

2022-

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



**In the Matter of the Request for Conditional Use Permit and Alternative Compliance for Noodles and Company at Ten Mile CUP with a drive-through located within 300 feet of an existing drive-through facility, residential district, and existing residence, Located at 3103 W. Milano Drive in the C-G Zoning District, by Chipman Design Architecture, Inc.**

**Case No(s). H-2022-0087**

**For the Planning & Zoning Commission Hearing Date of: April 20, 2023 (Findings on May 4, 2023)**

**A. Findings of Fact**

1. Hearing Facts (see attached Staff Report for the hearing date of April 20, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of April 20, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of April 20, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of April 20, 2023, 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 April 20, 2023, 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 April 20, 2023, 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 April 20, 2023

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**

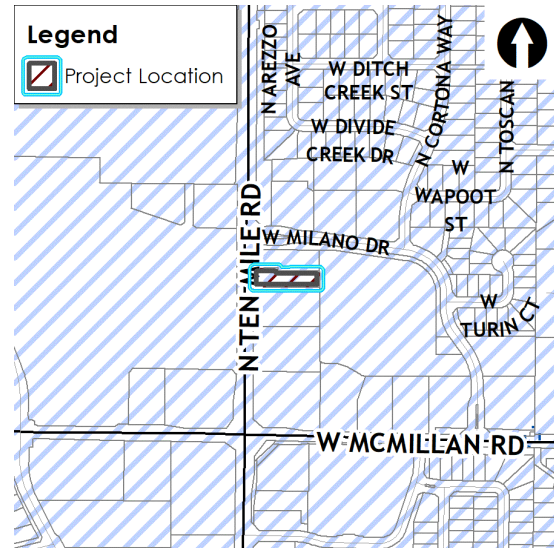
HEARING DATE: 4/20/2023

TO: Planning & Zoning Commission

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

SUBJECT: H-2022-0087  
Noodles and Company at Ten Mile - CUP

LOCATION: 3103 W. Milano Drive, near the northeast corner of N. Ten Mile Road and W. McMillan Road in the SW 1/4 of Section 26, Township 4N, Range 1W.



**I. PROJECT DESCRIPTION**

Conditional Use Permit request for a new approximate 2,515 square foot quick-serve restaurant with a drive-through located within 300 feet of an existing drive-through facility, residential district, and existing residence on 0.623 acres of land in the C-G zoning district.

Alternative compliance is also requested to deviate from UDC 11-3B-8 (Parking lot landscaping), which requires a five-foot wide landscape buffer adjacent to the southern driveway (see analysis below). The Director has approved the alternative compliance request.

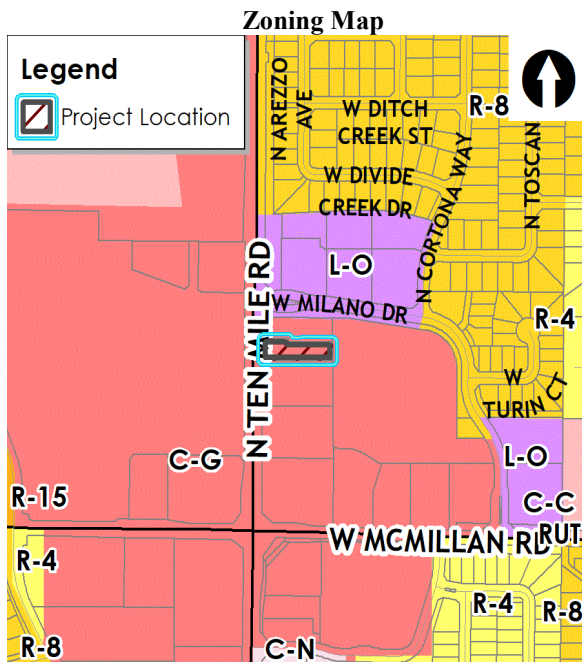
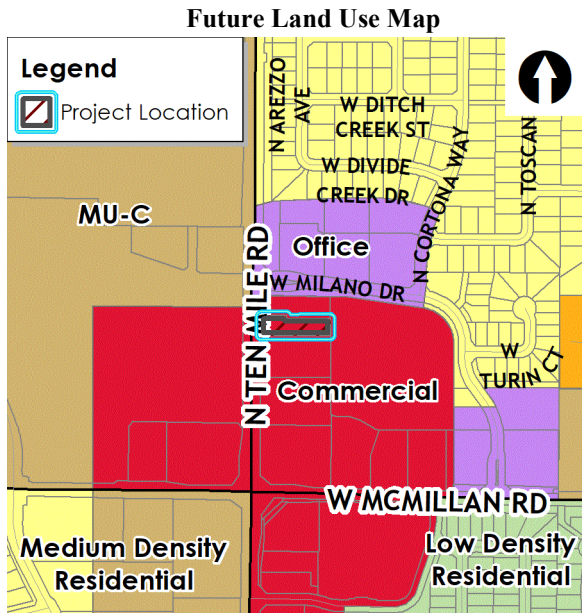
**II. SUMMARY OF REPORT**

