

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



Date of Order: September 28, 2021
Case No.: CR-2021-0003
Applicant: Blood, LLC (Speedy Quick)
In the Matter of: Request for City Council review of Director's Determination concerning the application of Table 11-2B-3 of the Unified Development Code of the City of Meridian to a storage building to be constructed at 2560 S. Meridian Road.

Pursuant to testimony and evidence received regarding this matter at the public hearing before the Meridian City Council on July 6, 2021, as to this matter, the City Council enters the following findings of fact, conclusions of law, final decision, and order.

A. Findings of Fact. City Council finds that:

1. City of Meridian ("City") issued to Applicant a certificate of zoning compliance ("CZC") on or about May 5, 2021, to allow for the construction of a 2,500 square foot storage building ("Storage Building"), the renovation and reuse of an existing 1,700 square foot residential structure, and the construction of related improvements at 2560 S. Meridian Road, which is located in the limited office ("L-O") zoning district.
2. Table 11-2B-3 of the Unified Development Code of the City of Meridian ("UDC") specifies that the interior side setback for development in the L-O zoning district shall be "10/5" feet, with a footnote that states, "Minimum setback only allowed with reuse of existing residential structure."
3. Applicant interpreted this provision of UDC Table 11-2B-3 to allow the Storage Building to be constructed with a five-foot interior side setback because, in addition to constructing the Storage Building, the Applicant is reusing an existing residential structure elsewhere on the property.
4. Planning staff disagreed with Applicant's interpretation and determined that the Storage Building is subject to a ten-foot interior side setback under UDC Table 11-2B-3. Therefore, the CZC includes a condition of approval reading, "The site plan and landscape plan shall be revised to reflect the proposed storage building at the southeast portion of the property meeting the 10' side setback."
5. Applicant requested a Director's Determination regarding the interpretation of UDC Table 11-2B-3. The Director's Determination, which is incorporated herein by reference, concluded that Planning staff had correctly interpreted the interior side setback requirement:

As staff mentioned in their February 25, 2021 email, the 5' setback allowance in UDC 11-2B-3 is to address the existing homes along arterials that may convert to office uses. As an example, to

explain the intent, staff noted most of the residential structures in this area were constructed with a 5-foot setback, and if rezoned from residential to office, requiring a 10' setback would create a non-conforming structure if this exception in the UDC did not exist. This setback reduction has been interpreted correctly and does not extend to all new structures that are proposed for construction on the same property.

6. Applicant requested City Council review of the Director's Determination under UDC section 11-5A-7(A). A de novo public hearing was scheduled for this purpose on June 22, 2021, and subsequently continued to July 6, 2021.
7. City Council received testimony from Applicant, Planning staff, and the public at the public hearing on July 6, 2021. Applicant also submitted a written document to City Council explaining the basis for Applicant's interpretation of UDC Table 11-2B-3.
8. The intent of the relevant provision of UDC Table 11-2B-3 is that only existing residential structures reused for other purposes may have a five-foot interior side setback. New buildings in the L-O zoning district must have a ten-foot interior side setback.
9. City Council finds that the Storage Building, a new building in the L-O zoning district, is appropriately subject to a ten-foot interior side setback.

B. Conclusions of law. City Council concludes that:

1. City Council takes judicial notice of the UDC, codified at Title 11 Meridian City Code, all current zoning maps, and the City of Meridian Comprehensive Plan.
2. The relevant criteria and standards for City Council review of the Director's Determination, as set forth in UDC section 11-5A-7, have been satisfied.
3. "There is a strong presumption favoring the validity of a governing board's zoning decisions, including its application and interpretation of its own zoning ordinance. *Marcia T. Turner, L.L.C. v. City of Twin Falls*, 144 Idaho 203, 208-09, 159 P.3d 840, 845-46 (2007).
4. Under UDC section 11-1-5(D)(2), "[i]f conflicts occur between different regulations of this title, or between this title and other regulations of this Code, the most restrictive regulation shall apply."
5. Given the facts set forth above, the Director's Determination properly interpreted and applied the provisions of UDC Table 11-2B-3.
6. Pursuant to Idaho Code § 67-6503, the City has acted in accordance with all applicable provisions of the Local Land Use Planning Act ("LLUPA"), codified at Chapter 65, Title 67, Idaho Code, in this matter.

- C. Order.** Pursuant to the above findings of fact and conclusions of law, City Council hereby upholds the Director's Determination and orders that, pursuant to UDC Table 11-2B-3, new structures in the L-O zoning district shall be subject to a ten-foot interior side setback.
- D. Final decision.** Upon approval by majority vote of the City Council, this is a final decision of the governing body of the City of Meridian.
- E. Judicial review.** Pursuant to Idaho Code section 67-6521(1)(d), if this final decision concerns a matter enumerated in Idaho Code section 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 section 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 sections 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.

IT IS SO ORDERED by the City Council of the City of Meridian, Idaho, on this 28th day of September, 2021.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk