

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



Date of Order: August 17, 2021
Case nos.: H-2021-0004; CR-2021-0004; CR-2021-0005
Applicant: Brian Tsai
In the Matter of: Request for Conditional Use Permit for an approximately 7,000 square foot drinking establishment, music venue, and nightclub on a portion of 3185 E. Ustick Road, in the C-G zoning district

Pursuant to testimony and evidence received regarding this matter at the public hearing before Meridian City Council on July 20, 2021, as to this matter, the Meridian City Council enters the following findings of fact, conclusions of law, final decision, and order.

A. Findings of Fact. Meridian City Council finds that:

1. The site is not large enough to accommodate the proposed use, particularly as to the portion of the site that would be needed for the addition of parking facilities adequate to serve the proposed use, while also meeting the dimensional and development regulations applicable to the C-G district. The conditions proposed to decrease parking needs are inadequate to mitigate the lack of adequate space to accommodate the proposed use.
2. The proposed use is not harmonious with the mixed use regional designation of the Meridian Comprehensive Plan. While the proposed use will contribute to the variety of uses in the area, the proposed use is not functionally compatible with other uses in the area, including nearby residential and other commercial uses. Due to the noise, parking, and access impacts inherent in the proposed use, any conditions proposed to mitigate these impacts of the proposed use will be insufficient to integrate the proposed use and other existing uses in the area.
3. The design, construction, operation and maintenance of the use will not be compatible with other uses in the general neighborhood or with the existing character of the general vicinity. The residential neighborhood and existing commercial uses are not compatible with the proposed use, particularly as to noise, parking, and access issues presented by the placement of the proposed use at this location.

Noise from music, traffic, and crowds is an inherent impact of the proposed use. The general neighborhood includes residential uses, the character and hours of which are incompatible with the proposed use. For this reason, conditions are not available to mitigate this inherent impact. The Applicant did assert that the noise from the proposed use would not exceed the ambient noise from traffic on Eagle Road, but Council does not find this assertion to be credible, in part because the record did not include a third party noise study or other data verifying this assertion.

Available parking is inadequate to accommodate the proposed use in a manner compatible with existing and entitled uses at the site. Applicant has not secured a cross-parking agreement with the adjacent commercial property. The proposed conditions under which the

operator of the proposed use would scale operations and building occupancy to accommodate parking resources and encourage carpooling and use of ride share services are inadequate to mitigate the impacts presented to other businesses and residences by the proposed use's foreseeable parking demand. The parking facilities available at this site are inadequate to serve the proposed use.

While access and cross-access points available within the site and at public rights-of-way may meet minimum standards for commercial uses, this specific proposed use will foreseeably generate periods of high-volume vehicle traffic ingress and egress to the site that will overwhelm the standard access points. Available access, both internal and external, is not available to accommodate both this proposed use and other existing or entitled uses. The nature and timing of traffic arriving at and leaving this proposed use will overwhelm, conflict with, and present incompatibility with, other commercial uses at the site as well as the nearby residential neighborhood. General information in the record regarding adequacy of the available access for general commercial uses is not persuasive as applied to this specific proposed use. The proposed condition under which the operator of the proposed use would encourage patrons to use nonresidential traffic routes is inadequate to mitigate the impacts presented by access to and from the site.

The operational methods suggested as solutions to mitigate these effects are inadequate to address the impacts of noise on other uses in the area. Due to the noise, parking, and access impacts inherent in the proposed use, any conditions proposed to mitigate these impacts of the proposed use will be insufficient.

4. The design, construction, operation and maintenance of the use will not be compatible with the existing character of the general vicinity. The proposed use will change the essential character of the area due to the nature of the use itself, and the conditions proposed or otherwise available are inadequate to mitigate this impact.
5. The proposed use will adversely affect other property in the vicinity even if it complies with proposed or otherwise available conditions of approval. Available parking is inadequate to accommodate the proposed use as well as existing or entitled uses at the site. Conditions are inadequate to mitigate these and other adverse impacts inherent in the proposed use.
6. The proposed use will be detrimental to the economic welfare of other existing or entitled uses at the site, because the proposed use will consume a disproportionate portion of the available parking resources. Appropriate conditions are not available to adequately mitigate this and other adverse economic impacts of the proposed use on other properties.
7. The proposed use involves activities that will be detrimental to any persons, property, and/or the general welfare by reason of excessive noise. The noise mitigation measures proposed, and any available measures, will not adequately abate the noise inherent to this proposed use.

B. Conclusions of law. Meridian City Council concludes that:

1. The relevant criteria and standards for review of a Conditional Use Permit application are set forth in Meridian Unified Development Code section 11-5B-6(E).

2. Given the facts set forth above, denial of the requested Conditional Use Permit is appropriate, as the application fails to comply with the criteria and standards set forth in Meridian Unified Development Code section 11-5B-6(E).
 3. Pursuant to Idaho Code § 67-6503, the City has acted in accordance with all applicable provisions of the Local Land Use Planning Act (“LLUPA”), codified at Chapter 65, Title 67, Idaho Code, in this matter.
 4. The Meridian City Council takes judicial notice of its Unified Development Code, codified at Title 11 Meridian City Code, all current zoning maps, and Comprehensive Plan.
- C. Order.** Pursuant to the above findings of fact and conclusions of law, Meridian City Council hereby orders that the Applicant’s request for Conditional Use Permit is denied.
- D. Final decision.** Upon approval by majority vote of the City Council, this is a final decision of the governing body of the City of Meridian.
- 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.

IT IS SO ORDERED by the City Council of the City of Meridian, Idaho, on this 17th day of August, 2021.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk