

Meridian City Council - Planning & Zoning Joint Meeting December 16, 2025.

A Joint Meeting of the Meridian City Council and Planning & Zoning Commission was called to order at 4:30 p.m., Tuesday, December 16, 2025, by Mayor Robert Simison.

Members Present: Robert Simison, Luke Cavener, John Overton, Anne Little Roberts and Brian Whitlock.

Members Absent: Liz Strader and Doug Taylor.

Other Present: Chris Johnson, Bill Nary, Kurt Starman, Caleb Hood, Tina Lomeli, Nick Napoli, Linda Ritter, Jamie Leslie and Dean Willis.

ROLL-CALL ATTENDANCE

<input type="checkbox"/> Liz Strader	<input checked="" type="checkbox"/> Brian Whitlock
<input checked="" type="checkbox"/> Anne Little Roberts	<input checked="" type="checkbox"/> John Overton
<input type="checkbox"/> Doug Taylor	<input checked="" type="checkbox"/> Luke Cavener
<input checked="" type="checkbox"/> Mayor Robert E. Simison	

Simison: Council, we will call this special joint meeting of the Meridian City Council and Planning and Zoning Commission to order. And we will begin tonight with roll attendance for City Council.

ROLL-CALL ATTENDANCE

<input type="checkbox"/> Brian Garrett	<input checked="" type="checkbox"/> Jessica Perrault (4:38 pm)
<input type="checkbox"/> Matthew Sandoval	<input checked="" type="checkbox"/> Matthew Stoll
<input type="checkbox"/> Sam Rust	<input checked="" type="checkbox"/> Jared Smith
<input checked="" type="checkbox"/> Maria Lorcher - Chairman	

Simison: Next will be the roll call for Planning and Zoning Commission.

ADOPTION OF AGENDA

Simison: We do have a quorum of both bodies here, so we will go ahead and pursue. First item up is adoption of the agenda.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Don't see any changes tonight, so I move that we adopt the agenda as published.

Overton: Second.

Simison: Have a motion and a second to adopt the agenda. All those in favor signify by saying aye. Opposed nay? The ayes have it and the agenda is agreed to.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

DISCUSSION TOPICS

1. **Development Review Staff Report Template Use and Potential Improvements**

Simison: With that we will move on to Item 1, which is the Development Review Staff Report Template and turn this over to Mr. Hood for any initial comments about everything in that item.

Hood: Thank you, Mr. Mayor, Chair Person Lorcher, Planning and Zoning Commissioners, City Council Members. Appreciate the time. You are going to hear from quite a few staff today, but I want to just set the stage for you here. Moving forward we are going to start off with Nick and Linda what it looks like -- are going to kind of propose to you some potential changes that they have been contemplating to improve the staff report template. We have had some conversations with Council most recently about the SAT, or service accessibility tool and some other things that really time into where Kurt and I will, then, come up with the second half of that and talk about how we are going to potentially even have some of the formatting of the staff report that can help create that record and the decision making process. So, Nick, if you wouldn't mind going to the next slide. So, here is kind of what the agenda looks like. So, using and improving that -- that staff report and Kurt and I will cover the next couple of topics. So, I think with that we will let Nick go ahead and talk about that.

Simison: Okay. And just for a processing thing, because Caleb got the nice pleasantries of getting everyone's name out in terms of bat, bat, bat, just Council and Commission for -- for reference, does that work or preference; right?

Napoli: Mayor, Council, Commission, thanks for meeting with us today on this. So, yes, really this meeting -- I want to hear from you guys, like what is working in the new staff report, what is not working for you guys. I have some proposed changes the staff has, as well as SAT, but I did want to hear from you guys on our staff reports. One -- one thing we are going to propose is some more tables for areas like specific use standards for multi-family. That is a long section, can make the staff report really wordy, something I'm working on currently. I don't have an exact proposal for you guys today, just because it is a lot to cover, but like tables for parking, open space, amenities to kind of help summarize some of the staff report, not only for you guys, but also for the development community and the public when they are looking at our staff report, because I think that it's a tool that's not just used by us, it's used by everyone that looks at it. So, I wanted to open up and see if right off the bat if anyone had any suggestions as far as stuff they would like to see, changes in the staff report or any suggestions and

if there is not, though, I will start with our -- what we have proposed as of right now and it's going to be kind of an ongoing, you know, improvement with the staff report.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Maybe what I might propose is planning staff has been working on this, maybe, Nick, if you and your team want to kind of present some suggested changes and, then, that may capture some of my feedback and so rather than repeat myself wait for you guys to present and, then, if we have got additional feedback can be offered at the end, if that's okay with you.

Napoli: Mayor, President Cavener, that's -- that sounds great. I will start off with it then. All right. So, the SAT tool, as you guys know, it currently is -- we have had some discussion on it and we -- what I am proposing -- and I have an Excel sheet that I have been working on. The tool is not quite polished yet, so I just created a table for you guys to where, essentially, we have the criteria and, then, we provide analysis for why it's green, red -- and I actually have an example at the bottom of the presentation that I want to show to you guys for what that could look like in the staff report. There we go. So, this is what it would look like. We have that and, then, we actually have analysis on location -- all of the different categories that are on it. We have a breakdown of why it would be green, yellow, red and, then, you know, some of the data is red just because we don't have the data, which would primarily be related to emergency services for police, because sometimes there is just not enough data and that is why it's red and that's what we would call out and we would ask for, you know, other departments to comment on this. We would be coordinating with our departments to help us with this, because some of it -- I can interpret a lot of it and we can interpret a lot of it, but sometimes we are not the experts in that field and we want to make sure we are presenting you guys the correct information. So, if we didn't get, you know, all the sufficient information with it, we will cite that in this section as well, but this is something that it could look like in the future staff report where it actually does provide a little bit of analysis for you guys and, you know, it -- you know, just to elaborate a little bit further on the tool itself. All right. Sorry about that. So, that was one. I'm also working on an Excel file that would kind of put that into an Excel and would come up with more of a graphic, but it would still provide the analysis. It's not polished yet and I didn't want to present something that didn't look -- isn't up to my standards with that. So, it's all part of the staff report that I think that we wanted as staff is history going first in the staff report. The history is below the general overview and some other sections, can kind of get lost, you know, in the wording and we feel that on a lot of projects the history of what was previously there is extremely important. So, that will go up to the front and the general overview and, then, we are actually going to have a table for comprehensive plan policies that are relevant for each of the projects that really kind of get back to what the old staff report did and connects more with the comp plan and the comp plan policies that are relevant for that. It provides analysis on it. It would actually look similar to kind

of what this is. It would have the comp plan policy on the left with the analysis on the right for each proposed project.

