

ADDENDUM TO DEVELOPMENT AGREEMENT

- PARTIES:**
1. **City of Meridian**
 2. **Wadsworth Meridian LLC, Owner/Developer**

THIS ADDENDUM TO DEVELOPMENT AGREEMENT is dated this _____ day of _____, 2023, (“ADDENDUM”), by and between **City of Meridian**, a municipal corporation of the State of Idaho (“CITY”), whose address is 33 E. Broadway Avenue, Meridian, Idaho 83642 and **Wadsworth Meridian LLC** (“OWNER/DEVELOPER”), whose address is 166 East 14000 South, Suite 210, Draper, Utah 84020.

RECITALS

A. OWNER/DEVELOPER has submitted an application for a Modification to the existing Development Agreement recorded December 4, 2019 as Instrument #2019-121599 in Ada County Records for the purpose of updating the existing concept plan. The Meridian City Council approved said application with Findings of Fact and Conclusions of Law as in the attached Exhibit “A.”

B. CITY and OWNER/DEVELOPER now desire to amend said Development Agreement, which terms have been approved by the Meridian City Council in accordance with Idaho Code Section 67-6511.

NOW, THEREFORE, in consideration of the covenants and conditions set forth herein, the parties agree as follows:

1. OWNER/DEVELOPER shall be bound by the terms of the Development Agreement recorded December 4, 2019 as Instrument #2019-121599, except as amended as follows:
 - a. Applicant shall develop the property consistent with the revised conceptual development plan in Section VII.B, Exhibit B of the Staff Report.
2. That Owner/Developer agrees to abide by all ordinances of the City of Meridian and the Property shall be subject to de-annexation if the Owner/Developer, or their assigns, heirs, or successor shall not meet the conditions of this Addendum, and the Ordinances of the City of Meridian as herein provided.
3. This Addendum shall be binding upon and inure to the benefit of the parties’ respective heirs, successors, assigns and personal representatives, including City’s corporate authorities and their successors in office. This Addendum shall be binding on the Owner/Developer of the Property, each subsequent owner and any other person(s) acquiring an interest in the Property. Nothing herein shall in any way prevent sale or alienation of the Property, or portions thereof, except that any sale or alienation shall be subject to the provisions hereon and any successor owner or owners shall be both benefited and bound by the conditions and restrictions herein expressed. City agrees, upon written request of Owner/Developer, to execute appropriate and recordable evidence of termination of this Addendum if City, in its sole and reasonable discretion, had determined that Owner/Developer have fully performed its obligations under this Addendum.
4. If any provision of this Addendum is held not valid by a court of competent jurisdiction, such provision shall be deemed to be excised from this Addendum and the invalidity thereof shall not affect any of the other provisions contained herein.

5. This Addendum sets forth all promises, inducements, agreements, condition, and understandings between Owner/Developer and City relative to the subject matter herein, and there are no promises, agreements, conditions or under-standing, either oral or written, express or implied, between Owner/Developer and City, other than as are stated herein. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Addendum shall be binding upon the parties hereto unless reduced to writing and signed by them or their successors in interest or their assigns, and pursuant, with respect to City, to a duly adopted ordinance or resolution of City.

- a. Except as herein provided, no condition governing the uses and/or conditions governing development of the subject Property herein provided for can be modified or amended within the approval of the City Council after the City has conducted public hearing(s) in accordance with the notice provisions provided for a zoning designation and/or amendment in force at the time of the proposed amendment.

6. This Addendum shall be effective as of the date herein above written.

7. Except as amended by the Addendums, all terms of the previous Agreements shall remain in full force and effect.

[End of text. Acknowledgements, signatures, and Exhibit A follow.]

ACKNOWLEDGMENTS

IN WITNESS WHEREOF, the parties have herein executed this Addendum and made it effective as hereinabove provided.

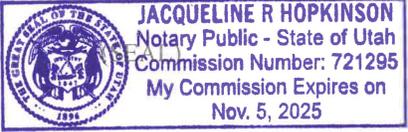
OWNER/DEVELOPER:
Wadsworth Meridian LLC

[Handwritten Signature]
By: Nata Ballard, COO

STATE OF UTAH)
County of SALT LAKE) ss.

On this 27th day of MARCH, 2023, before me, the undersigned, a Notary Public in and for said State, personally appeared Nata Ballard, known or identified to me to be the COO of **Wadsworth Meridian LLC** and the person who signed above and acknowledged to me that they executed the same on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



[Handwritten Signature]
Notary Public
My commission expires: 11-05-2025

CITY OF MERIDIAN

ATTEST:

By: _____
Mayor Robert E. Simison

Chris Johnson, City Clerk

STATE OF IDAHO)
County of Ada) : ss

On this _____ day of _____, 2023, before me, a Notary Public, personally appeared **Robert E. Simison** and **Chris Johnson**, known or identified to me to be the Mayor and City Clerk, respectively, of the **City of Meridian**, who executed the instrument or the person that executed the instrument of behalf of said City, and acknowledged to me that such City executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

(SEAL)

Notary Public for Idaho
My commission expires: _____

EXHIBIT A

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



In the Matter of the Request for a modification to the existing Development Agreement (H-2019-0082, Inst. #2019-121599) to update the existing concept plan; and conditional use permit to construct a new 1,154 square foot restaurant with associated drive-through on approximately 1.2 acres of land in the C-G zoning district, by Andrew Bowman, Barghausen Consulting Engineers, Inc.

Case No(s). H-2022-0077

For the City Council Hearing Date of: February 14, 2023 (Findings on March 7, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of February 14, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of February 14, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of February 14, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of February 14, 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 City Council takes judicial notice of its Unified Development Code codified as Title 11 Meridian City Code, and all current zoning maps thereof. The City of Meridian has, by ordinance, established the Impact Area and the Comprehensive Plan of the City of Meridian, which was adopted December 17, 2019, Resolution No. 19-2179 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 Mayor and City Clerk and then a copy served by the Clerk upon the applicant, the Community Development Department, the Public Works Department and any affected party requesting notice.

7. That this approval is subject to the Conditions of Approval all in the attached Staff Report for the hearing date of February 14, 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 City Council'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 a modification to the Development Agreement and Conditional Use Permit is hereby approved per the conditions of approval in the Staff Report for the hearing date of February 14, 2023, attached as Exhibit A.

D. Notice of Applicable Time Limits

Notice of 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. 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.

Upon written request and filed by the applicant prior to the termination of the period in accord with 11-5B-6.G.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 City Council may be granted. With all extensions, the Director or City Council may require the conditional use comply with the current provisions of Meridian City Code Title 11(UDC 11-5B-6F).

Notice of Development Agreement Duration

The city and/or an applicant may request a development agreement or a modification to a development agreement consistent with Idaho Code section 67-6511A. The development agreement may be initiated by the city or applicant as part of a request for annexation and/or rezone at any time prior to the adoption of findings for such request.

A development agreement may be modified by the city or an affected party of the development agreement. Decision on the development agreement modification is made by the city council in accord with this chapter. When approved, said development agreement shall be signed by the property owner(s) and returned to the city within six (6) months of the city council granting the modification.

A modification to the development agreement may be initiated prior to signature of the agreement by all parties and/or may be requested to extend the time allowed for the agreement to be signed and returned to the city if filed prior to the end of the six (6) month approval period.

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 February 14, 2023

By action of the City Council at its regular meeting held on the 7th day of March, 2023.

COUNCIL PRESIDENT BRAD HOAGLUN	VOTED <u>AYE</u>
COUNCIL VICE PRESIDENT JOE BORTON	VOTED <u>AYE</u>
COUNCIL MEMBER JESSICA PERREAULT	VOTED <u>AYE</u>
COUNCIL MEMBER LUKE CAVENER	VOTED <u>AYE</u>
COUNCIL MEMBER JOHN OVERTON	VOTED _____
COUNCIL MEMBER LIZ STRADER	VOTED <u>AYE</u>
MAYOR ROBERT SIMISON (TIE BREAKER)	VOTED _____



Mayor Robert E. Simison 3-7-2023

Attest:



Chris Johnson 3-7-2023
City Clerk



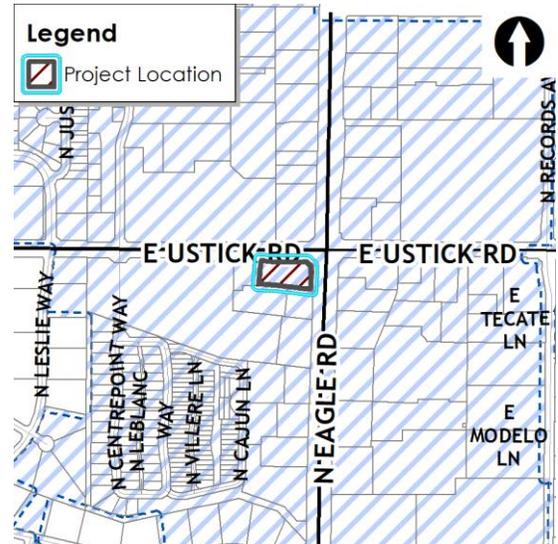
Copy served upon Applicant, Community Development Department, Public Works Department and City Attorney.

By:  _____ Dated: 3-7-2023
City Clerk's Office

STAFF REPORT
COMMUNITY DEVELOPMENT DEPARTMENT



HEARING DATE: February 14, 2023
 TO: Mayor & City Council
 FROM: Stacy Hersh, Associate Planner
 208-884-5533
 SUBJECT: H-2022-0077 – Dutch Bros Ustick & Eagle MDA, CUP
 LOCATION: 3117 E. Ustick Rd., in the NE ¼ of Section 5, Township 3N., Range 1E. (Parcel #R9161790045)



I. PROJECT DESCRIPTION

The Applicant has submitted an application for a modification to the existing Development Agreement (H-2019-0082, Inst. #2019-121599) to update the existing concept plan; and conditional use permit to construct a new 1,154 square foot restaurant with associated drive-through on approximately 1.2 acres of land in the C-G zoning district.

II. SUMMARY OF REPORT

A. Project Summary

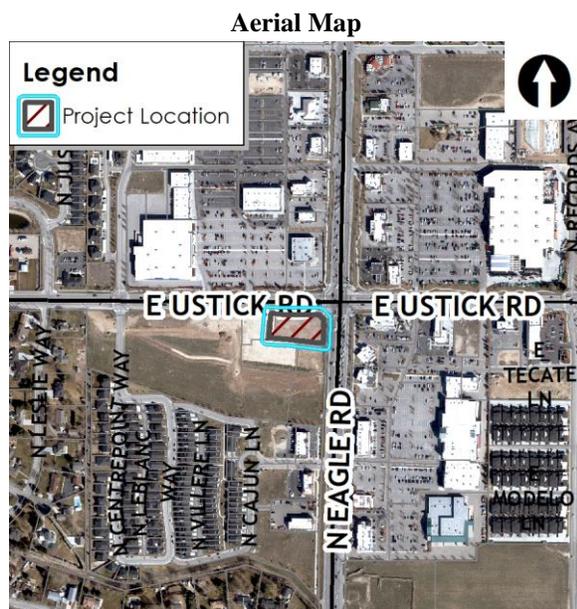
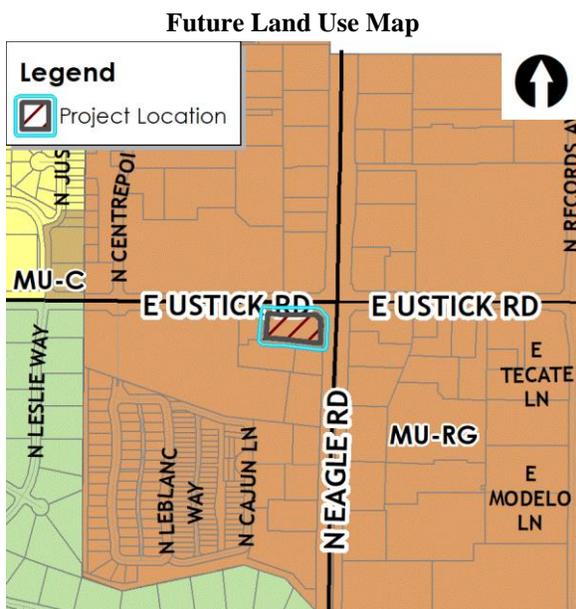
Description	Details	Page
Acreage	3.29-acre property (MDA Agreement); 1.194 (Conditional Use Permit)	
Future Land Use Designation	MU-R (mixed-use regional)	
Existing Land Use	Vacant/undeveloped	
Proposed Land Use(s)	Dutch Bros. Coffee (restaurant with a drive-through)	
Current Zoning	C-G	
Physical Features (waterways, hazards, flood plain, hillside)	The Milk Lateral runs along north and east boundaries of site	
Neighborhood meeting date; # of attendees:	9/27/2022; 4 attendees	