A. Project Summary

Description	Details	Page
Acreage	0.623 acres	
Future Land Use Designation	Commercial	
Existing Land Use	Vacant/undeveloped	
Proposed Land Use(s)	Restaurant with drive-through	
Current Zoning	General Retail and Service Commercial District (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	None	
Neighborhood meeting date	10/21/2022	
History (previous approvals)	H-2019-0126 (Ten Mile & McMillan <a href="#">MDA 2020-040967</a> ); PBA-2021-0007; H-2022-0011 (Ten Mile & McMillan <a href="#">MDA 2020-040967</a> ).	

# EXHIBIT A

## A. Project Area Maps



**Planned Development Map**

### III. APPLICANT INFORMATION

#### A. Applicant:

Daniel Tessarolo, Chipman Design Architecture, Inc. – 1350 E. Touhy Ave. First Floor East

#### B. Owner:

Kristin Karmazyn – 520 Zang Street, Suite D

## EXHIBIT A

### C. Representative:

Dieter Pedroza, Chipman Design Architecture, 1350 E. Touhy Ave. First Floor East

### IV. NOTICING

	<b>Planning &amp; Zoning Posting Date</b>
Newspaper Notification	1/18/2023
Radius notification mailed to properties within 500 feet	1/12/2023
Site Posting Date	4/14/2023
Next Door posting	1/13/2023

### V. STAFF ANALYSIS

#### **Comprehensive Plan:**

#### COMMERCIAL LAND USES

This designation will provide a full range of commercial uses to serve area residents and visitors. Desired uses may include retail, restaurants, personal and professional services, office uses, and appropriate public and quasi-public uses. Sample zoning include: C-N, C-C, and **C-G**.

*The subject site is one of multiple commercially zoned properties adjacent to the intersection of Ten Mile and McMillan Roads. Therefore, numerous commercial uses exist and are under construction with more to come as this area continues to develop. The proposed use of Noodles and Company with a drive-through is defined as a restaurant use as desired in the Commercial designated areas, as noted above. The proposed use, in conjunction with the already approved or constructed uses (dentist office, car wash, fuel facility, and bank), satisfy the general Commercial future land use designation for this area. Staff finds the proposed project is generally consistent with the Comprehensive Plan.*

#### **SITE DESIGN AND CODE ANALYSIS**

The proposed drive-through is for a restaurant that is within 300-feet of an existing drive-through to the south (EICU Ten Mile Branch H-2022-0007) and residential use to the east (McMillan Independent Senior Living Facility) currently under construction (H-2020-0004), which requires Conditional Use Permit approval (CUP) per UDC Table 11-2B-2. The proposed drive-through use is not a traditional drive-through but a “pick-up lane” for pre-made online orders and by phone only. ***Per the submitted narrative, the drive-through does not contain a menu board or speakers for traditional ordering, customers select a time at which their food will be available at the pick-up window allowing for a more efficient method for customers to pick up their food. Any change to the proposed use will require a modification to the CUP.***

***Staff finds with the pick-up window located on the south side of the building, the drive aisle leading to the pick-up window has adequate space to accommodate any potential stacking that may possibly ensue without impeding into the common area shared by both Noodles and the Dentist office located north on the plan. Additionally, with the pick-up window located on the south side of the building, the escape lane commences at the southwest corner and does not look to negatively***

## EXHIBIT A

**impact the bank to the south.** *There are also a number of vehicular-dominated uses to the south (a vehicle washing facility and a fuel sales facility) but they did not require CUP approval as they are specific uses that are principally permitted in the C-G zoning district. However, the nature of the nearby uses are vehicle dominated similarly to that of a drive-through and staff has taken this into account when making its recommendation to the Commission.*

The proposed hours of operation will be Sunday – Saturday from 10:00 am to 10:00 pm. Business hours of operation within the C-G District shall be limited from 6:00 am to 11:00 pm when the property abuts a residential use or district. The property does directly abut property that is developing with a residential use; however, the proposed residential buildings are approximately 200-feet from the drive-through which should not impact residents living in the facility once construction is completed. Furthermore, the garages for the residential use (McMillan Senior Living Development) are located adjacent to the shared drive aisle along with a landscape buffer that provides additional screening and somewhat of a noise barrier from the drive-through. Therefore, Staff finds the proposed hours of operation should not negatively impact the adjacent residential use and complies with the established hours of operation for the district.

The proposed use and development plan is in substantial conformance with the provisions in the existing Development Agreement (Inst. #[2020-040967](#)).

**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 subject site and between adjacent properties. ***Staff recommends signage be installed ahead of the crossing warning drivers to watch out for pedestrians (south).*** 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 a one-way drive aisle that circles the proposed building and leads to the shared drive aisle and parking lot. The site plan depicts plenty of queuing for vehicles, which should be sufficient for the proposed use as a pick-up-only drive-through.*

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.

*The stacking lane is a separate lane from the circulation lanes needed for access and parking and allows plenty of space for vehicles to stack.*

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 is over 100 feet in length so an escape lane is required and depicted on the site plan.*

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

*Both the stacking lane and the drive-up window are visible from Ten Mile Road to the west and the private drive on the east.*

**Staff's specific recommendations can be found in Section VIII. A2 & A3 below.**

## EXHIBIT A

**Restaurant:** The proposed use of a restaurant is subject to the specific use standards listed in [UDC 11-4-3-49](#). The proposed site plan appears to show compliance with all of the standards and will be further verified with the future Certificate of Zoning Compliance (CZC) application.

**Dimensional Standards:** Future development should be consistent with the dimensional standards listed in UDC Table [11-2B-3](#) for the C-G zoning district.

**Access:** One driveway access is proposed to the site via the shared east/west driveway along the east boundary of the site; this access is a shared access for all of the properties within this commercial subdivision that front on the abutting arterial streets (the senior living facility does not access this shared drive aisle). The shared access drive connects to both Ten Mile Road south of the subject site and also to Milano Drive north of the site.

**Parking:** A minimum of one (1) parking space is required to be provided for every 250 square feet of gross floor area for restaurant uses. The proposed building is shown as 2,515 square feet requiring a minimum of 10 parking spaces—the submitted site plan shows 14 proposed parking spaces exceeding UDC minimums.

The recorded Declaration of Easements, Covenants, Conditions and Restrictions for this development establish cross-parking and cross-access easements for lots within the development (Inst. 2021-129579). This lot is proposed to share some drive aisles and parking areas with the lot directly to the north and south that is currently developed as a dentist office (Heartland Dental A-2021-0201) and a bank (EICU Ten Mile Branch H-2022-0007). Due to the existing agreement and easements, staff finds the parking is sufficient for the proposed use.

A minimum of 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 facilities shall support the bicycle upright by its frame and allow the owner to lock both the frame and front wheel with one (1) lock. *A bike rack is labeled on the site plan and a detail of the design is included. Staff recommends providing a revised detail of the bike rack that meets the requirements above with the future Certificate of Zoning Compliance (CZC) Application.*

**Pedestrian Walkways:** A pedestrian walkway is depicted on the site plan from the arterial/perimeter sidewalk along N. Ten Mile Rd. to the main building entrance as required by UDC 11-3A-19B.4a.

*The pedestrian walkway should be distinguished from the vehicular driving surface through the use of pavers, colored or scored concrete, or bricks where this pedestrian connection crosses the drive-through lane, consistent with UDC 11-3A-19B.4b.*

**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.

In addition, 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 along the north, east, and west boundaries. The Applicant is proposing a 2-foot perimeter landscape buffer along the drive aisle on the south side of the property line. Per UDC 11-3B-8C.1, this requirement may be reduced or waived at the determination of the Director where there is a shared driveway and/or recorded cross-parking agreement and easement with an adjacent property.

*Alternative Compliance (ALT) to the perimeter landscape buffer standards is requested due to the limitations of the narrow lot space. The Applicant has re-designed their site in an effort to retain the pick-up window and included the properties to the north to demonstrate how they integrate with*



## EXHIBIT A

*each other. In regards to the landscape buffer separation with the Bank, the Applicant is adding an additional 2-feet of landscaping on the Noodles side of the property line. This allows the drive aisle to remain 25-feet wide along the southern boundary to accommodate the required escape lane. The perimeter landscape buffer between Noodles and the Bank will result in a 10-foot wide buffer (8-feet on the Banks side, and 2-feet on the Noodles side) meeting the intent of the code. The Applicant is proposing additional shrubs in the landscape buffers along the north and west sides of the site. Based on the analysis, the Director is supportive of the request for ALT for the proposed 2-foot perimeter landscaper buffer along the southern boundary of the Noodles site.*

Street buffer landscaping, including a sidewalk, along N. Ten Mile Rd. was installed with development of the overall subdivision. The submitted landscape plans show this buffer remaining as it currently exists. Therefore, the submitted plans show compliance with this requirement.

**Mechanical Equipment:** All mechanical equipment and outdoor service 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. *Staff recommends that the Applicant work with Republic Services to establish an adequate quantity of trash and recycle bins (sharing with property to the north), to service this site prior to submittal of the CZC Application.*

**Building Elevations:** The Applicant submitted conceptual building elevations for the proposed restaurant with drive-through. The building elevations depict aluminum siding (dark national walnut/chaps in Dunn Edwards), EIFS smooth stucco finish with expansion joints (bungalow taupe/lonely road in Dunn Edwards), CMU brick (umber brown), stone/rock veneer (brownstone), and aluminum window system (medium bronze finish). *The final design of the structure is required to comply with the design standards listed in the Architectural Standards Manual.*

**Certificate of Zoning Compliance and Design Review:** A Certificate of Zoning Compliance (CZC) and Administrative Design Review (DES) applications are required to be submitted for the proposed building 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 alternative compliance request.

### B. The Meridian Planning & Zoning Commission heard this item on April 20, 2023. 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: Dieter Pedroza, Chipman Design
- b. In opposition: None
- c. Commenting: Dieter Pedroza, Chipman Design
- d. Written testimony: None
- e. Staff presenting application: Stacy Hersh, 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:

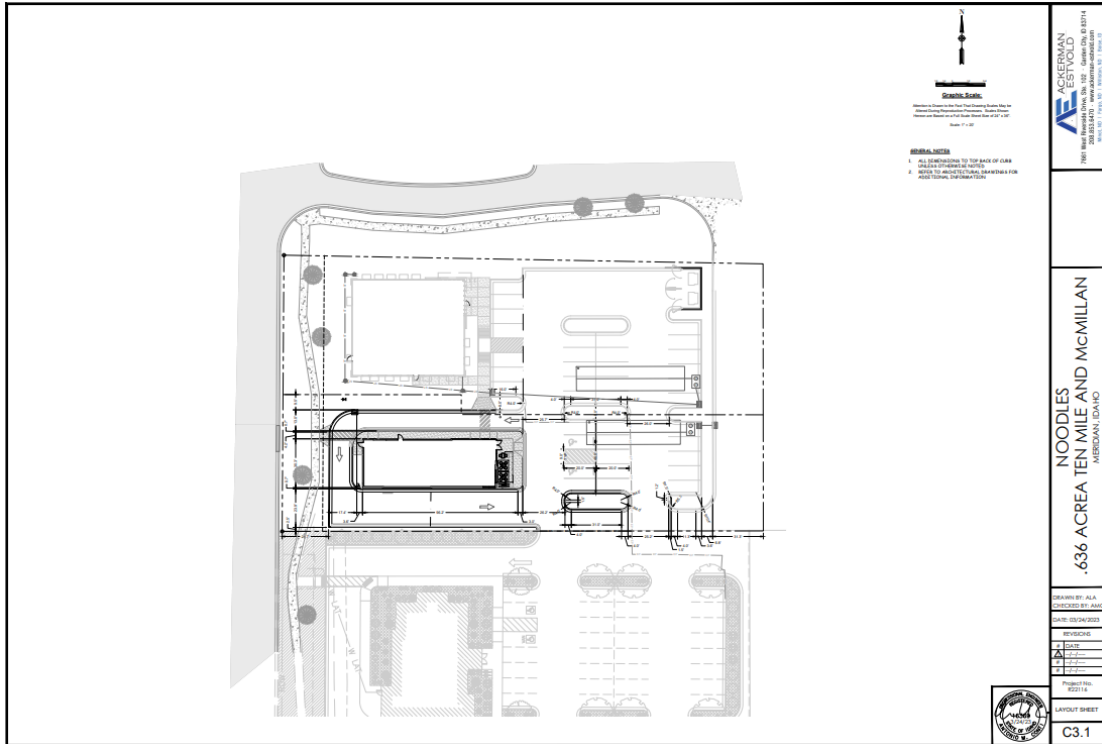
## EXHIBIT A

- a. Traffic flow, safe pedestrian connectivity, and indoor seating for the restaurant.
- 4. Commission change(s) to Staff recommendation:
  - a. None

