

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



In the Matter of the Request for a Drive-Through Establishment for Guthries restaurant within 300-feet of another Drive-Through Establishment, and Existing Residence and Residential Zoning District, Located at 1840 W. Chinden Blvd. in the C-C Zoning District, by Kimley-Horn.

Case No(s). H-2022-0081

For the Planning & Zoning Commission Hearing Date of: December 15, 2022 (Findings on January 5, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of December 15, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of December 15, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of December 15, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of December 15, 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 December 15, 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 December 15, 2022, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of Two (2) Year Conditional Use Permit Duration

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

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

E. 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 December 15, 2022

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

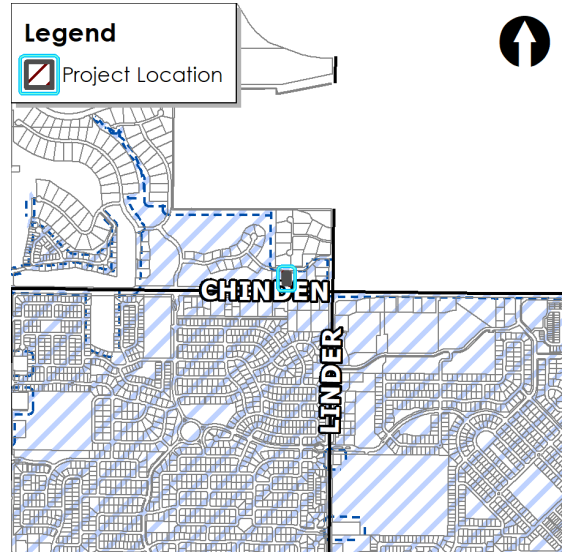
HEARING DATE: 12/15/2022

TO: Planning & Zoning Commission

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

SUBJECT: H-2022-0081
Guthries – CUP

LOCATION: 1840 W. Chinden Blvd, near the northwest corner of N. Linder Road and W. Chinden Blvd. in the SE 1/4 of the SE 1/4 of Section 23, Township 4N, Range 1W.



I. PROJECT DESCRIPTION

Conditional Use Permit (CUP) for a drive-through establishment within 300 feet of another drive-through facility, residential district, and existing residence on 0.969 acres of land in the C-C zoning district.

