

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



In the Matter of the Request for Conditional Use Permit for Wood Rose Apartments, Located at 3136 W. Quintale Drive in the C-G Zoning District, by John Day, SU Architecture.

Case No(s). H-2022-0074

For the Planning & Zoning Commission Hearing Date of: January 19, 2023 (Findings on February 2, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of January 19, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of January 19, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of January 19, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of January 19, 2023, 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 19, 2023, 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 19, 2023, 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. 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 January 19, 2023

By action of the Planning & Zoning Commission at its regular meeting held on the _____ day of _____, 2023.

COMMISSIONER ANDREW SEAL, CHAIRMAN VOTED _____

COMMISSIONER MARIA LORCHER, VICE CHAIRMAN VOTED _____

COMMISSIONER NATE WHEELER VOTED _____

COMMISSIONER STEVEN YEARSLEY VOTED _____

COMMISSIONER PATRICK GRACE 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

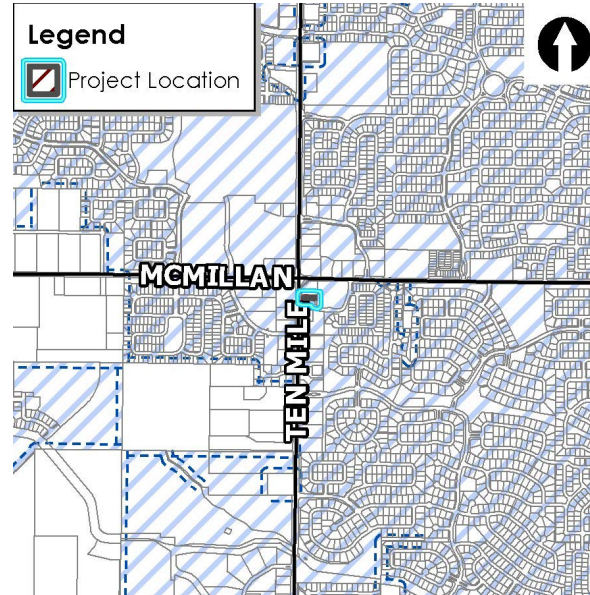
HEARING DATE: Continued to 1/19/2023

TO: Planning & Zoning Commission

FROM: Stacy Hersh, Associate Planner
208-884-5533

SUBJECT: H-2022-0074
Wienerschnitzel – CUP

LOCATION: 3136 W. Quintale Drive, near the southeast corner of N.Ten Mile and W. McMillan Roads, in the NW 1/4 of the NW 1/4 of Section 35, Township 4N, Range 1W.



I. PROJECT DESCRIPTION

Conditional Use Permit (CUP) for a drive-through establishment within 300 feet of another drive-through facility on 0.535 acres of land in the C-G zoning district.

