

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



In the Matter of the Request for Conditional Use Permit for the Hickory Warehouse, Located at 1135 N. Hickory Ave in the I-L Zoning District, by Josh Shiverick, with Cushing Terrell.

Case No(s). H-2022-0040

For the Planning & Zoning Commission Hearing Date of: July 21, 2022 (Findings on August 4, 2022)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of July 21, 2022, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of July 21, 2022, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of July 21, 2022, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of July 21, 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 July 21, 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 July 21, 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-6F.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 July 21, 2022

By action of the Planning & Zoning Commission at its regular meeting held on the _____ day of _____, 2022.

COMMISSIONER ANDREW SEAL, CHAIRMAN VOTED_____

COMMISSIONER NICK GROVE, VICE CHAIRMAN VOTED_____

COMMISSIONER NATE WHEELER VOTED_____

COMMISSIONER STEVEN YEARSLEY VOTED_____

COMMISSIONER PATRICK GRACE VOTED_____

COMMISSIONER MARIA LORCHER 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: 7/21/2022
TO: Planning & Zoning Commission
FROM: Alan Tiefenbach, Associate Planner

SUBJECT: H-2022-0040
Hickory Warehouse - CUP

LOCATION: 1135 N. Hickory Ave



I. PROJECT DESCRIPTION

Conditional Use Permit to allow mechanical equipment emissions; shipping and/or delivery or other outdoor activity areas within 300 feet from an abutting residential district in the I-L zoning district

II. SUMMARY OF REPORT

A. Project Summary

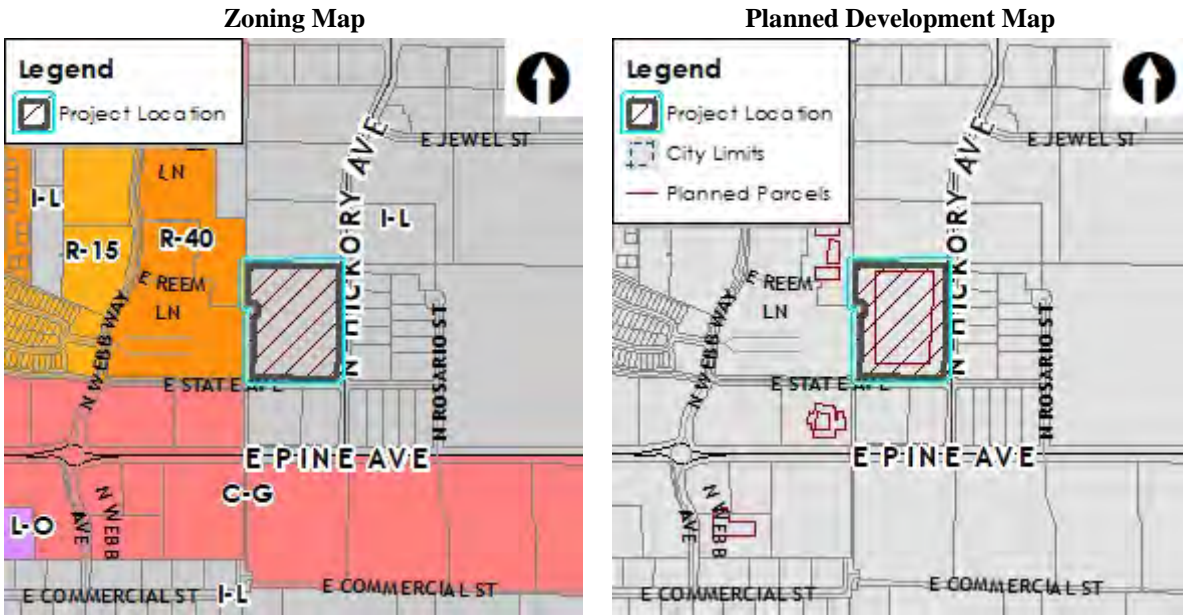
Description	Details	Page
Acreage	10.3 acres	
Future Land Use Designation	Mixed Use Non-Residential (MU-NR)	
Existing Land Use(s)	Industrial	
Proposed Land Use(s)	Industrial	
Lots (# and type; bldg./common)	1	
Phasing Plan (# of phases)	1	
Physical Features (waterways, hazards, flood plain, hillside)	None	
Neighborhood meeting date; # of attendees:	May 3, 2022	
History (previous approvals)	Gemtone Center No 3, Gemtone Center No. 3 Vacation H-2020-0094, PBA A-2020-0155, CZC A-2020-0165 , CUP H-2021-0077	

