

**CITY OF MERIDIAN
REASONED STATEMENT,
FINAL DECISION, AND ORDER**



Date of Order: October 14, 2025
Application No.: CR-2025-0002 (In-N-Out Burger at Ten Mile)
Applicant: In-N-Out Burger (Cassie Ruiz, Senior Development Manager)
In the Matter of: Council Review of the Planning and Zoning Commission's decision of denial on the conditional use permit (H-2024-0058) for a drive-through establishment within 300 feet of another drive-through facility, existing residences and a residential district on 2.22 acres of land in the C-G zoning district

Pursuant to testimony and evidence received at the public hearing before the Meridian City Council on September 9, 2025 and before the Meridian Planning and Zoning Commission on April 3 and 17, 2025 concerning Application No. CR-2025-0002 ("Hearing"), the City Council renders this Reasoned Statement, Final Decision, and Order.

A. Undisputed Facts. The following facts are undisputed:

1. In-N-Out Burger ("Applicant" or "In-N-Out") wishes to construct and operate a drive-through establishment ("Project") on property located at 5985 and 6037 N. Ten Mile Road in Meridian, Idaho ("Property"), as more fully described in the Department Report to the Meridian Planning and Zoning Commission dated April 17, 2025 ("Staff Report"), which is attached hereto and incorporated herein.
2. The Property is located in the General Retail and Service Commercial District ("C-G District").
3. The Project is (a) within 300 feet of another drive-through establishment, (b) within 300 feet of a residential district, and (c) within 300 feet of existing residences. Consequently, under the Unified Development Code of the City of Meridian ("UDC"), a conditional use permit ("CUP") is required.
4. The Applicant applied to the City for a CUP for the Project in accordance with the UDC (Application No. H-2024-0058).
5. The Meridian Planning and Zoning Commission ("Commission") held a hearing concerning Application No. H-2024-0058 on April 3, 2025 and April 17, 2025. The Commission issued its Findings of Fact, Conclusions of Law, Decision, and Order ("Decision") on May 15, 2025, denying the Applicant's request for a CUP. The Decision is attached hereto and incorporated herein.
6. The Applicant timely requested City Council review of the Commission's Decision in accordance with UDC section 11-5A-7 ("Request for Review"). The Request for Review is attached hereto and incorporated herein.

7. Applicant's Request for Review also included proposed conditions of approval to mitigate or resolve potential impacts associated with the Project.
8. City Staff provided a supplemental memorandum to the City Council ("Supplemental Memorandum") to summarize the Applicant's proposed conditions of approval. The Supplemental Memorandum is attached hereto and incorporated herein.
9. The City Council held a *de novo* hearing concerning the Project on September 9, 2025.

B. Summary of Testimony and Evidence. The following is intended to summarize the testimony and evidence received by the City Council. In making its decision, the City Council considered the entire record, including all testimony and evidence available to the Commission.

1. Testimony and evidence presented at the Hearing in opposition to the Applicant's application can be summarized as follows:
 - a. The Project is, for all intents and purposes, located adjacent to the Olivia Townhomes and Apartments ("Apartments"). The Project and the Apartments are separated only by the north-south drive aisle ("North-South Drive Aisle") that serves the larger shopping center on the southwest corner of N. Ten Mile Road and W. Chinden Boulevard ("Shopping Center"). There are no other drive-through establishments in the Shopping Center that are as close to a residential district. The late hours and high volume of cars and customers patronizing the proposed Project will cause noise and disturb residents in the Apartments.
 - b. The traffic impact study prepared by Kittelson & Associates, Inc. in 2017, prior to the opening of the Shopping Center ("2017 Traffic Study"), is outdated and does not reflect current traffic congestion. Development in northwest Meridian has dramatically changed the nature of traffic in this area since 2017.
 - c. The Project will exacerbate traffic concerns in the area. In-N-Out is known to attract a high number of customers. Traffic will spill out onto the North-South Drive Aisle; produce unacceptable traffic congestion at the intersection of the North-South Drive Aisle and the Shopping Center's east-west drive aisle north of Cafe Rio ("East-West Drive Aisle"); produce unacceptable traffic congestion at the intersection of the North-South Drive Aisle and Lost Rapids Drive; and produce unacceptable traffic congestion at the intersection of Lost Rapids Drive and Ten Mile Road.
 - d. The Property will only be able to hold approximately 50 vehicles in the drive-through queue before the line spills out into the North-South Drive Aisle and blocks other commercial customers and residents from accessing the Shopping Center. The Property is not large enough for the Applicant's anticipated high-volume use. Queuing will not be contained on the site and will interfere with parking on the site.
2. Testimony and evidence in support of the Applicant's request at the Hearing can be summarized as follows:

