

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



In the Matter of the Request for Conditional Use Permit (CUP) for a Drive-through Establishment for SWIG within 300-feet of another Drive-through Facility, a Residential District and Existing Residences on 0.59-acre of Land in the C-G Zoning District, by Bowman.

Case No(s). H-2023-0014

For the Planning & Zoning Commission Hearing Date of: June 1, 2023 (Findings on June 15, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of June 1, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of June 1, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of June 1, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of June 1, 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 in the attached staff report for the hearing date of June 1, 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 June 1, 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-6F.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 June 1, 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 JARED SMITH VOTED_____

COMMISSIONER PATRICK GRACE VOTED_____

COMMISSIONER MANDI STODDARD VOTED_____

COMMISSIONER ENRIQUE RIVERA 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

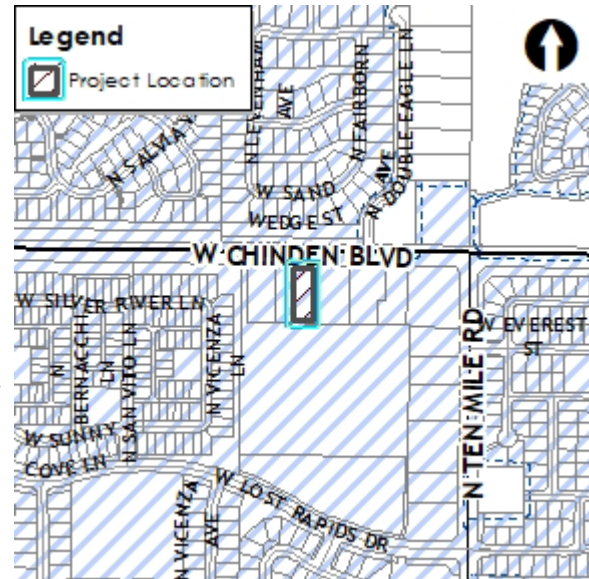
HEARING DATE: 6/1/2023

TO: Planning & Zoning Commission

FROM: Sonya Allen, Associate Planner
208-884-5533

SUBJECT: SWIG – CUP
[H-2023-0014](#)

LOCATION: 3471 W. Chinden Blvd. in the NE 1/4 of
Section 27, T.4N., R.1W. (Lot 2, Block
1, Lost Rapids West Subdivision)



I. PROJECT DESCRIPTION

Conditional Use Permit (CUP) for a drive-through establishment within 300-feet of another drive-through facility, a residential district and existing residences on 0.59-acre in the C-G zoning district.

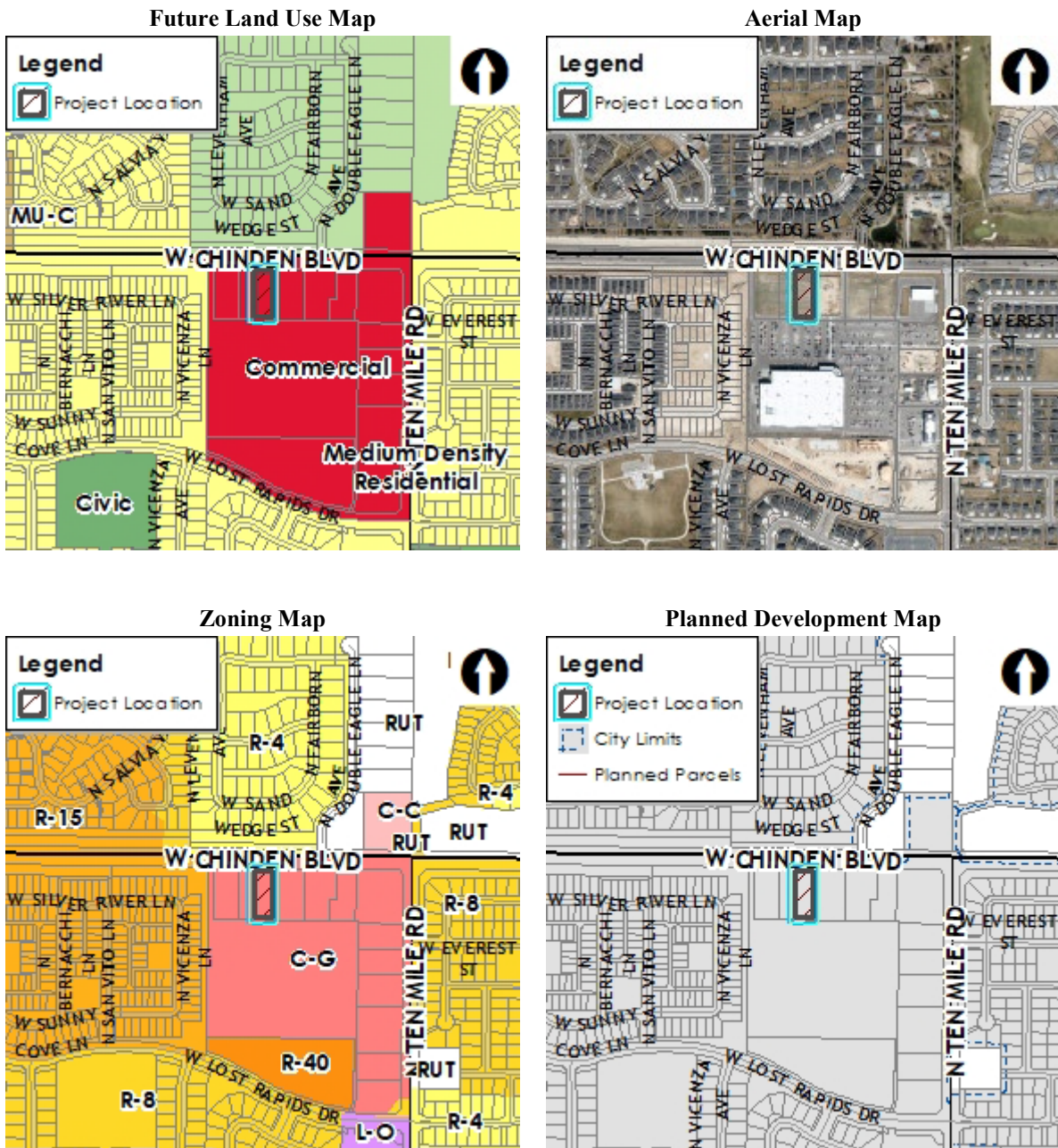
II. SUMMARY OF REPORT

A. Project Summary

Description	Details	Page
Acreage	0.59-acre	
Future Land Use Designation	Commercial	
Existing Land Use	Vacant/undeveloped land	
Proposed Land Use(s)	Restaurant with a drive-through	
Current Zoning	General Retail & Service Commercial (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	NA	
Neighborhood meeting date; # of attendees:	3/9/23	
History (previous approvals)	H-2018-0004 (CPAM, AZ, PP, VAR – Lost Rapids); H-2019-0056 (FP – Lost Rapids); Development Agreement (Inst. # 2018-079970 – GFI – Meridian Investments II, LLC); PBA-2022-0019 - ROS #13628 (Parcel B); SHP-2022-0014 (Lot 17, Block 1, Lost Rapids West Subdivision)	

EXHIBIT A

A. Project Area Maps



Note: The configuration of the property shown on the above maps does not reflect the recent short plat for Lost Rapids West Subdivision.

III. APPLICANT INFORMATION

A. Applicant:

Kofi Addo, Bowman – 2805 Dallas Parkway, Ste. 310, Plano, TX 75093

B. Owner:

GFI Meridian Investments II, LLC – 74 E. 500 South, Ste. 200, Bountiful, UT 84010

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C. Representative:

Same as Applicant

IV. NOTICING

	Planning & Zoning Posting Date
Newspaper Notification	5/17/2023
Radius notification mailed to properties within 300 feet	5/12/2023
Site Posting Date	5/18/2023
Next Door posting	5/15/2023

V. STAFF ANALYSIS

The Applicant proposes to construct a 665 square foot (s.f.) restaurant with a drive-through for SWIG on a 0.59-acre property in the C-G zoning district. The restaurant serves sodas, cookies and pretzels. The proposed use will only have drive-through service; no indoor or outdoor public seating and no walk-up order window is proposed.

A restaurant is listed as a principal permitted use in the C-G zoning district per UDC [Table 11-2B-2](#), subject to the specific use standards listed in UDC [11-4-3-49](#). A drive-through requires approval of a conditional use permit when it's within 300 feet of another drive-through facility, an existing residence or a residential district per [11-4-3-11A.1](#). In this case, three (3) other drive-through establishments exist within 300 feet of the property – Key Bank (A-2023-0015) to the west, Dutch Bros. Coffee to the east (A-2021-0177) and Slim Chickens (A-2022-0160) to the east; there are existing residences and residential districts within 300 feet of the property to the west.

The proposed use and development plan is in substantial conformance with the provisions in the existing Development Agreement (Inst. # [2018-079970](#)).