B. Community Metrics

Description	Details	Page
Access (Arterial/Collectors/State Hwy/Local)(Existing and Proposed)	Access occurs from N. Hickory Ave (collector) and E. State St (local)	
Existing Arterial Sidewalks / Buffers	5' ft. wide detached sidewalk exists along both N. Hickory Ave and E. State St. A 20 ft. wide buffer has been installed along N. Hickory Ave and a 10 ft. wide buffer has been installed along E. State St, are required per UDC 11-2C-3.	
Proposed Road Improvements	All road improvement have been completed.	
Fire Service	No comments	
Police Service	No comments	

C. Project Area Maps





III. APPLICANT INFORMATION

A. Applicant / Representative:

Josh Shiverick, Cushing Terrell – 800 W Main St., Boise, ID 83702

B. Owner:

HOT2 LLLP - 2701 East Pine Avenue, Meridian, ID 83642

IV. NOTICING

	Planning & Zoning Posting Date	City Council Posting Date
Notification published in newspaper	6/24/2022	
Notification mailed to property owners within 500'	6/24/2022	
Applicant posted public hearing notice sign on site	7/5/2022	
Nextdoor posting	6/30/2022	

V. STAFF ANALYSIS

This is a request for a conditional use permit to allow mechanical equipment emissions; shipping and/or delivery or other outdoor activity areas within 300 feet from an abutting residential district in the I-L zoning district.

The subject property is 10.3 acres in size and is located at the northwest corner of E. State St. and N. Hickory Ave. The property was originally comprised of four lots (Lots 1-4, Block 4 of the Gemtone Center No. 3). In 2022, the City Council approved the vacation of drainage, utility and irrigation

easements established along the interior lot lines of these lots (H-2020-0094) to allow all four lots to be merged together through a property boundary adjustment (PBA A-2020-0155). In 2020, staff issued a Certificate of Zoning Compliance (A-2020-0165) to allow the construction of a 207,000 sq. ft. multi-tenant, light industrial building on the property and the building permit was issued in 2021. A conditional use permit was approved in 2021 to allow an indoor recreation facility (K-1 Speed, H-2021-0077) in 50,000 sq. ft. of the building.

In 2022, the applicant requested final inspections on the completed development. During the inspections, staff discovered the building architecture differed from the approved CZC elevations. Staff also noticed a large mechanical dust collector on the western side of the building that was not reflected on the CZC site plan or landscape plan (although it was indicated on the building permit mechanical plans for the cabinet shop tenant improvement).

While discussing the discrepancies between the approved CZC and the as-built conditions, it was also discovered staff erred in approving the CZC with loading bays that were oriented toward and approximately 170 feet from a multifamily development. Per UDC 11-4-3-25, all mechanical equipment emissions; shipping and/or delivery; or other outdoor activity areas shall be located a minimum of three hundred (300) feet from any abutting residential districts, or the use is subject to a conditional use permit.

A. Future Land Use Map Designation (<https://www.meridiancity.org/compplan>)

This property is designated Mixed Use – Non-Residential (MU-NR) on the Future Land Use Map (FLUM). The purpose of the MU-NR designation is to designate areas where new residential dwellings will not be permitted, as residential uses are not compatible with the planned and/or existing uses in these areas.

