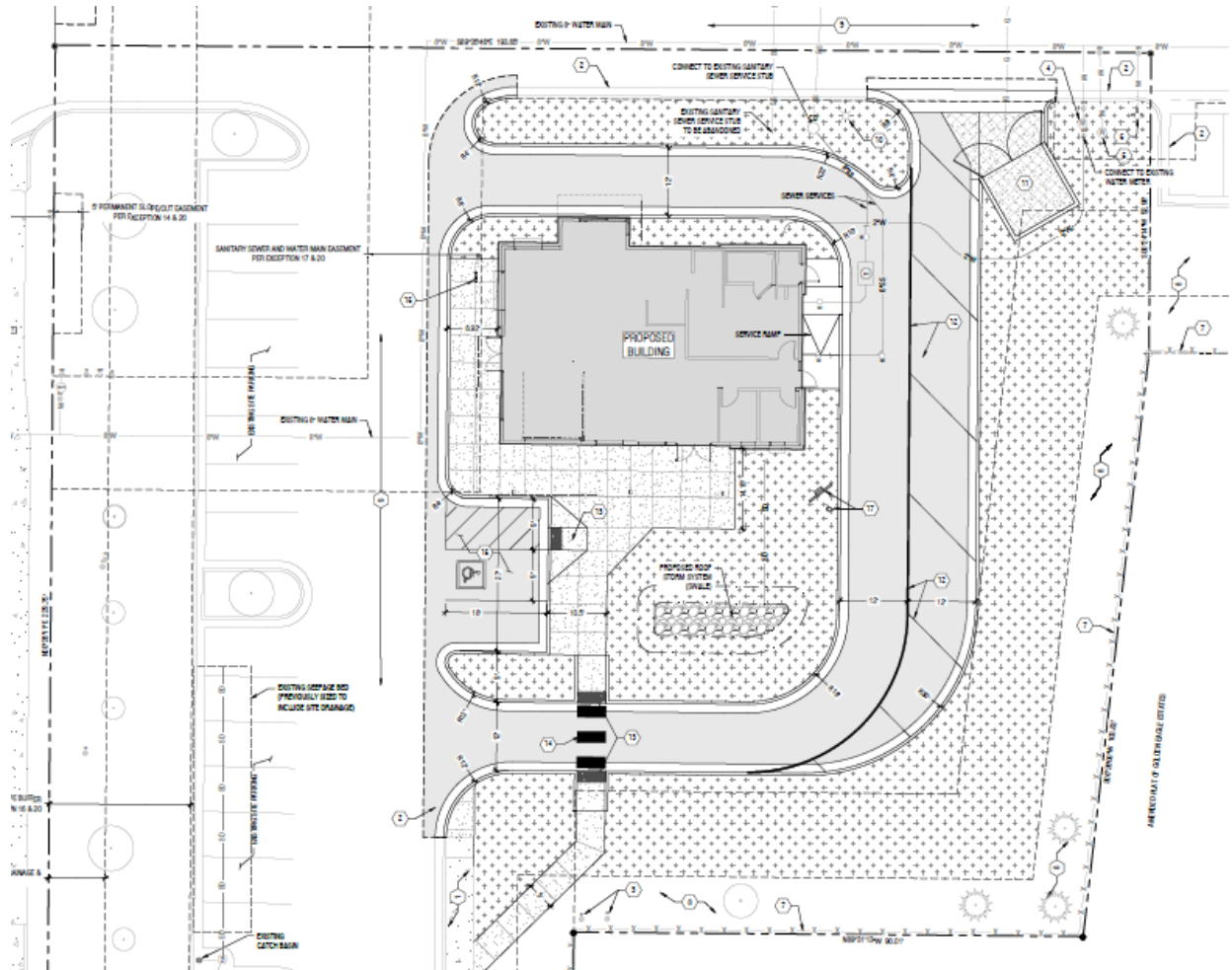
1. **Staff recommends the City Council approve the applicant's request for a development agreement modification and enter into a new DA with the following provisions at a minimum:**
  - a. Hours of operation for any business on the subject property (3300 S. Eagle Road, Lot 1 Block 1 of the Shops at Victory Sub.) shall be restricted to the hours between 5am and 10pm.
  - b. Future development shall adhere to the previous approvals for Alternative Compliance for a reduced landscape buffer width in certain areas adjacent to the residential property to the south and east, per the landscape plan attached in Exhibit A of the staff report attached in the original development agreement for the Shops at Victory Development Agreement (Inst# 111032845).
  - c. Access to this site shall only be provided from one full-access and one right-in/right-out access to/from Eagle Road and one full-access and one right-in/right-out access to/from Victory Road, as shown on the City approved site plan included in the development

agreement for the Shops at Victory Development Agreement (Inst# 111032845). Any other vehicular access points to/from the site are prohibited.

