

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



In the Matter of the Request for Conditional Use Permit to exceed the maximum building height listed in UDC 11-2B-3A.3 of 65-feet to allow an average elevation of 84-feet with screen walls extending to 97-feet above grade for the ESI Office Building, Located at 1044 S. Silverstone Way in the C-G Zoning District, by BVA Development.

Case No(s). H-2023-0002

For the Planning & Zoning Commission Hearing Date of: February 2, 2022 (Findings on February 16, 2023)

A. Findings of Fact

1. Hearing Facts (see attached Staff Report for the hearing date of February 2, 2023, incorporated by reference)
2. Process Facts (see attached Staff Report for the hearing date of February 2, 2023, incorporated by reference)
3. Application and Property Facts (see attached Staff Report for the hearing date of February 2, 2023, incorporated by reference)
4. Required Findings per the Unified Development Code (see attached Staff Report for the hearing date of February 2, 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

CITY OF MERIDIAN FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION & ORDER
CASE NO(S). ESI OFFICE BUILDING CUP [H-2023-0002]

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 of approval in the attached staff report for the hearing date of February 2, 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 February 2, 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-6.F.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 February 2, 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 STEVEN YEARSLEY VOTED _____

COMMISSIONER PATRICK GRACE VOTED _____

COMMISSIONER MANDI STODDARD 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



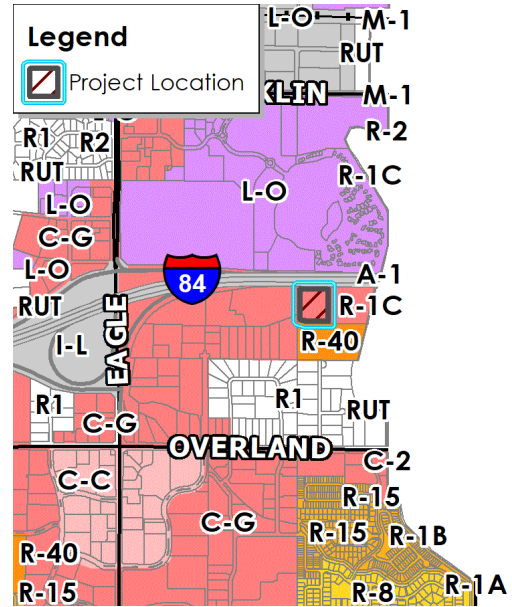
HEARING DATE: February 2, 2023

TO: Planning & Zoning Commission

FROAM: Stacy Hersh, Associate Planner
208-884-5533

SUBJECT: H-2023-0002
ESI Office Building CUP

LOCATION: 1044 S. Silverstone Way, South of 84
halfway between Eagle Road and
Cloverdale Road, in Section 16,
Township 3N., Range 1E. (Parcel
#R7555000285)



I. PROJECT DESCRIPTION

Conditional Use Permit to exceed the maximum building height listed in UDC 11-2B-3A.3 of 65 feet for the C-G zoning district to allow an average elevation of 84 feet with screen walls extending to 97-feet above grade.

A. Project Summary

Description	Details	Page
Acreage	6.38 acres	
Future Land Use Designation	Mixed Use – Regional (MU-R)	
Existing Land Use	Under construction for an ESI Office Building CZC, DES A-2022-0118 Approved.	
Proposed Land Use(s)	ESI Office Building	
Current Zoning	General Retail and Service Commercial District (C-G)	
Physical Features (waterways, hazards, flood plain, hillside)	NA	
Neighborhood meeting date	1/17/2023	
History (previous approvals)	AZ, PP, CUP, ALT (H-2021-0075, DA Inst. #2022-026383 ; ROW Vacation (H-2022-0018); PBA-2022-0009 ; ESI Office Building CZC, DES, ALT (A-2022-0118)	

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II. APPLICANT/OWNER INFORMATION

A. Applicant:

Hallie Hart, BVA Development – 1144 S. Silverstone Way, Meridian, ID 83642

B. Owner:

Thomas Ahlquist, BVA Development – 1144 S. Silverstone Way, Meridian ID 83642

C. Representative:

Tonn Petersen, BVA Development – 2775 W. Navigator Drive, Suite 220, Meridian, ID 83642

III. NOTICING

	Planning & Zoning Commission Posting Date
Notification published in newspaper	1/18/2023
Notification mailed to property owners within 500 feet	1/13/2023
Applicant posted public hearing notice on site	1/23/2023
Nextdoor posting	1/13/2023

IV. COMPREHENSIVE PLAN ANALYSIS

This property is designated Mixed Use – Regional (MU-R) on the Future Land Use Map (FLUM) contained in the Comprehensive Plan.

The purpose of the MU-R designation is to provide a mix of employment, retail, and residential dwellings and public uses near major arterial intersections. The intent is to integrate a variety of uses together, including residential, and to avoid predominantly single-use developments such as a regional retail center with only restaurants and other commercial uses. Developments should be anchored by uses that have a regional draw with the appropriate supporting uses. The developments are encouraged to be designed consistent with the conceptual MU-R plan depicted in Figure 3D (pg. 3-17).

This site is part of a much larger mixed-use designated area that contains a wide variety and mix of uses as desired in MU-R designated areas. The Applicant is currently developing the site with a commercial office building, which is a desired use in the MU-R designation. The proposed use is listed as a principal permitted use in the C-G zoning district in UDC [Table 11-2B-2](#).

V. UNIFIED DEVELOPMENT CODE ANALYSIS

A Conditional Use Permit is requested to exceed the maximum building height listed in UDC [11-2B-3A.3](#) of 65 feet for the C-G zoning district to allow an average elevation of 84-feet with screen walls extending to 97-feet. *See application [narrative](#) for more information.*

The original design of a 74-foot tall, 5-story, 145,000 square-foot office building with 372 new parking stalls were approved through CZC, Design Review, and Alternative Compliance (A-2022-0118). To obtain Alternative Compliance through UDC 11-2B-3A.3 to add additional height, a minimum of 10% of building square footage open space was required and 15,346 square-feet was

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provided as courtyards and usable outdoor space. The open space that was approved with CZC (A-2022-0118) for Alternative Compliance exceeding the minimum landscaping requirements will remain with this application request. The Applicant is proposing “Office Building #4” at Eagle View Landing to be six (6) stories with approximately 29,000 square-feet of floor space per floor totaling 174,000 square-feet overall. The Applicant believes that the proposed height is compatible with other uses in the Vicinity. Building #5 is adjacent to Building #4 to the east, which has an overall building height of 74-feet with screen walls extending to 87-feet above grade. Top Golf is located directly to the west with poles and nets that extend approximately 156-feet in height above grade. The building footprint will remain intact as approved by the CZC, the only addition is that of the sixth floor. The proposed modifications to the square footage of the building require 348 parking stalls per UDC 11-3C-6, 372 stalls are provided. Staff believes this is an appropriate location for a building of this height since it is adjacent to the freeway and located near other employment and entertainment uses.

The Fire Dept. has the following comments on this application as follows:

“A FARS system will be required for the structures per Appendix L of the 2018 IFC and City Code. A full fire plan review will need to be completed, as well as, a secondary access shall be provided for this site.”

VI. DECISION

A. Staff:

Staff recommends approval of the conditional use permit with the conditions noted in Section IX below.

B. The Meridian Planning & Zoning Commission heard this item on February 2, 2023. At the public hearing, the Commission moved to approve the subject Conditional Use Permit request.

1. Summary of the Commission public hearing:

- a. In favor: Tonn Peterson, BVA Corporation
- b. In opposition: Lynette Adsitt
- c. Commenting: Tonn Peterson
- d. Written testimony: None.
- e. Staff presenting application: Stacy Hersh, Associate Planner
- f. Other Staff commenting: bill Parsons, Planning Supervisor

2. Key issue(s) of public testimony:

- a. Concerns with additional traffic in the residential neighborhood to the south.

3. Key issue(s) of discussion by Commission:

- a. Include the 65-foot building height restrictions in the commercial zoning districts as a topic of discussion in the upcoming UDC focus group.

4. Commission change(s) to Staff recommendation:

- a. None

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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 [AZ, PP, CUP, ALT (H-2021-0075, DA Inst. [#2022-026383](#); ROW Vacation ([H-2022-0018](#)); [PBA-2022-0009](#); ESI Office Building CZC, DES, ALT ([A-2022-0118](#))].
2. The proposed structures shall not exceed an average elevation of 84-feet with screen walls extending to 97-feet.
3. 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 structures 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.
6. 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.

B. PUBLIC WORKS

Site Specific Conditions of Approval

General Conditions of Approval

1. Applicant shall coordinate water and sewer main size and routing with the Public Works Department, and execute standard forms of easements for any mains that are required to provide service outside of a public right-of-way. Minimum cover over sewer mains is three feet, if cover from top of pipe to sub-grade is less than three feet than alternate materials shall be used in conformance of City of Meridian Public Works Departments Standard Specifications.
2. Per Meridian City Code (MCC), the applicant shall be responsible to install sewer and water mains to and through this development. Applicant may be eligible for a reimbursement agreement for infrastructure enhancement per MCC 8-6-5.
3. 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.
4. 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.

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5. Any structures that are allowed to remain shall be subject to evaluation and possible reassignment of street addressing to be in compliance with MCC.
6. 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.
7. 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.
8. 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.
9. All improvements related to public life, safety and health shall be completed prior to occupancy of the structures.
10. 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.
11. 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.
12. Applicant shall be responsible for application and compliance with any Section 404 Permitting that may be required by the Army Corps of Engineers.
13. Developer shall coordinate mailbox locations with the Meridian Post Office.
14. 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.
15. 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.
16. 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.
17. A street light plan will need to be included in the civil construction plans. Street light plan requirements are listed in section 6-5 of the Improvement Standards for Street Lighting. A copy of the standards can be found at http://www.meridiancity.org/public_works.aspx?id=272.
18. The City of Meridian requires that the owner post to the City a warranty surety in the amount of 20% of the total construction cost for all completed sewer, water and reuse infrastructure for duration of two years. This surety will be verified by a line item cost estimate provided by the owner to the City. The surety can be posted in the form of an irrevocable letter of credit, cash deposit or bond. Applicant must file an application for surety, which can be found on the

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Community Development Department website. Please contact Land Development Service for more information at 887-2211.

C. IDAHO TRANSPORTATION DEPARTMENT (ITD)

<https://weblink.meridiancity.org/WebLink/DocView.aspx?id=287029&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.

Commission finds the site is large enough to accommodate the proposed use if the increase in building height request is approved.

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

Commission finds the proposed commercial office project with an increased maximum building height will be harmonious with the Comprehensive Plan and is consistent with applicable UDC standards with the conditions noted in Section IX 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.

Commission finds although the building heights will be taller, 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.

Commission finds the proposed use will not adversely affect other properties in the vicinity if it complies with the conditions in Section IX 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.

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.

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.

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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.

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)

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.