The property is zoned I-L. The existing light industrial building was constructed as a principally-permitted use in this zoning district. There is a church, offices, flex space, and other warehousing uses to the east, south and north. Directly to the west of the subject warehouse is an area of Mixed-Use Community and multi-family housing in the R-40 zoning district (Pine 43). Although a light industrial warehouse is an appropriate use in the I-L district, outdoor mechanical equipment and shipping and/or delivery and other outdoor activity areas within 300 feet of the abutting residential requires a conditional use permit.

B. Comprehensive Plan Policies (<https://www.meridiancity.org/compplan>):

- No new residential uses will be permitted (existing residential may remain).

No residential uses are proposed, but there is existing multifamily approximately 170 ft. to the west of the newly constructed building.

- All developments should have a mix of at least two types of land uses.

The existing building so far contains a cabinet shop and an indoor recreational use (K-1 Speed). The overall MU-NR designated area does have a mix of uses; offices, flex space, and a church exist within the greater MU-NR area.

- A transitional use is encouraged on the perimeter of the MU-NR areas between any existing or planned residential development.

A light industrial building is a principally-permitted use in the I-L zoning district, which is directly adjacent to the multifamily development. It should be noted the subject property was zoned for light industrial uses in the early 1990's - long before the property to the west was rezoned for multifamily uses. However, the outdoor mechanical equipment and loading area requires the need to review the impacts of the uses through a conditional use permit.

- Plan for industrial areas with convenient access to state highways or the rail corridor, where appropriate

The existing development is located near S. Eagle Rd. a state highway, and a rail corridor is approximately 1,800 ft. to the south.

- Proactively address potential conflicts between incompatible uses.

The subject property contains a 207,000 sq. ft. light industrial building located approximately 170 feet from the nearest multifamily building. There is a pathway and landscape buffer located between the industrial building and the adjacent residential.

The applicant submitted a narrative which indicates a noise study was initiated with the mechanical equipment (cabinet shop dust collector) operating at full capacity. The study results reflect a noise level of 62 decibels as measured at the property line. This is the same decibel level allowed for amplified devices in City of Meridian Parks and corresponds to the sound level of a normal conversation (60 dB). The applicant is proposing to install 8 ft. high steel columns and metal acoustic decking around the cabinet shop dust collector to reduce noise and screen equipment (see attached exhibit). The applicant notes business hours would be between 7:00 AM to 5:00 PM Monday through Sunday.

Staff does support installation of the proposed mechanical enclosure and hours of operation as proposed by the applicant. However, although the screening, landscaping and pathway do reduce the “hard transition” between the industrial building and the residences, staff believes more could be done to soften and screen the transition between the differing uses.

As a condition of approval, staff recommends a combination of 8 ft. high opaque fencing and additional evergreen landscaping including trees or shrubs. This shall be installed in the vicinity of the pathway along the western building elevation and northwest property corner sufficient to provide visual screening of the equipment and loading bays as viewed from the pathway and adjacent residential. Fencing and landscaping may have breaks and be clustered and grouped to maximize screening efficiency and produce a more natural appearance.

C. Existing Structures/Site Improvements:

There is an existing 207,000 sq. ft. light industrial building on the property. This is a principally-permitted use in the I-L zoning district, subject to the specific use standards set forth in UDC 11-4-3-25.

D. Proposed Use Analysis:

The property is zoned I-L. Light industrial buildings are a permitted use in this zoning district subject to specific use standards.

E. Specific Use Standards (*UDC 11-4-3*):

Light industrial buildings are allowed in the I-L zoning district subject to additional requirements. These include all mechanical equipment emissions; shipping and/or delivery; or other outdoor activity areas being located a minimum of three hundred (300) feet from any abutting residential districts, or the use is subject to a conditional use permit.

F. Dimensional Standards (*UDC 11-2*):

There is a 35 ft. street setback required in the I-L zoning district. A 20 ft. wide landscape buffer is required along collector streets and a 10 ft. wide buffer is required along local streets. There is a

25 ft. wide buffer required adjacent to residential uses. Maximum building height is limited to 50 ft.