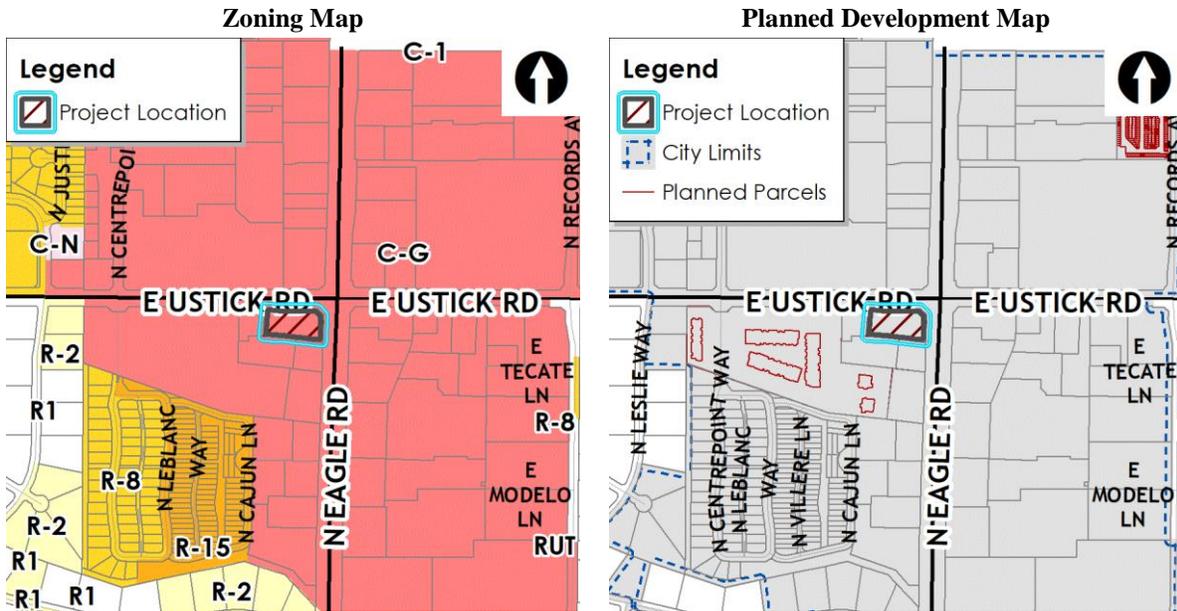
Description	Details	Page
History (previous approvals)	MDA H-2019-0082 (DA#2019-121599); PP H-2020-0104 (Wadsworth Meridian Subdivision) A-2019-0376; A-2021-0010 (site improvements) A-2021-0012 (CZC/DES); PBA-2021-0020 (Property Boundary Adjustment); MDA H-2021-0104 (Denied)	

B. Community Metrics

Description	Details
Ada County Highway District	<i>Not yet received</i>
<ul style="list-style-type: none"> Staff report (yes/no) 	Not yet received
<ul style="list-style-type: none"> Requires ACHD Commission Action (yes/no) 	No
Traffic Impact Study (yes/no)	No
Access (Arterial/Collectors/State Hwy/Local) (Existing and Proposed) Trip Generation	Access is proposed from E. Bourbon Street via E. Ustick Road. at the west boundary of the site.

C. Project Area Maps





III. APPLICANT INFORMATION

A. Applicant:

Andrew Bowman, Barghausen – 18215 72nd Avenue South, Kent WA 98032

B. Owner:

Leo Betz, Wadsworth Development Group– 166 East 14000, South, Suite 210, Draper, UT 84020

C. Agent/Representative:

Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date	City Council Posting Date
Newspaper Notification	11/30/2022	1/29/2023
Radius notification mailed to properties within 300 feet	11/13/2022	1/26/2023
Public hearing notice sign posted on site	12/28/2022	2/2/2023
Nextdoor posting	11/28/2022	1/30/2023

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

Land Use:

This property is designated Mixed Use – Regional (MU-R) on the Future Land Use Map (FLUM).

The purpose of the MU-R designation is to provide a mix of employment, retail, and residential dwellings and public uses near major arterial intersections. The intent is to integrate a variety of uses together, including residential, and to avoid predominantly single-use developments such as a regional

retail center with only restaurants and other commercial uses. Developments should be anchored by uses that have a regional draw with the appropriate supporting uses.

The subject site is part of a much larger MU-R area along the Eagle Road corridor that includes a mix of residential and commercial uses. Therefore, Staff believes the proposed project is generally consistent with the MU-R designation.

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

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

- “Plan for an appropriate mix of land uses that ensures connectivity, livability, and economic vitality.” (3.06.02)
The proposed use will contribute to the mix of uses in this area that ensure the livability and economic vitality of the community.
- “Encourage and support mixed-use areas that provide the benefits of being able to live, shop, dine, play, and work in close proximity, thereby reducing vehicle trips, and enhancing overall livability and sustainability.” (3.06.02B)
The subject mixed-use area currently contains a number of retail, restaurant, office, and residential uses and will eventually include a multi-family development directly to the west. To the north are a number of big box stores (Kohl’s, Dick’s, and Hobby Lobby) and the new Brickyard vertically integrated development; to the northeast is Lowe’s and various other commercial and restaurant buildings; to the east is Trader Joes’s, multiple restaurants, and the Verraso townhomes; and to the southeast are traditional garden style apartments, restaurant users, and The Village. The proposed Dutch Bros. coffee restaurant will contribute to the mix of uses in this area and provide a drive-through coffee chain option to area residents within close proximity to nearby residential developments. The proposed use will also provide employment opportunities to nearby residents.
- “Require pedestrian circulation plans to ensure safety and convenient access across large commercial and mixed-use developments.” (3.07.02A).
A 10-foot wide pathway is proposed within the buffer along the entire frontage of N. Eagle Rd and was constructed under the approved CZC (A-2021-0010). There is a 5-foot wide detached sidewalk within the landscape buffer to Ustick Road per the conditions of approval in the existing CZC. The sidewalk will connect to the multi-use pathway at the intersection of Ustick and Eagle Road. Minimum 5-foot wide sidewalks will be required adjacent to all commercial buildings within the Wadsworth Meridian Subdivision development and along the main driveways within the site for pedestrian connectivity and easy access within the mixed-use development.
- “Minimize noise, lighting, and odor disturbances from commercial developments to residential dwellings by enforcing city code.” (5.01.01F)
Operation of the proposed use should comply with City ordinances pertaining to noise, lighting, and odor disturbances.

VI. STAFF ANALYSIS

A. PROPERTY HISTORY

In 2019, a DA Modification was approved to remove the subject site from the original DA to enter into a new one specific to this site (H-2019-0082, DA Inst. #2019-121599). Subdivision approval was granted consisting of 5 commercial building lots. Several administrative approvals have been granted on the subject site: A-2019-0376 & A-2021-0010 (CZC for the parking lot, landscaping, and other relevant site improvements); A-2021-0012 (CZC and Design Review approval of the southwest multi-tenant

building); PBA-2021-0020 (boundary adjustment to remove a lot along the north boundary creating 4 buildable lots instead of 5).

In 2022, the City Council held a public hearing to consider the Applicant's request to modify the existing Development Agreement (MDA) (H-2021-0104) for the purpose of updating the concept plan to show two- drive-through uses along the north boundary instead of two larger commercial buildings. The proposed concept plan, ingress, egress, and internal traffic circulation was found to be detrimental to the community. After carefully considering all the testimony received and all the information in the record, the City Council found that the Applicant failed to demonstrate that the Applicant's proposed new plan was superior to the existing one therefore, City Council denied the application which has necessitated the need for the applicant to reapply for another amendment.

