

A Meeting of the Meridian City Council was called to order at 6:00 p.m. Tuesday, October 1, 2024, by Mayor Robert Simison.

Members Present: Robert Simison, Luke Cavener, Liz Strader, John Overton, Doug Taylor and Anne Little Roberts.

Members Absent: Brian Whitlock.

Other Present: Chris Johnson, Bill Nary, Caleb Hood, Bill Parsons.

ROLL-CALL ATTENDANCE

☒ Liz Strader	☐ Brian Whitlock
☒ Anne Little Roberts	☒ John Overton
☒ Doug Taylor	☒ Luke Cavener
☒ Mayor Robert E. Simison	

Simison: Council, we will call the meeting to order. For the record it is October 1st, 2024, at 6:00 p.m. We will begin our regular City Council meeting with roll call attendance.

PLEDGE OF ALLEGIANCE

Simison: Next item up is the Pledge of Allegiance. If you would all, please, rise and join us in the pledge.

(Pledge of Allegiance recited.)

COMMUNITY INVOCATION

Simison: The next step is our community invocation. Is Chris present? If you would like to come up and -- I'm sorry I turned that around on you. I didn't really think about the community invocation. I think Chris has -- Chris has got it. So, if you would all, please, join us in the community invocation or take this as a moment of silence and reflection.

Chris: Dear Heavenly Father, we are grateful for the peace in our city. We are grateful for the devotion of our civil servants and these elected officials. We ask a blessing on this meeting that we might work together for the benefit of our city and for the whole. Help us to do all we can to -- to continue to receive a blessing of prosperity and peace in the city. This we pray, uniting our faith in thee, in Jesus' name, amen.

ADOPTION OF AGENDA

Simison: Thank you. Next up is adoption of the agenda.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: No changes this evening, so I move we adopt the agenda as presented.

Overton: Second.

Simison: Have a motion and a second to adopt the agenda as published. Is there any discussion? If not all in favor signify by saying aye. Opposed nay? The ayes have it and the agenda is adopted.

MOTION CARRIED: FOUR AYES. ONE ABSENT.

CONSENT AGENDA [Action Item]

- 1. Approve Minutes of the September 10, 2024 City Council Work Session**
- 2. Approve Minutes of the September 10, 2024 City Council Regular Meeting**
- 3. Approve Minutes of the September 17, 2024 City Council Regular Meeting**
- 4. Apex NW Roadway Pool Project Sanitary Sewer and Water Main Easement No. 1 (ESMT-2024-0129)**
- 5. Hadler Subdivision No. 1 Water Main Easement No. 1 (ESMT-2024-0124)**
- 6. Lavender Place Subdivision Sanitary Sewer and Water Main Easement No. 1 (ESMT-2024-0117)**
- 7. Pera Place Subdivision Sanitary Sewer Easement No. 1 (ESMT-2024-0126)**
- 8. Prescott Ridge Subdivision No. 1 Sanitary Sewer and Water Main Easement (ESMT-2024-0132)**
- 9. Final Order for Ferney Subdivision (FP-2024-0015) by Jeff Hatch, Hatch Design Architecture, located at 4160 E. Lanark St.**

- 10. Final Order for Prescott Ridge Subdivision No. 4 (FP-2024-0016), by KM Engineering, located on the east side of N. Rustic Oak Way, approximately 1/4 mile south of West Chinden Blvd./US 20-26**
- 11. Findings of Fact, Conclusions of Law for Ferney MDA (H-2024-0034) by Jeff Hatch, Hatch Design Architecture, located at 4160 E. Lanark St.**
- 12. Interagency Agreement for Roadway Construction/Water and Sewer Construction between Ada County Highway District and City of Meridian**
- 13. Authorization to issue Purchase Order to Ferguson Enterprises for Fiscal Year 2025 Water Meters and Related Equipment for the Not-to-Exceed amount of \$1,054,684**
- 14. Authorization to Issue Purchase Order to DuBois Chemicals for Sodium Hypochlorite for the Water Department for the Not-to-Exceed amount of \$517,000**
- 15. Approval of Sole Source for Western States Equipment Company for the Purchase of Caterpillar Generators, Generator Parallel Switchgear, Controls, Software, and System Upgrade Services**
- 16. Resolution No. 24-2479: A Resolution of the City Council of the City of Meridian, Idaho, Setting Forth Certain Findings and Purposes to Declare Surplus Property and Authorizing the Donation of Certain Office Supplies and Office Furniture to the West Ada School District**

Simison: Next up is the Consent Agenda.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Move we approve the Consent Agenda as presented. For the Mayor to sign and the Clerk to attest.

Overton: Second.

Simison: Have a motion and a second to approve the Consent Agenda. Is there any discussion? If not, all in favor signify by saying aye. Opposed nay? The ayes have it and the Consent Agenda was agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Simison: There are no items moved from the Consent Agenda.

PROCLAMATIONS [Action Item]

17. Fire Prevention Week Proclamation

Simison: So, we will now go on to our first item, which is a proclamation for Fire Prevention Week. So, chief and Charlie and whoever else that wants to be coming up if you would like to join me at the podium. So, I will do a proclamation, but I will turn it over to you all for the best words in the house about Fire Prevention Week. Whereas the City of Meridian is committed to ensuring the safety and security of all those living in and visiting our city and whereas fire is a serious public safety concern both nationally and locally and homes are the locations where people are at greatest risk from fire and whereas Meridian fire's first responders are dedicated to reduce the occurrence of home fires and related injuries through prevention education and whereas Meridian residents are responsive to public education measures and are able to take personal steps to increase their safety from fire and whereas this year's theme smoke alarms, make them work for you, effectively reminds us about the importance of having smoke alarms in the home and the Meridian Fire Department supports the campaign team, to heed the call to action, install, test and replace. Therefore, I, Mayor Robert E. Simison, hereby proclaim the week of October 6th through 12th, 2024, as Fire Prevention Week in the City of Meridian and call upon the community to observe the important safety message of Fire Prevention Week and to be prepared with smoke alarms in your home to keep the community safe. Dated this 1st day of October 2024. With that, Charlie, chief, Carly.

Shears: Just want to thank the City of Meridian for your support in community risk reduction. I have a quote that I just want to share that I think is really important. I think I actually heard it from Chief Blume and it's there is no honor in responding to an emergency that could have been prevented and that's kind of our goal with Fire Prevention Week and just community risk reduction overall is helping our community prepare, so that they don't have to experience these emergencies, such as home fires or cardiac arrests or different events that our first responders have to go to, but better enable them to be prepared for these types of things and they can prevent them prior to them happening. So, I appreciate your dedication towards this effort there and the City of Meridian as a whole. So, thank you.

COMMUNITY PRESENTATIONS [Action Item]

18. Just Serve City Award

Simison: Next item up is Item 18, which is Just Serve city awards. I don't know -- who is -- Karen, are you -- Jenna Lee -- okay. Jenna Lee and Bryn. Good evening.

Wolf: Thank you, Council, for inviting us to be with you tonight. My name is Jenna Lee Wolf and I'm the Meridian area Just Serve specialist and this is Bryn Booker, who is the area -- Boise area Just Serve specialist who has worked with the city for several years. For those who haven't heard of Just Serve, there is an app and a website that allows the community to find ways to volunteer. Today we are here to present the city with a Just Serve city award, which is a recognition designed to honor cities that demonstrate an exceptional commitment to volunteerism that made a significant impact in the community through these efforts. To receive this designation as a Just Serve city a city must publish a proclamation that recognizes the value of volunteer work and engage with volunteering throughout the city. Mayor Simison has signed a proclamation for Volunteer Appreciation Week. Signed four proclamations for Do The Right Day and in conjunction with the Boise and Nampa mayors he signed a Treasure Valley proclamation for the multi-faith action project that encourages community members to serve together. We recognize the City of Meridian for their yearly emphasis on volunteerism and for utilizing just serve as community service platform. The City of Meridian has utilized Just Serve as a resource for their annual Do The Right Day, partnered with Just Serve in the West Ada School District for the Do The Right Day fair. Highlighted Just Serve on their My Meridian podcast, supported service projects with Just Serve for Global Youth Service Day and 9-1-1 National Day of Service and they have listed volunteer opportunities on Just Serve. The city's previous volunteer coordinator Jaime del Barrio did a fantastic job of sharing volunteer opportunities on Just Serve, like Spark -- or Sparklight Movie Night, trunk or treat, the winter lights parade and the city's flower planting project. We appreciate how the City of Meridian has encouraged community and city values through community service and could not be more honored to be presenting this award to the Mayor and the City Council and the City of Meridian. This is well deserved this Just Serve city award. The City of Meridian will receive a framed certificate and Just Serve swag items that you will be able to share, recognition on the Just Serve website when the awards page is created and they will be celebrated on local Just Serve Treasure Valley social media accounts. Congratulations to the Mayor, City Council and the entire City of Meridian for being a standard of volunteerism truly in our community. Your leadership and example makes Meridian a wonderful place to live, work and build unity in the community through service. Thank you so much for all that you do. We appreciate you.

Simison: Thank you, Bryn, Jenna Lee. I know we want to do a picture real quick. I just want to first say thank you for what you all do. It's great to have you recognize us for the relationship and partnership, but you are out there connecting people and I know providing a lot of opportunities for people to come and volunteer and Jaime is back there shaking his head up and down. He agrees. We know we couldn't do what we do as a city community without the efforts of you and so many others and so thank you for the relationship and partnership. All right. So, Council, shall we do a picture and you want to invite others back -- in back to join us as well.

PUBLIC FORUM – Future Meeting Topics

Simison: Thank you. Council, we are down to the next item. Public Forum. Anyone sign up, Mr. Clerk?

Johnson: Mr. Mayor, yes. Perry Coles.

Simison: Perry, would you like to come forward and speak at this time? I know you might be here for an item specifically. I know it's not a public hearing, but I assume you would want to hear from the committee who came to talk about the item, so you can either wait and do it when we bring it up or you are happy to give a comment now, whichever way you prefer. Okay. Perfect. Sounds good. Thanks, Perry.

ACTION ITEMS

19. Fiscal Year 2025 Budget Amendment in the Amount of \$14,000 for Police Canine Unit and Equipment

Simison: So, with that we will move on to Item 19, which was an action for fiscal year 2021, budget amendment the amount of 14,000 for police canine unit and equipment. Justin.

Dance: Thank you, Mayor. This is a budget amendment in front of you for FY-25 for 14,000 dollars to replace one of our canines a little early. As many of you know our department has six dual purpose canines. We usually replace them in batches ideally three at a time, but we are kind of in a unique situation replacing this one early, because the handler that had this dog, which was the second handler to have this specific dog, was promoted and is no longer going to handle the dog and we are currently evaluating and training three others. So, doing this early really helps us out because it's about a 400 hour training process and if we can get -- the more dogs we can get into this training cycle the better. As you all know it's a heavy lift to get through that training and get the dogs out there to help us. So, with that I would stand for any questions.

Simison: Thank you. Council, any questions for staff? Do I have a motion?

Little Roberts: Mr. Mayor?

Simison: Council Woman Little Roberts.

Little Roberts: Mr. Mayor, it is an honor to move that we approve the budget for police canine for 14,000 dollars.

Overton: Second.

Simison: Have a motion and a second to approve Item 19. Is there discussion?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: So, if I understand correctly, this one that we are doing the budget amendment for would join the other three that we already planned to cycle and so there will be four together, is that the plan?

Justin: Correct.

Cavener: And, then, Mr. Mayor, just a comment. Congratulations, first budget amendment of the year. You couldn't get it any closer if you tried. Totally recognize what -- what occurred that -- that brought this forth today, but thought I would give you a hard time for being the first budget amendment of the year. We worked with our finance partners and lined this all up months ago, but it's just kind of how it fell, so it's all good. Thank you, Mr. Mayor.

Simison: Is there further discussion on the motion? Okay. If not, clerk will call the roll.

Roll Call: Cavener, yea; Strader, yea; Overton, yea; Little Roberts, yea; Taylor, yea; Whitlock, absent.

Simison: All ayes. Motion carries and the item is agreed to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

20. City Council Discussion of Drive-Thru and Conditional Use Permit Process

Simison: With that we will move on to Item 20, which is our City Council discussion of drive through and conditional use permit process. We will turn this over to Bill to begin the conversation.

Parsons: Thank you, Mayor, Members of the Council. Mr. Nary came and spoke to me last week and said you guys wanted us to come and give a presentation. I don't think it has to be very formal. It looks like it's more of a public forum and an open discussion with Council this evening. But I did put together a slideshow. As you all know in the UDC conditional use permit authority is granted by you to the Planning and Zoning Commission and that's what I have kind of highlighted on this table here. So, this is what we -- this is a tool we use to guide people through the public hearing process with us and so when someone comes and speaks to us about a conditional use permit we tell them you are going before Planning and Zoning Commission and it's a public hearing and that's where it usually stops. There the decision making body, unless somebody appeals their decision on that application and on occasion that has occurred where they can come and do that. The other item that you see highlighted on this particular screen is the recent change that we did last year where you were starting to see a lot of development agreement modifications ahead of the conditional use permits and some of you weren't feeling comfortable about acting on a DA when you didn't have

of CUP in front of you. You are like why are we approving a concept plan with this type of use when the use hasn't been approved? So, you asked staff to go back to the drawing board, amend the code and so now whenever there is a concurrent development agreement modification associated with a conditional use, essentially, the P&Z has become the recommending body and you guys can make the decision on that and in conjunction with the DA modification. So, those are probably the two notable changes when we have a conditional use permit and oftentimes, as Council knows, a condition of use is -- the majority of the time is associated with a companion application or a concurrent application. You see a lot of those in advance. I will go ahead and go through my slideshow. So, one of the things as I was preparing for today's presentation -- or tonight's presentation is I wanted to go back and see what -- how many drive throughs have we approved the last four years or so and just kind of -- I guess it's five years or part of this year and see what -- what we have really done and out of those, as you can see here, a majority of those are either drive-through restaurants or -- that seemed to be the common theme from '20 until now. Currently we still have five in process now. So, I won't go into a lot of those details, because some of those may come in front of you, but you can see here our busiest year was 2022. So, not a lot of drive throughs historically, but as you know there is -- there are other uses in the code that require conditional use permit that aren't associated with a drive through. So, again, in our ordinance we do a conditional use is one of those that just -- it's a use that's allowed in that zone, but there is conditions that go along with that, so -- and, then, of course, I brought -- went ahead and threw other talking points. I'm not sure where Council wants to take this discussion this evening, but, again, I know last time when I was before you on September 10th speaking about some changes I had proposed I believe the conversation the Council had is, well, do we define a different drive through? Do we define uses differently? For example, is a bank drive through defined differently than a restaurant drive through. You can clearly see in this the definition that it isn't. A drive through is a drive through. In my time with the city there have been a couple bank drive throughs that have been converted to a restaurant drive through. So, it's very conceivable that if we do approve a drive through for a bank that in the future if another drive through were to move into that vacant building and commence a different use, a restaurant with a drive through, it would still be considered -- although it's a change of use for the restaurant from the bank, the drive through would still be vested or approved or allowed to continue under that conditional use permit. So, we don't have that ability to go back before the Planning and Zoning Commission or the City Council if it were the case to change any of those conditions. It kind of runs with the land. What we have noticed at least the trends and the conversations that I have had with our stakeholders or customers, that if you -- and I'm sure a lot of the Council Members are pretty savvy with this, too -- is a lot of the drive throughs are going app based now or where you can order online and you go through the drive through and they just hand it to you out the window and you don't have to really order anymore or have a menu board. So, you do move cars quicker through those drive throughs. I have seen that -- that trend and so when we have met with applicants they say -- and we ask them to put that information in their narrative and we -- so that way when we approve the project we are -- we are not approving it with a menu board or a speaker, we are like, no, you are approved based on how you operate and if another drive

