

STAFF REPORT
COMMUNITY DEVELOPMENT DEPARTMENT



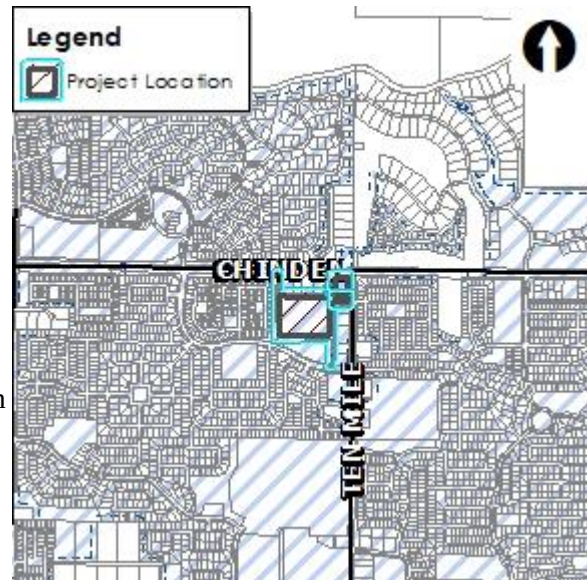
HEARING DATE: July 11, 2023

TO: Mayor & City Council

FROM: Sonya Allen, Associate Planner
 208-884-5533

SUBJECT: H-2023-0007 Costco Development – MDA, CUP

LOCATION: Southwest corner of W. Chinden Blvd. and N. Ten Mile Rd. at 3403 W. Chinden Blvd. in the NE ¼ of Section 27, Township 4N., Range 1W.



I. PROJECT DESCRIPTION

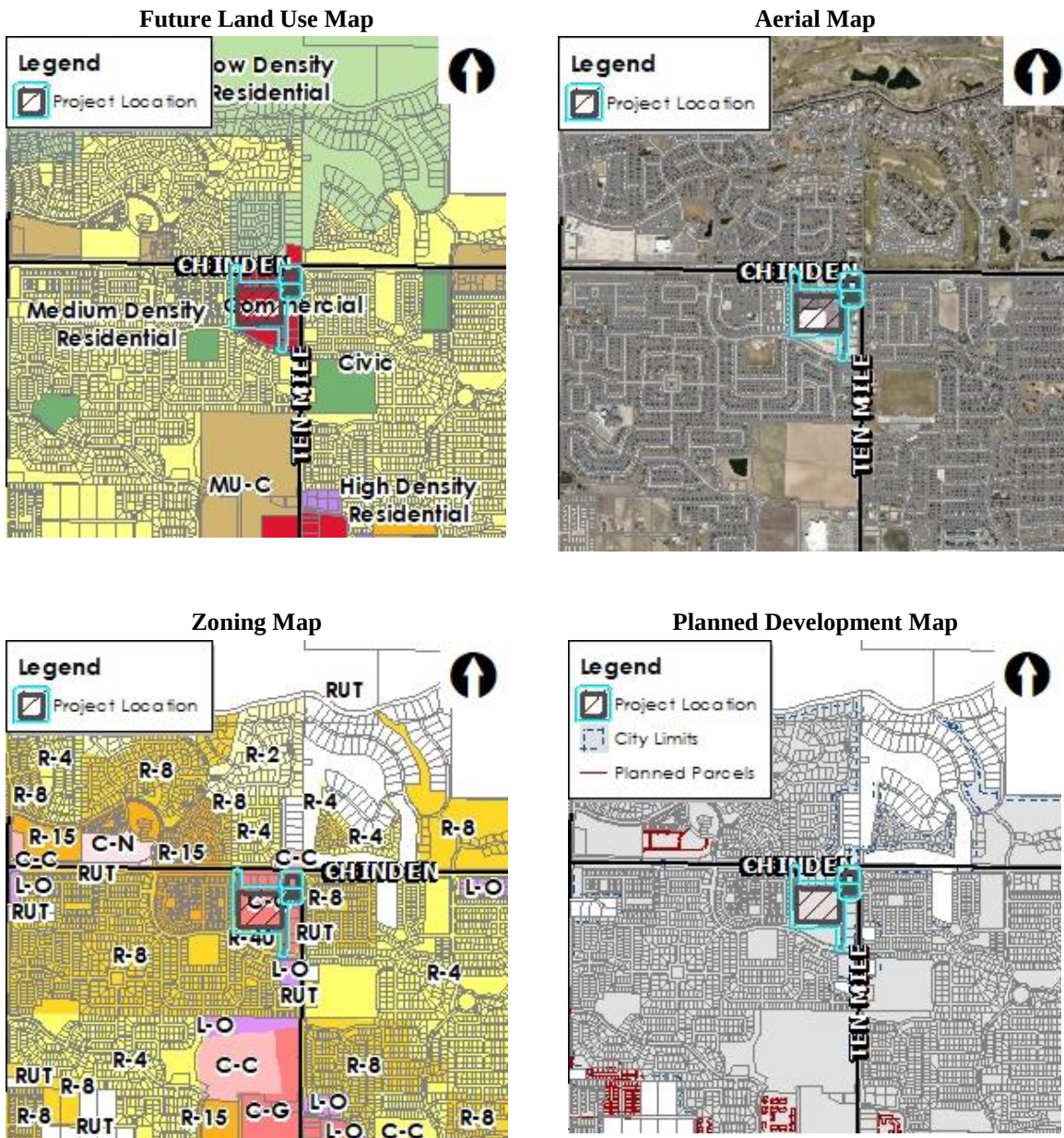
Modification to the existing Development Agreement [Inst. #[2018-069276](#) (File #H-2018-0004), amended as Inst. #[2018-114828](#) (File #H-2018-0066)], which currently prohibits deliveries for Costco from occurring between the hours of 10:00 p.m. and 5:00 a.m. to prohibit deliveries from occurring between the hours of 11:00 p.m. and 3:00 a.m.; and Conditional Use Permit to allow extended business hours of operation from 6:00 a.m. - 11:00 p.m. to 3:00 a.m. - 11:00 p.m.