B. DEVELOPMENT AGREEMENT MODIFICATION (MDA)

The existing concept plan within the approved Development Agreement (DA) (Inst. #2019-121599) depicts four buildings on the subject site (Exhibit VI.A below) with the two closest to the north boundary and Ustick Road being multi-tenant buildings or similarly sized commercial buildings. Since this concept plan was approved the property has changed ownership and according to the new owners, the existing concept plan is not best suited for site development. Therefore, the Applicant is requesting to modify the existing DA for the purpose of updating the concept plan to show a Dutch Bros. Coffee restaurant with drive-through use along the northwest boundary instead of one larger commercial building.

None of the existing provisions contained within the recorded DA preclude additional drive-through uses from occurring on the property—the approved multi-tenant building in the southwest corner of the site is approved with a drive-through. Because of this existing drive-through approval, the request would conceptually allow two (2) drive-throughs within this project. The new drive-through shown on the updated conceptual development plan will need to obtain Conditional Use Permit (CUP) approval prior to submitting for building permits because of the existing drive-through noted. In addition, the proposed concept plan shows a reduction in commercial square footage due to a smaller footprint proposed for the Dutch Bros site.

Access to the development is existing via a drive aisle connection to a shared driveway from E. Ustick Rd. approved with the Centrepointe Mixed-Use MDA(H-2022-0035) along the west boundary of the site and a recorded cross-access easement via N. Centrepoint Way, N. Cajun Ln. and E. Seville Ln. The Applicant is not proposing any revisions to the ingress/egress for the overall site but access to Centrepoint Way to the west is indirect until such time the property to the west develops. Within the site, preliminary analysis shows that there should be ample parking for the four (4) proposed buildings and their uses (three restaurants, one multi-tenant retail building, and one urgent care/clinic) and internal circulation shown on the concept plan should meet all requirements of the UDC.

C. CONDITIONAL USE PERMIT (CUP)

Conditional use permit for a new 1,154 square foot dual drive-through Dutch Bros. coffee restaurant on approximately 1.2 acres of land in the C-G zoning district to allow the requested drive-through use within 300 feet of another drive-through facility.

Specific Use Standards (UDC 11-4-3):

The proposed use is subject to the following standards: *(Staff's analysis/comments in italic text)*

Drive-Through Establishment: The proposed drive-through establishment is subject to the specific use standards listed in UDC [11-4-3-11](#), Drive-Through Establishment. All establishments providing drive-through service are required to identify the stacking lane, menu and speaker location (if applicable), and window location on the site plan. *A menu board location should be depicted on the plans.* The site plan is also required to demonstrate 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:

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

The concept plan shows the stacking lane is a separate lane from the drive aisles and parking which provides access to the rest of the development. The proposed site layout places a drive-through that starts at the southwest side of the building and exits at the southeast side of the building facing N. Eagle Road. Approximately 524 feet of stacking space is available behind the drive-through window to provide queuing for up to 26 vehicles. Dutch Bros. coffee has proposed implementing a runner system at the facility that is designed to increase speed and efficiency in servicing the drive-through customers; as well, employees will travel from vehicle to vehicle to greet and take customer orders. The "Runners" will utilize a handheld device to transmit customer orders to the multiple drink stations inside the building. Additionally, "Runners" will charge customers while in line, so by the time they arrive at the service window, they may pick up their order and be on their way. This system decreases wait times while allowing the "Runners" to have a more personal face-to-face interaction with the customers. The drive-through will not include any speaker boxes. All customer orders are taken in person either at the window or with a runner that carries a handheld device to transmit orders to the kitchen. This order process will minimize noise impacts and also decrease the amount of vehicle idling at menu boards that are common at traditional drive-through facilities. If there was additional or excessive overflow from the drive-through lane which does sometimes occur from drive-through establishments at peak times, it would stack into the parking lot from the west, not into N. Cajun Lane or E. Ustick Road.

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 designated employee parking.

The stacking lane is a separate lane from the circulation lanes needed for access and parking.

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 exceeds 100' in length and an escape lane is required. An escape lane is proposed prior to approaching the ordering window on the southeast side of the building.

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

The drive-through is located on the south side of the building and is visible from the N. Eagle Road and the drive aisle along the south side of the building for surveillance purposes.

Based on the above analysis, Staff deems the proposed drive-through is in compliance with the specific use standards as required.

Restaurant: The proposed use is also subject to the specific use standards listed in UDC [11-4-3-49](#) Restaurant, which requires at a minimum, one (1) parking space to be provided for every 250 square feet of gross floor area (see parking analysis below).

Dimensional Standards (UDC [11-2](#)):

Development of the site shall comply with the dimensional standards of the C-G zoning district in UDC Table [11-2B-3](#). Staff has reviewed the proposed plans and building elevations and they comply with the required standards.

Access (UDC [11-3A-3](#)):

Access is proposed on the site plan from E. Bourbon Street, a local street on the west side of the property, and the private road to the south, granted through a Mutual Access Easement – Instrument #106169335. A cross-access easement exists between Wadsworth Meridian Subdivision and the property to the west (parcel # S1105110111) depicted on the recorded plat for Wadsworth Meridian Subdivision. Cars will enter the site from the west and will either park in the lot in front of the drive-through or continue to the east along one of the two 12' drive-through lanes merging to the coffee kiosk and exiting back to the same drive aisle to the south. There is an escape lane provided just south of the coffee kiosk that exists to the same drive aisle to the south. **Direct access via E. Ustick Road is prohibited.**

Parking (UDC [11-3C](#)):

A minimum of one (1) off-street parking space is required per 250 square feet (s.f.) of gross floor area. Based on 1,154 s.f., a minimum of 5 parking spaces are required. A total of 14 parking spaces are proposed, exceeding UDC standards.

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](#). *Bicycle parking is shown on the plans submitted with this application.*

Pedestrian Walkways: A pedestrian walkway is proposed from the patio on the east side of the building to the pedestrian pathway along Eagle Road as required by UDC 11-3A-19.B.4.

The pedestrian walkway that runs through the drive-through lane connecting to Building A shall be distinguished from the vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks per UDC 11-3A-19.B.4.

Per the Development Agreement (Instrument #2019-121599), a 10-foot wide multi-use pathway with a use easement and pedestrian lighting and landscaping shall be installed adjacent to N. Eagle Road/SH-55 as set forth in UDC 11-3H-4C.3 with the site improvements approved with CZC (A-2021-0010).