- a. The Applicant states that the Project is compatible with the area because it is within a C-G zone, meets all City design standards, and does not require a variance. The Applicant asserts that this mix of uses in this location is what was originally intended by the City. Staff agreed in the Staff Report that the proposed development meets three of the eight relevant findings in UDC section 11-5B-6, subsections (5), (6), and (8). The Applicant stated it can satisfy the remaining five findings.
- b. Large-scale commercial uses were intended for the Shopping Center. The Property is zoned for C-G, and the Apartments were intended to be a transition between the commercial uses and single-family homes. The Property is 2.2 acres; the other lots in the Shopping Center (with the exception of the Costco property) are less than 1 acre. This application proposes to combine two lots into one, which reduces the overall commercial density. The application also proposes four times the amount of parking required by the UDC for properties within the C-G zone.
- c. The 2017 Traffic Impact Study identified the public improvements needed to mitigate the impacts of the Shopping Center, and those public improvements have been completed. The Ada County Highway District (“ACHD”) and the Idaho Transportation Department reviewed the Project and concluded no additional public road improvements or traffic studies were required. Moreover, the Applicant provided a 2025 Focused Traffic Analysis showing no additional traffic mitigation is necessary.
- d. The Applicant provided a written analysis of queuing volumes for the Project and at other In-N-Out locations in Idaho (“Queuing Analysis”). The Queuing Analysis shows that other In-N-Out locations, at the Village at Meridian, Boise, and Nampa, have been able to keep drive aisles clear, even though those sites are smaller than the Property (1.2 acres for the Village at Meridian; 0.86 for Boise; and 1.4 acres for Nampa). Moreover, since the Project will be the fourth In-N-Out in the Treasure Valley, the Project will have a lower customer volume in comparison to the opening of the Village at Meridian store. Queuing and on-site operations will ensure that drive-through vehicles will remain on the Property and not adversely impact neighboring properties. If queuing extends beyond a certain point, In-N-Out assigns store associates to stations in the parking lot to assist with queuing, emergencies, or customers attempting to exit. Additionally, store associates are assigned to park in spots that potentially could be blocked.
- e. The Applicant is offering several self-imposed conditions to reduce the potential impact on the community and neighboring properties. Those conditions include: (1) mechanical equipment shall be incorporated into the design so visual and acoustic impacts are reduced; (2) food service hours of operation will be from 6:00 a.m. to 12:00 a.m., which is consistent with the operating hours of other drive-through establishments in the Shopping Complex (e.g., Burger King); (3) additional sidewalks to improve pedestrian connections; (4) additional landscaping to mitigate potential noise and light impacts; (5) delivery hours will be from 6:00 a.m. to 10:00 p.m. to mitigate nighttime noise concerns; (6) delivery truck routes that avoid back-up noises; (7) parking lot lighting consistent with a photometric plan to reduce impacts on the Apartments; (8) lights to be dimmed or turned off after closing; and (9) a prohibition on any stacking in the drive-through escape lane.

- f. The Applicant completed a noise study, which took noise measurements over the course of twenty-four (24) hours, and determined that the daytime (7:00 a.m. to 7:00 p.m.) ambient noise level was approximately 67 dBA; the evening (7:00 p.m. to 10:00 p.m.) ambient noise level was approximately 71.9 dBA; and the nighttime (10:00 p.m. to 7:00 a.m.) ambient noise level was approximately 67.3 dBA. The 24-hour community noise equivalent was 67.5 dBA, which correlates to a normal conversation. This ambient noise, including that from HVAC systems, vehicle traffic on the roads, and a drive-through with a speaker system, would exist for any permitted commercial use on the Property. This demonstrates that the noise from the Project would not be disruptive or substantially increase the existing noise.

C. Standards Considered.

1. The City Council takes judicial notice of the Local Land Use Planning Act (“LLUPA”), codified at Title 67, Chapter 65, Idaho Code.
2. The City Council takes judicial notice of the UDC, all current zoning maps, and the City of Meridian Comprehensive Plan.
3. The standards set forth in UDC section 11-5B-6(E), which concerns conditional use permits.

D. Reasoned Statement.

1. City Council’s decision is based on the following criteria, standards, evidence, and rationale:
 - a. With respect to UDC section 11-5B-6(E)(3), the City Council is unable to make the required finding “[t]hat 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.” The City Council is unable to make this finding based on the following:
 - i. While, as the Applicant states, the Project meets general City standards for a C-G zone, extensive testimony was received from neighbors that the Project’s operation is not compatible with other uses in this specific neighborhood, because of its immediate proximity to the Apartments. City Council finds the testimony and evidence from residents who live in the vicinity of the proposed Project to be more compelling. Despite the proposed mitigation efforts, the increased traffic, noise, and glare from the Project will adversely impact the residential neighbors. As the 2025 Focused Traffic Analysis indicates, “The proposed project is forecast to generate approximately 2,457 external daily trips on weekdays, including 251 external trips during the mid-day peak hour and 174 external trips during the PM peak hour, and 246 external trips during the Saturday mid-day peak hour.” This level of activity and number of trips next to a residential district will adversely change the essential character of the area. The operation of this Project, so close to the Apartments, is fundamentally incompatible with the neighboring residential use.

- ii. Though the Property is larger than other drive-through establishments in the Shopping Complex, testimony was also received that In-N-Out attracts a large customer base and that, despite the Property being larger than one acre, customer demand will likely exceed the capacity for the area and block the North-South Drive Aisle. The City Council finds the testimony and evidence from the Project opponents to be more convincing. The record reflects that the Property is inadequate to accommodate vehicles with large passenger capacity (such as buses), or those instances where the drive-through queue exceeds 50 vehicles. The Applicant's response as to how it would handle drive-through queues in excess of 50 vehicles was unsatisfactory and unpersuasive; it largely centered on the notion that "we know what we are doing, and we will find a way to make it work." Even with the larger lot as compared to other lots in the Shopping Center, the likely volume of vehicles and customers going to and from In-N-Out will overwhelm the Property, and for this reason, the proposed use is not compatible with, and will adversely change, the character of the area.
 - iii. The Applicant states that the 2017 Traffic Study considered all necessary traffic mitigation measures required for the Shopping Center as a whole, and those improvements have been completed. The Applicant further states that ACHD and the Idaho Transportation Department will not require a new traffic study and this Project would not require further mitigation. Project opponents argue that the 2017 Traffic Study and the Applicant's supplemental traffic analysis and queuing analysis are insufficient. Opponents testified that the nature of the area has drastically changed since 2017. City Council agrees that the 2017 Traffic Study is outdated and inadequately addresses current conditions. Moreover, City Council finds that 2025 Focused Traffic Analysis was limited in scope, and did not address traffic congestion on the North-South Drive Aisle or at the intersection of the North-South Drive Aisle and East-West Drive Aisle. The traffic study provided is inadequate to demonstrate that the operation of In-N-Out at the Property will not introduce a fundamental incompatibility with existing uses, and related traffic, in the general neighborhood. Traffic associated with the proposed use will adversely change the essential character of the area.
- b. With respect to UDC section 11-5B-6(E)(4), the City Council is unable to make the required finding "[t]hat the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the vicinity." The City Council is unable to make this finding based on the following:
- i. The Applicant states that, per its noise study, the nighttime noise will not impact the adjacent residential district and that its normal business practices in conjunction with its proposed conditions will adequately mitigate any impact on properties in the vicinity, including lights and noise. However, City Council received more compelling testimony from Apartment residents that the North-South Drive Aisle traffic is mere feet away from the Apartments and the increased traffic will produce burdensome noise. As neighbors also testified, light, including store lights, emergency lights, and vehicle headlights, will adversely impact the residential area. Because the Project is extremely close to the Apartments, traffic from the Project will adversely impact residents – in the form of noise and unwanted headlights, in

particular. Though the Applicant's analysis purported to show that noise would not be a significant issue, the analysis did not consider the high volume of cars driving by so closely to the Apartments, where a car may leave the queue every thirty-five (35) seconds until midnight. Nor does it consider noise above the average levels described in the noise study, i.e., deviations from the mean, such as abnormally loud noises periodically generated by passing vehicles, particularly late at night. Though another drive-through establishment in the Shopping Center (Burger King) is open until midnight every day, it is not twenty feet away from a residential district, as the proposed Project would be. Even with the conditions proposed by the Applicant, the proposed use will adversely affect residents of the Apartments.

- ii. The Applicant states that the queuing analysis and other information provided show that the Property is large enough to contain the queuing onsite. Several people provided observations of queuing at other In-N-Out stores in the area, indicating that the demand will exceed the capacity of the Property. Additionally, the queuing analysis showed that peak traffic would not exceed 46 vehicles 95% of the time, but this means that there will be times when the queue is longer than 46 cars, adversely affecting the North-South Drive Aisle and creating noise and lights that impact the neighbors the equivalent of 18 days out of the year. In addition to excessive noise and light affecting the Apartment residents, this introduces an unacceptable occurrence of added congestion on the North-South Drive Aisle, and likely the Lost Rapids Drive and Ten Mile Road intersection as well. Conditions proposed by the Applicant are inadequate to address these adverse effects.
- c. With respect to UDC section 11-5B-6(E)(7), the City Council is unable to make the required finding "[t]hat 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." The City Council is unable to make this finding based on the following:
 - i. The Applicant provided a noise study indicating that the Project would not increase ambient noise. Project opponents testified that the noise and late hours (open until midnight) only twenty feet away from a residential district will interfere with residents' ability to enjoy their homes and sleep. City Council finds that Project traffic will be detrimental to the adjacent residents for the reasons considered above in subsection (b) regarding noise and vehicle headlights from a high-volume, late-night drive-through.
- 2. Based on the foregoing, and despite the mitigation conditions offered by Applicant, the Project does not satisfy the requirements for approval of a conditional use set forth in UDC section 11-5B-6(E). Because the City Council is unable to make the required findings set forth in UDC sections 11-5B-6(E)(3), (4), and (7), the City Council is precluded from granting a CUP for the Project. Moreover, because the City Council is unable to make the required findings set forth in UDC sections 11-5B-6(E)(3), (4), and (7), there is no need to consider the remaining subsections set forth in UDC section 11-5B-6(E).

3. Pursuant to Idaho Code section 67-6519(5)(c), the Applicant is advised that it could likely obtain approval if it proposes a restaurant without a drive-through.

E. Order. Based on the foregoing, the City Council hereby denies the Applicant's request for a conditional use permit for the Project.

F. 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.

G. Request for reconsideration. Pursuant to Meridian City Code section 1-7-10, the Applicant may file a request for reconsideration within fourteen (14) days of the date of this final decision.

H. 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.

I. 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 14th day of October, 2025.

Robert E. Simison
Mayor

Attest:

Chris Johnson
City Clerk