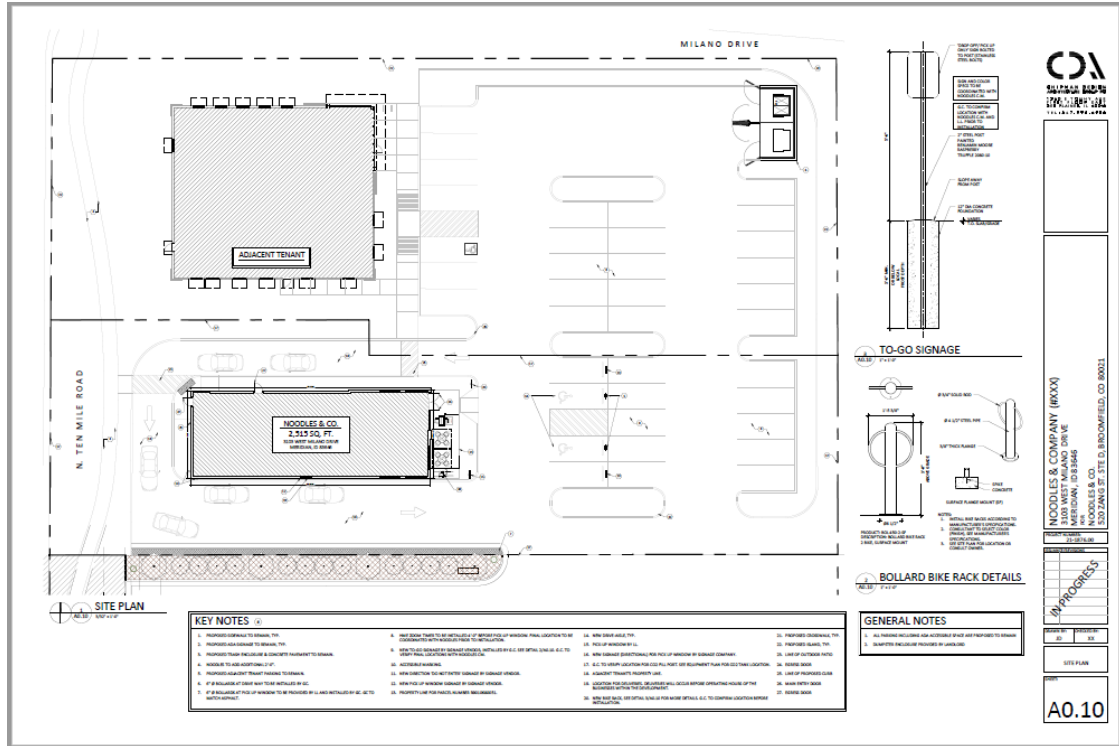
# EXHIBIT A

## VII. EXHIBITS

### A. Site Plan

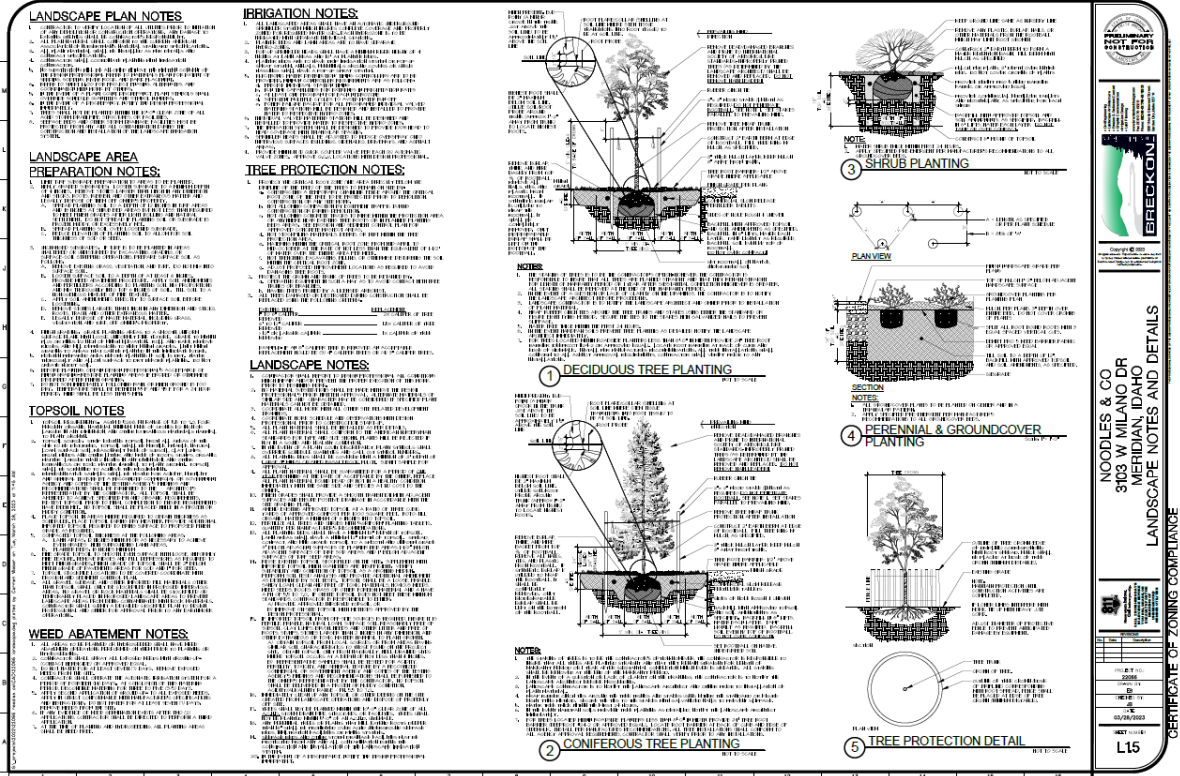
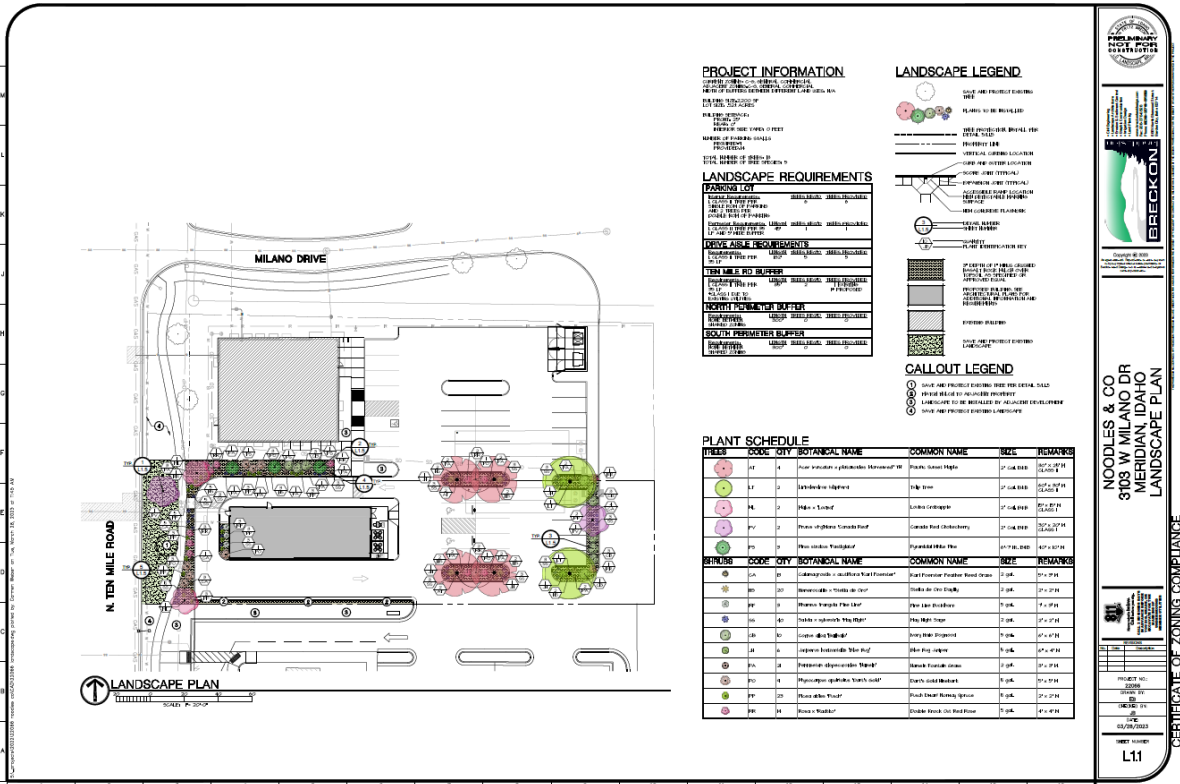


# EXHIBIT A



# EXHIBIT A

## B. Landscape Plan (dated: 10/14/2022)





## EXHIBIT A

### VIII. City/agency comments & conditions

#### B. PLANNING

1. Future development of this site shall comply with all previous approvals: AZ-03-005; PP-07-022; FP-08-010; A-2019-0290 (PBA, ROS #12081); PBA-2021-0007 (ROS #12991); H-2019-0126 (MDA #2020-040967); H-2022-0011 (MDA #2022-088909).
2. The Conditional Use Permit for the proposed Drive-Through Establishment is hereby approved with the following conditions of approval:
  - a. The subject approval is for a drive-through *pick-up* window only and does not include a menu board or outdoor speaker for ordering; any change(s) to the approved use shall be approved through a conditional use permit modification application.
  - b. Additional signage is required throughout the site to efficiently and adequately direct patrons to throughout the site with minimal conflict.
3. The site plan submitted with the future Certificate of Zoning Compliance application shall be revised as follows:
  - a. The walkway from the perimeter sidewalk along Ten Mile Road 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](#).
  - b. Revise the site plan to include a revised detail of the bike rack that meets the requirements of [11-3C-5C](#) with the future Certificate of Zoning Compliance (CZC) Application.
  - c. Applicant shall work with Republic Services to establish an adequate quantity of trash and recycle bins to service this site prior to submittal of the CZC Application (site plan depicts sharing on-site trash with property to the north).
  - d. 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](#).
  - e. Depict signage ahead of each pedestrian crossing(s) in the drive-through lane (south) notifying drivers to watch out for pedestrians.
4. The landscape plan submitted with the future Certificate of Zoning Compliance application shall be revised as follows:
  - a. The walkway from the perimeter sidewalk along Ten Mile Road 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](#).
  - b. Ensure compliance with UDC 11-3B-5 for all landscaped areas and comply with the parking lot landscaping standards in accord with UDC 11-3B-8C.
  - c. Existing landscaping shall be protected during construction in accord with UDC 11-3B-10C.3.
5. Comply with the standards listed in UDC [11-4-3-11](#) – Drive-Through Establishment is required.
6. The Director has approved the Alternative Compliance Request to the parking lot landscaping buffer requirements in UDC 11-3B-8C.

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7. Comply with the standards listed in UDC [11-4-3-49](#) – Restaurant is required.
8. Business hours of operation within the C-G District shall be limited from 6:00 am to 11:00 pm when the property abuts a residential use or district.
9. 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.
10. 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.

### C. PUBLIC WORKS

1. Flow is committed.
2. Ensure no sewer services pass through infiltration trenches.
3. There is an existing service line and meter to the property. If this is not used it must be abandoned per city requirements.
4. No changes to public water infrastructure in record. Any changes must be approved by public works.

### D. ADA COUNTY HIGHWAY DISTRICT (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=274619&dbid=0&repo=MeridianCity>

### F. NAMPA & MERIDIAN IRRIGATION DISTRICT (NMID)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=287225&dbid=0&repo=MeridianCity&cr=1>

### G. IDAHO TRANSPORTATION DEPARTMENT (ITD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=286087&dbid=0&repo=MeridianCity&cr=1>

## IX. FINDINGS

### A. Conditional Use Findings (UDC 11-5B-6):

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.**

*Staff finds the site is large enough to accommodate the proposed development and meet all dimensional and development regulations of the C-G zoning district.*



## EXHIBIT A

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

*Staff finds the proposed restaurant with drive-through lane 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.**

*Staff 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.**

*Staff 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.**

*Staff 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.**

*Staff 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.**

*Staff 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)**

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

### **B. Alternative Compliance findings (Landscape buffers along streets UDC 11-3B-7):**

The Director has approved your request for alternative compliance to Unified Development Code (UDC) 11-3B-7 for the subject property, based on the required Findings listed in UDC 11-5B-5E, as follows:

1. **Strict adherence or application of the requirements are not feasible; or**

*The Director finds that it is not feasible to meet the UDC requirement for the minimum 5-foot wide landscape buffer to be provided along the perimeter of the southern boundary next to the escape lane due to the to the limitations of the narrow lot space.*

## EXHIBIT A

- 2. The alternative compliance provides an equal or superior means for meeting the requirements; and**

*Per the analysis above in section VI.B, the Director finds the proposed alternatives will be equal to the code requirement due to the following: The perimeter landscape buffer between Noodles and the Bank will result in a 10-foot wide buffer (8-feet on the Banks side, and 2-feet on the Noodles side) meeting the intent of the code. The Applicant is proposing additional shrubs in the landscape buffers along the north and west sides of the site as well.*

- 3. The alternative means will not be materially detrimental to the public welfare or impair the intended uses and character of surrounding properties.**

*The Director finds that the alternative means will not be materially detrimental to the public welfare or impair the intended use and/or character of surrounding commercial and residential properties if the proposed conditions of approval are maintained.*