



Mayor Robert E. Simison

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August 28, 2025

MEMORANDUM

TO: Mayor & City Council

FROM: Sonya Allen, Associate City Planner

CC: City Attorney, City Clerk

RE: In-N-Out Burger – CR-2025-0002 – 5985 N. Ten Mile Rd.

This is a de novo hearing where the City Council decides all issues of fact and law anew. Thus, the issue before the Council is whether to grant the Conditional Use Permit (CUP) for In-N-Out Burger's proposed drive through, not whether the Planning and Zoning Commission erred in its decision. This supplemental memo will focus on In-N-Out Burger's proposed new conditions; it is intended to supplement the staff report prepared for the Planning and Zoning Commission, which has not been revised.

The Applicant submitted a CUP application ([H-2024-0058](#)) for a drive-through establishment in the C-G zoning district within 300 feet of another drive-through facility, existing residences and a residential district, which was denied by the Planning and Zoning Commission on May 15, 2025. The stated reasons for denial are as follows: The hours of operation are not compatible with the residential area to the west and there are substantial traffic concerns, including traffic conflicts, that will have a negative impact on the north-south private drive aisle that serves the surrounding commercial area (see required [Findings](#) for more information – pp. 11-12).

In response to discussion at the Commission hearing, the Applicant submitted additional material to supplement the record, including a revised site plan, landscape plan, updated queuing observations of the three (3) existing Idaho locations, a photometric plan and an operational noise study. A change to the business hours of operation are also proposed from 10:30 am until 12:00 am every day with delivery hours from 6:00 am until 10:00 pm. Finally, the Applicant proposes conditions of approval that they will operate within in an effort to mitigate or resolve

any impacts from the proposed drive-through on adjacent neighbors and the public (see p. 8 of the Applicant's [narrative](#)).

The proposed photometric plan depicts light trespass beyond the boundary of the subject property to the west – it's unclear if light trespasses on the adjacent residential property or just the driveway in between the properties. In order to comply with the outdoor lighting standards in UDC 11-3A-11C.2, the effective zone of light shall not trespass on abutting residential properties.

The noise study finds that noise levels would not result in a 3 or 5 dBA (A-weighted decibels) increase above the measured daytime, evening, nighttime and 24-hour CNEL (Community Noise Equivalent Level) ambient during both operation and delivery activities.

The traffic study submitted by the Applicant does not anticipate the proposed use will negatively impact the intersection of Lost Rapids Dr. and Ten Mile Rd. – additional information was provided by the Applicant on this topic. No changes are proposed to address the traffic concerns, including traffic conflicts, that will have a negative impact on the north-south private drive aisle that serves the surrounding commercial area – the internal driveways were not part of the traffic study submitted for this development but were part of the traffic study done with the Lost Rapids development in 2018. A traffic study was not required by ACHD or ITD.

Changes to the site and landscape plan consist of enhanced landscaping within the western perimeter buffer of the site to ensure privacy, reduce noise and soften ambient light adjacent to the residential uses to the west. These changes include increased tree density to provide continuous canopy coverage with overlapping foliage extending from 6 to 20 feet above the finished grade with additional shrub density with dense to semi-dense leafy plantings to enhance the visual and functional experience of the place. A sidewalk was also added along the west and north perimeter boundaries of the site for enhanced pedestrian access and connectivity.

Lights from vehicles waiting in the drive-through queue will not be pointed toward residences; however, lights from vehicles exiting the drive-through will be pointed toward adjacent residences. Landscaping is proposed to minimize these impacts. Minimum lighting for public safety and security purposes will be utilized on the site at night after the business closes.

In order to approve the request and overrule the decision of the Commission, the City Council must determine the updated application meets the required Findings for a conditional use permit in UDC [11-5B-6E](#). If the request is determined to meet the Findings, Council should consider including the conditions proposed by the Applicant as conditions of approval of the CUP along with any other conditions or modifications determined appropriate by City Council. Alternatively, the City Council may wish to continue the project to a later date in order for Staff to draft appropriate conditions of approval. The staff report prepared for the Planning and Zoning Commission omitted conditions of approval.