II. SUMMARY OF REPORT

A. Project Summary

Description	Details
Acreage	17.20 (overall property)
Future Land Use Designation	Commercial
Existing Land Use	Commercial retail/fuel sales facility
Proposed Land Use(s)	NA
Current Zoning	General Retail & Service Commercial (C-G)
Physical Features (waterways, hazards, flood plain, hillside)	NA
Neighborhood meeting date; # of attendees:	4/4/2023; 11 people attended
History (previous approvals)	H-2018-0004 (DA Inst. #2018-069276); H-2018-0066 (amended DA Inst. #2018-114828)

B. Project Maps



III. APPLICANT INFORMATION

A. Applicant:

Chris Ferko, Barghausen Consulting Engineers, Inc. – 18215 72nd Ave. S., Kent, WA 98032

B. Owner:

Costco Wholesale – 999 Lake Drive, Issaquah, WA 98027

C. Agent/Representative:

Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date	City Council Posting Date
Newspaper Notification	4/19/2023	6/25/2023
Radius notification mailed to properties within 300 feet	4/15/2023	6/23/2023
Public hearing notice sign posted on site	4/24/2023	6/30/2023
Nextdoor posting	4/15/2023	6/23/2023

V. COMPREHENSIVE PLAN ([HTTPS://WWW.MERIDIANCITY.ORG/COMPPLAN](https://www.meridiancity.org/compplan)):

LAND USE:

This property is designated Commercial on the Future Land Use Map (FLUM). This designation provides for 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. Multi-family residential may be allowed in some cases, but should be careful to promote a high quality of life through thoughtful site design, connectivity, and amenities. Sample zoning include: C-N, C-C, and C-G.

No changes to the FLUM designation or zoning is proposed with this application.

COMPREHENSIVE PLAN POLICIES (<https://www.meridiancity.org/compplan>):

Goals, Objectives, & Action Items: Staff finds the following Comprehensive Plan policy to be applicable to this application and apply to the proposed use of this property (staff analysis in *italics*):

- “Preserve private property rights and values by enforcing regulations that will prevent and mitigate against incompatible and detrimental neighboring uses.” (3.05.01C)

The UDC (11-2B-3B) limits business hours of operation in the C-G zoning district from 6:00 a.m. to 11:00 p.m. when the property abuts a residential use or district to lessen negative impacts on adjacent residential neighbors, unless otherwise approved through a conditional use permit. Through the Development Agreement (DA), deliveries for Costco are specifically prohibited between the hours of 10:00 p.m. and 5:00 a.m. Council should rely on written and public testimony from adjacent neighbors in determining if extended hours for deliveries will be incompatible with and detrimental to adjacent existing and future residential uses.