Lomeli: Mr. Mayor, for the record Commissioner Perreault has joined the meeting.

Simison: Welcome, Jessica.

Napoli: Now, on top of that specific use standards for it, so creating tables for the specific use standards, especially for the lengthier ones, like the multi-family, is something that I'm currently working on. There is a lot of language and requirements that are in that multi-family specific use standard and when we copy and paste that directly in there it gets really wordy and, then, you italicize our analysis and for the general public, if I wasn't in this every day I wouldn't probably look at it, because it's just a lot to look at. So, for me I understand it, but I don't think it's very user friendly for the general public. So, that's definitely a priority. I'm currently working on it. It's -- I'm just trying to capture everything that is needed for that multi-family specific use standards, which is quite a bit. Qualified open space and amenities. So, open space and amenities. So, we have the requirement on the left, the proposed on the right. Kind of just simplifies it as far as exactly what their -- what's the requirement in the code and what they are proposing, we will have a spot for analysis as well, so there will be some analysis for projects that require it and whatever projects meeting it and staff doesn't have concerns with it, you know, we are just going to leave it in a table to simplify it for you guys to look at it and make it more user friendly in that way. Same with parking. You know, parking -- residential parking, non-residential parking, we have -- you know, typically we write it out. It can get kind of wordy in there and we want to make sure it's as clear cut for you guys as possible to where this is required in code, this is what's proposed, are they meeting that or not. And there can be room for analysis on that as well if needed for the larger, more complex projects. And part that I wanted to touch base with you guys -- so, on my -- on my side and on our side for planning staff, school capacities has become -- I would say an increasingly common issue through all the projects. So, adding an actual section -- not that we are the school district and we are going to provide in depth analysis on it, but actually providing a section to where we can, you know, reiterate what the school district -- what the numbers are saying, you know, do -- kind of encapsulize that into a -- like a better way I guess is what I'm trying to say -- really show that, you know, if that is an issue, highlight that in the staff report more clearly and actually have a designated section for that. So, those are some of -- those are really the main changes we have proposed. You know, another thing that we are working on with our legal staff is the findings and making our findings more complex. That is something that we are starting to integrate a lot more into our reports and you will start seeing that as, you know, the Commission recommendations start coming toward you, but, really, at the end of the -- the recs that will be -- or the findings I should say that will be the most beefed up are the ones after the City Council or the decision-making body does make their decision, because we will be adding analysis from -- like what was -- what conversations were had at that hearing and, you know, how Council or Commission got to their decision. So, that is going to be kind of what we are interpreting and I think that kind of leads into what Caleb and Kurt are going to

be talking about after us as far as, you know, making those motions to help us kind of understand your guys' thought process and how you got there is really -- and like the deliberation that got you guys to that decision and, you know, we are obviously interpreting that and we have the minutes to, you know, best interpret that as possible for our findings. So, that is another part of the staff report that you guys will see dramatically probably increase in wording, instead of decrease, but we are trying to help make the staff report be more concise and to the point for you guys to where it's not as wordy as it is currently. So, with that I will ask you guys if you have any questions, comments or, you know, recommendations for staff at this time. This will be something that, like I said, is going to be ongoing and we will continue to make changes to make it the best tool that we can.

Simison: All right. Thank you. Council, Commission, questions?

Lorcher: Mr. Mayor?

Simison: Commissioner Lorcher.

Lorcher: Nick, under the analysis portion where in the parentheses -- for example, if you could scroll down a little bit more -- up -- up -- right there is fine. So, number one, structure and site design standards, parentheses, comp plan, UDC 11-3A-19. Is that a link?

Napoli: It is not a link and -- well, maybe, Mr. Mayor -- or Council and Commission, it is not a link. It is the section of code that would be relevant. I'm actually -- and that's where we have had some conversation with staff of actually taking out the comp plan sections, because that's going to be a new comp plan. It won't say comp plan anymore, it will just have the code section --

Lorcher: Right.

Napoli: -- because the comp plan policies will be at the beginning of the staff report now that we feel are applicable to this development. So, we will be going through each of the policies. But as far as it being link -- we actually try to remove links from our staff reports, because once they actually get published if you click on a link a lot of times they break and they are not actually usable for anyone other than staff and so that would be why we try to avoid links and it's --

Lorcher: So -- may I have a follow-up question?

Simison: Commissioner Lorcher.

Lorcher: In regard to -- so, it's not a link, but I'm just thinking of the public who is going to be looking at this, you know, we are not necessarily familiar with the UDC, specifically 11-3A-19, but, then, if somebody in the public wants to come up and counterpoint or even commend our recommendations or the findings -- or the analysis I should say, will

there be some kind of even asterisks to say you can find this here on the city's website or something like that? Because if we indicate that this is something they should look at and, then, have no way of looking at it and it's not -- not necessarily for us, but for the public so that they can create testimony, I think that may be -- end up problematic if the link option is not going to be able to work.

Napoli: Yeah. Mayor, Council -- or Commission and Council, I apologize. Yes. You know, as far as putting a link in the staff report or at least putting instructions on how to find the code and the comp plan, I definitely think it's something we can incorporate into -- into the template. As far as in each individual section that is called out I think it would be best if it's in one spot and we, you know, provide a -- the problem is is the links sometimes do change on the website or where it's both placed on the website and, then, that breaks the link and, then, it's no longer usable. That's really the -- the difficult part or the challenging part with putting a link in the staff report, but having I think directions on how to find it --

Simison: Right.

Napoli: -- this is where you go on Meridian City website to this subsection, to this subsection, and this is the UDC, I definitely think we can incorporate that if that's something you guys are looking for. Definitely.

Lorcher: I think from the public standpoint that would probably be -- because if they are here to create testimony on something that's untrue and, then, they can go to the UDC or the comp plan or whatever and find out that what they are asking for is -- is not part of the rules or is part of the rules would take away a lot of the misinformation that may come up during testimony.

Napoli: That sounds great.

Lorcher: And not necessarily having a link, but having a place to -- to find it.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: My perception is that our staff report functions like a -- almost like a printable textbook and I would like to see it more as like a home page for each application where people are able to click through to the things they want, where it is more visibly favorable; right? And I know that the service impact tool is an example of something that I thought was really intended to be a net benefit. We have got some kinks to work out. I have some thoughts along that. But I think making it easier for the public, easier for -- easier for our Planning and Zoning Commission, particularly new ones to be able to adapt and understand the decisions they are being asked to make as easy as possible is really the direction that I'm encouraging you guys to do. Now, I'm also keenly aware like you don't just wake up on a Tuesday morning and -- you know -- and

crank out a staff report and you are done by lunchtime; right? Many of these take a lot of time and a lot of effort and I'm sympathetic to that and open to that feedback as to what that right nexus is. But a couple of times I have asked, you know, who is the staff report really for and let's make sure who our -- maybe our top three or our top five audiences are and make sure that we are tailoring the report to meet the needs and expectations of those audiences.

Simison: Just to the following on -- I think that the link and what -- and how it lives comment -- because I think the challenge that you are going to have is if you -- if you make something that you think is going to be there forever and it's not, because of a website, a link change, a code change, how -- how do you have a static yet permanent record intertwined into one? Is there a good solution to that and what is the public record if you start doing that and modifying and changing that?

Cavener: Mr. Mayor, that's an exceptional question. I think the answer is that it lives with everything that is included, then, in the, quote, unquote, Council packet; right? So, everything that we are provided in the packet are clickable links. All of those things can be intertwined into the staff report back to -- your staff report is your home page. Now, it may need to be a, quote, unquote, cross-section of a -- of a portion of our city website that is added in there. Again that -- that's a detail that I think is from a -- from a staff time to what is achievable. Is there a disclaimer, so if somebody accesses that, you know, staff report 15 years later, their being aware that, hey, some of these links may not work. I look at that, though, as less concern about the future challenge at the expense of a present efficiency.

Simison: Except for we have public records requirements and if you produce something and you keep it, it -- you have to retain it in its current place and you can't allow links to not be there if they were part of it. So, I think there is a balance here that we have to identify and what is -- what is okay to not be there and what can't -- what can be there now, but maybe isn't there in three years.

Cavener: And I think, you know, Mr. Mayor, it could be -- you see cities that do this that they -- they take a snapshot of their website or they take a snapshot of those links and all those links live live on a separate exterior format, so they are still be able to be retrieved from a public records standpoint. So, I think that these are fair and accurate obstacles, but not so insurmountable to get in the way of creating a more efficient staff report for the public, Council and Commission.

Smith: Mr. Mayor?

Simison: Go ahead, Commissioner Smith.

Smith: Thank you. I really strongly agree and I'm -- I'm trying to think, you know, obviously, much larger government organizations have -- you know, the Library of Congress, there is whole organizations dedicated to this, but I think there is -- there are things that you can do, like having, you know, again, static or I imagine -- I guess what

I'm getting at is the -- the larger question it seems like is maybe preserving previous versions of the code and that might be the larger kind of question mark and issue and beyond that I think it's a matter of kind of you can use forwarding of the link or things like that and I think that there is -- you know, not to get too into the weeds of IT and back end stuff, but I think there are ways to manage that, but I do agree that the -- the broader idea of having kind of jumping off points -- not even just for the public, but for myself as a Commissioner, there are sometimes applicants who come in and say, well, the code says X, Y and Z, and, you know, sometimes they say, well, we think the spirit of the code means this and without understanding it in the context or being able to -- you know, I have to go and look up the Comprehensive Plan separately and say, well, actually kind of it seems like it means more this. You know, there is -- there is kind of time lost and I think that sometimes that pulls me away from listening to testimony as I'm trying to gather facts. So, I think there is also an aspect of helping us do a better job of staying present by being able to more readily access the information. There is another benefit there. So, I wholeheartedly agree. And I understand, yeah, there is -- there is a larger IT kind of conversation probably to be had, but I think to the extent that it's -- it's feasible and it's possible without, you know, adding too much administrative overhead I think would be super beneficial, not just for the public, for at least myself personally as a Commissioner.

Lorcher: Mr. Mayor?

Simison: Commissioner Lorcher.

Lorcher: In regard to the links that -- that have been mentioned, first staff to be able to put in links for every piece of analysis is tedious. I mean to make sure that the staff report's -- I don't want to create an undue burden when you are creating your staff report and you are sitting there being an IT person, as opposed to being a city planner. So, that's something that probably needs to be looked at as well. Not only do you have to insert the link, you have to make sure they always work and every single time. In this conversation having more of a -- a place to go look for it, as opposed to every single staff report having the links work would probably -- possibly be a very big burden on planners, because they are working on these every week and those are the easiest things that -- that could probably bog the whole process down. So, I just want to kind of enlighten that, that their -- planners are not necessarily IT people as well.

Overton: Mr. Mayor?

Simison: Councilman Overton.

Overton: Maybe there is a happy middle ground. I appreciate everything you guys have done so far and what you are trying to do, but maybe there is a way we could just do a single hyper link to the UDC. I mean we got to give them credit that if we give them to the UDC they can figure out how to get to 11-3A-19 and that way it's just one link to that document, instead of trying to make an individual link to an individual specific topic.

Simison: Is there any other comments, questions, feedback?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Maybe a couple other additions, just maybe you touched on. For the service impact tool, I think, you know, adding a fourth color when we don't have data with a call out as to, hey, here is the reason why we aren't able to provide that data, whether it's an unincorporated area with no calls for city services, so we can't quantify what's going on -- just sort of, hey, it's different, here is what makes it different, because things are going to make -- different depending on the application. I think that would be really helpful. I love the idea of the history. I think including, you know, dates as to when, you know, modifications, rezone requests -- the other piece I think is important with that, again trying to be sensitive to staff time, is maybe a reasonable rezone came in eight years ago and was denied and, then, a subsequent rezone request came in 2014 and was approved and now they are coming in for yet another rezone request. Plat extensions. I think things like that to really give the Council a flavor, like what is the true history of the activity of this application before the body would be really helpful.

Simison: Maybe an additional server impact tool component that -- and maybe this happened one time -- I think you guys talked about this once when I was gone and so maybe it's irrelevant, but I know it is illustrative purposes only, but who decides what the yellow is? I think Council should determine what they think is a yellow versus green versus red. In your example you gave us three to seven minute lag on this. I don't know what Council's expectations are on response times for a yellow versus a green versus a red for illustrative purposes and I think that that should at least be something Council -- this Council determines. You know, is it five minutes? Those are big wags. If it's a three minute response time and you are doing yellow -- or three minute get two time and it's a yellow, it's a big lag.

Cavener: Mr. Mayor?

Simison: Councilman Cavener. Maybe you guys already talked about that.

Cavener: No. And I think it's a fair question and here is the challenge is you have a Council who, then, becomes subjective and what is yellow today may not be yellow next year, which may not be yellow five years from now.

Simison: We require I think an annual or every two year review for -- should it be updated. Is Council still okay with this value assessment?

Cavener: It seems to makes sense. I think it makes a lot of sense.

Simison: Additional -- Councilman Overton.

Overton: Agreeing with both of you. I like your assessment, but I also like the fourth color. I would sure like to see a black that signifies no data, instead of having the default for no data being to red, because that really throws off us and I think it throws off the public.

Cavener: I agree.

Smith: Mr. Mayor?

Simison: Commissioner Smith.

Smith: One I think small tweak that might be helpful and I think this is more maybe dummy -- dummy proofing the staff report than anything is some sort of link or direction to directly to public comment; right? Kind of maybe alongside agency comments or somewhere. A lot of the times I find myself I guess personally getting to public comment by accessing the link at the end of agency comments that says where they are stored, backing out to the home application folder, then, going into public comments, because that's just the easiest thing and so I think it might be helpful -- at least -- again, not the end of the world, but a minor time saver to have something that's maybe a little bit more, again, dummy proofed, obvious that it's a link to public comments, but, again, it's a small thing.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: One more addition. On the location, I think it would also be beneficial -- this is -- this is a selfish request. What district is this application being housed in. Recognizing that every ten years that may shift and change, but --

Simison: Any additional questions, comments? Anything from staff?

Napoli: Mayor, Council, Commission, we appreciate the feedback. I got -- I got my notes ready to go and I will revisit this tomorrow morning and we will see what we can do as far as -- I have -- I have some ideas. I might not be an IT guy, but I'm decent at working in Excel and Word, so I might be able to make it to where you can click on certain things and it will take you to that section of the staff report. Like key issues at the top I could link it to the portion of the staff report that shows the analysis and stuff -- and stuff like that, so -- and I can help -- I can help our team understand some of that stuff. So, I appreciate all your guys' feedback. I will -- I will get on this addressing it as best as I can and you will start to see it slowly get rolled out with some of those changes, you know, as we -- definitely in a couple months I think we will have it pretty dialed in and at that point I would love to hear your guys' feedback, even if it's not in a joint meeting like this, you can just send me an e-mail and happy to address it to make this as user friendly for everybody as possible, because it's like you guys said, it's -- I'm

in it every day, I know where to find everything, but 99.9 percent of people are not. So, thank you for your time. I really appreciate it.

Simison: Thank you, Nick. Appreciate it.

2. Making Thorough Motions, Reasoned Statements, Facts and Findings

Hood: And, Mayor and Council, as we transition into the second part of this, realizing we don't have a ton of time, but want to be -- make sure we get through it. I appreciate that feedback. I'm just -- I have let Nick and everyone else on the team -- you know, these have contemplated some fairly significant changes and some follow ups to previous conversations. You might see some minor tweaks, you know, going forward and I have kind of empowered them to make some smaller changes to the template, if you will. But anything major -- and I just heard the comments on, you know, the red, yellow, green and those tiers and Council maybe reviewing those semiannually or whatever that looks like. So, I think here in another few months we will at least bring back to Council some of those changes to the template and, then, the SAT. But, anyway, so I guess without any lead up to that second effective decision making, Kurt's the first speaker on that topic.