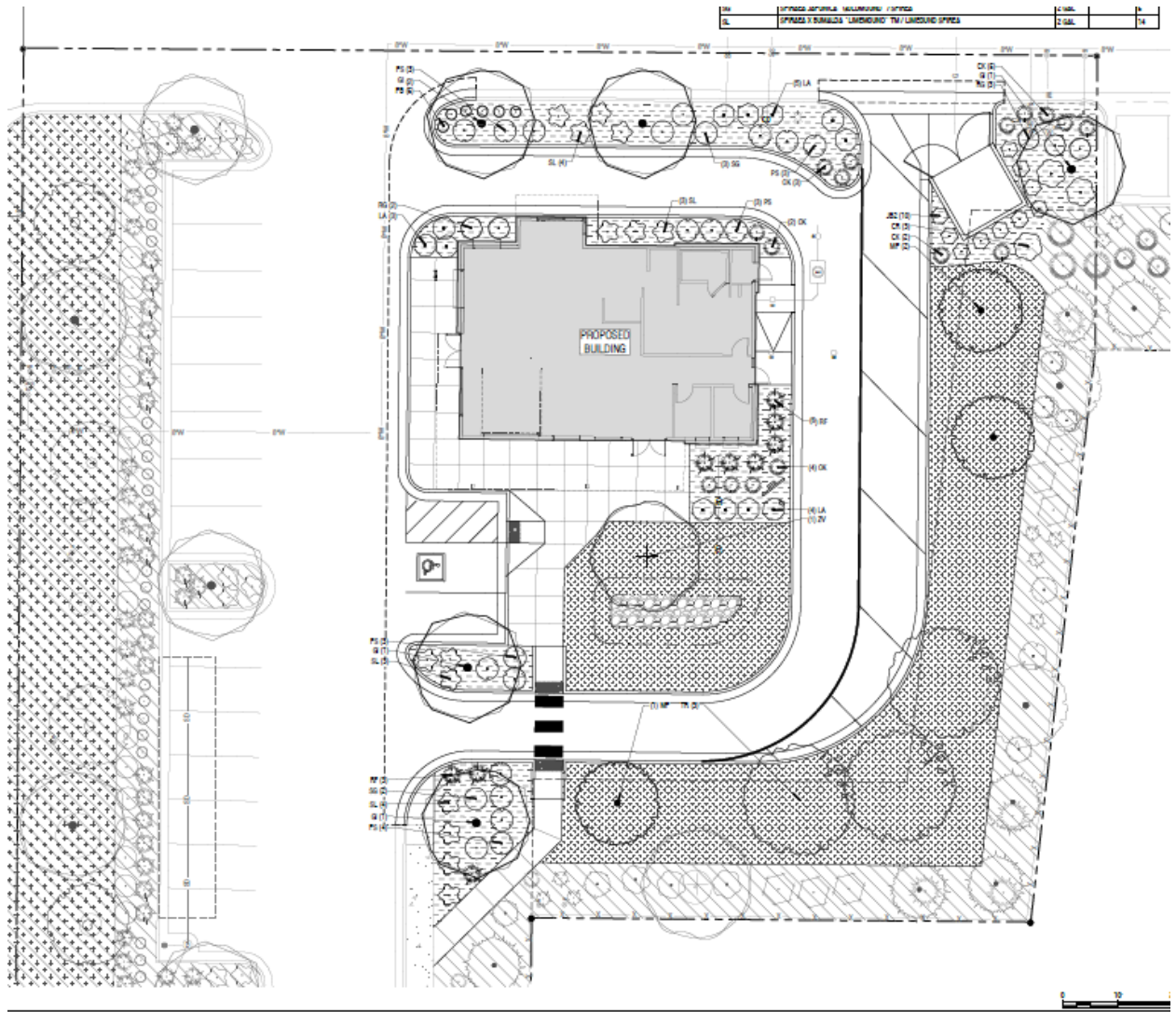
- d. Owner/Developer shall maintain and adhere to the recorded cross-access/ingress-egress agreement for the three (3) parcels associated with the Shops at Victory subdivision.
- e. Future development of this site shall be generally consistent with the site layout, landscape plan and building elevations as approved by CZC A-2022-0019 as depicted in Section V below and the previous conditions of approval for the subject site: H-2016-0029 and H-2022-0019).

