

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



In the Matter of the Request for Modification to the existing Sundance Subdivision Development Agreement and Addendum (Instrument #'s 102056126 and 106133465) to remove the subject property (Parcel A & B, ROS 8756 which is a portion of Lot 46 & all of Lot 47 of Block 7, Sundance Subdivision No. 5) for the purpose of entering a new agreement to allow a reduction to the existing 20-foot residential landscape buffer to construct 5,800 sq. ft. nursing and residential care facility consistent with the approved conditional use permit (H-2021-0040), by Hatch Design Architecture.

Case No(s). MDA H-2021-0052

For the City Council Hearing Date of: September 14, 2021 (Findings on October 5, 2021)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of September 14, 2021, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of September 14, 2021, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of September 14, 2021, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of September 14, 2021, 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 September 14, 2021, 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 Development Agreement Modification is hereby approved per the conditions of approval in the Staff Report for the hearing date of September 14, 2021, attached as Exhibit A.

D. Notice of Applicable Time Limits

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.

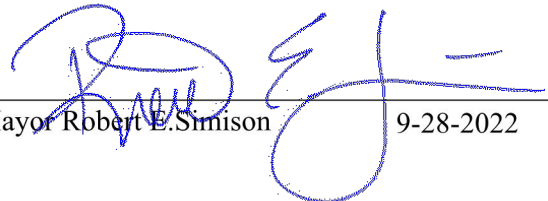
E. Notice of Final Action and Right to Regulatory Takings Analysis

1. **Please take notice** that this is a final action of the governing body of the City of Meridian. When applicable and pursuant to Idaho Code § 67-6521, any affected person being a person who has an interest in real property which may be adversely affected by the final action of the governing board may within twenty-eight (28) days after the date of this decision and order seek a judicial review as provided by Chapter 52, Title 67, Idaho Code.

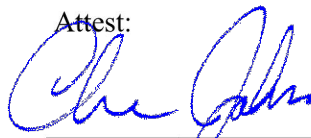
F. Attached: Staff Report for the hearing date of September 14, 2021

By action of the City Council at its regular meeting held on the 28th day of September, 2021.

COUNCIL PRESIDENT TREG BERTT VOTED AYE
COUNCIL VICE PRESIDENT BRAD HOAGLUN VOTED AYE
COUNCIL MEMBER JESSICA PERREAULT VOTED AYE
COUNCIL MEMBER LUKE CAVENER VOTED AYE
COUNCIL MEMBER JOE BORTON VOTED AYE
COUNCIL MEMBER LIZ STRADER VOTED AYE
MAYOR ROBERT SIMISON VOTED _____
(TIE BREAKER)



Mayor Robert E. Simison 9-28-2022

Attest:


Chris Johnson 9-28-2022
City Clerk



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

By:  _____ Dated: 9-28-2022
City Clerk's Office

EXHIBIT A

STAFF REPORT COMMUNITY DEVELOPMENT DEPARTMENT



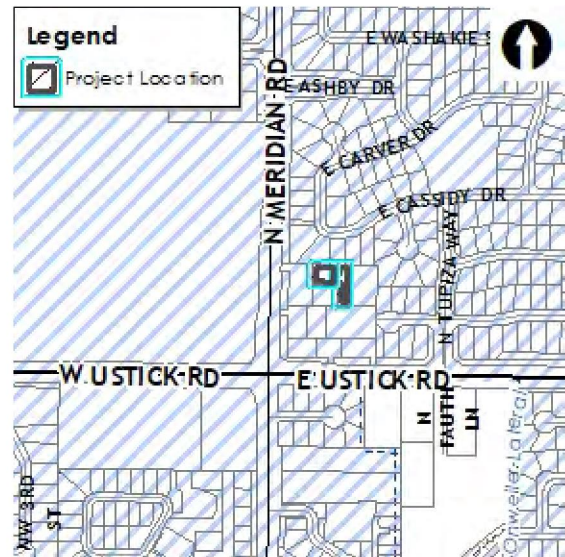
HEARING DATE: 09/14/2021

TO: Mayor & City Council

FROM: Alan Tiefenbach, Associate Planner
208-489-0573

SUBJECT: H-2021-0052
Bright Star Care Meridian MDA

LOCATION: The site is located at 3336 & 3340 N.
Meridian Rd, in the SW ¼ of Section 31,
Township 4N, Range 1E.



I. PROJECT DESCRIPTION

Modification to the existing Sundance Subdivision Development Agreement and Addendum (Instrument #'s 102056126 and 106133465) to remove the subject property for the purpose of entering into a new agreement to allow a reduction to the required 20-foot residential landscape buffer to construct a 5,800 sq. ft. nursing and residential care facility consistent with approved conditional use permit (H-2021-0040), by Hatch Design Architecture.