Starman: Good evening, Mr. Mayor and Council Members and Commissioners. Kurt Starman with the city attorney's office. Thanks for having us here tonight. We are going to try to be concise and get through this pretty quickly. I know we have a full agenda, both for the work session today, as well as for your Council meeting, so we are trying to get through a lot of material in a short period of time. If I'm going too quickly just ask me for pause. Caleb, are you going to do -- are you going to drive the Powerpoint? Thank you, sir. So, I want to talk about the first few slides. We are going to provide sort of the legal context for the remainder of our discussion and particularly, you know, as we go -- as you deliberate and as you make decisions, as you ask questions, sort of some tips and thoughts about that. But that's all framed I think by kind of the first couple slides we are going to talk about here. You know that oftentimes when we are talking about land use issues, we talk about sort of three layers sort of important layers that all are interrelated and that is at the state level we have the Local Land Use Planning Act, sometimes referred to -- oftentimes referred to as LLUPA. I'm going to talk about that in a moment. And, then, more within our jurisdiction, but other cities and counties as well, is our Comprehensive Plan and our -- the UDC. So, I want to talk first about LLUPA a little bit and what's been happening with the Idaho Supreme Court and why that matters to us in our decision making and how you go about deliberating on those types of issues. This code section here I'm not going to read in its totality. You can take a look at it when time permits and I can elaborate if you like, but just this section, which has been a focal point for the Supreme Court for the past two years is a requirement of LLUPA that basically says when you approve or deny an application you have to have a sound reasoned statement that explains your decision and you have to talk about the criteria that you used -- in our case today typically that's the Comprehensive Plan and the UDC, but the criteria that -- and standards that you would rely upon, the facts that

you relied upon, both from, you know, the -- from staff, but importantly from the applicant as well as from the public and any other facts that come into the record and, then, you -- and this is probably where we -- staff in particular is we help you do your job and do a better job and that is to explain the rationale or to elaborate on the rationale, how you link those issues. The code requirements, the Comprehensive Plan, the facts that are before you, the project that is before and, then, your rationale of how you link those things that, yes, we are approving the project because -- and fill in the blank -- or we are denying the project because -- and we need to fill in the blank. So, this section has been a -- has been taken up by the Idaho Supreme Court twice now in the past two years. These are the two cases. You probably -- for local government nerds like me, if there are others out there you probably have followed this type of thing. The most recent case -- this was earlier this year. It's the -- the official name of the case is Veterans Park Neighborhood Association, Inc. You probably know it better from the media as the Interfaith Sanctuary Project. That's the -- basically the Boise Homeless Shelter -- has been in the news quite a bit over the past say two years or longer and the court was very harsh with the city of Boise, when Boise -- the Boise Planning and Zoning Commission denied the project, the Boise City Council later approved the project. The Idaho Supreme Court ultimately -- skipping some steps in between -- reversed that decision and vacated that -- vacated the approval of that project and sent it back to the city. There was a technical reason for that, which we won't talk about today, but one of the things that the court really emphasized was that your reasoned statement is inadequate and the penalty for that is your decision is invalidated and so what -- if the court determines that you haven't satisfied that code section I had on the screen a moment ago, it's sort of the death penalty in the sense that your project -- the approval is completely vacated, it's invalidated, you are back to square one and dealing with the project again, which is not good for the public or the city or for the applicant or for anybody for that matter. The second case was a couple years back. It didn't get as much media attention, but very similar dealing with -- with a combination of single family and multi-family homes in the -- kind of the northwest foothills area off of Hill Road and for all the same reasons the Idaho Supreme Court said this reasoned statement is hopefully lacking and remanded it back, essentially -- kicked it back to the Boise city council. Caleb, you want to go -- again, we will try to get through this pretty quickly here. In fact, I might just -- might just leave it at this. But, basically, what this slide is quote out of that case -- the holding from that -- from that Veterans Park Neighborhood Association case that, essentially, says what I just said. So, basically, the conclusion is it didn't adequately explain it. So, we will talk about it. I'm going to leave it at that for now. The next slide is -- Maestro Caleb and I sync'd up here. So, this one is actually out about this one. This is a quote out of that case. When the decision maker -- that's you all -- when you do not explicitly respond to the factual and legal questions raised by the parties -- and that means, you know, the applicant, as well as the other affected parties and by extension the public as a whole, because it all becomes part of the record, and it manifestly fails to provide an explanation as to how the application complied with the public ordinances, the written statement is -- does not satisfy LLUPA and the continuation of that thought is, therefore, it's inadequate and, therefore, your decision is -- is invalidated. So, the penalty is quite strong. I wanted to use, for you -- how to transition more to sort of a popular -- how do we -- how do we make use of that? How do --

both, you know, council members and commissioners. I wanted to use -- I won't get into the -- deep into the weeds, but I wanted to use sort of a recent project that is now fully complete, but I think it's kind of a good -- as good example to -- to talk about. I'm going to use some In-N-Out Burger as an example. Which I think the Commission and the Council actually did a really nice job with this one and it helped staff ultimately to write better -- a better reasoned statement that was more complete and more defensible. You know, quite frankly, there was some possibility of not being challenged in court. Now, that did not happen and In-N-Out chose not to -- to seek a petition for review, but that was a possibility in that instance. So, what I would suggest is -- is -- if I'm in your shoes as a council member or commissioner is a really nice place to start -- even as you walked into the chamber that evening, but as you are listening to testimony, as you are asking questions, as you are deliberating and, in particular, when you are making motions and kind of putting the bones on -- you know, the bones on the -- the meat on the bones, pardon me, it is really helpful to focus on the findings that are in the UDC. The staff does a great job in all your staff reports. Oftentimes it's -- it's sort of tucked into the back currently, but it's there -- the findings that you are required to make and they are -- they are, you know, very clear typically and it's a good way to kind of think -- you know, kind of frame your thought process and how you deliberate and how you make your decisions. So, for example, in the case of In-N-Out Burger, you know, the three conditions, in particularly, that were really front and center for -- you know, for the Commission and for the Council, as well as for the applicant, were -- and I'm just going to paraphrase these, but conditions about, you know, is the project compatible with other uses in the general neighborhood and another finding is will it adversely impact other property in close proximity and another finding that will it involve activities or operations that will be detrimental to any persons or to property and so I thought the Council and the Commission did a good job of really focusing on those items and you heard a lot of testimony from both sides, both the applicant who came with I thought, you know, a very polished presentation, they did a lot of research in advance, they had consultants that looked at things like traffic and noise and light issues and so forth and you had a lot of input from the public and neighborhoods, particularly from the apartment complex. A lot of information to consider. So, you know, it's important I think as you -- as you kind of build those topics if you can stay focused on those findings and, then, you know, as you ask questions to the public and the applicant and as you formulate -- as you deliberate and, then, hopefully, formulate your -- your -- your motions, that is super helpful to the staff -- the planning staff, as well as the legal department as we try to condense that material into written findings or the written reasoned statement, which is -- ultimately you all adopt and that becomes the -- the focal point if we are challenged in court, that becomes the point of emphasis for the judge or ultimately for an appellate court as well. So, I think, you know, that's a good example where I thought the Council and the Commission did it well and you sift through a lot material and what the courts -- the courts are very deferential to you as decision makers is that as long as you check the boxes in LLUPA that you have considered the facts, you have explained your rationale, you have explained why this evidence and this testimony is -- weighs more is more compelling and convincing to you than other evidence that might be to the contrary, courts give you all as decision makers a tremendous amount of discretion and deference in that area, so the issue is not so

much -- you just have to explain how you got there and point to those facts. So, that's a good example I think of, you know, maybe how you think about this as items are before you, projects are before, how to kind of think about how you tackle those things when you formulate your -- your motions. The other thing I'm going to mention -- and, then, I'm going to let Caleb take kind of the next piece here, is that one things that -- it's not on a slide here, but I wanted to mention since I'm up here, is the other thing that LLUPA requires -- and you all did a good job with In-N-Out on this one as well -- is that LLUPA specific -- explicitly requires you to say -- if you are denying a project you have to tell the applicant, you know, what could they do, if anything, to seek to gain approval. So, if there is -- if you are denying this, it's not enough to say you are denied, it's you are denied for these reasons. Explain it, and have it to be defensible, but you also need -- if it's possible you need to be able to explain here are changes you could make that potentially could get you approval. I thought in the case of In-N-Out really the -- to say that succinctly, the -- the answer to that question was you can eliminate your drive-through. You could have a sit down restaurant. That would be perfectly fine with us. A drive-through is not going to work so well here. But I just wanted to kind of plant that seed with you as well. It's important to be able to describe to the applicant what they could do to gain your approval in the future. So, I'm going to stop -- I'm going to pause there. If you have questions feel free to jump in, other words I'm going to turn it over to Caleb to kind of -- now kind of link what I just said to our processes, how we do our reports and ultimately what changes we might be -- or trying to make on our -- our findings of fact, conclusions of law as we have called them historically. The court calls them -- and LLUPA calls them reasoned statements.

Hood: Now I will pause just to make sure there is nothing for Kurt, but he is available, too, if -- and if at any time -- mine will be pretty brief, but if you want to interrupt for any reason --

Simison: You are being interrupted now. Commissioner Lorcher.

Lorcher: I have one. I'm sorry. Well, I'm not sorry, but -- what happens if an applicant is following the code, because we hear this all the time in Planning and Zoning, we fit in the UDC requirements. We fit in the code. The number of units that we have in this application is approved based on your code. What happens if they are following the code, but we still don't think it's in the best interest of the city. Does that affect the LLUPA requirement?

Starman: Thank you, Council Members and Commissioners, Commissioner Lorcher in particular. So, I'm going to kind of break that into two categories or -- if it involves annexation you have quite a bit of discretion, because annexation actually falls outside of LLUPA, so, you know, decisions that fall under LLUPA are things like zoning, platting and issues of that nature. Annexation falls in a different part of the state code and it's not subject to the same rules in terms of petitioning the court for review. So, in the case of annexations you have -- and courts have held, because you have quite a bad discretion in that. So, if it's annexation, you know, again, you explain your rational. We need to have a logical cogent explanation of why -- for the denial, but you have quite a

bit of discretion there. If, on the flip side of that coin, if it is not an annexation, you are doing something more concrete, like a preliminary plat, a rezone, things of that nature, really we need to have a good -- you all, if you make the decision, to ultimately condense that and put that in writing on a reasoned statement. We need to have a good reason that says here are -- you know, the applicant thinks they met all requirements, we see it differently, we need to be able to explain here are the requirements and here is why we found and we find that you have not met those requirements. If we -- if we -- just to finish the thought, if you -- literally if you say, yeah, we agree, you have met all the findings, but we still don't like it, because that -- we are likely going to get -- you know, if we get challenged we are likely going to lose that, quite frankly. A court would call that arbitrary and we would likely be on the losing end of that discussion.

Simison: Commissioner Smith.

Smith: Mr. Mayor, thank you. Different question. And so I would say it seems like -- I feel like we do a pretty decent job when we state reasons for declining, staff does an excellent job in findings about -- when we recommend approval or when we approve something, you know, according to the staff report. My question is is there -- I know the answer for a lawyer is always it depends, but kind of with the -- with that caveat one of the kind of scenarios I'm thinking of is if we sufficiently, you know, put modifications on the staff report and that's something that staff hasn't covered in their findings and maybe we might not think to list reasons. Is there maybe -- is there ever a reason that you could foresee that we would need to give a reasoned statement or some -- like need to explain the modifications and how those might comply with -- with UDC, because that -- that's what we don't do now and -- I'm just curious, so --

Starman: Council and Commission, I -- I think I understand that question. So, that's -- I think, number one, that's very welcome, that's part of -- that's an important part of what the Commission does and what the Council does, is, you know, staff comes forward with a professional recommendation based on their professional knowledge of, you know, state law, the Comprehensive Plan and our UDC. Ultimately you are the best judge of what's best for our community and a judge of what -- you know, are you ultimately the decision maker. So, modifications are certainly appropriate, welcome and that's all fine. Again, it should be -- we need to be able to defend those and so we can't just be -- you know, make things up out of whole -- you know, from whole cloth or to arbitrarily create things, but to the extent -- and this is almost always the case I think. It would be hard to think of an example. You know, making -- when the Commission or Council makes modifications like that it is to better comply with the Comprehensive Plan or better comply with the UDC and so as long as it's in that vein and the modifications are -- fit within what the UDC requires and there is a nexus or connection there that these -- these modifications make it a better fit or make us -- you know, make it so that we can approve this project, that's completely fair game.

Smith: So, is it -- am I understanding right, then, I guess in Idaho law the preceding conversation can be maybe used as explanation for the modification, so you don't

necessarily -- if you modify something -- you recommend a modification that sufficiently deviates from -- from the staff report to where they haven't analyzed necessarily the finding -- your findings of how it complies, et cetera, the previous conversation leading up to that modification could be -- that we don't need to restate how that -- we feel like that --

Starman: Council and Commission, I believe that's the same that -- so that even in a previous hearing or maybe earlier during --

Smith: Earlier during the hearing, yeah.

Starman: -- during the hearing that there was discussion about that and so forth --

Smith: Yeah.

Starman: -- so I don't need to repeat all of that -- it would probably be good business practice and makes my job easier and the planning staff's job easier if you make that connection and state, you know, just briefly make that connection. I propose -- or my motion includes this modification because -- and fill in that blank, because that -- a sentence or two, you don't have to go into great detail. It would be helpful to explain, you know, the modification of what we are trying to accomplish there.

Hood: Mr. Mayor, if I can just real quick piggyback on that answer from Kurt. I do think in using the -- the example in Boise, the court is not going to read the transcript. They said that in as much so. Some can -- if you compare the down to a sentence or two saying we heard this and we heard that and this is -- you don't have to regurgitate everything you heard, but if you can sort of summarize that I think that's what the court is asking for. So, you can't just rely on, oh, we talked about that and you know what was going through my head when we talked about it. No. You -- someone -- whoever the motion maker is as part of that -- hopefully can tie that together a little bit.

Smith: Perfect. Thank you.

Simison: Okay. Commissioner Perreault.

Perreault: Good afternoon, everyone. So, I feel like the Council does an excellent job explaining to the applicant and the public kind of what the role is of the decision makers with the different applications. So, you know, what's permitted in the annexation, what's permitted in the development agreement, rezone, plat, all those things and I try to do that in our commission hearings, but I feel like I don't do it very succinctly and I wonder if there is a way for us to either sort of mention those things when the chair is giving the initial presentation or perhaps staff could, during their staff report, sort of explain to the public -- if it's a narrow kind of decision that we are making and, you know, if we are just approving a preliminary plat or something like that, I think that helps the public record as a whole. It also helps as we are having each of these individual applications for us to kind of stay on track in terms of the -- you know, how we are using those facts to make

that decision. So, curious to hear the staff and Council and Commissioners' thoughts on that.

Hood: Mr. Mayor, maybe I can kick that off for start. We have had some conversation -- I was actually going to bring that up as I ran through a couple of these slides, but under that first bullet there -- so, there is already some -- for a lot of projects anyways there is some outstanding issues and so one of the thoughts we had as staff is after we are done with our presentation, the applicant's presentation, is to put that slide, when it gets time to deliberate and discuss and say going into this hearing these are the three things that we know were sort of outstanding issues. More may come about through the public hearing, so you need to take some notes, too, please, and address those as they arise, if they arise, or the bare minimum you need to address that applicant's request for Condition 1.4.3B, you know. So, that's a thought that we have had and maybe even trying to keep a record during the hearing for you, but we haven't quite committed to doing that yet. At least the known ones going into the public hearing I think will help set the city up for success, including the decision makers that are getting ready to make a motion. So, hopefully, that helps a little bit. It's not going to be fully, you know, bow wrapped around it and put it on a platter for you, but we do prepare the draft motions and keep the outstanding issues in front of you and so if you can kind of marry those things with whatever you have heard would help us create the written record of whatever decisions you make. Does that help?

Simison: Okay.

Perreault: Yes. Thank you.

Simison: Mr. Hood, if you want to just continue on.

Hood: Yeah. Real quickly I think -- so, a lot of this is familiar and -- and I won't read it, but I do think some of this is practical to you; right. I mean some of what Kurt covered is, you know, what can I do to be compliant. Even your questions were sort of like give me real life things that we can do to -- to comply type of a thing. So, these ones are sort of done. I think you all do it. But it is there. Just, you know, listen; right? It doesn't mean you have to agree with everybody, but please do give them your attention and -- and listen to the public testimony. I want to just highlight -- and Kurt touched on it a little bit -- but you still have discretion, too, on a lot of these things; right? You have discretion, deliberation and some discussion. You are the decision maker, you get to weigh those things, but we need to, you know, have some general consensus; right? And so that's part of what that deliberation is and I will say you guys do a great job of having that communication, this is kind of where I am at, what I'm thinking, all those things. That helps with even creating that record for the findings that he talked about. You acknowledge that this concern came out from the public testimony. Here is our code. This is what we are deciding in that matter type of a thing. So, you know, air those things here I guess a little bit. I didn't create this slide, but the silence means consent. I would say if you don't agree with something, you know, have that conversation a little bit. Let's see. I'm going to move -- and moving pretty quickly. And

we covered a lot of this. I just covered the first bullet here. We prepare some draft motions. Again, consider all the evidence. Any references you can make, again, to the -- to the comp plan or the UDC and how you got to deciding what's in the best interest of our community -- and I will just highlight that again. Kurt mentioned it, but the findings at the end, right, if you are looking for or against some things that will help give you some of the ammo, the findings feed you up for that. So, if you can make them in the affirmative or not, it should be tied back to something within the findings. If we are really looking at approval or denial it should be documented somehow in that findings, but at least you know what the finding is that we are supposed to make there. I will just point this out and maybe this is -- Commissioner Perreault I think does a fine job, although maybe sometimes it's a little longer, but longer is better in my opinion. The fourth bullet there, we -- we have to prepare again that written decision and so don't take offense though. Sometimes we raise our hand and go can you clarify? What did you mean by -- when you said this or we heard conflicting testimony on the fence height, does your motion mean it's six feet or eight feet or no fence or where -- so, we are just trying to, again, create that record and so we are listening and apologize if we miss it, but we want to make sure that everything is covered, so we can again create that -- that -- that clear record for -- for everyone if we need to recall it and, then, maybe these rules -- and I won't spend too much time on it, but, you know, and I will just tie the first sub bullet here under findings of fact and conclusions to the link conversation we had during the staff report format stuff. I think we can -- we can talk about that some more certainly. We have all the users in mind. Want the code to be accessible; right? So -- understandable. But if we get you there and you are not frustrated before you get there, we are going to be -- it's going to help you understand the code requirements, not just our appointed and elected officials, but the public as well. So, we will definitely play with that, so it helps people to get familiar with it. I think I will move on from there. So, just -- again, a lot of this has already been covered. We will document a lot of this for you and especially individuals that testified and, again, setting the staff -- staff report template up. In some ways it is almost just a copy and paste from what happened and, then, we can put it in the new format that looks similar to the -- to the In-N-Out example -- or the facts and findings, conclusions of law documents. So, I think with that -- hopefully that's helpful, but that was kind of what we addressed today and if you want to spend a little more time on the questions, but I know you have another meeting, Council, so I appreciate the time for both bodies today. Yeah. Thank you for your attention.

Simison: Council, Commissioners, additional questions?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Got two. One -- one for Mr. Hood, one for Mr. Starman. Caleb, recognize accountability is what we do for people not to people, so hold the Council, the Commission accountable a little bit. Are there themes or reoccurring bad habits that we are making that are making it more challenging for your staff? Recognize our planning staff, as kind as they are, are not mind readers. Are there things that we should be self

aware of as we are making motions, as we are deliberating, that is causing pain points or challenges for your staff?

Hood: No. I appreciate the question, but in reality I think both bodies have come a long way over the years and, again, we try -- we are trying to give you tools to be successful. If you are successful we are successful. So, that's why I said we are not trying to be rude if we do interject from time to time, it's like, hey, remember the applicant asked if they could -- you could modify this question and some -- it's not like you did and didn't and your motion was unclear, you didn't address or whatever, so we will -- we are trying to get your back in you helping us create the written record, so -- but, no, I think you -- I mean you do a good job I think of taking notes and giving us most of the time what we need and if you don't we will, again, raise our hand and say help us out here, we are not quite sure what this means or that's too ambiguous or don't punt that, that needs to be decided now, because this is the -- we won't be able to resolve that without that direction at this point in time. So, again, appreciate the question, but I think generally we are fine with -- with what you are doing and the notes and how you are deliberating and the motions you are making. So, thank you.

Cavener: Mr. Mayor, the --

Simison: Councilman Cavener.

Cavener: Caleb, Kurt, I want to talk real quick -- and just maybe more for Council about conditional use permits and from the direction that we have received over the years is that the Council, by and large, has to approve a conditional use permit. If a Council member or the Council disagree with the conditions, do we create additional risk or additional major risk to the city if we add additional conditions to satisfy the issue that may be presented?

Starman: Councilman and Commissioners, I think you have some conditional use permits from the code -- what the LLUPA says and also what the courts have said is that, really, that's an opportunity, because it's permitted, but with the conditions, so what LLUPA says is appropriate. So, you have some latitude there. Again, my -- sort of a similar response to a question that Commissioner Smith asked -- a little different context -- is they ought not be arbitrary, there should be -- at least be able to, number one, you know, there should be a link to what we are trying to accomplish and how this would make it a project that could be approved -- at least be able to explain the rationale for that. So, it shouldn't be something just pulled out of the air, there should be some thought and rationale behind it. We should be able to explain that and we need to, but I think that's very defensible and a court would typically recognize that the council or commission has the ability -- particularly with conditional use permits -- to condition the project to fit what's being proposed and the area where it's being proposed.

Cavener: Thank you. Appreciate it.

Simison: Where did that come from? Mr. Hood.

Hood: Can I bring up one more thing back to Councilman Cavener's previous -- and this isn't necessarily a complaint. Maybe it is something to implement. Just the potential after the motion is made and seconded, just to make sure that things are covered with staff -- I mean maybe just to check in with the legal staff, planning staff, hey, did -- I mean you do that from time to time maybe just to check in with local planning staff. Hey, did -- I mean you do that from time to time, but I don't know if it's a -- like a standard practice. You know, doesn't look like they have addressed everything, did we cover it, are you -- you know, that type of a thing. I don't know. Just a thought. Sorry.

Simison: Council, Commissioners, any additional questions, comments, feedback? With that I just want to say thank you for everyone for coming in, especially the P&Z Commission coming in earlier this evening and for the dialog and the conversation and turn to Councilman Cavener for any motion and last comment.

Cavener: Mr. Mayor, one quick comment and, then, a motion. Just truly I want to commend our Planning and Zoning Commission. You guys are I swear the best Planning and Zoning Commission that I have been able to follow after and you have made our life so much easier. You do a lot of hard work. My wife giggles, because I talk to you all when I'm watching your meetings on the Planning and Zoning from home and -- it's because I'm encouraging and supporting the great work that you are doing. So, thank you for making our lives easier for serving in our community and with that, Mr. Mayor, I move we adjourn our special meeting.

Overton: Second.

Simison: Have a motion and a second to adjourn. All in favor signify by saying aye. Opposed nay? The ayes have it and we are adjourned.

MOTION CARRIED: FOUR AYES. TWO ABSENT.

MEETING ADJOURNED AT 5:28 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT SIMISON

/ /
DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK