

December 6, 2022

Attn: City Council for the City of Meridian

This request for reconsideration of the findings of fact, conclusions of law and orders made in CR 2022-0006 (H2022-0047) is submitted pursuant to Meridian Code of Ordinances 1-7-10 on behalf of the undersigned and every other person who opposed the subject application for a conditional use permit to build a multi-family apartment project of 235 (+/-) units near the intersection of McMillan Road and Ten Mile Road. This request for reconsideration is submitted by email pursuant to instructions of the City Clerk.

Many in our community are very troubled by your lack of sincerity in reviewing the data and testimony submitted in opposition to the proposed Bridgetower Multi-Family CUP CR-2022-0006 application.

During the Hearing with the Planning and Zoning Commission on Sept. 1st, there was close to 4 hours of testimony of local area residents as well as over 100 emails were submitted as public testimony, articulating why the proposed apartments are wrong for that location. The factors described in that testimony included:

- Significant traffic counts and concerns with homes already built, under construction or already approved but not yet built
- Safety related to the nearby Pleasant View Elementary
- Overcrowded Schools
- Response times by Police, Fire and other agencies
- ACHD planning related to not widening McMillan until 2032 – 2035
- Home Values being affected by building apartments directly next to a highend community
- Home Values - People in the nearby Bridgetower West community not even being able to sell their home due to the increased road traffic with homes adjacent to McMillan Rd.

For these reasons and others, the Planning and Zoning Commission declined the apartment application on Sept. 1, 2022.

Then after the developer, Alpha Development Group appealed the rejecting of their application, an additional hearing was held on Nov. 15, 2022. During this hearing, another 3+ hours of testimony were heard plus over 60 emails had been submitted for review.

During this hearing only one member of the City Council even seemed to ask direct questions of the developer. This council member stated that based on what they had heard, they were against the project and would question allowing future projects on McMillan. But in the end, even that City Council member voted against their conscience and caved to the will of the

developer and their attorney whom had implied during the hearing that they would sue the city if their application wasn't approved.

At the hearing on Sept. 1, 2022, the Deputy City Attorney, Kurt Starman, articulated that for only the reasons in City Code – 11-5B-6E Conditional Uses – Findings. These Finding weren't even addressed by the City Council and include:

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.
4. That the proposed use, if it complies with all conditions of the approval imposed, will not adversely affect other property in the area.
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.
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.
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.

For the reasons listed below, I hearby submit this Request for Reconsideration:

- The City Council abdicated their legal responsibility to make findings because all they did was adopt the report of the planning staff. It's the City Council's responsibility to make findings, not the responsibility of the staff.
- In turn, all the staff did was incorporate the applicant's narrative of September 29, 2002 (the appeal from the decision of the Planning Commission); see memorandum dated October 28, 2022, from Associate Planner Joseph Dodson to the Mayor and City Council, who apparently felt beholden to the Applicant.
- If the City Council had done its job, there is no way the Council could have in good faith made the required findings, certainly not finding #5 about sufficient infrastructure, specifically regarding schools and traffic on McMillan Road. Substantial and compelling factual evidence presented at the hearing and in the record proved clearly and convincingly, beyond a doubt, that finding #5 could not be supported or made. The statements by the City Council and their findings, conclusions, and orders to the contrary constitutes a clear abuse of discretion.
- The principal motivation of the City Council was not to make the necessary findings, as required by City Ordinances, but to deter a lawsuit threatened by the Applicant. There was no explanation or sufficient discussion of what the merits of such a lawsuit might

have been, if any, or why any threat of a lawsuit should override the City Council's responsibility to ensure the safety and welfare of Meridian's citizens.

As an affected party and one who testified at the Hearing, I formally submit this Request for Reconsideration on behalf of myself and all those that testified against the application on both 9/1//2022 and 11/15/2022.

Sincerely,
Paul Elam
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