# V. EXHIBITS

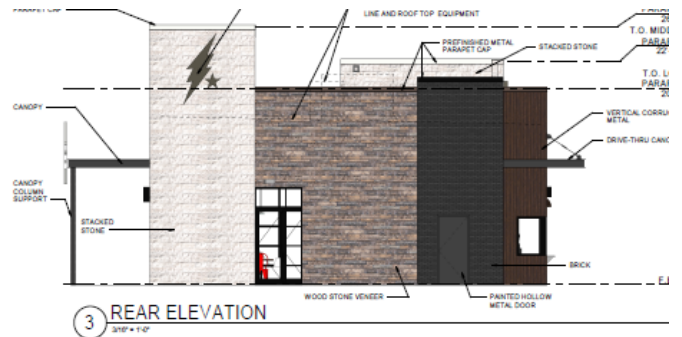
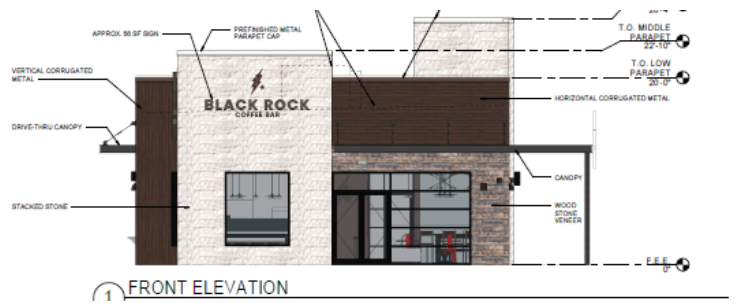
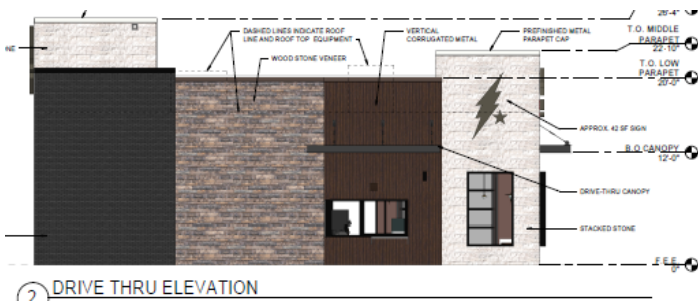
## A. Approved CZC Site Plan



B. Approved CZC Landscape Plan



### C. Approved CZC Elevations



C. Existing Development Agreement Provisions

**5. CONDITIONS GOVERNING DEVELOPMENT OF SUBJECT PROPERTY:**

5.1 Owner/Developer shall develop the Property in accordance with the following special conditions:

1. The applicant shall be responsible for all costs associated with the sewer and water service extension as set forth in Exhibit C attached hereto and by this reference incorporated herein as if set forth in full. Said costs shall be paid prior to commencement of any building construction.

2. Any and all existing domestic wells and/or septic systems within this project will have to be removed from their domestic service, per City Ordinance Section 5-7-517, when services are available from the City of Meridian. Wells may be used for non-domestic purposes such as landscape irrigation.

3. No signs are approved with the subject annexation approval. All business signs will require a separate sign permit in compliance with UDC 11-3D.

4. The request for Alternative Compliance for a reduced buffer width in certain areas adjacent to the residential property to the south, is approved per the landscape plan attached in Exhibit A of the staff report and in accordance with the DA provisions and conditions of approval noted in the Shops at Victory staff report.

5. Construct a minimum 6-foot tall verti-crete wall adjacent to the residential property to the south in the areas where the buffer width is below the required 25-feet, as shown on the fencing plan in Exhibit A.5, as approved through Alternative Compliance with this application. Construct a minimum 6-foot tall solid vinyl fencing in all other areas along the perimeter boundary adjacent to residential uses. All fencing shall be constructed in accordance with the standards listed in UDC 1 1-3A-7C.

6. Provide a minimum 5-foot wide detached sidewalk along both Eagle Road and Victory Road beyond the ultimate right-of-way of the reconstructed and widened intersection. Said sidewalk shall extend across the Aldridge property along Eagle Road to Falcon Drive and be located within a public pedestrian easement.

7. Access to this site shall only be provided from one full-access and one right-in/right-out access to/from Eagle Road and one full-access and one right-in/right-out access to/from Victory Road, as proposed by the applicant, as shown on the City approved site plan attached hereto as Exhibit D and by this reference incorporated herein as if set forth in full. Any other vehicular access points to/from the site are prohibited.

8. A cross-access/ingress-egress easement shall be recorded to/from Eagle Road and Victory Road benefitting all lots within the subdivision.

9. Provide a pedestrian connection (pathway and break in the fence) from this site to the future pathway in Harcourt Subdivision.

10. A minimum of 2 buildings shall be constructed on the site and the maximum building footprint of any one building shall not exceed 20,000 square feet.

11. Hours of operation for the businesses within this development shall be restricted to the hours between 6 am and 10 pm.

12. The Applicant shall comply with the tree preservation standards listed in UDC 1 1-3B-10 for protection of existing trees that are proposed to be retained and existing trees 4-inch caliper and greater that are proposed to be removed. The applicant's proposal to plant trees along the southern and eastern property boundaries as mitigation for trees removed from the site is approved per the landscape plan included in Exhibit A of the staff report.

13. The detailed site plan and building elevations submitted with any future CUP and/or CZC application for this site shall substantially comply with the conceptual site plan and building elevations submitted to the City as shown in Exhibit A of the staff report.

14. The Applicant shall submit a letter of final approval from Ada County Development Services for the Boundary Line Adjustment and a recorded copy of the Record of Survey, prior to approval of the annexation ordinance by City Council and publication of the ordinance in the newspaper.