VI. STAFF ANALYSIS

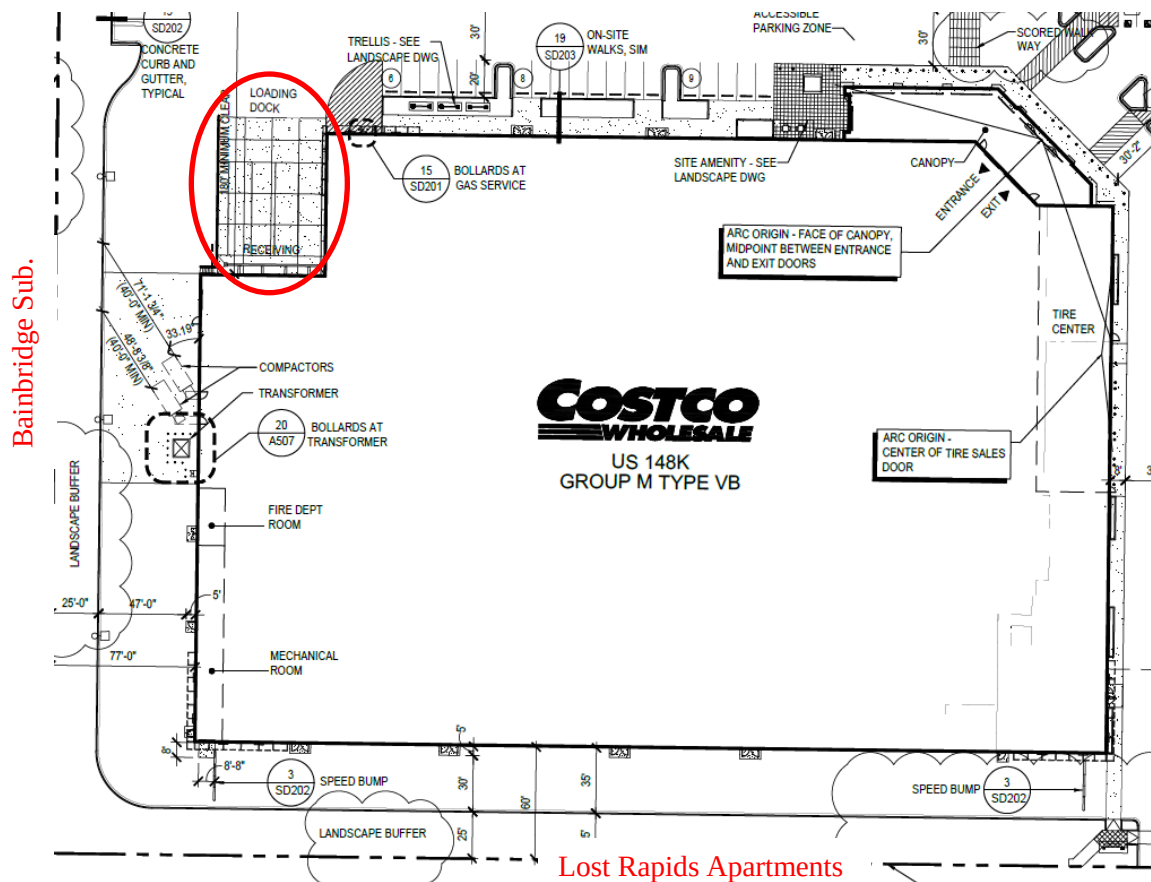
A. DEVELOPMENT AGREEMENT MODIFICATION (MDA)

The Applicant requests approval of a modification to the existing Development Agreement [Inst. #2018-069276 (File #H-2018-0004), amended as Inst. #2018-114828 (File #H-2018-0066)], which currently prohibits deliveries for Costco from occurring between the hours of 10:00 p.m. and 5:00 a.m., to instead prohibit deliveries from occurring between the hours of 11:00 p.m. and 3:00 a.m. *See existing DA provisions in Section VIII.A below.*

The reason for the Applicant’s request is to improve warehouse logistics and alleviate congestion during the morning and evening hours at the loading docks. Costco is not proposing to increase the volume of truck deliveries. Two (2) delivery trucks, occasionally three (3), are anticipated between the hours of 3:00 am to 5:00 am. The modified hours will allow trucks to deliver goods upon arrival instead of waiting in queue during restricted hours, which forces multiple trucks to wait overnight in the parking lot

causing congestion in the morning hours and puts pressure on warehouse staff to work faster than normal to clear the backlog. Likewise, there is pressure to finish deliveries by the evening cutoff time so that trucks don't have to wait overnight. These issues would be alleviated by extending the allowed delivery hours.