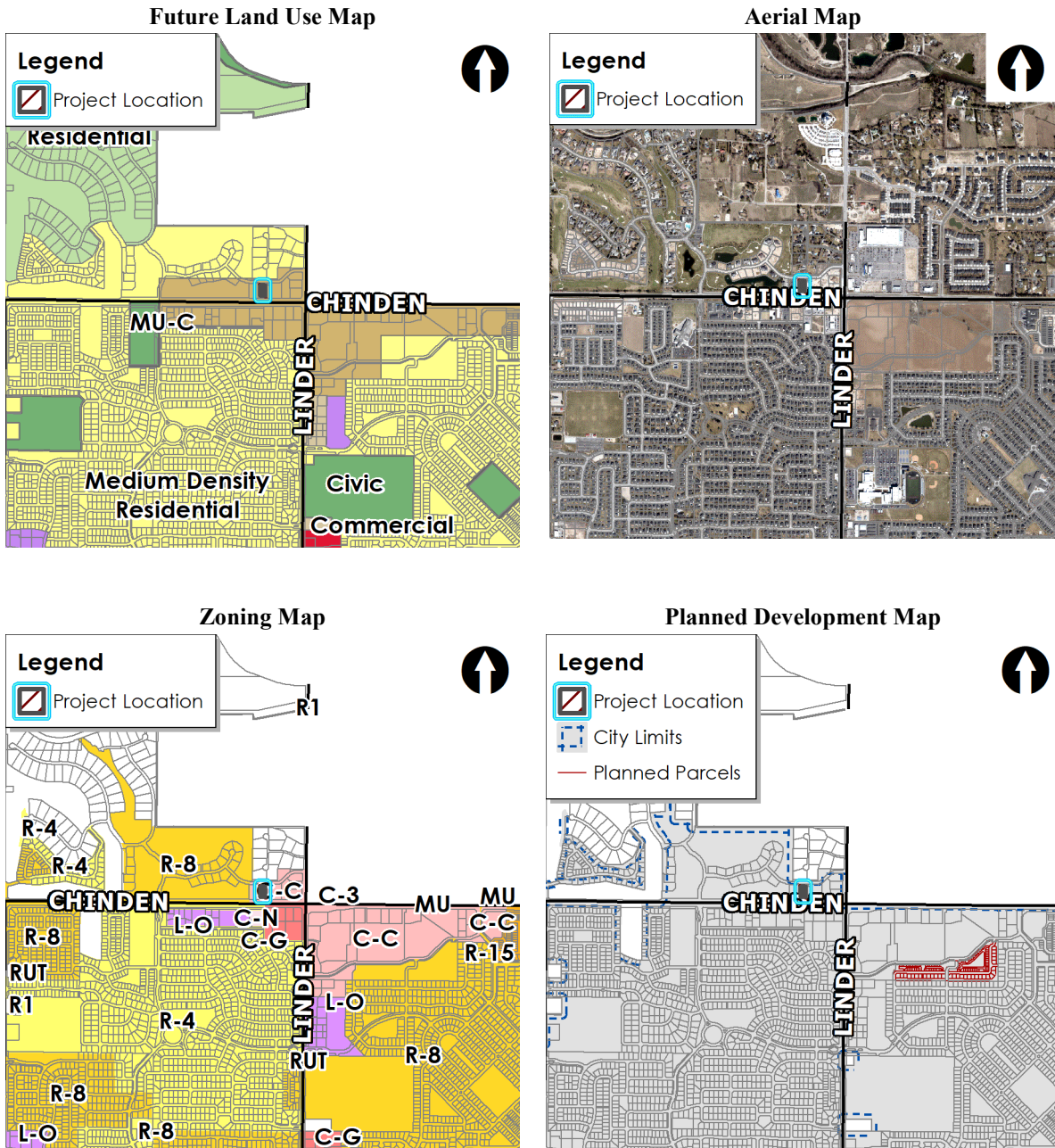
II. SUMMARY OF REPORT

A. Project Summary

Description	Details	Page
Acreage	0.969-acre	
Future Land Use Designation	Commercial	
Existing Land Use	Vacant/undeveloped land	
Proposed Land Use(s)	Restaurant with a drive-through	
Current Zoning	Community Business District (C-C)	
Physical Features (waterways, hazards, flood plain, hillside)	NA	
Neighborhood meeting date; # of attendees:	10/3/2022	
History (previous approvals)	PP-14-011 (Chinden and Linder Crossing Subdivision); MDA-14-008 , Development Agreement Instr. # 2014-088001 (Chinden and Linder Crossing Subdivision); FP-14-041 (Chinden and Linder Crossing Subdivision) CUP-15-007 (<i>Carl's Jr expired</i>).	

EXHIBIT A

A. Project Area Maps



III. APPLICANT INFORMATION

A. Applicant:

Nicolette Womack – 950 W. Bannock Street, Suite 1100

B. Owner:

DG Boise Chinden, LLC – 1000 Johnson Ferry Road B250, Marietta, GA 30068

EXHIBIT A

C. Representative:
Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper Notification	11/30/2022
Radius notification mailed to properties within 300 feet	11/13/2022
Site Posting Date	12/3/2022
Next Door posting	11/28/2022

V. STAFF ANALYSIS

Comprehensive Plan:

COMMERCIAL LAND USES

This property is designated “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 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 areas, but not as large as in Mixed Use – Regional 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 3 or 4 miles). Employment opportunities for those living in and around the neighborhood are encouraged.

The site is proposed to develop a drive-through restaurant which will contribute to the mix of uses in this area and provide another fast food option to area residents within close proximity to nearby residential developments. The proposed use will also provide employment opportunities to nearby residents.

Staff finds the following Comprehensive Plan policies to be applicable to this property and apply to the proposed use (staff analysis in *italics*):

- “Require all new and reconstructed parking lots to provide landscaping in internal islands and along streets.” (2.01.04B)

All parking lot landscaping is required to comply with the standards listed in UDC 11-3B-8C.

- “Permit new development only where urban services can be reasonably provided at the time of final approval and development is contiguous to the City.” (3.01.01F)

City water and sewer service stubs have been provided to this site with the development of the subdivision.

EXHIBIT A

- “Plan for a variety of commercial and retail opportunities within the Area of City Impact.” (3.05.01J)

The proposed drive-through restaurant will contribute to the variety of uses and fast food options in the northern portion of the City.

- “Require all commercial and industrial businesses to install and maintain landscaping.” (2.01.03B)

Street buffer landscaping was installed with the subdivision along W. Island Green Dr. and N. Linder Rd. on this site in accord with the standards listed in UDC 11-3B-7C. Internal parking lot landscaping is required to be installed in accord with the standards listed in UDC 11-3B-8C.