There is already an existing 207,000 sq. ft. light industrial building constructed on the property which was approved through CZC in 2020 and meets the above dimensional requirements. As mentioned above, the building was erroneously approved with loading bays facing adjacent multifamily, and outdoor mechanical equipment was constructed that was not indicated on the site plan, landscape plan or building elevations. Thus, the need for the subject CUP.

G. Access (*UDC 11-3A-3, 11-3H-4*):

Four (4) driveway accesses have been approved on the overall site plan – two (2) accesses via E. State Avenue (local street) to the south and two (2) accesses via N. Hickory Avenue (industrial collector) to the east. ACHD has approved the location of all access driveways with the Certificate of Zoning Compliance (A-2020-0165). Truck loading access occurs on the west side of the building.

H. Parking (*UDC 11-3C*):

UDC 11-3C requires 1 parking space per 2,000 sq. ft. for industrial uses. With a building size of 207,000 sq. ft., 104 parking spaces were required. 235 parking spaces were approved with the certificate of zoning compliance.

UDC 11-3A-19 requires no more than 50% of total off-street parking to be between the building facades and the street. During the time of CZC A-2020-0165, the Director granted Alternative Compliance from this requirement. This was due to the length of the building making walking from the rear to the front impractical, and the necessity to separate passenger access from truck access. As it is not desirable to configure the site with truck traffic and loading facing the street, the west side of the building was the best option for truck access. However, this resulted in the loading bays being within 300 feet of the adjacent multifamily.

I. Pathways (*UDC 11-3A-8*):

There is a 10 ft. wide multi-use pathway on the property within an easement along the western boundary. As the western side of the building containing the loading bays and mechanical equipment is highly visible from the pathway as well as the existing multifamily, staff does believe additional visual mitigation could be appropriate. As mentioned above, staff recommends an addit

J. Sidewalks (*UDC 11-3A-17*):

All pedestrian improvements are existing. There are existing 5-foot wide attached sidewalks along E. State Avenue and N. Hickory Avenue that meet UDC standards.

K. Landscaping (*UDC 11-3B*):

A 10-foot wide street buffer was been provided along E. State Avenue, a local street, and a 20-foot wide street buffer is required along N. Hickory Avenue, a collector street, landscaped per the standards listed in UDC 11-3B-7C. Parking lot landscaping was required per the standards listed in UDC 11-3B-8C. A 25-foot landscape buffer to the existing multi-family residential to the east was also installed. As mentioned above, staff is recommending a combination of additional fencing and denser landscaping to screen the mechanical equipment and loading bays from the adjacent pathway and multifamily residential.

L. Fencing (*UDC 11-3A-6, 11-3A-7*):

There is presently no perimeter fencing along the subject property. The applicant is proposing to install 8 ft. high steel columns and metal acoustic decking around the cabinet shop dust collector to reduce noise and screen equipment (see attached exhibit).

M. Utilities (*UDC 11-3A-21*):

All utilities are existing.

N. Building Elevations (*UDC 11-3A-19 | Architectural Standards Manual*):

Building elevations were approved with the certificate of zoning compliance.

As already mentioned, there are discrepancies between the elevations that were approved with the CZC and what was actually constructed. Staff is presently working with the applicant to address this through a modification to the CZC.

VI. DECISION

A. Staff:

Staff recommends approval of the proposed conditional use permit with the conditions in Section X per the Findings in Section XI.

B. The Meridian Planning & Zoning Commission heard this item on July 21, 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: Josh Hersel
- b. In opposition: None
- c. Commenting: Josh Hersel
- d. Written testimony: None
- e. Staff presenting application: Alan Tiefenbach
- f. Other Staff commenting on application: None

2. Key issue(s) of public testimony:

- a. None

3. Key issue(s) of discussion by Commission:

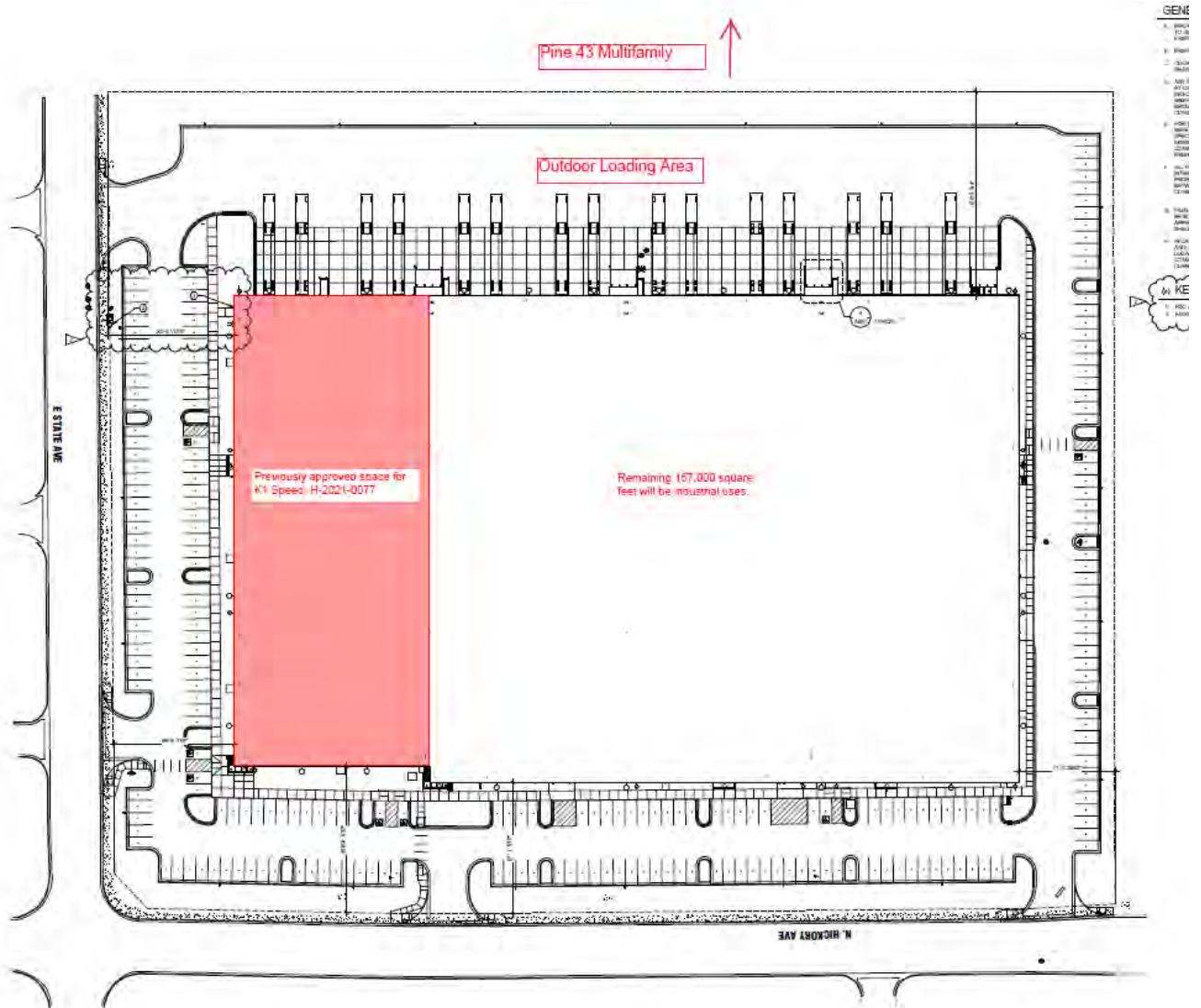
- a. Commission discussed the fencing and landscaping.

4. Commission change(s) to Staff recommendation:

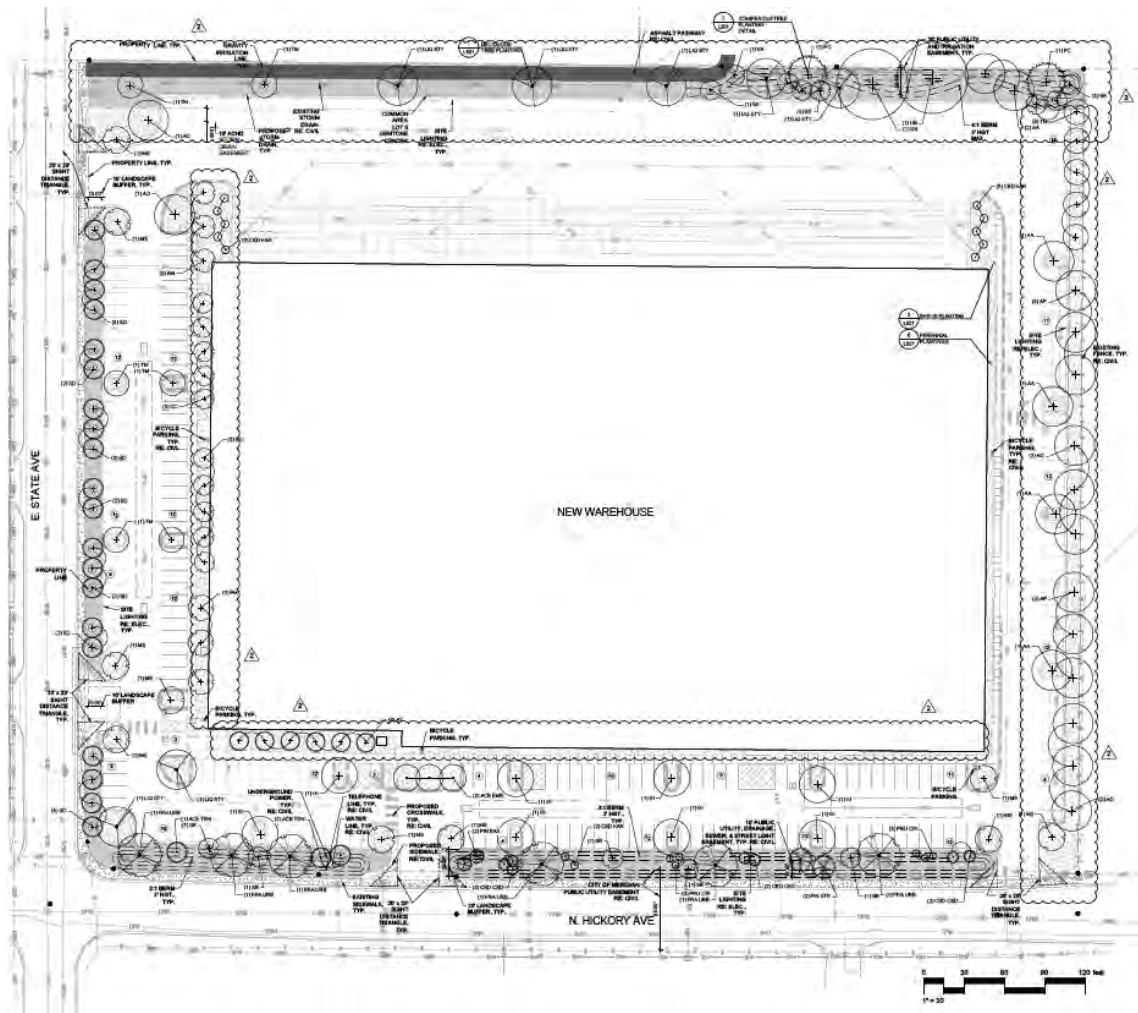
- a. Commission modified Condition A-2 to add that the applicant shall work with the City for the best landscape buffer for both parties.