Noise generated from deliveries after the semi-trucks are parked at the loading docks consist of engine idling; back-up beepers from the forklifts that are unloading, traveling into the trucks and then backing into the warehouse to stack the palletized merchandise; and "bang" noises that radiate from the trailers when the forklifts enter and leave the truck created by the small elevation change between the trailer bed and the loading dock leveler. There is a total of four (4) loading docks located on the north side of the northwest corner of the building in the location shown below.



Single-family homes in Bainbridge Subdivision are being constructed to the west of the site and are still under ownership by the developer. Multi-family apartments exist to the south of the site in Lost Rapids Subdivision as shown below. When the preliminary plat for Lost Rapids subdivision was approved, which included the Costco property and commercial pads to the north and east, Bainbridge Subdivision to the west and Lost Rapids apartments to the south, a substantial building setback and landscape buffer was planned between the commercial and adjacent residential developments, as depicted on the plan below.



A minimum 25-foot wide landscaped buffer is typically required on C-G zoned property that abuts a residential use. In this case, there is approximately 115 feet between the west side of the Costco building where the loading docks are located and the rear lot line of the nearest residential property. On the south side, there is approximately 80 feet between the south side of the Costco building and the back side of the nearest apartment building and over 350 feet from the loading docks. A dense landscape buffer with a 6-foot tall solid wood fence exists between Costco and the residential uses to assist in buffering and noise mitigation.

A sound measurement [report](#) submitted with this application prepared by Yantis Acoustics, dated August 31, 2022, finds that extending the receiving/delivery hours will not create significant impacts based on the sound measurements at the loading dock and delivery truck activities. Measurements were made at two (2) locations, one near the loading dock and one near the on-site truck route south of the building. Measured levels were used to calculate the sound at the closest future residences adjacent to the site. Sound at the residences was found to be substantially less than the maximum acceptable residential sound levels per the guidelines published by the Dept. of Housing and Urban Development (HUD). Sound from the loading dock activities could cause sleep interference inside the bedrooms of the residential properties to the west and south *if* residents have their windows open; with bedroom windows closed, the interior sound levels produced by the loading dock activity is less than World Health Organization guidelines for sleep interference. Therefore, no mitigation measurements are recommended in the report. *See report for more information.*

The sound report states that noise from site operations remain compliant with the City's noise ordinance (MCC [6-3-6 - Noises Creating Public Disturbance](#)), which reads:

- A. *Prohibited acts. Between the hours of 11:00 p.m. and 6:00 a.m., or at any time so as to unreasonably disturb or interfere with the peace, comfort or enjoyment of others, it is unlawful for any person to cause, or for any person in possession of property to allow to originate from*

such property, sound that is a public disturbance noise. The following sounds are determined to be public disturbance noise:

1. **Horns or sirens.** *The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;*
2. *Repetitive motor vehicle sounds. The creation of frequent, repetitive or continuous sounds in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off highway vehicle or internal combustion engine within a residential district, so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;*
3. *Yelling or shouting. Yelling, shouting, hooting, whistling or singing on or near the public streets which unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;*
4. *Noise from buildings. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment, or condominium, or from any fixture or apparatus attached thereto, which unreasonably interfere with the peace, comfort, and repose of owners or possessors of real property, such as sounds from audio equipment, musical instruments, band sessions or social gatherings;*
5. *Motor vehicle sound systems. Sound from motor vehicle sound systems, such as tape players, radios, and compact disc players, operated at a volume so as to be audible greater than fifty (50) feet from the vehicle itself;*
6. *Audio equipment. Sound from audio equipment or any device that amplifies sound, operated at a volume so as to be audible greater than fifty (50) feet from the source or so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property.*