- “Locate industrial and commercial uses where adequate water supply and water pressure are available for fire protection.” (3.04.02A)

There is adequate water supply and pressure available to the site for fire protection.

For the above-stated reasons, staff believes the proposed use is consistent with the applicable comprehensive plan policies and is appropriate in this location.

SITE DESIGN AND CODE ANALYSIS

The Applicant proposes to construct a 2,083 (s.f.) restaurant with a drive-through for Guthries on a 0.969-acre property in the C-C 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 – Zions Bank (H-2018-0077) on a lot to the east; there are also existing residences and residential districts within 300 feet of the property.

The proposed hours of operation will be Sunday – Thursday from 10:00 am to 9:00 pm, and Friday and Saturday from 10:00 am to 10:00 pm. Business hours of operation within the C-C District shall be limited from 6:00 am to 11:00 pm when the property abuts a residential use or district. The property does not directly abut a residential district; however, it is within 300 feet of existing residential uses (north); therefore, Staff is supportive of the proposed hours of operation.

The proposed use and development plan is in substantial conformance with the provisions in the existing Development Agreement (Inst. #[2014-088001](#)).

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

Drive-Through Establishment: The proposed drive-through establishment is subject to the 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, speaker, and window location are depicted on the site plan at the proposed ordering point.* The site plan is also required to demonstrate safe pedestrian and vehicular access and circulation on the site and between adjacent properties. ***Safe pedestrian access should be provided from the vehicle stacking areas on the south sides of the drive-through and along the northeast side of the site – one is required from the perimeter sidewalk along Chinden to the main building entrance. Staff recommends additional pedestrian accesses to the building along the southeast drive aisle per UDC 11-3A-19B.4 and a striped pedestrian walkway on the northeast side of the site directing patrons to the building entrance (see proposed***

EXHIBIT A

redlines on the site plan). Staff recommends signage be installed ahead of each crossing warning drivers to watch out for pedestrians (west, northeast, south). Staff finds that the parking stalls to the north should be restricted for employee parking only to maximize pedestrian safety. 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 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. The proposed site layout places a drive-through that starts at the northeast corner of the building and goes all the way around the building with the exits shown at the northeast corner and west side of the building and also shows the pick-up window on the west side of the proposed restaurant. If there was additional or excessive overflow from the drive-through lane which does sometimes occur from drive-through establishments at peak times, it may stack into the parking lot to the east, north, and then west, not into W. Chinden Boulevard.

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, however there is a potential for vehicles to stack in the southern drive aisle.

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 on the west and east sides of the building.

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 east west side of the building and is visible from the private drive on the west and from W. Island Green Drive 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-C zoning district.

Access: Access is provided to this site via W. Island Green Dr., a local street and the private drive located on the west side of the property. A cross-access easement exists between all lots in this subdivision as depicted on the plat for Chinden and Linder Crossing Subdivision. Direct access via W. Chinden Boulevard is prohibited. **At the time of the future Certificate of Zoning Compliance (CZC) application, the applicant should provide written documentation of the recorded cross-access easement.**

Parking: A minimum of one (1) parking space is required to be provided for every 250 square feet of

EXHIBIT A

gross floor area for the proposed restaurant use. A minimum of 8 off-street vehicle parking spaces are required for the 2,083 square foot building; the submitted site plan shows 25 proposed parking spaces exceeding UDC minimums.

Due to the multiple entrances/exits provided on this site for parking and drive-through access, Staff recommends that the Applicant depict striping and visible signage noting the required traffic flow for the site.

A minimum one (1) bicycle parking space is required to be provided for every 25 vehicle spaces or portion thereof per UDC [11-3C-6G](#); bicycle parking facilities are required to comply with the location and design standards listed in UDC [11-3C-5C](#). *Bicycle parking is not shown on the plans submitted with this application.*

Pedestrian Walkways: A pedestrian walkway is proposed from the sidewalk along the private road to the main building entrance as required by UDC 11-3A-19.B.4. The proposed pedestrian connection is required to be a minimum of five (5) feet in width. **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.**

Landscaping: Street buffer landscaping was installed within the street buffer along W. Chinden Boulevard with the Chinden and Linder Crossing subdivision improvements and must remain protected during construction on the site in accord with UDC 11-3B-10C3.

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

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](#). If mechanical equipment is proposed to be roof-mount, all equipment should be screened and out of view as noted above.

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 EIFS, brick veneer, metal awnings, metal coping/downspouts, windows, and metal roofing. The final design of the structure is required to comply with the design standards listed in the Architectural Standards Manual.

No elevations were submitted that show the proposed trash enclosure; this should be corrected with the future CZC submittal and should match the style of the proposed building. The submitted landscape plans do show adequate screening of the trash enclosure.

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.

EXHIBIT A

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: Connor Candrian, Applicant Architect
 - b. In opposition: Ron Callison, Terri Frohnmayer, William Frohnmayer, Neal Stuart
 - c. Commenting: Connor Candrian
 - d. Written testimony: A petition signed by numerous neighbors that live within the Spurwing/Spurwing Challenge Subdivision.
 - e. Staff presenting application: Stacy Hersh, Associate Planner
 - f. Other Staff commenting on application: Bill Parsons
- #### 2. Key issue(s) of public testimony:
- a. The primary concern is with excess traffic another restaurant with a drive-through will bring to the neighborhood.
- #### 3. Key issue(s) of discussion by Commission:
- a. None
- #### 4. Commission change(s) to Staff recommendation:
- a. Motion to approve Staff's recommended revision to condition A2.C as stated in Staff's presentation as requested by the Applicant.

EXHIBIT A

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 []; [MDA-14-008](#), Development Agreement Instr. #[2014-088001](#) (Chinden and Linder Crossing Subdivision) [PP-14-011](#) (Chinden and Linder Crossing Subdivision); [FP-14-041](#) (Chinden and Linder Crossing Subdivision)].
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 walkway from the perimeter sidewalk along ~~Chinden~~ the private drive on the southwest of the site 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.; the two additional ~~required~~ proposed pedestrian walkways to the main building entrance(s) may be striped.
 - d. Depict signage ahead of each pedestrian crossing(s) in the drive-through lane (south and northeast) notifying drivers to watch out for pedestrians.
 - e. Depict signage along the parking stalls to the north restricting the stalls for employee parking only to maximize pedestrian safety.
 - f. Additional signage and parking lot striping is required throughout the site to efficiently and adequately direct patrons to the menu boards and throughout the site with minimal conflict.
 - g. Depict landscaping in the perimeter buffer and within the parking area in accord with the standards listed in UDC [11-3B-8C](#).
 - h. Depict signage ahead of each pedestrian crossing(s) in the drive-through lane (south and northeast) notifying drivers to watch out for pedestrians.
 - i. Depict one bicycle rack as close to the building entrance as possible without obstructing pedestrian walkways, public sidewalks, or building entrance(s) in accord with UDC [11-5-3C-5](#) and UDC [11-3C-6G](#).
3. Compliance with the standards listed in UDC [11-4-3-11](#)– Drive-Through Establishment and [11-4-3-49](#) – Restaurant is required.
4. Street buffer landscaping was installed within the street buffer along W. Chinden Boulevard with the Chinden and Linder Crossing subdivision improvements and must remain protected during construction on the site in accord with UDC 11-3B-10C3.
5. Submit elevation of the trash enclosure that generally matches the proposed building design with the submittal of the CZC and DES application.
6. Business hours of operation within the C-C District shall be limited from 6:00 am to 11:00 pm

EXHIBIT A

when the property abuts a residential use or district

7. Direct access via W. Chinden Boulevard is prohibited. At the time of the future Certificate of Zoning Compliance (CZC) application, the applicant should provide written documentation of the recorded cross-access easement.

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. A future install agreement will be required for the development of this property. This agreement will be for \$14,000.00 for the cost of one streetlight to be installed after the final building out Chinden Blvd.

General Conditions of Approval

1. 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.
2. Any structures that are allowed to remain shall be subject to evaluation and possible reassignment of street addressing to be in compliance with MCC.
3. 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.
4. 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.
5. 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.
6. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures.
7. 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.
8. 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.

EXHIBIT A

9. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
10. Developer shall coordinate mailbox locations with the Meridian Post Office.
11. 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.
12. 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 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.

C. ADA COUNTY HIGHWAY DISTRICT (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=282199&dbid=0&repo=MeridianCity>

D. NAMPA & MERIDIAN IRRIGATION DISTRICT

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=282304&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.

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

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

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

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

EXHIBIT A

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.

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

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

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

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

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

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

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

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

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

This finding is not applicable.

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

This finding is not applicable.