II. SUMMARY OF REPORT

A. Applicant / Representative:

Jeff Hatch, Hatch Design Architecture - 200 W. 36th St., Boise, ID, 83714

B. Owner:

Settler's Crossing LOC – 7761 W. Riverside Dr, Ste 100, Boise, ID, 83714

III. STAFF ANALYSIS

The subject property is presently two vacant lots comprising 0.43 acres and is within the Settlers Business Park (Sundance Subdivision No. 5). The subject property is within the Sundance Subdivision Development Agreement, originally recorded in 2002 and modified in 2006.

On July 15, 2021, the Planning Commission approved a conditional use on the subject property to allow a 5,800 sq. ft. nursing and residential care facility. The landscape plan of this facility reflected a 10' wide buffer adjacent to the residential properties to the north. However, a requirement of the Sundance Subdivision Development Agreement is that due to the single family uses abutting the boundary of the subject property, a minimum 20-foot planting strip is required along the northern property line. Because this is a requirement of the DA, it can only be reduced through action of the Council. Consequently, the Planning Commission approved the conditional use with the condition

EXHIBIT A

that the applicant either meet the 20’ residential landscape buffer requirement, or request a development agreement modification through the City Council prior to submitting a certificate of zoning compliance application. As the Sundance Subdivision Development Agreement contains several hundred residential properties as well as all the commercial properties within the Settler’s Business Park, staff recommended the applicant remove the subject properties from the existing development agreement and enter into a new development specifically for the subject property.

The applicant states that per the Settlers Business Park Property Owners Association, the original intent of this buffer requirement was to mitigate the impact of commercial properties on the adjacent residential. According to the applicant, this development is a residential type use, so the requirement was not meant to apply in this situation. The applicant added that fencing is provided between the subject property and the properties to the north, and trees are provided in the proposed buffer at approximately 12.5’ spacing, which is almost three times the density required by 11-3B-9 (requiring 35’ spacing). The applicant submitted a letter of no objection from the Settlers Business Park Property Owners Association and held a neighborhood meeting on August 17, 2021 of which there were no comments.

Because there are no objections, the applicant is providing fencing and nearly three times as much density in the landscaping, and because of the low impacts to adjacent residential associated with a nursing and residential care facility, staff does not object to the reduction in the buffer width. Staff has reviewed the requirements of the original DA and the DA addendum. As the subject property is located internally within the Settler’s Business Park and all parking, infrastructure and public improvements for the Sundance Subdivision and Settles’ Business Park have already been constructed, the only pertinent requirements of the existing DA are regarding the allowed uses and the landscape buffer.

IV. DECISION

A. Staff:

Staff recommends the City Council approve removing the subject property from the Sundance Subdivision Agreement and Addendum (Instrument #'s 102056126 and 106133465) and establishing a new development agreement.:

1. The property is approved to develop with a nursing and residential care facility). The applicant shall substantially comply with the site plan, landscape plan and building elevations approved with conditional use permit (H-2021-0040).
2. The applicant shall be allowed to construct a 10-foot wide landscape buffer along the northern boundary of the site as shown in Exhibit B.

B. The Meridian City Council heard these items on September 14, 2021. At the public hearing, the Council moved to approve the subject development agreement modification request.

1. Summary of the City Council public hearing:
 - a. In favor: Jeff Hatch, Hatch Design Architecture
 - b. In opposition: None
 - c. Commenting: None
 - d. Written testimony: None
 - e. Staff presenting application: Alan Tiefenbach
 - f. Other Staff commenting on application: None
2. Key issue(s) of public testimony:
 - a. None

EXHIBIT A

3. Key issue(s) of discussion by City Council:
 - a. None

EXHIBIT A

V. EXHIBITS

A. Legal Description

EXHIBIT "A" Parcel A – Description

A parcel of land being a portion of Lot 47, Block 7 of SUNDANCE SUBDIVISION No. 5, filed in Book 98 of Plats at Pages 12523-12526, in the Office of the Ada County Recorder, located in the SW ¼ of Section 31, Township 4 North, Range 1 East, Boise Meridian, City of Meridian, Ada County, Idaho, and as shown on Record of Survey No. 8756, filed as Instrument No. 110034523, being more particularly described as follows:

BEGINNING at the northwesterly corner of Lot 47, Block 7 of said subdivision; thence, along the northerly line of said Lot 47,

1. S.89°08'33"E., 101.48 feet; thence, leaving said northerly line,
2. S.00°51'50"W., 88.09 feet to the southerly line of said Lot 47; thence, along said southerly line,
3. N.89°08'10"W., 101.48 feet to the southwesterly corner of said Lot 47; thence, along the westerly line of said Lot 47,
4. N.00°51'50"E., 88.08 feet to the **POINT OF BEGINNING**.

CONTAINING: 0.205 Acres, more or less.

SUBJECT TO: All Covenants, Rights, Rights-of Way and Easements of Record.



EXHIBIT A

EXHIBIT "A" Parcel B – Description

A parcel of land being a portion of Lots 46 and 47, Block 7 of SUNDANCE SUBDIVISION No. 5, filed in Book 98 of Plats at Pages 12523-12526, in the Office of the Ada County Recorder, located in the SW ¼ of Section 31, Township 4 North, Range 1 East, Boise Meridian, City of Meridian, Ada County, Idaho, and as shown on Record of Survey No. 8756, filed as Instrument No.110034523, being more particularly described as follows:

COMMENCING at the northwesterly corner of Lot 47, Block 7 of said subdivision; thence, along the northerly line of said Lot 47,

- A) S.89°08'33"E., 101.48 feet to the **POINT OF BEGINNING**; thence, continuing along said northerly line,
 1. S.89°08'33"E., 60.00 feet; thence, leaving said northerly line,
 2. S.00°51'50"W., 177.90 feet to the southerly line of said Lot 46; thence, along said southerly line,
 3. N.90°00'00"W., 49.44 feet to the southwesterly corner of said Lot 46; thence, along the westerly line of said Lot 46,
 4. N.00°51'50"E., 90.55 feet to the southeasterly corner of said Lot 47; thence, along the southerly line of said Lot 47,
 5. N.89°08'10"W., 10.56 feet; thence, the southerly line of said Lot 47,
 6. N.00°51'50"E., 88.09 feet to the **POINT OF BEGINNING**.

CONTAINING: 0.224 Acres, more or less.

SUBJECT TO: All Covenants, Rights, Rights-of Way and Easements of Record.

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EXHIBIT A

B. Site Plan (approved by Planning Commission on July 15, 2021)

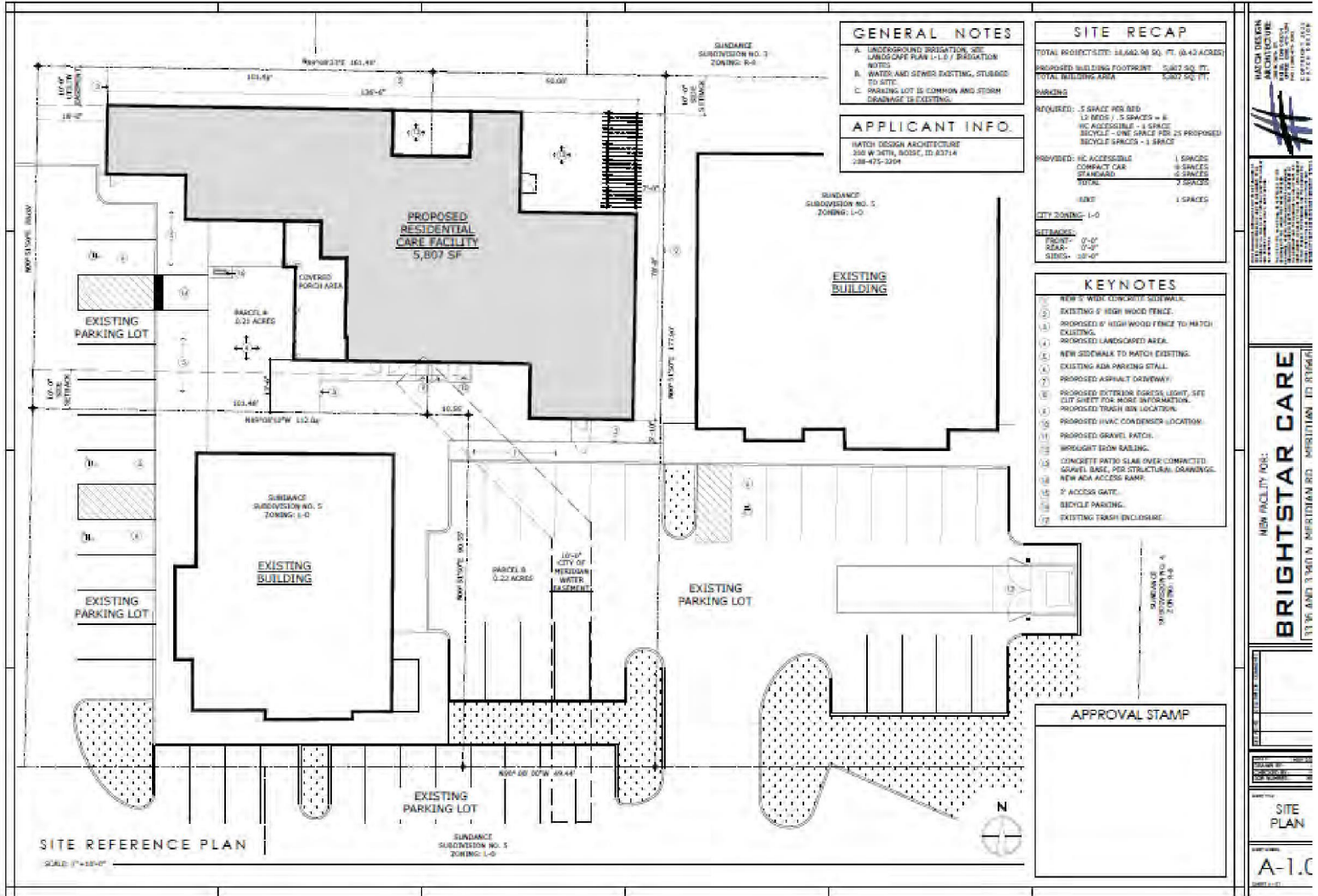


EXHIBIT A

C. Landscape Plan of approved Brightstar Meridian Conditional Use

- 3. ALL TREES THAT ARE DAMAGED, DESTROYED OR REMOVED SHALL BE REPLACED AT THE MITIGATION STANDARDS PER THE CITY OF BRIGHTSTAR. SEE TREE MITIGATION NOTES FOR ADDITIONAL INFORMATION.
- 4. SEE TREE MITIGATION NOTES FOR ADDITIONAL INFORMATION.

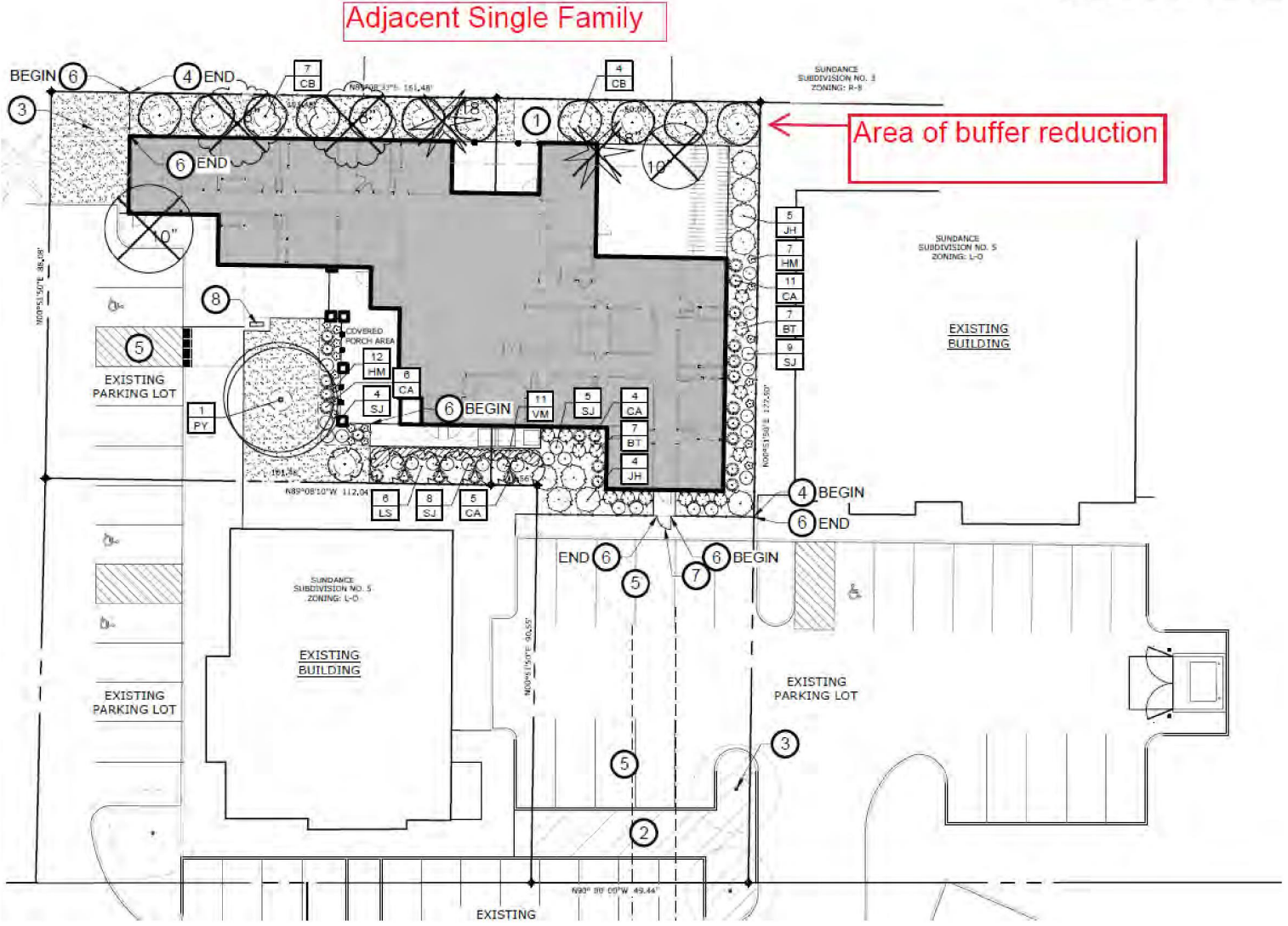
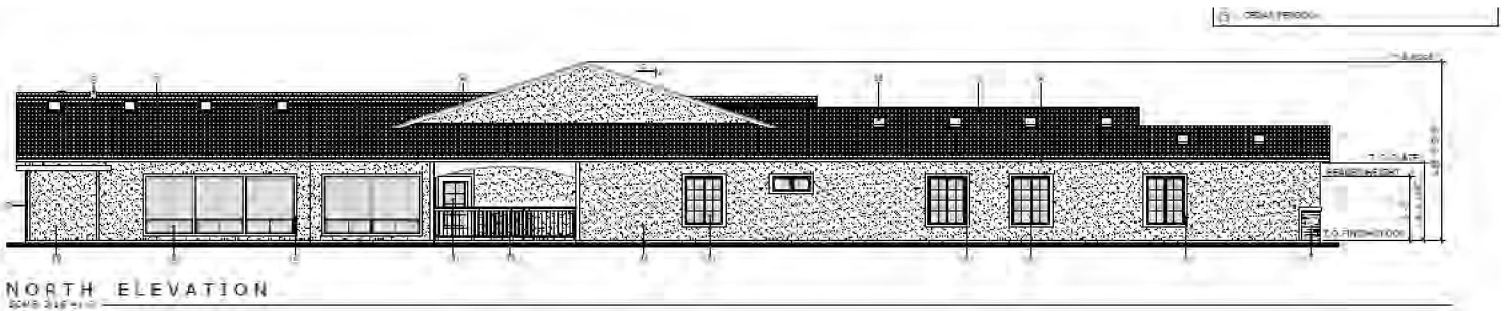


EXHIBIT A

D. Approved Elevations of Brightstar Meridian Facility



Front (west) elevation



Rear (north) elevation facing residential (fence and landscaping will be in front of this elevation).

EXHIBIT A

E. Existing DA language

- permitted.
8. Provide five-foot-wide sidewalks in accordance with City Ordinance Section 12-5-2.K.
 9. All construction shall conform to the requirements of the Americans with Disabilities Act.
 10. Meridian City Ordinance 12-6 sets forth the requirements for Planned Developments. Any conditions attached to a Final Development Plan for Planned Development projects run with the land and shall not lapse or be waived as the result of any subsequent change in tenancy or ownership.
 11. That any proposed uses other than an office use on Lots 45, 47, 49 and 50, Block 7 shall require a CUP. The office uses are allowed under the Planned Development process and would not require a CUP if constructed in accordance with an approved CUP site plan and plat.
 12. Due to the single-family uses abutting the boundaries of Lots 45, 47 and 49, Block 7 (proposed as future office use), a minimum 20-foot planting strip, in accordance with City Ordinance 12-4-7.A., is required along the property lines of these three lots.
 13. Dedicate 48-feet of right-of-way from the centerline of Ustick Road abutting the parcel by means of recordation of a final subdivision plat or execution of a warranty deed prior to issuance of a building permit (or other required permits), whichever occurs first.
 14. Dedicate 48-feet of right-of-way from the centerline of Meridian Road abutting the parcel by means of recordation of a final subdivision plat or execution of a warranty deed prior to issuance of a building permit (or other required permits), whichever occurs first.
 15. Construct the main entrance off Ustick Road, located approximately 900-feet east of the west property line, as proposed. Construct the main entrance with one inbound