B. Exceptions.

1. *Sounds caused by any emergency vehicle or personnel when responding to an emergency call or acting in time of emergency.*
2. *Sounds caused by activities upon any outdoor municipal, school, religious, or publicly owned property, park, or facility, provided that such activities have been authorized by the owner of such property or facility or its agent.*
3. *Sounds caused by parades, fireworks displays, or any other event for which a permit for that type of activity is required and has been obtained from the authorized governmental entity within such hours as may be imposed as a condition for the issuance of said permit.*
4. *Sounds caused by locomotives or other railroad equipment.*
5. *Sounds caused by burglar alarms that are not in violation of this code.*
6. *Sounds caused by safety warning devices required by law.*
7. **Sounds caused by devices or machinery that is part of the use within the confines of the particular zoning designation that the device is located or pursuant to a conditional use permit (i.e., drive-through window speakers, car lot PA systems).**
8. *Sounds emanating from devices used within the common areas of a multi-unit facility whose use has been approved by the owners or management of the facility. Said use must comply with any regulations imposed by the owners or management of the facility to be exempt*

under this section. This exemption only applies in relation to other units within the same facility.

Staff has “**bolded**” the text of the applicable sections of the noise ordinance that may apply to the existing/proposed use. **As noted, the noise associated with deliveries may be considered exempt from the requirements if a CUP is approved; otherwise, the use (i.e. deliveries) during the hours proposed may violate the City’s noise ordinance if determined to be a public disturbance.**

The Applicant states since opening, Costco has not received any complaints about its operation and expects that extending delivery hours will not result in significant impacts. Staff checked with the Police Department to see if any complaints pertaining to noise from deliveries have been logged and there have been none. It’s important to note that no one has been living in the area adjacent to the loading docks in Bainbridge Subdivision as homes are still under construction in that phase of the development and are not yet occupied.

During the public hearings before the Planning & Zoning Commission and City Council for annexation of the subject property for future development of Costco Wholesale, much testimony was provided from neighbors pertaining to the impact the Costco development would have on their quality of life. Many of the concerns noted pertained to noise, including noise generated from deliveries and trucks idling waiting to unload. To address neighbor’s concerns, the Applicant committed to restricting the hours of operation so that no deliveries would occur between the hours of 10:00 p.m. and 5:00 a.m. stating they’d have the ability to stage deliveries because the trucks come from their own depots. Staff is unsure why this is now an issue for Costco due to their ability to stage deliveries. It is logical that extended hours for deliveries would benefit warehouse staff by spreading out the window of time in which deliveries may occur; however, Staff has significant concerns about the noise impacts on adjacent neighbors.

Since the time Costco was approved, the western portion of Bainbridge Subdivision (No. 11 aka Cadence) has developed and is now occupied and the eastern portion (No. 12 aka Cadence) is under construction and is still under ownership by the developer and is not yet occupied. A [petition](#) was received with 33 signatures from the residents of Cadence Bainbridge Subdivision (the western occupied portion) opposing the extended hours of operation requested by the Applicant.

The apartments (Olivia aka Lost Rapids) directly to the south are also now occupied. A [letter](#) opposing the extended hours of operation was received from Tablerock Management on behalf of Olivia Apartments with evidence obtained from their own investigations of Costco’s delivery truck noise and it’s negative impact on their residents, which total at least 61 apartments with approximately 122 residents.

Another letter of opposition was received from the Homeowner’s Association Board of Directors of Bainbridge Subdivision, which lies south of W. Lost Rapids Dr. and west of N. Tree Farm Way. The primary objection noted is the use of Tree Farm and/or Lost Rapids Dr. by delivery truck traffic, creating noise pollution and impacting sleeping residents in the surrounding community. The letter requests the modification to delivery hours is denied, or at a minimum, stronger action and street signage, including pavement markings, are required to make it clear semi-trucks may NOT utilize Tree Farm or Lost Rapids Dr. to access and/or depart the site consistent with the access requirements in the Development Agreement (DA). *The DA states the primary service access for Costco delivery trucks and other local vendors shall be from the driveway access via N. Ten Mile Rd. approximately 660 feet north of W. Lost Rapids Dr. The driveway access via W. Lost Rapids Dr. driveway, approximately 350 feet west of N. Ten Mile Rd. may be used when access to the Lost Rapids/Ten Mile traffic signal is needed. A “No thru Truck Traffic” sign was required to be installed between the N. Tree Farm Way intersection and the W. Lost Rapids Dr. service driveway access.*

Three (3) other letters of testimony were also received from area citizens opposing the proposed modification.

Because of the great amount of testimony provided from neighbors that resulted in the current limitation on business hours of operation and the great amount received in opposition to the proposed modification, Staff is not in support of a change that would likely increase the negative impact on adjacent existing and future residents in the vicinity.

Staff recommends the Commission and Council rely on [written testimony](#) that has been submitted from adjacent neighbors and testimony presented at the public hearing in determining if the proposed extended hours of operation will negatively impact adjacent existing and future residential uses.

B. CONDITIONAL USE PERMIT (CUP)

A CUP is proposed to extend the business hours of operation from 6:00 a.m. - 11:00 p.m. to 3:00 a.m. - 11:00 p.m. for delivery purposes.

The UDC ([11-2B-3B](#)) limits business hours of operation in the C-G zoning district from 6:00 a.m. to 11:00 p.m. when the property abuts a residential use or district; extended hours may be requested through a CUP. These restrictions apply to all business operations occurring outside an enclosed structure, including, but not limited to, customer or client visits, trash compacting, and deliveries. These restrictions do not apply to business operations occurring within an enclosed structure, including, but not limited to, cleaning, bookkeeping, and after hours work by a limited number of employees.

For the reasons noted above in Sections V and VI.A, Staff is *not* supportive of the proposed MDA and therefore, is not in support of the CUP request.

VII. DECISION

A. Staff:

Staff recommends *denial* of the proposed modification to the existing Development Agreement and Conditional Use Permit for the reasons noted above in Sections V and VI, per the Findings in Section X.

B. The Meridian Planning & Zoning Commission heard these items on May 4 (continued) and June 15, 2023. At the public hearing on June 15th, the Commission moved to recommend *denial* of the subject CUP request to City Council.

1. Summary of Commission public hearing:

- a. In favor: Chris Ferko, Barghausen Consulting Engineers, Inc. (Applicant's Representative); John Ellingsen, Costco Wholesale**
 - b. In opposition: Wade Ramsey representing the HOA Board of Directors of Bainbridge Subdivision; Angela Ware, representing Olivia Apartments; Liz Criddle**
 - c. Commenting: None**
 - d. Written testimony (in opposition): Petition with 33 signatures from residents of Cadence Bainbridge Subdivision (the western occupied portion of Bainbridge to the west of the site); a letter with (5) videos was received from Megan Coleman, Tablerock Management on behalf of Olivia Apartments (directly to the south of the site); Wade Ramsey on behalf of the HOA Board of Directors of Bainbridge Subdivision (to the south of Lost Rapids Dr. and west of Tree Farm Dr.); Mike & Malissa Bernard; Roger Nielsen; and Liz Criddle.**
 - e. Staff presenting application: Sonya Allen**
 - f. Other Staff commenting on application: None**
- #### **2. Key issue(s) of public testimony:**
- a. The letters of testimony received request the proposal to extend delivery hours is denied;**

- b. Trucks are currently using restricted roadways (i.e. Lost Rapids Dr./Tree Farm Way) to access and depart the site, which is in violation of the DA;
 - c. Costco is currently violating the allowed delivery hours noted in the DA by allowing trucks to wait on the site overnight to unload and operating forklifts on the site;
 - d. Noise impacts to the Olivia apartments to the south on the 2nd and 3rd floor units where there is no sound attenuation.
- 3. Key issue(s) of discussion by Commission:
 - a. Question pertaining to reliability of data in sound study vs. real-life impacts;
 - b. Extending the hours for deliveries would be an injustice to neighbors based on the overwhelming concerns expressed by neighbors relating to noise, traffic and negative impacts on area residents.
- 4. Commission change(s) to Staff recommendation:
 - a. None
- 5. Outstanding issue(s) for City Council:
 - a. None

VIII. EXHIBIT

Existing Development Agreement Provisions with Proposed Changes in Strike-Out/Underline Format:

5.1

1. Future development of this site shall substantially comply with the conceptual development plan, preliminary plat and landscape plan and conceptual building elevations included in Exhibit A of the Staff Report that is attached to the Findings of Fact and Conclusions of Law attached hereto as Exhibit “A” and the conditions contained herein.
2. Future development shall comply with the design standards listed in UDC 11-3A-19 and the City of Meridian Architectural Standards Manual.
3. Up to two (2) building permits for the Costco Wholesale and associated fuel sales facility structures are allowed to be issued on the subject property prior to recordation of the subdivision plat.
4. Prior to issuance of any building permits, a property boundary adjustment application shall be approved and a Record of Survey recorded for the reconfiguration of existing parcels to coincide with the boundary of the preliminary plat.
5. The street buffer landscaping and 10-foot wide multi-use pathway/sidewalk along the entire frontage of US 20-26/Chinden Blvd. and street buffer landscaping and 5-foot wide sidewalk along the entire frontage of N. Ten Mile Road shall be constructed with the first phase of development.
6. Business hours of operation in the C-G zoning district are limited from 6:00 a.m. to 11:00 p.m. when the property abuts a residential use or district; extended hours of operation may be requested through a conditional use permit as set forth in UDC 11-2B-3A.4.
7. A buffer planted with dense landscaping consistent with the Master Plan in Exhibit A.3 is required on the commercial portion of the development to the residential uses as set forth in UDC Table 11-2B-3 in accord with the standards listed in UDC 11-3B-9C.
8. As committed to by the Applicant/Developer in response to neighborhood concerns, the following restrictions shall apply:
 - a. The primary service access for Costco delivery trucks and other local vendors shall be from the driveway access via N. Ten Mile Road, approximately 660 feet north of W. Lost Rapids Drive. The driveway access via W. Lost Rapids Drive driveway, approximately 350 feet west of N. Ten Mile Road, may be used when access to the Lost Rapids/Ten Mile traffic signal is needed. Businesses within the development shall notify their delivery providers of this access preference.
 - b. A “no thru truck traffic” sign shall be installed between the N. Tree Farm Way intersection and the W. Lost Rapids Dr. service driveway access.
 - c. No deliveries shall take place for Costco between the hours of ~~10:00~~ 11:00 p.m. and ~~5:00~~ 3:00 a.m.
 - d. Parking lot lighting shall be designed for 0.0 foot-candles at the property line in accord with UDC 11-3A-11C.
 - e. Lighting on the site shall be reduced to the level necessary only for public safety and security purposes within one (1) hour of closing; there shall be a 50% reduction in lighting levels after store closes consistent with that shown in Exhibit A.8.
9. Prior to issuance of the first Certificate of Occupancy within this development, the following improvements shall be completed: SH 20-26/W. Chinden Blvd. shall be widened to 4 lanes with signal/intersection

upgrades from Tree Farm to Linder (1.5 miles); N. Ten Mile Rd. shall be widened to 4 lanes from Chinden to Walmart (0.80 of a mile); and signals shall be installed at N. Black Cat Rd. and W. Lost Rapids Dr.

10. If within two (2) years of issuance of the Certificate of Occupancy for the Costco Wholesale building, assuming the Idaho Transportation Department is able to secure the required right-of-way, SH 20-26/W. Chinden Blvd. shall be widened to four (4) lanes from N. Tree Farm Way to SH-16 (1.44 miles).

IX. CITY/AGENCY COMMENTS

A. IDAHO TRANSPORTATION DEPARTMENT (ITD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=290810&dbid=0&repo=MeridianCity>

B. NAMPA & MERIDIAN IRRIGATION DISTRICT (NMID)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=289795&dbid=0&repo=MeridianCity>

X. 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.

The Commission finds the site is large enough to accommodate the proposed use and meets all of the dimensional and development regulations of the C-G zoning district in which its located.

2. That the proposed use will be harmonious with the Meridian comprehensive plan and in accord with the requirements of this title.

The Commission finds the proposed extended hours of operation for deliveries is not harmonious with adjacent residential uses and the noise generated from deliveries at the times proposed will negatively impact these uses based on public testimony provided at the previous hearing for the Costco development.

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.

The Commission finds although the design, construction and maintenance of the existing Costco Wholesale use was deemed to be generally compatible with adjacent uses in the vicinity with the annexation application, the proposed operation with extended hours of operation will not be compatible with adjacent existing and future residential uses and will adversely change the essential character of the area based on public testimony provided at the previous hearing for the Costco development.

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

The Commission finds the proposed use (i.e. extended hours of operation) will adversely affect other properties in the vicinity based on public testimony provided at the previous hearing for the Costco development.

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.

The Commission finds the existing use is being served by essential public facilities and services as required; the proposed use (i.e. extended hours of operation) will not have an impact to the provision of services.

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.

The Commission finds the proposed use (i.e. extended hours of operation) 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.

The Commission finds the proposed use (i.e. extended hours of operation) will likely be detrimental to nearby residents due to noise generated from deliveries during the proposed extended business hours of operation based on public testimony provided at the previous hearing for the Costco development.

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)

The Commission finds the proposed use (i.e. extended hours of operation) 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.