Landscaping (UDC [11-3B](#)):

Street buffer: The street buffer along N. Eagle Road and E. Ustick Road are required to be constructed with the improvements for the Wadsworth Meridian Subdivision along with the approved CZC (A-2021-0010) for the common area site improvements. **Per UDC 11-3B-7.C.3, All required landscape buffers along streets shall be designed and planted with a variety of trees, shrubs, lawn, or other vegetative ground cover. Plant materials in conjunction with site design shall elicit design principles including rhythm, repetition, balance, and focal elements. The landscape buffers shown on the landscape plan are sparse, Staff recommends adding more of a mix of shrubs and River Rock Mulch to the northwest corner of the site fronting Ustick and along the north and south of the drive-through lanes.**

Parking lot: Landscaping is required in the parking lot per the standards in UDC 11-3B-8C.1. **The perimeter landscape buffer shall be planted with one Class II or Class III tree per thirty-five (35) linear feet and shrubs, lawn, or other vegetative ground cover. The perimeter landscape buffer next to the drive-through lane on the west side of the site is missing a mix of trees, shrubs, and River Rock mulch on the landscape plan submitted with the CUP.** All other landscaping appears to comply with UDC standards.

With the CZC submittal, the landscape plan should be revised to show the required mix of materials (i.e., trees, shrubs, River Rock Mulch) in the landscape buffer adjacent to Ustick Road, and to the parking lot perimeter landscape buffers to the north, south, and west of the drive-through lanes.

Outdoor Lighting (UDC 11-3A-11):

All outdoor lighting is required to comply with the standards listed in UDC 11-3A-11C. Light fixtures that have a maximum output of 1,800 lumens or more are required to have an opaque top to prevent up-lighting; the bulb shall not be visible and shall have a full cutoff shield in accord with Figure 1 in UDC 11-3A-11C.

Details of the lighting proposed on the site that demonstrate compliance with the standards listed in UDC 11-3A-11 should be submitted with the Certificate of Zoning Compliance application.

Mechanical Equipment: All mechanical equipment on the back of the building and outdoor service and 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.

Building Elevations ([UDC 11-3A-19](#) | [Architectural Standards Manual](#)):

Conceptual building elevations were submitted for the proposed structure as shown in Section VII.E. Building materials consist of fiber cement siding, CMU Willamette-Graystone, metal roofing, canopy soffit in natural north-western spruce, and glazing. The elevations appear to generally comply with the standards in the Architectural Standards Manual; however, a detailed review will take place with the administrative Design Review application.

Certificate of Zoning Compliance ([UDC 11-5B-1](#)):

A Certificate of Zoning Compliance (CZC) is required to be submitted for the proposed use prior to the submittal of a building permit application to ensure compliance with UDC standards and the conditions listed in Section X.

Administrative Design Review ([UDC 11-5B-8](#)):

An application for administrative Design Review is required to be submitted concurrently with the CZC application. The design of the site and structures is required to comply with the standards listed in UDC 11-3A-19 and in the Architectural Standards Manual ([ASM](#)).

VII. DECISION

A. Staff:

Staff recommends approval of the proposed modification to the existing Development Agreement and Conditional Use Permit per the provisions included in Section IX in accord with the Findings in Section X.

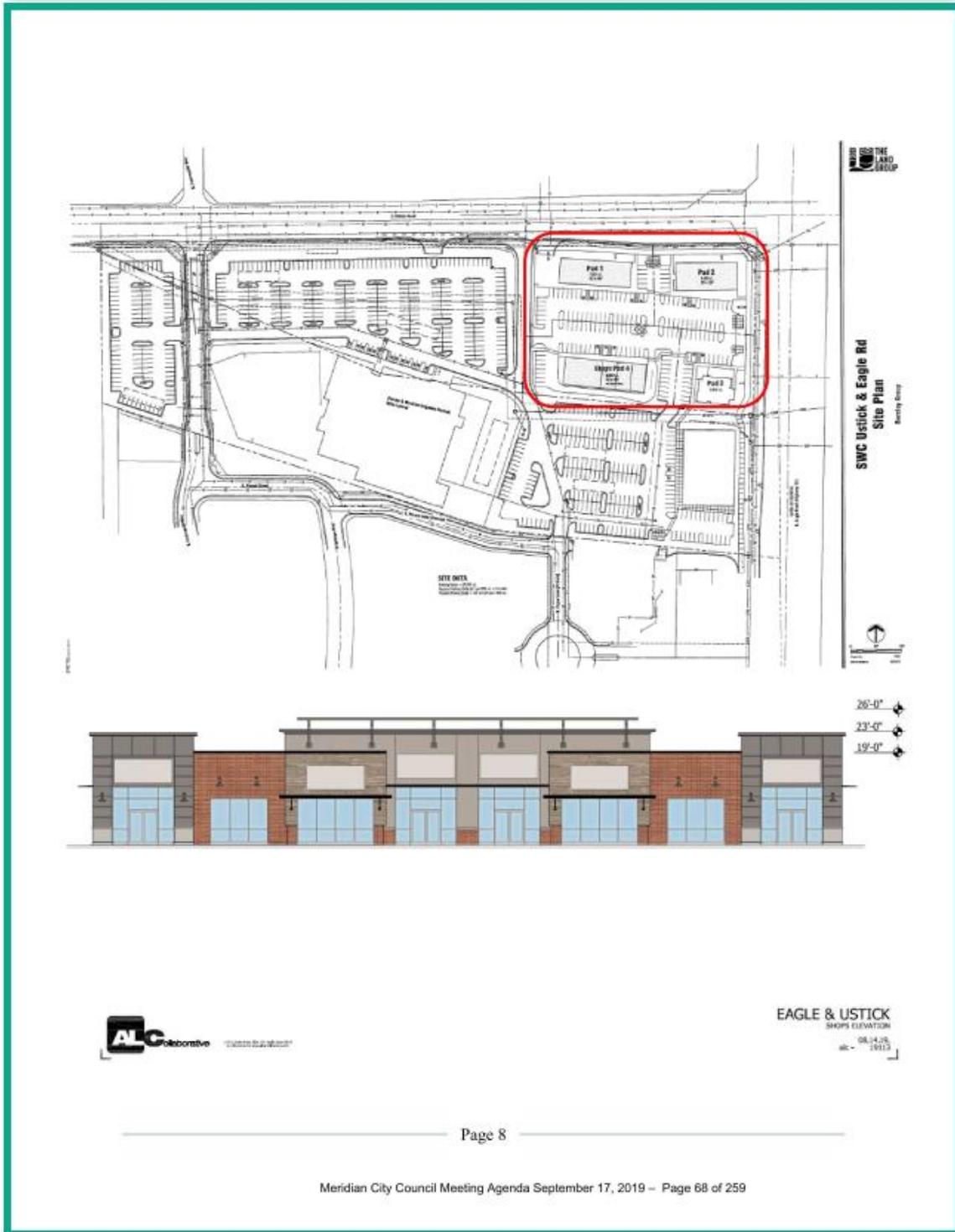
B. The Meridian Planning & Zoning Commission heard these items on January 5, 2023. At the public hearing, the Commission moved to recommend approval of the subject Conditional Use Permit request.

1. Summary of Commission public hearing:
 - a. In favor: Nick Wecker, Barghausen Consulting Engineers;
 - b. In opposition: None
 - c. Commenting: Nick Wecker;
 - d. Written testimony: None
 - e. Staff presenting application: Bill Parsons, Planning Supervisor
 - 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. None
4. Commission change(s) to Staff recommendation:

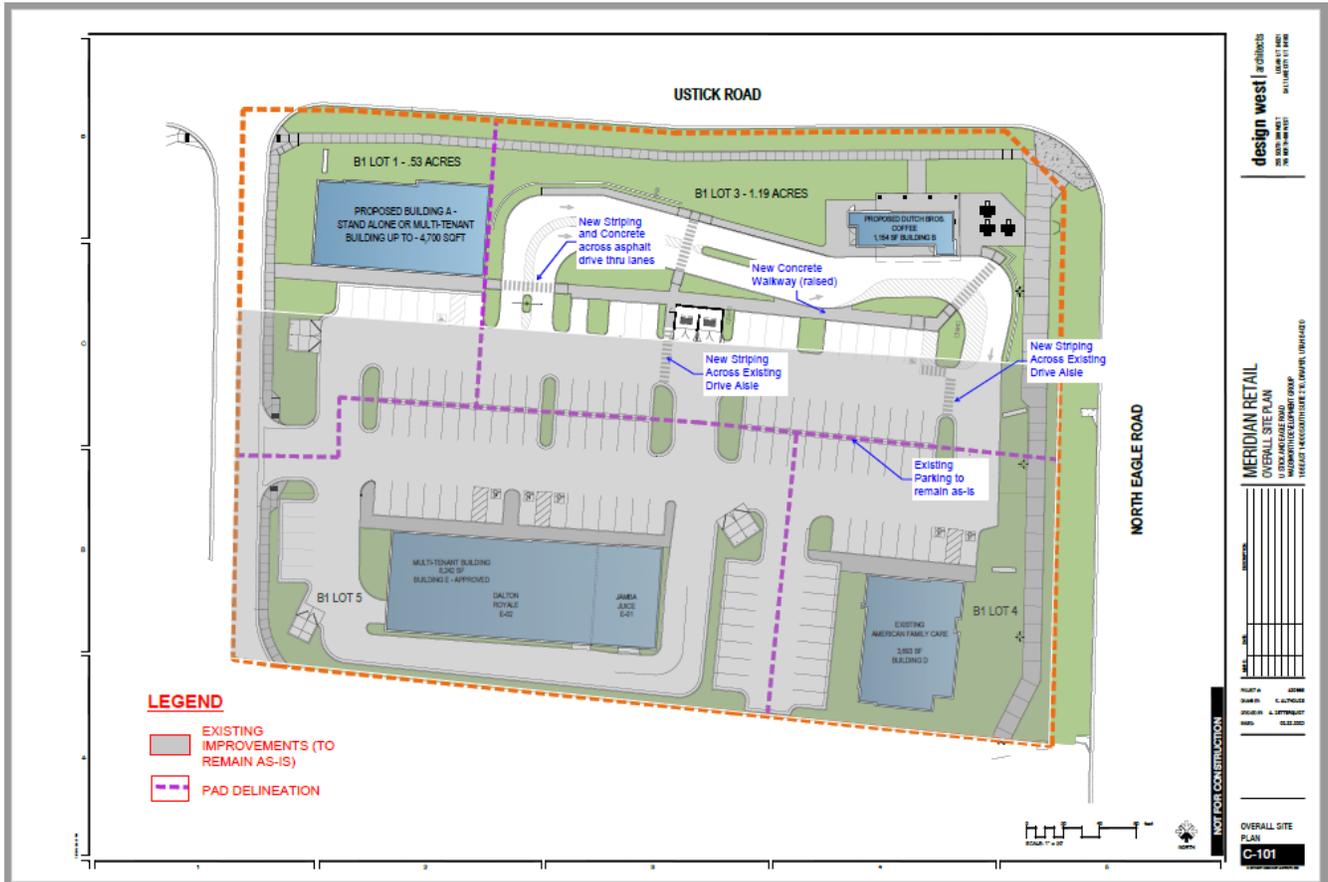
- a. None
 - 5. Outstanding issue(s) for City Council:
 - a. None
- C. The Meridian City Council heard this item on February 14, 2023. At the public hearing, the Council moved to approve the subject MDA request.
 - 1. Summary of the City Council public hearing:
 - a. In favor: Nick Wecker, Barghausen Consulting Engineers.
 - b. In opposition: None
 - c. Commenting: Nick Wecker, Leo Betz, Wadsworth Development Group
 - 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 City Council:
 - a. Pedestrian safety accessing Building A through the parking lot.
 - 4. City Council change(s) to Commission recommendation:
 - a. Add a pedestrian walkway on the site that provides pedestrian safety from the Dutch Bros parking lot on the east to Building A on the west; include the revised plan with the FFCL's for approval.

EXHIBITS

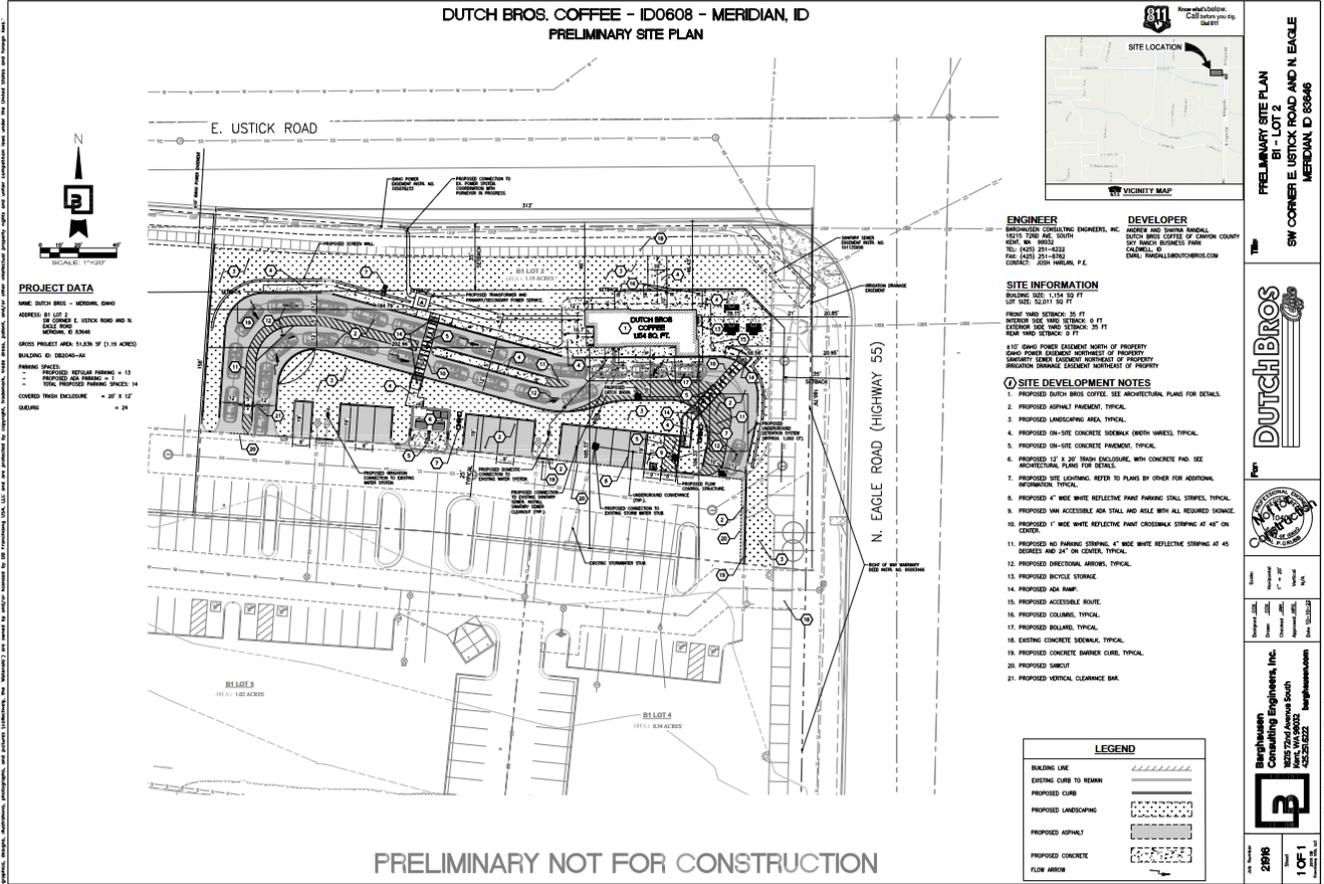
A. Existing Conceptual Development Plan & Building Elevations



B. Revised Conceptual Development Plan (Date: 2/22/2023)



C. Proposed Dutch Bros. Coffee Site Plan (date: 10/11/2022)



E. Dutch Bros. Coffee Proposed Elevations (Not Approved)



ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
ZONE 1 (SHELF)				
1a	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: BLUE-GR DARK GRAY
1b	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: ARI
ZONE 2 (FRONT)				
2	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: BLUE-GR BLUE
ZONE 3 (SHELF)				
3	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: CHARCOAL - W/ 1/2" NATURAL CORNERS
ZONE 4 (FRONT CORNER)				
4	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: ARI
5	SKYLINE	REYNOLDS	NATIONAL NORTHWESTERN	1/4" TALL W/ REVEAL
6	COLUMNS	ALUMINUM	CLAYTONE BARRY SPINNS	COLOR: PEARL GREY

NOTE: PROVIDE 1/2" GAP BETWEEN PANELS, AND ALL NECESSARY ADAPTORS, AT FINISHING AND CORNER LOCATIONS. COLOR: BLUE-GR DARK GRAY



DUTCH BROS COFFEE | ID0608 | 3085 E USTICK ROAD | MERIDIAN, ID 83646
 1001 SE SANDY BLVD, SUITE 100 | PORTLAND, OR 97214 | www.GnichArch.com | v. 503.552.9079 | f. 503.241.7055 | AUGUST 02, 2022

SCALE: 3/8" = 1'-0"
 WEST ELEVATION
 PAGE A7

ID TAG	MATERIAL	MANUFACTURER	MODEL	REMARKS
ZONE 1 (SHELF)				
1a	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: BLUE-GR DARK GRAY
1b	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: ARI
ZONE 2 (FRONT)				
2	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: BLUE-GR BLUE
ZONE 3 (SHELF)				
3	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: CHARCOAL - W/ 1/2" NATURAL CORNERS
ZONE 4 (FRONT CORNER)				
4	FRAMING BOARD	WALBRITZ	ILLUMINATION AMP 1/2" W/ 1/2" NATURAL PANEL CORNERS	COLOR: ARI
5	SKYLINE	REYNOLDS	NATIONAL NORTHWESTERN	1/4" TALL W/ REVEAL
6	COLUMNS	ALUMINUM	CLAYTONE BARRY SPINNS	COLOR: PEARL GREY

NOTE: PROVIDE 1/2" GAP BETWEEN PANELS, AND ALL NECESSARY ADAPTORS, AT FINISHING AND CORNER LOCATIONS. COLOR: BLUE-GR DARK GRAY

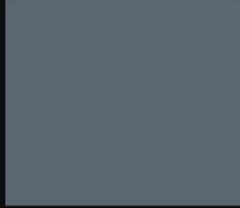


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SCALE: 3/8" = 1'-0"
 SOUTH ELEVATION - DRIVE-THRU WINDOW
 PAGE A8



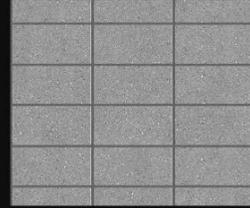
FIBER CEMENT BOARD
 MANUFACTURER: NICHIIHA
 PROFILE: ILLUMINATION
 COLOR: BLDG DB BLUE



FIBER CEMENT BOARD
 MANUFACTURER: NICHIIHA
 PROFILE: ILLUMINATION
 COLOR: BLDG DB DARK GRAY



FIBER CEMENT BOARD
 MANUFACTURER: NICHIIHA
 PROFILE: VINTAGEWOOD
 COLOR: ASH



CMU
 MANUFACTURER: WILLAMETTE-GRAYSTONE
 PROFILE: SLIT FACE
 COLOR: CHARCOAL, OR SIM.



CANOPY SOFFIT
 MANUFACTURER: HEWITT
 PROFILE: NW SPRUCE
 NATURAL & SEALED
 COLOR: PER MFR.



WINDOW SYSTEM
 MANUFACTURER: KAWNEER OR SIMILAR
 PROFILE: CLEAR ANODIZED ALUMINUM
 FINISH: CLEAR NO 14 / 17



AWNINGS & DOORS - PAINT
 MANUFACTURER: SHERWIN-WILLIAMS
 COLOR: BLDG DB GRAY DARK



ROOFING MATERIAL
 MANUFACTURER: DURO-LAST
 DL-60 - 60 MIL
 COLOR: WHITE

VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING DIVISION

Development Agreement Modification:

1. *The amended DA shall be signed by the property owner(s) and returned to the City within six (6) months of City Council granting the subject modification. A certificate of zoning compliance and administrative design review application cannot be submitted until the DA is executed.*

Applicant shall develop the property consistent with the revised conceptual development plan in Section VII.B, Exhibit B of the Staff Report.

Conditional Use Permit:

2. The site plan and landscape plan submitted with the Certificate of Zoning Compliance application shall be revised as follows:
 - a. The stacking lane, and menu location(s), and window location shall be depicted in accord with UDC [11-4-3-11B](#).
 - b. 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](#).
 - c. Additional signage and parking lot striping is required throughout the site to efficiently and adequately direct patrons to the menu boards and throughout the site with minimal conflict.
 - d. Depict landscaping in the landscape buffer along E. Ustick in accord with the standards listed in UDC [11-3B-7C.3](#); landscape buffers along streets shall be designed and planted with a variety of trees, shrubs, lawn, or other vegetative ground cover that elicit design principles including rhythm, repetition, balance, and focal elements. With the CZC submittal, the landscape plan shall be revised to show the required mix of materials (i.e., trees, shrubs, River Rock Mulch) in the landscape buffer adjacent to Ustick Road.
 - e. Depict landscaping in the perimeter buffer along the drive aisles and drive-through lanes in accord with the standards listed in UDC [11-3B-8C](#); the perimeter landscape buffer shall be planted with one Class II or Class III tree per thirty-five (35) linear feet and shrubs, lawn, or other vegetative ground cover. With the CZC submittal, the landscape plan shall be revised to show the required mix of materials (i.e., trees, shrubs, River Rock Mulch) in the parking lot perimeter landscape buffers to the north, south, and west of the drive-through lanes.
 - f. Depict signage ahead of each pedestrian crossing in the drive-through lane notifying drivers to watch out for pedestrians.
 - g. The pedestrian walkway that runs through the drive-through lane connecting to Building A shall be distinguished from the vehicular driving surfaces through the use of pavers, colored or scored concrete, or bricks per UDC 11-3A-19.B.4.
3. Compliance with the standards listed in UDC [11-4-3-11](#)– Drive-Through Establishment and standards listed in UDC [11-4-3-49](#)– Restaurant is required.
4. Per the Development Agreement (Instrument #2019-121599), a 10-foot wide multi-use pathway with a use easement and pedestrian lighting and landscaping shall be installed adjacent to N. Eagle Road/SH-55 as set forth in UDC 11-3H-4C.3
5. Submit elevation of the trash enclosure o that generally matched the proposed building design.
6. 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.

7. 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.

B. PUBLIC WORKS

Site Specific Conditions of Approval

1. Ensure no sewer services cross infiltration trenches.
2. Minimum 14 foot wide paved or gravel road required to existing sewer manholes in the sidewalk adjacent to Eagle Rd.
3. Ensure that trees are not planted in easements for water services.
4. Any unused fire line stubs must be abandoned per City Standards.
5. The existing public water easement does not cover all of the existing water service and water meter. A public water easement will be required over any portion.

General Conditions of Approval

1. The applicant shall provide easement(s) for all public water/sewer mains outside of public right of way (include all water services and hydrants). The easement widths shall be 20-feet wide for a single utility, or 30-feet wide for two. Submit an executed easement (on the form available from Public Works), a legal description prepared by an Idaho Licensed Professional Land Surveyor, which must include the area of the easement (marked EXHIBIT A) and an 8 1/2" x 11" map with bearings and distances (marked EXHIBIT B) for review. Both exhibits must be sealed, signed and dated by a Professional Land Surveyor. DO NOT RECORD.
2. The City of Meridian requires that pressurized irrigation systems be supplied by a year-round source of water (UDC 11-3B-6). The applicant should be required to use any existing surface or well water for the primary source. If a surface or well source is not available, a single-point connection to the culinary water system shall be required. If a single-point connection is utilized, the developer will be responsible for the payment of assessments for the common areas prior to receiving development plan approval.
3. Any structures that are allowed to remain shall be subject to evaluation and possible reassignment of street addressing to be in compliance with MCC.
4. All irrigation ditches, canals, laterals, or drains, exclusive of natural waterways, intersecting, crossing or laying adjacent and contiguous to the area being subdivided shall be addressed per UDC 11-3A-6. In performing such work, the applicant shall comply with Idaho Code 42-1207 and any other applicable law or regulation.
5. Any wells that will not continue to be used must be properly abandoned according to Idaho Well Construction Standards Rules administered by the Idaho Department of Water Resources. The Developer's Engineer shall provide a statement addressing whether there are any existing wells in the development, and if so, how they will continue to be used, or provide record of their abandonment.
6. Any existing septic systems within this project shall be removed from service per City Ordinance Section 9-1-4 and 9 4 8. Contact Central District Health for abandonment procedures and inspections (208)375-5211.
7. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures.

8. Applicant shall be required to pay Public Works development plan review, and construction inspection fees, as determined during the plan review process, prior to the issuance of a plan approval letter.
9. It shall be the responsibility of the applicant to ensure that all development features comply with the Americans with Disabilities Act and the Fair Housing Act.
10. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
11. Developer shall coordinate mailbox locations with the Meridian Post Office.
12. Compaction test results shall be submitted to the Meridian Building Department for all building pads receiving engineered backfill, where footing would sit atop fill material.
13. The applicants design engineer shall be responsible for inspection of all irrigation and/or drainage facility within this project that do not fall under the jurisdiction of an irrigation district or ACHD. The design engineer shall provide certification that the facilities have been installed in accordance with the approved design plans. This certification will be required before a certificate of occupancy is issued for any structures within the project.

C. FIRE DEPARTMENT

No comments were submitted.

D. POLICE DEPARTMENT

No comments were submitted.

E. NAMPA & MERIDIAN IRRIGATION DISTRICT (NMID)

No comments were submitted.

F. ADA COUNTY HIGHWAY DISTRICT (ACHD)

No comments were submitted.

G. IDAHO TRANSPORTATION DEPARTMENT (ITD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=282984&dbid=0&repo=MeridianCity>

IX. FINDINGS

A. Conditional Use Permit (UDC 11-5B-6E)

The Council shall base its determination on the Conditional Use Permit requests 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.

Council finds that the subject property is large enough to accommodate the proposed use and dimensional and development regulations of the C-G district (see Analysis, Section VI for more information).

2. That the proposed use will be harmonious with the Meridian Comprehensive Plan and in accord with the requirements of this Title.

Council finds the proposed restaurant with a drive-through will be harmonious with the is allowed as a Comprehensive Plan and is consistent with applicable UDC standards with the conditions noted in Section VI 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.

Council 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.

Council finds that if the applicant complies with the conditions outlined in this report, the proposed use will not adversely affect other property in the area.

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.

Council 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.

Council 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.

Council 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).

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