Specific Use Standards: *Staff's analysis is in italics.*

- **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. *Menu boards are proposed as depicted on the site plan in each of the drive-through lanes; speakers are not proposed as SWIG staff walks up to the customers to accept orders prior to the drivers going to the pick-up window. The pick-up window is depicted on the site plan and elevations at the southwest corner of the building on the west side. In order for the outside travel lane to function as an escape lane as required for drive-throughs that exceed 100-feet in length, Staff recommends no stacking is allowed in this area and the menu board is removed. Signage should be installed notifying patrons not to block the escape lane.*

The site plan is required to demonstrate safe pedestrian and vehicular access and circulation on the site and between adjacent properties. *A sidewalk is proposed along the southern boundary of*

EXHIBIT A

the site for safe pedestrian access to the east and west. Because a private drive-aisle runs along the southern boundary of the site that provides access to adjacent properties to the east and west, a cross-access easement/driveway is not required to be provided to adjacent properties to the east and west.

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 site plan provides queuing for at least 9 vehicles, which should be adequate to prevent obstruction of the drive aisles.

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 design of the site requires traffic to pass through the escape lane for the drive-through to exit the site. The escape lane (outside travel lane) should remain open with no stacking allowed in order for the circulation lane to remain open.

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 approximately 180+/- feet from the point of entry to the drive-through window; therefore, the stacking lane exceeds 100' in length and an escape lane is required. An escape lane is 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.

The drive-through is located on the west side of the building and is visible from W. Chinden Blvd. and from the drive aisle along the southern boundary of the site for surveillance purposes.

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

Access: Access is proposed via the east/west private drive aisle along the southern boundary of the site; direct access via W. Chinden Blvd./SH 20-26 is prohibited. A reciprocal cross-access easement exists between all lots in the subdivision as noted on the Lost Rapids subdivision plat.

Parking: As noted above, UDC 11-4-3-49 includes specific off-street parking standards for restaurants, which the site plan demonstrates compliance with. A minimum of three (3) off-street vehicle parking spaces are required for the 665 square foot building; seven (7) are proposed, in excess of the minimum standards. Because walk-up ordering is not proposed, the parking will be for employees only. **Signage should be installed notifying patrons walk-up ordering is not allowed.**

A bicycle rack capable of holding at least one (1) bicycle is required per UDC [11-3C-6G](#); bicycle parking facilities are required to comply with the location and design standards listed in UDC [11-3C-5C](#). A bike rack is depicted on the site plan; **a detail should be included on the site plan submitted with the Certificate of Zoning Compliance application that complies with the aforementioned**

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design standards.

Landscaping: Street buffer landscaping was installed within the street buffer along W. Chinden Blvd. with the Lost Rapids subdivision improvements.

Parking lot landscaping is required to be provided in accord with the standards listed in UDC [11-3B-8C](#). The perimeter buffer is required to be planted with one (1) Class II or Class III tree per 35 linear feet and shrubs, lawn or other vegetative ground cover. **The tree class should be included in the Plant Schedule on the landscape plan.**

Sidewalks: A 10-foot wide sidewalk/multi-use pathway exists within the street buffer along W. Chinden Blvd. A pedestrian walkway is proposed from the sidewalk along Chinden and from the sidewalk along the southern boundary of the site to the main building entrance, as required by UDC 11-3A-19.B.4. **Where pathways cross vehicular driving surfaces, they're required to 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.4. The site/landscape plan submitted with the Certificate of Zoning Compliance application should reflect compliance with this standard.**

Easements: There are existing easements on this lot as shown on the Lost Rapids subdivision plat and as depicted on the site plan. The proposed structure does not encroach within these easements.

Mechanical Equipment: All mechanical equipment on the back of the building or on the rooftop and all 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](#).

Building Elevations: Conceptual building elevations were submitted as shown in Section VII.C for a single-story building that incorporates a mix of materials consisting of stucco, simulated wood and brick wainscot. **The final design shall be consistent with the design standards listed in the [Architectural Standards Manual](#).**

Certificate of Zoning Compliance & Design Review: A Certificate of Zoning Compliance and Design Review application is required to be submitted for the proposed use prior to submittal of a building permit application to ensure consistency with the conditions in Section VIII, UDC standards and design 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.

B. The Meridian Planning & Zoning Commission heard this item on June 1, 2023. At the public hearing, the Commission moved to approve the subject CUP request.

1. Summary of the Commission public hearing:

- a. In favor: Cass Tenney, Applicant's Representative
- b. In opposition: None
- c. Commenting: None
- d. Written testimony: None
- e. Staff presenting application: Sonya Allen
- 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

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4. Commission change(s) to Staff recommendation:

- a. At Staff's request, delete condition #2e, which prohibits stacking in the outside travel lane of the drive-through; and add a condition requiring wheel restraints to be placed in parking spaces abutting the pedestrian walkway on the east side of the site to prevent cars from overhanging beyond the designated parking stall dimensions as set forth in UDC 11-3C-5B; or widen the abutting sidewalk an additional 2-feet to allow for overhang.

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VIII. CITY/AGENCY COMMENTS & CONDITIONS

A. PLANNING

1. Future development of this site shall comply with the previous conditions of approval and terms of the existing Development Agreement and the conditions contained herein [[H-2018-0004](#) (CPAM, AZ, PP, VAR – Lost Rapids); Development Agreement (Inst. #[2018-079970](#) – GFI – Meridian Investments II, LLC); [H-2019-0056](#) (FP – Lost Rapids); PBA-2022-0019 (ROS #13628); SHP-2022-0014 (Lost Rapids West)].
2. The site plan and landscape plan submitted with the Certificate of Zoning Compliance application shall be revised as follows:
 - a. 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](#).
 - b. The pathways from the perimeter sidewalks 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.
 - c. Include the tree classification in the Plant Schedule that demonstrates compliance with the standards in UDC [11-3B-8C.1b](#).
 - d. Include a detail for the bicycle rack that complies with the design standards listed in UDC [11-3C-5C](#).
 - e. ~~No stacking is allowed in the outside travel lane that serves as an escape lane; depict signage notifying patrons not to block the escape lane. Remove the menu board from the outside travel lane.~~
 - f. Signage should be installed notifying patrons walk-up ordering is not allowed.
 - g. Depict wheel restraints in the parking spaces abutting the pedestrian walkway on the east side of the site to prevent cars from overhanging beyond the designated parking stall dimensions as set forth in UDC [11-3C-5B](#); or widen the abutting sidewalk an additional 2-feet to allow for overhang.
3. Compliance with the standards listed in UDC [11-4-3-11](#) – Drive-Through Establishment and [11-4-3-49](#) – Restaurant is required.
4. Direct access W. Chinden Blvd. is prohibited.
5. Outdoor speakers are prohibited unless otherwise approved through a modification to the conditional use permit.
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.

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B. PUBLIC WORKS DEPARTMENT

Site Specific Conditions of Approval

1. Ensure no sewer services cross infiltration trenches.
2. There is an existing 8" stub into the property. This must either be used or abandoned. If used call out removal of the blow-off and locate service connection within 3' of dead end.
3. If the plan is to abandon the 8" main and just install a service, a 20' easement up to and 10' beyond the meter is required. The service needs to be centered in the easement. The current location of the water line drawn would not allow for this and needs to be adjusted accordingly.
4. No permanent structures (trees, bushes, buildings, carports, trash receptacle walls, fences, infiltration trenches, light poles, etc.) are allowed within the utility easement.

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. 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.
4. 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.
5. 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.
6. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures.
7. 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.
8. 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.

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9. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
10. Developer shall coordinate mailbox locations with the Meridian Post Office.
11. 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.
12. 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.
13. At the completion of the project, the applicant shall be responsible to submit record drawings per the City of Meridian AutoCAD standards. These record drawings must be received and approved prior to the issuance of a certification of occupancy for any structures within the project.

C. ADA COUNTY HIGHWAY DISTRICT (ACHD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=295656&dbid=0&repo=MeridianCity>

D. IDAHO TRANSPORTATION DEPARTMENT (ITD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=295701&dbid=0&repo=MeridianCity>

E. NAMPA & MERIDIAN IRRIGATION DISTRICT (NMID)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=294813&dbid=0&repo=MeridianCity>

IX. FINDINGS

Conditional Use (UDC 11-5B-6)

Findings: 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.

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

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

The Commission finds the proposed restaurant with a drive-through 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.

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The Commission 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.

The Commission 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.

The Commission 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.

The Commission 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.

The Commission 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)

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

9. Additional findings for the alteration or extension of a nonconforming use:

- a. That the proposed nonconforming use does not encourage or set a precedent for additional nonconforming uses within the area; and,

This finding is not applicable.

- b. That the proposed nonconforming use is developed to a similar or greater level of conformity with the development standards as set forth in this title as compared to the level of development of the surrounding properties.

This finding is not applicable.