EXHIBITS

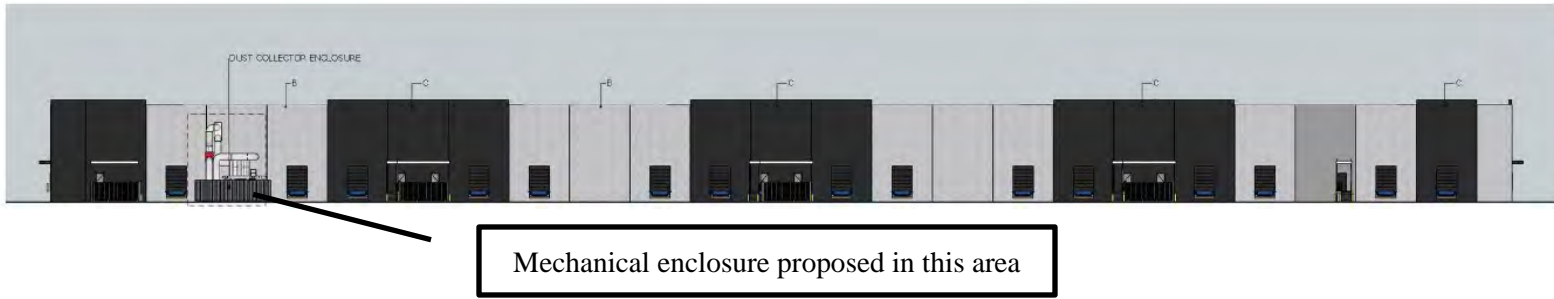
A. Site Plan from Approved CZC (date: 9/25/2020)



B. Landscape Plan (date: 9/25/2020)



C. Rear elevation and equipment screening.



D. As built photograph indicating equipment and loading bays.



VII. CITY/AGENCY COMMENTS & CONDITIONS

A. Planning

1. The applicant shall comply with the site plan, landscape plan, and building elevations approved with A-2020-0165 with the revisions as indicated below.
2. The applicant shall install a combination of 8 ft. high opaque fencing and additional evergreen landscaping including trees or shrubs in the vicinity of the pathway along the western building elevation and northwest property corner. Such screening shall be sufficient to provide visual screening of the equipment and loading bays as viewed from the pathway and adjacent residential. Fencing and landscaping may have breaks and be clustered and grouped to maximize screening efficiency and produce a more natural appearance. **The applicant shall work with the City for the best landscape buffer for both parties.**
3. The Applicant shall comply with the specific use standards listed in UDC 11-4-3-25 – Industry, light and heavy.
4. Hours of operation for industrial uses shall be limited to 7:00 AM to 5:00 PM. Hours of operation for the indoor recreation facility shall be limited to 12:00pm – 10:00pm Monday-Thursday, 10:00am – 10:00pm on Sundays, and 10:00am – 11:00pm Fridays and Saturdays.
5. The conditional use approval shall become null and void unless otherwise approved by the City if the applicant fails to 1) commence the use, satisfy the requirements, acquire building permits and commence construction within two years as set forth in UDC 11-5B-6F.1; or 2) obtain approval of a time extension as set forth in UDC 11-5B-6F.4.

B. Land Development

C. Ada County Highway District (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=264290&dbid=0&repo=MeridianCity>

VIII. FINDINGS

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 site meets all the dimensional and development regulations of the I-L zoning district for the proposed use and a certificate of zoning compliance was already issued. Commission finds the site is large enough to accommodate the proposed use.

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

As this is a light industrial building in a light industrial zone, this was a principally permitted use. Because there is outdoor mechanical equipment and outdoor loading bays less than 300 feet from existing multifamily, a conditional use permit is required. If staff's conditions regarding additional landscaping and / or fencing are accepted, Commission believes the proposed use will be harmonious with the Meridian comprehensive plan.

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.

If the acoustic screening is installed around the dust collector system as shown in the elevations, and staff's recommendations are followed in regard to screening, Commission would find the design, construction, operation, and maintenance of the proposed use with the conditions

imposed, should be compatible with other uses in the general vicinity and should not adversely change the 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.

If the proposed use complies with the conditions of approval in Section X as required, Commission finds the proposed use should not adversely affect other properties in the vicinity.

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 serviced adequately by all of the essential public facilities and services listed.

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 should not create any 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.

As mentioned, if the acoustic enclosure is installed around the dust collector and staff's recommendation regarding screening is followed, Commission would find this criteria would be met.

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 proposed use will not result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance.