



**STAFF REPORT**

**COMMUNITY DEVELOPMENT DEPARTMENT**

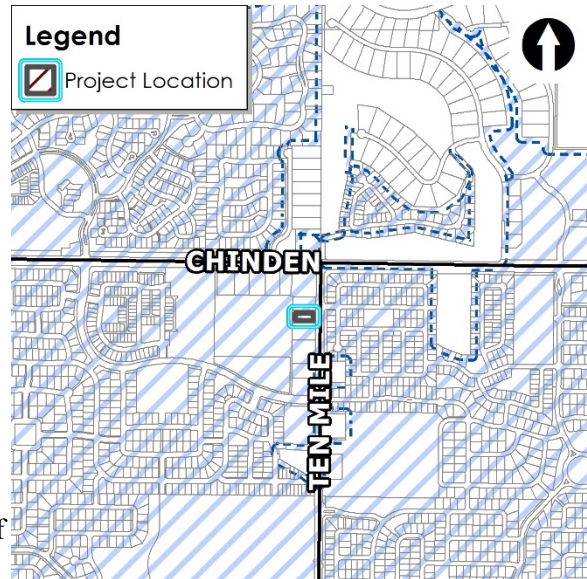
HEARING DATE: 10/7/2021

TO: Planning & Zoning Commission

FROM: Joseph Dodson, Associate Planner  
208-884-5533

SUBJECT: H-2021-0051  
Burger King Drive-Through – CUP

LOCATION: The site is located at 6211 N. Ten Mile Road, on the west side of N. Ten Mile Road, approximately 500 feet south of Chinden Boulevard (Lot 11, Block 1, Lost Rapids Subdivision), in the NE ¼ of the NE ¼ of Section 27, Township 4N., Range 1W.



**I. PROJECT DESCRIPTION**

Conditional Use Permit request for a dual-ordering drive-through establishment within 300-feet of another approved drive-through establishment for a 2,910 square foot Burger King with 37 parking spaces on 0.877 acres of land in the C-G zoning district, by Legend Engineering.

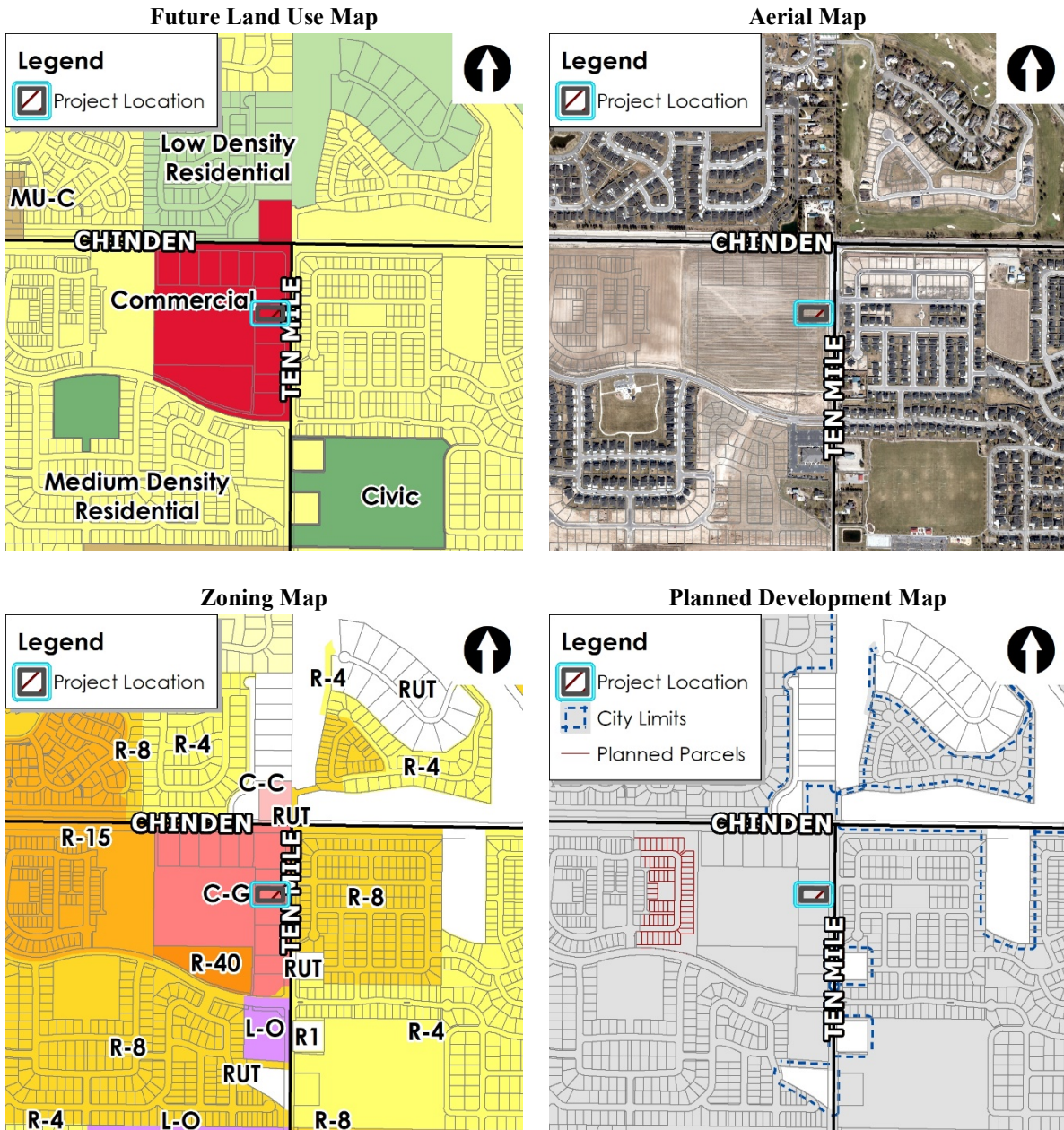
**II. SUMMARY OF REPORT**

A. Project Summary

Description	Details	Page
Acreage	0.877 acres	
Future Land Use Designation	Commercial	
Existing Land Use	Vacant/undeveloped	
Proposed Land Use(s)	Restaurant with dual drive-throughs	
Current Zoning	General Retail and Service Commercial District (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	None	
Neighborhood meeting date; # of attendees:	June 22, 2021; six (6) attendees	
History (previous approvals)	H-2018-0004 (DA # <a href="#">2018-079970</a> , Lost Rapids - GFI Meridian Investments II, LLC); FP-2019-0056	

## EXHIBIT A

### A. Project Area Maps



### III. APPLICANT INFORMATION

#### A. Applicant:

Lonny Reed, Legend Engineering – 52 W. 100 North, Heber City, UT 84032

#### B. Owner:

GFI-Meridian Investments II, LLC – 74 E. 500 South, Bountiful, UT 84010

#### C. Representative:

Same as Applicant

EXHIBIT A

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper Notification	8/27/2021
Radius notification mailed to properties within 500 feet	8/25/2021
Site Posting Date	9/23/2021
Next Door posting	8/26/2021

V. STAFF ANALYSIS

The proposed use is for a restaurant with a dual-ordering drive-through that is within 300-feet of a financial institution drive-through to the south that has recently received Commission approval (Mountain America Credit Union, H-2021-0019), which requires Conditional Use Permit approval (CUP) per UDC Table 11-2B-2. *There is also residential zoning to the east across N. Ten Mile Rd. but because the uses are separated by an arterial street, this is not a factor in the CUP requirement, per UDC [11-4-3-11A](#).*

**Specific Use Standards:** The proposed drive-through establishment is subject to the specific use standards listed in UDC [11-4-3-11](#), Drive-Through Establishment. A site plan is required to be submitted that demonstrates 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: *Staff’s analysis is in italics.*

- 1) Stacking lanes have sufficient capacity to prevent obstruction of driveways, drive aisles and the public right-of-way by patrons;

*The proposed drive-through has two ordering menu boards with stacking for approximately three (3) vehicles per lane, according to the submitted site plan. Each stacking lane is approximately 60’ deep from the edge of the 30’ wide drive aisle that is proposed as the main access to the future building and the drive-through exit in the north end of the site. The proposed 30’ drive aisle is 5’ wider than required by code which allows some relief if stacking backs up into the drive aisle while ordering. The total stacking length is approximately 128’ from the edge of the drive aisle to the pick-up window along the south side of the building; this allows at least 7 vehicles to stack according to the submitted site plan.*

*Staff believes the stacking lanes have sufficient capacity to serve the use without obstructing driveways and drive aisles by patrons because the inclusion of two menu boards allows double the stacking than the singular distance of 60’.*

- 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 designed employee parking.

*Per the submitted site plan, the stacking lanes are off of the northernmost drive aisle and provide at least 120’ of stacking with each menu board location and approximately 128’ in total to the pick-up window before any vehicle would impede this drive aisle. No parking is impeded by the proposed stacking lanes and nor would any be should stacking exceed the proposed depth because of the site design.*

- 3) The stacking lane shall not be located within ten (10) feet of any residential district or existing



## EXHIBIT A

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 from the drive aisle to the pick-up window. Therefore, the Applicant has proposed an escape lane adjacent to the drive through lane along the southern boundary. This escape lane configuration meets this standard.*

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

*The drive-through is not directly adjacent to the nearest public street (N. Ten Mile Road) along the east boundary of the site but the south boundary of the site and the pick-up window is still visible from Ten Mile. To help meet this standard, Staff is recommending revisions to the landscape plan to remove some of the proposed landscaping that would obstruct the line of sight from the street to the pick-up window as currently proposed. If this cannot occur or would incur undue costs because the street landscaping is already in place, there is ample surveillance opportunity from within the commercial subdivision and internal drive aisles.*

**Based on the above analysis, Staff deems the proposed drive-through in compliance with the specific use standards as required, especially with Staff's recommended revisions to the landscaping along Ten Mile.**

The proposed use of a restaurant is also subject to a specific use standard (UDC 11-4-3-49) which dictates the minimum parking ratio shall be 1 space for every 250 square feet of gross floor area. The proposed site plan appears to show compliance with this standard.

**Access:** Two (2) driveway accesses are proposed to the site from the internal drive aisles of the Lost Rapids commercial development: one dedicated access at the north end of the site and one via a shared access at the southwest corner of the site. This access will be shared with the adjacent financial institution discussed above. There are multiple access points to the overall development from the adjacent public roads, Chinden Boulevard and Ten Mile Road. A reciprocal cross-access easement exists for lots in this subdivision as noted on the Lost Rapids subdivision plat (note #12) and in the Declaration of Easements, Covenants, Conditions and Restrictions (Inst. 2020-071547).

**Parking:** A minimum of one (1) parking space is required to be provided for every 250 square feet of gross floor area for the proposed restaurant use per the specific use standards, UDC 11-4-3-49. The Burger King is proposed as a 2,910 square foot building which requires a minimum of 12 parking spaces (rounded up from 11.64). The submitted site plan shows 37 parking spaces exceeding UDC minimums by 300%.

The recorded Declaration of Easements, Covenants, Conditions and Restrictions for this development establish cross-parking easements for lots in certain groups within the development (Inst. 2020-071547, Amended Inst. #2020-171404). This lot (Lot 11) is grouped with Lot 12 directly to the south and shares a perpetual, non-exclusive cross-parking easement with that lot.

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](#). Two (2) bicycle parking facilities are shown on the submitted plans in compliance with code.

**Pedestrian Walkways:** No pedestrian walkway is depicted on the site plan from the arterial/perimeter sidewalk along N. Ten Mile Road to the main building entrance. UDC 11-3A-19B.4a requires this connection for all nonresidential uses. Therefore, Staff is recommending a

## EXHIBIT A

condition of approval to add a pedestrian connection near the drive-through exit that connects the arterial sidewalk to the patio area of the pad site.

**Landscaping:** Parking lot landscaping is required to be provided in accord with the standards listed in UDC 11-3B-8C. Landscaping is depicted on the landscape plan in Section VII.B in planter islands within the parking area as required.

A minimum 5-foot wide landscape buffer is required to be provided along the perimeter of the parking or other vehicular use areas as set forth in UDC 11-3B-8C.1. The submitted landscape plan shows the required perimeter buffers with the correct number of trees and other vegetative ground cover.

Street buffer landscaping, including a sidewalk, along N. Ten Mile Rd. was installed with development of the overall subdivision. The submitted landscape plans show a majority of this buffer remaining as it currently exists but Staff is recommending that the southern portion of the site have some of the trees removed to increase visibility from Ten Mile to the pick-up window. If the trees can be relocated to other areas of the site, Staff supports this.

**Mechanical Equipment:** All mechanical equipment for the building and any outdoor service areas and equipment should be incorporated into the overall design of the building 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 from the furthest edge of right-of-way.

**Building Elevations:** The Applicant submitted conceptual building elevations for the future Burger King restaurant. The building elevations were submitted as shown in Section VII.C and appear to incorporate two main field materials, fiber cement siding and stucco with horizontal reveals. The siding and stucco are two contrasting colors (wood colored and a coal-like color, respectively) which adds to the overall rustic-modern design of the building. On the northeast corner of the building, the main entrance is enhanced by full-length storefront windows and glazing facing north and the patio along the east side of the building. The conceptual elevations combined with the site plan appear to also show adequate wall modulation along each building façade. Staff will verify compliance with the Architectural Standards Manual with the future Design Review submittal.

No elevations were submitted for the proposed trash enclosure; this should be submitted with the future CZC submittal and the material and color should match those of the proposed building materials.

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

## 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. The Director has approved the administrative design review request.

### B. The Meridian Planning & Zoning Commission heard this item on October 7, 2021. 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: Lonny Reed, Applicant Representative

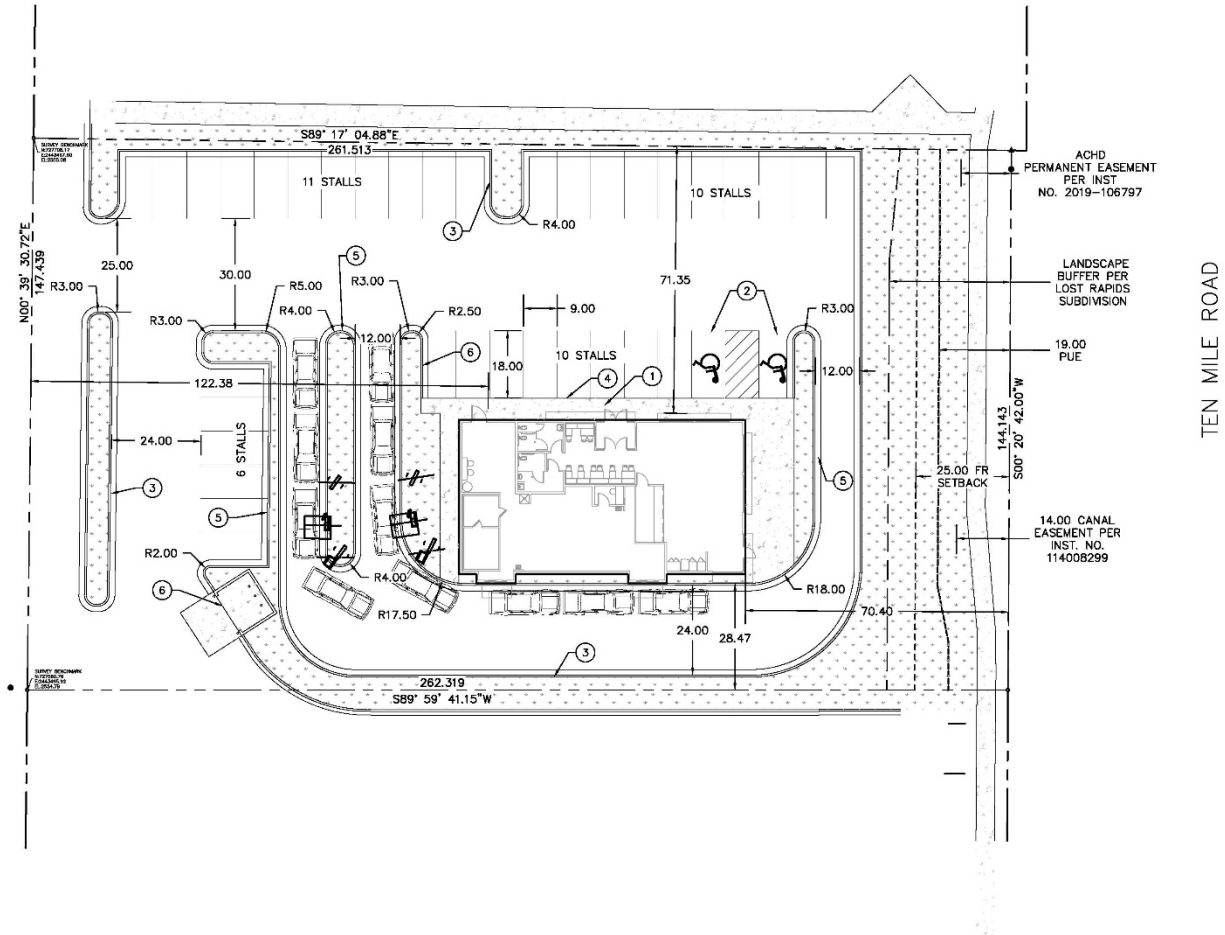
## EXHIBIT A

- b. In opposition: None
- c. Commenting: Lonny Reed; Gary Moore, Burger King operator (Applicant)
- d. Written testimony: None
- e. Staff presenting application: Joseph Dodson, Associate Planner
- f. Other Staff commenting on application: None
- 2. Key issue(s) of public testimony:
  - a. None
- 3. Key issue(s) of discussion by Commission:
  - a. Orientation of proposed building and drive-through in regards to whether headlights will be facing towards Ten Mile to the west – this is correct.
  - b. Access to the specific site and the overall Costco development in relation to the subject site.
  - c. Location of parking for those who must wait for their food after paying.
- 4. Commission change(s) to Staff recommendation:
  - a. None

# EXHIBIT A

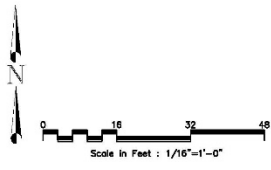
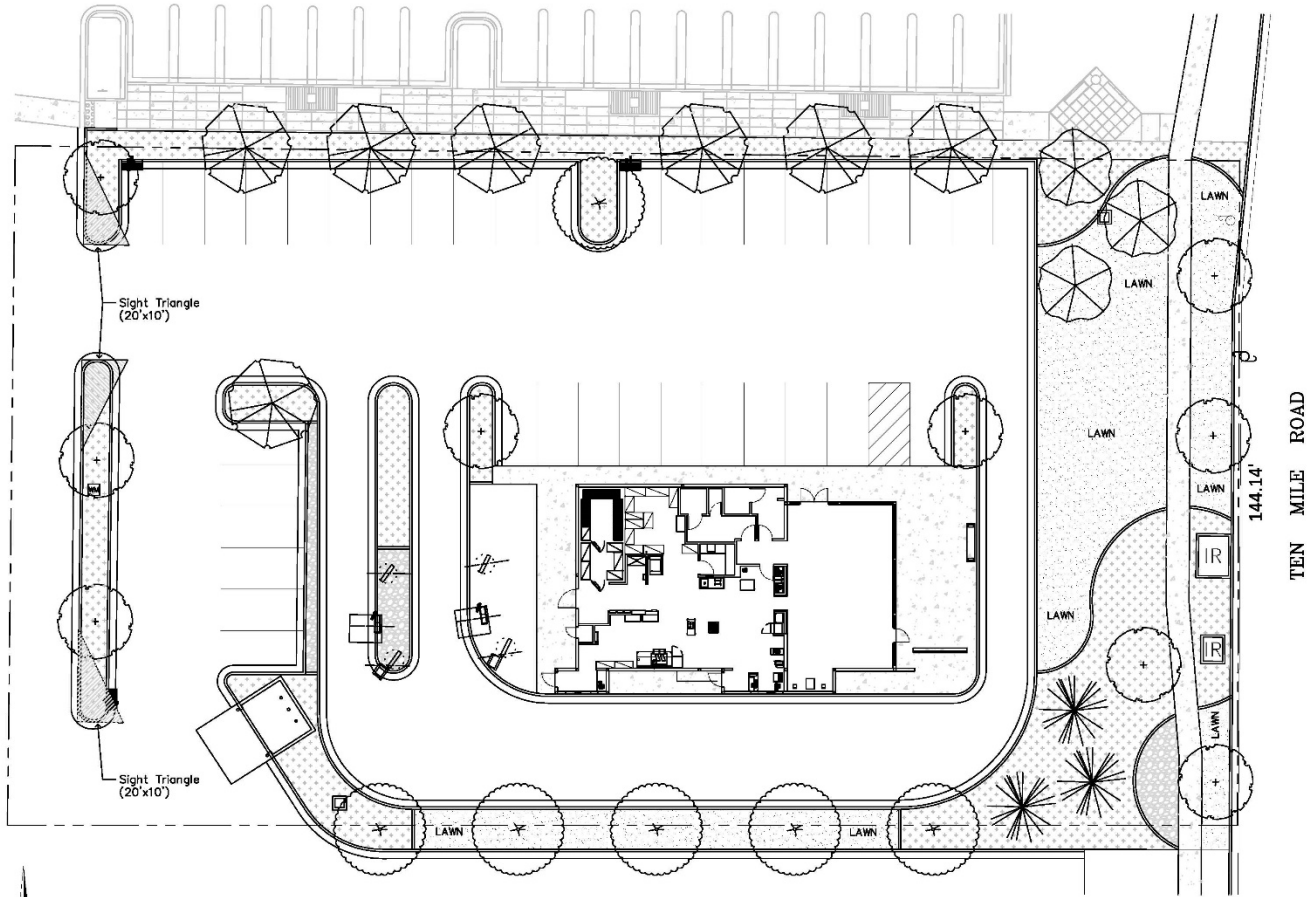
## VII. EXHIBITS

### A. Proposed Site Plan (dated: 9/03/2021)



# EXHIBIT A

## B. Proposed Landscape Plan (dated: 7/08/2021)



### Tree Calculations

STREET FRONTAGE (Ten Mile Road)		144 L.F.
Trees Required	4	(1 Per 35 L.F. Frontage)
Trees Provided	4	
TREE SPECIES (28 Total Trees Provided)		
Tree Species Required	3	
Tree Species Provided	5	



EXHIBIT A

C. Conceptual Building Elevations (dated: 6/07/2021)



BURGER KING - MERIDIAN

## EXHIBIT A



### VIII. CITY/AGENCY COMMENTS & CONDITIONS

#### A. PLANNING

1. Future development of this site shall comply with the existing Development Agreement (Inst. #[2018-079970](#), Lost Rapids - GFI Meridian Investments II, LLC) and associated conditions of approval (H-2018-0004; FP-2019-0056).
2. The site plan submitted with the future Certificate of Zoning Compliance application shall be revised as follows:
  - a. Depict a pedestrian walkway from the sidewalk along N. Ten Mile Road to the building entrance near the drive-through exit. Construct the pedestrian crossing of the drive-through, or any other pedestrian facility that crosses a vehicular use area, with a different material—stamped or colored concrete, brick pavers, or similar are acceptable forms of meeting this requirement per [UDC 11-3A-19B.4b](#).

## EXHIBIT A

3. The landscape plan submitted with the future Certificate of Zoning Compliance application shall be revised as follows:
  - a. Depict the required pedestrian walkway as noted above, per UDC 11-3A-19B.4a and UDC 11-3A-19B.4b.
  - b. Revise the layout or reduce the number of trees shown in the southeast corner of the arterial street buffer to increase visibility from N. Ten Mile Road to the pick-up window and drive-through lane.
4. Submit elevations of the trash enclosure that matches the proposed building color.
5. Comply with the standards listed in UDC [11-4-3-11](#) – Drive-Through Establishment.
6. Comply with the standards listed in UDC [11-4-3-49](#) – Restaurant.
7. Hours of operation shall be limited from 6:00 a.m. to 11:00 p.m. because the property abuts a residential district to the east, per [UDC 11-2B-3B](#).
8. A Certificate of Zoning Compliance application shall be submitted and approved for the proposed use prior to submittal of a building permit application.
9. An Administrative Design Review application shall be submitted and approved for the proposed building prior to submittal of a building permit application.
10. Prior to receiving Certificate of Occupancy, the required 35-foot landscape buffer along Ten Mile Road shall be vegetated and completed in accord with previous approvals and [UDC 11-3B-7](#).
11. 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.

## 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-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.**

*Commission finds the proposed restaurant with a dual-ordering 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.**

## EXHIBIT A

*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.*

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.*