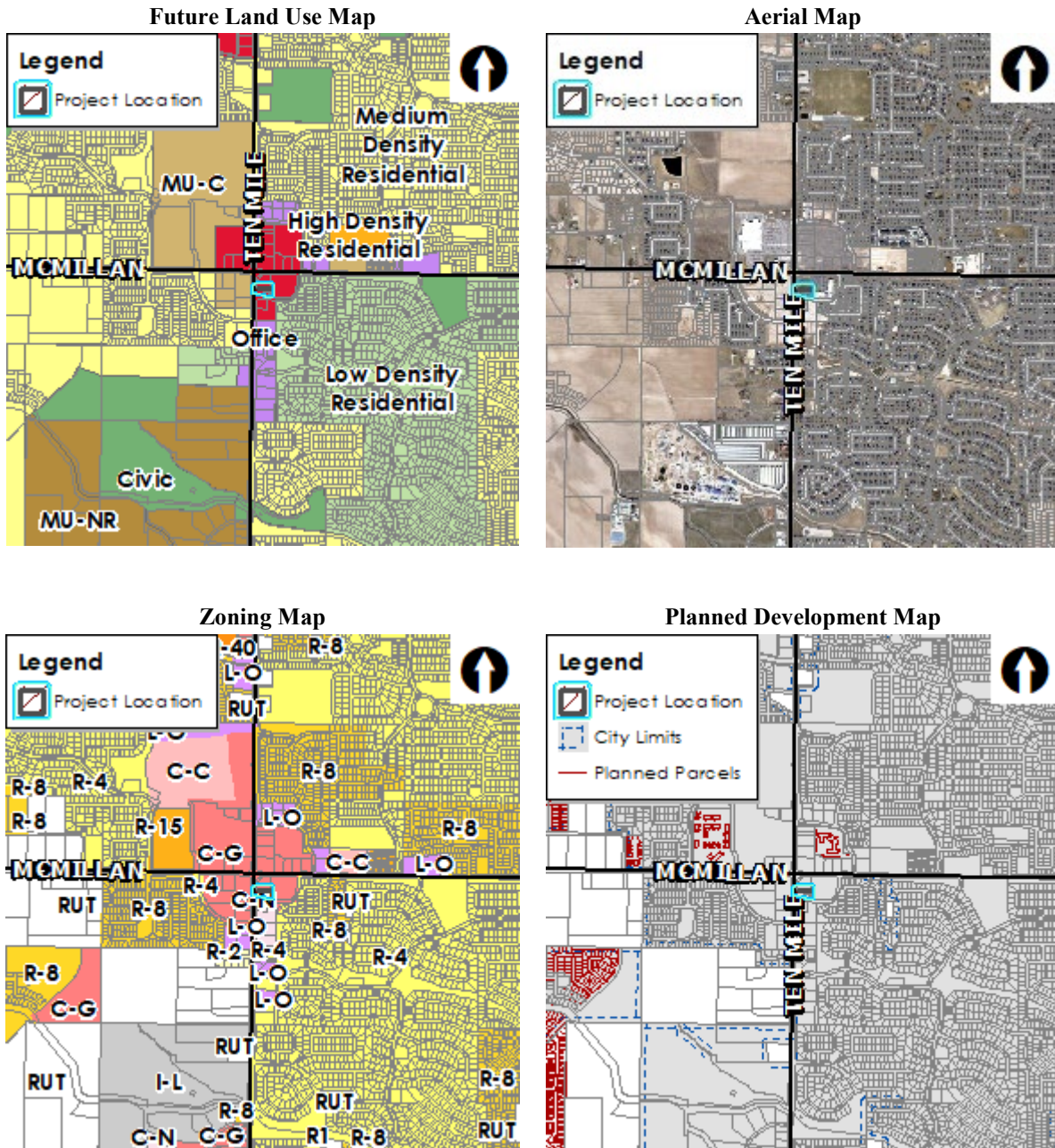
II. SUMMARY OF REPORT

A. Project Summary

Description	Details	Page
Acreage	0.535-acre	
Future Land Use Designation	Commercial	
Existing Land Use	Vacant/undeveloped land	
Proposed Land Use(s)	Restaurant with a drive-through	
Current Zoning	General Retail & Service Commercial (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	NA	
Neighborhood meeting date; # of attendees:	6/30/2022	
History (previous approvals)	H-2019-0102 (DA Ten Mile Plaza); SHP-2021-0008 (Short – Fluid Estates Subdivision); Development Agreement (Inst. # 2019-121599)	

EXHIBIT A

A. Project Area Maps



III. APPLICANT INFORMATION

A. Applicant:

John Day, SU Architecture. – 415 S. 13th Street, Boise, ID 83702

B. Owner:

Paul Del Bufalo – 500 E. Shore Drive, Suite 120, Eagle, ID 83616

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- C. Representative:
Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper Notification	11/16/2022
Radius notification mailed to properties within 500 feet	11/10/2022
Site Posting Date	1/6/2023
Next Door posting	11/10/2022

V. STAFF ANALYSIS

Comprehensive Plan:

COMMERCIAL LAND USES

This designation will provide a full range of commercial uses to serve area residents and visitors. Desired uses may include retail, restaurants, personal and professional services, and office uses, as well as appropriate public and quasi-public uses. Sample zoning include: C-N, C-C, and C-G.

The subject site is one of multiple commercial zoned and designated properties that surround the intersection of Ten Mile and McMillan Roads. There is a multitude of commercial uses existing and under construction with more to come as this area continues to develop. The proposed use of a restaurant with a drive-through is a desired use designated within the Commercial designation in the Comprehensive Plan, as noted above. The proposed use, in conjunction with the already approved or constructed uses, satisfy the general Commercial future land use designation for this area. Staff finds the proposed project is generally consistent with the Comprehensive Plan.

SITE DESIGN AND CODE ANALYSIS

The Applicant proposes to construct a 1,246 (s.f.) restaurant with a drive-through for Wienerschnitzel on a 0.535-acre property in the C-G zoning district.

A restaurant is listed as a principal permitted use in the C-G zoning district per UDC [Table 11-2B-2](#), subject to the specific use standards listed in UDC [11-4-3-49](#). A drive-through requires approval of a conditional use permit when it's within 300 feet of another drive-through facility, an existing residence or a residential district per [11-4-3-11A.1](#). In this case, one other drive-through establishment exists within 300 feet of the property – Ten Mile Plaza (A-2020-0027) on the abutting lot to the north; there are no existing residences or residential districts within 300 feet of the property.

The proposed use, development plan, and elevations are in substantial conformance with the provisions in the existing Development Agreement (Inst. # [2019-121599](#)).

Specific Use Standards: *Staff's analysis is in italics.*

Drive-Through Establishment: The proposed drive-through establishment is subject to the

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specific use standards listed in UDC [11-4-3-11](#), Drive-Through Establishment. All establishments providing drive-through service are required to identify the stacking lane, menu and speaker location (if applicable), and window location on the site plan. *A menu board and speaker are depicted on the site plan at the proposed ordering point; the window location should be depicted on the plans.* The site plan is also required to demonstrate 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:

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 sufficient capacity to prevent obstruction of driveways, drive aisles, and the public right-of-way by patrons as required.

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 is a separate lane from the circulation lanes needed for access and parking.

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 required. An escape lane is proposed prior to approaching the ordering window.

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

The drive-through is located on the north side of the building and is visible from N. Ten Mile Road and from the drive aisle along the north side of the property boundary for surveillance purposes.

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

Restaurant: The proposed use is also 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 (see parking analysis below).

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

Access: Access to the subject property provided by two existing access easements/driveways created with Bridgetower Crossing No.7 and Fluid Estates Subdivisions. However, the applicant is proposing a shared east/west driveway with the property to the south (R2862310065).

With the submittal of the Certificate of Zoning Compliance application, the applicant shall submit a recorded reciprocal cross-access agreement between the proposed development and existing development to the south (Parcel #R2862310065).

Parking: As noted above, UDC 11-4-3-49 includes specific parking standards for restaurants, which the site plan demonstrates compliance with. A minimum of 5 off-street vehicle parking spaces are required for the 1,246 square foot building; 15 are proposed, in excess of the minimum standards.

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A minimum of 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](#). A bicycle rack is proposed on the east side of the building which should accommodate a minimum of one (1) bicycle.

The parking stalls along the eastern boundary of the site should contain wheel stops to prevent vehicle overhang in accordance with UDC [11-3C-5.B.3](#); or the buffer along the east boundary of the site next to the drive aisle should be widened to a minimum of 10 feet to allow for 2 feet of vehicle overhang in accord with UDC 11-3C-5B.4 – parking stalls may be reduced to 17 feet in length; or, wheel stops may be provided in parking spaces to prevent vehicle overhang. The landscape plan submitted with the Certificate of Zoning Compliance application should be revised to reflect compliance with these standards.

Landscaping: Street buffer landscaping was installed within the street buffer along N. Ten Mile Road with the Bridgetower Crossing subdivision improvements.

Parking lot landscaping: Parking lot landscaping is required to be provided in accord with the standards listed in UDC [11-3B-8C](#).

Sidewalks: A 5-foot wide sidewalk exists within the street buffer along N. Ten Mile Road. A pedestrian walkway is proposed from the sidewalk along Ten Mile to the main building entrance as required by UDC 11-3A-19.B.4. There is also a second pedestrian walkway depicted on the plans in the drive-through lane on the east side of the building. **Where pedestrian walkways cross vehicular driving surfaces, they're required to be distinguished from the vehicular driving surface through the use of pavers, colored or scored concrete, or bricks as set forth in UDC 11-3A-19B.4. The site/landscape plan submitted with the Certificate of Zoning Compliance application should reflect compliance with this standard – the proposed striping of the crosswalk is not allowed and should be revised to comply with this standard.**

Easements: There are existing easements on this lot as shown on the Fluid Estates subdivision plat. The proposed structure shall not encroach within these easements, except as allowed in the UDC.

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 were submitted as shown in Section VII.C for a single-story building that incorporates a mix of materials consisting of stucco, stone, metal trim, windows, and metal roofing. Future development of this site shall substantially comply with the conceptual building elevations contained in the Development Agreement.

The final design must be consistent with the Development Agreement (Inst. # [2019-121599](#)) and design standards listed in the [Architectural Standards Manual](#). Compliance with these documents will occur through the CZC and DES process noted below.

Staff finds that the elevations submitted are consistent with the conceptual elevations contained in the Development Agreement and the adjacent surrounding buildings within the development.

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

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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 December 15, 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: John Day, Slichter|Ugrin Architecture
 - b. In opposition: None
 - c. Commenting: Paul Delbufalo, Owner of Wienerschnitzel
 - d. Written testimony: Andrea Ridgley, inquiring about W. Quintale Drive turning into N. Montelino Way as being a private street vs. a commercial collector.
 - e. Staff presenting application: Stacy Hersh, Associate Planner
 - f. Other Staff commenting 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

EXHIBIT A

VII. EXHIBITS

A. Proposed Site Plan (dated: 4/20/2022)

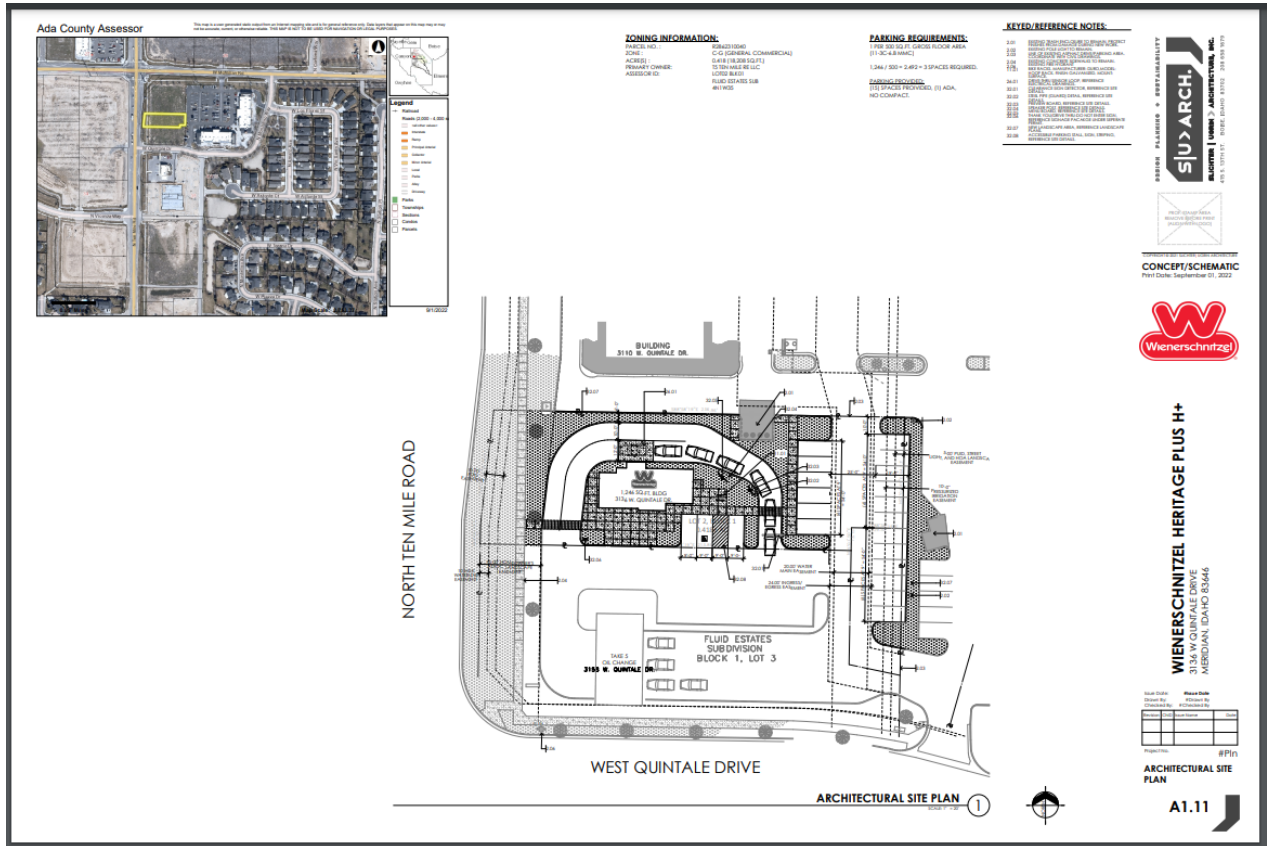


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B. Proposed Landscape Plan

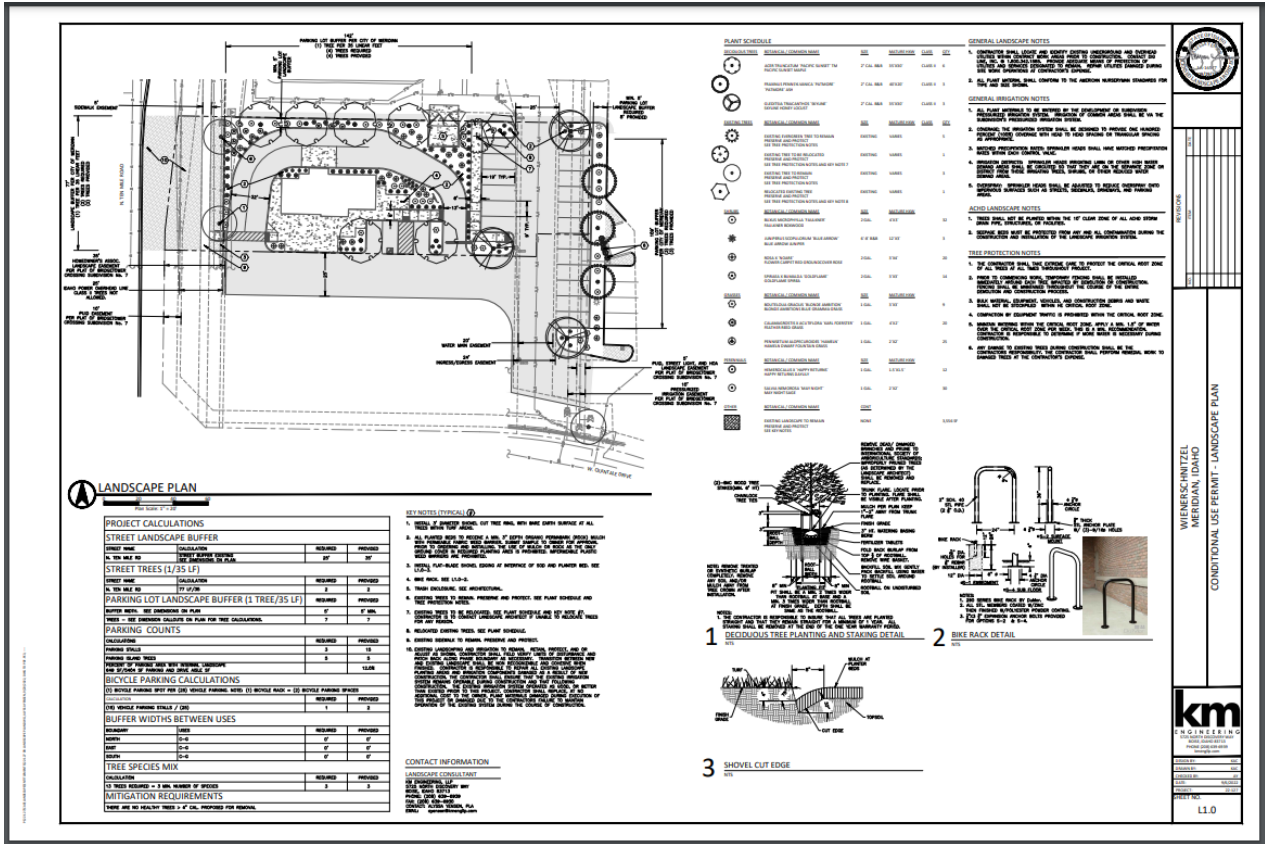


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C. Building Elevations (dated: 6/13/22) Conceptual



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VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING

1. Future development of this site shall comply with the previous conditions of approval and terms of the existing Development Agreement and the conditions contained herein [[H-2019-0102](#) (DA Ten Mile Plaza); [SHP-2021-0008](#) (Short – Fluid Estates Subdivision); Development Agreement (Inst. #[2019-121599](#))].
2. The site plan and landscape plan submitted with the Certificate of Zoning Compliance application shall be revised as follows:
 - a. The stacking lane, menu and speaker location(s), and window location shall be depicted in accord with UDC [11-4-3-11B](#).
 - b. All mechanical equipment on the back of the building and outdoor service and equipment areas 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](#).
 - c. The pedestrian walkways from the perimeter sidewalks to the main building entrance shall be distinguished from the vehicular driving surface through the use of pavers, colored or scored concrete, or bricks as set forth in UDC 11-3A-19B.4b.
 - d. Depict wheel stops in the parking stalls along the eastern boundary of the site to prevent vehicle overhang in accordance with UDC [11-3B-5.B\(3\)](#).
 - e. Depict landscaping in the perimeter buffer and within the parking area in accord with the standards listed in UDC [11-3B-8C](#).
 - f. Depict signage ahead of each pedestrian crossing in the drive-through lane notifying drivers to watch out for pedestrians.
3. Compliance with the standards listed in UDC [11-4-3-11](#) – Drive-Through Establishment and [11-4-3-49](#) – Restaurant is required.
5. A reciprocal cross-access easement is required to be submitted with the property to the south (R2862310065) for the east/west shared drive aisle. This **cross-access easement shall be submitted with the Certificate of Zoning Compliance application. Direct lot access to N. Ten Mile Road is prohibited.**
6. 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.
8. 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. PUBLIC WORKS

Site Specific Conditions of Approval

1. Ensure no sewer services cross infiltration trenches.

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General Conditions of Approval

1. Applicant shall coordinate water and sewer main size and routing with the Public Works Department, and execute standard forms of easements for any mains that are required to provide service outside of a public right-of-way. Minimum cover over sewer mains is three feet, if cover from top of pipe to sub-grade is less than three feet then alternate materials shall be used in conformance of City of Meridian Public Works Departments Standard Specifications.
2. 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-foot wide for a single utility, or 30-foot wide for two. 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.
3. The City of Meridian requires that pressurized irrigation systems be supplied by a year-round source of water (UDC 11-3B-6). 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 receiving development plan approval.
4. Any structures that are allowed to remain shall be subject to evaluation and possible reassignment of street addressing to be in compliance with MCC.
5. 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.
6. 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.
7. Any existing septic systems within this project shall be removed from service per City Ordinance Section 9-1-4 and 9 4 8. Contact Central District Health for abandonment procedures and inspections (208)375-5211.
8. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures.
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. 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.
14. 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

EXHIBIT A

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.

15. 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.
16. 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, water and reuse infrastructure for duration of two years. This surety will be verified by a line item cost estimate 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.

C. ADA COUNTY HIGHWAY DISTRICT (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=279724&dbid=0&repo=MeridianCity>

D. CITY ARBORIST

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=279405&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.

Staff 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.

Staff finds the proposed restaurant with a drive-through 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.

Staff 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.

Staff 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.

Staff 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.

Staff 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.

Staff 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)

Staff 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.