through does go in there that wants a menu board or speaker we are going to have you come back and modify that CUP. So, we have taken that proactive approach so that we don't just give them a blanket approval, we will say, no, here is a condition of your CUP, which is a requirement of the CUP and when you want to do something different or change how you operate, then, you are coming back. But that's some of the experience that I have seen recently with the conditional use permits and I know I'm gearing up the next UDC focus group meeting to bring up the revised changes that I brought to you or shared with you back on the 10th. You asked us to study those a little bit more. So, I think a couple things we could address as part of that is -- I have seen on a couple occasions if ACHD has concerns with stacking of vehicles or queuing of vehicles, they do require that queuing analysis to be part of their review and approval. As you know we are not tech -- technical experts on those types of documents, but it's something that I have thought about in these situations where you have a pretty heavy user, a pretty busy restaurant that's new to the area and you got to wait for more to come online to kind of balance out the popularity of it. That may be one option where we can require them to give us a queuing analysis, have a traffic engineer stamp that and share -- inform us how that's going to operate. That's one thing that I don't currently have in the changes that I shared with you, but it's something I took note of as we discussed that topic a couple weeks ago. But that's really all I had for the Council tonight, unless you have any other specific questions.

Overton: Mr. Mayor?

Simison: Thank you, Bill. Councilman Overton.

Overton: Just a real quick clarification, Bill. The queuing analysis is required by ACHD?

Parsons: Yeah. So, Mayor and Members of the Council, Councilman Overton, only if they have concerns that may stack on public right of way. It's not necessarily a private property issue, it's more of -- if, for example, that stacking lane -- there is a potential for cars to back up -- and we have that on occasion. I think you are probably aware of some of our coffee vendors where the city had to get involved and work with ITD and ACHD to mitigate some of those concerns. But, yeah, if they have concerns it will stack on their public right of way they will ask for that.

Overton: Mayor, follow up?

Simison: Councilman Overton.

Overton: Maybe just to kind of open this from a little bit different perspective. I think I might have been the one that kicked this ball for the first time this time. It is my understanding that it was approximately -- and correct me if I'm wrong -- 20 years ago that this process was changed, so that these drive throughs would be approved at the P&Z level and prior to that they were all approved in front of City Council and at that time this was a much more efficient way to move through this process and what we have now is we are getting -- they are not just dry cleaners, they are not just banks, we

are actually finding that we are getting and attracting some of these and they are all restaurants that I know of that basically have raging fans and -- I mean raging. I mean people that are willing to go a few times a week and sometimes those raging fans are my grandkids in the back of my car and I'm doing the -- on my phone ordering food sitting in that drive through. So, I completely understand why they are popular. What I get concerned with is not when they are on a private property situation, because that stacking is the responsibility of the private property, but I'm very much concerned about when we have stacking that stacks out into roadways outside of their site plan that's going to interfere with either neighborhood traffic or business traffic. That's where I brought this up. I think that if we don't somehow get a chance to take a look at these and we end up getting approval of these and it becomes a problem, I think some -- it really kind of falls back on us that we didn't do that due diligence to take the steps necessary to make sure that it was right when it first occurred. So, that's kind of why I was bringing this up. I want to have this conversation and see whether we need to make a change. Obviously, I think over 95 percent of our drive throughs in the city are not going to cause us any stacking issues. It's only a few that are very highly successful when it comes to how their drive through business works.

Hood: Mr. Mayor, can I respond a little bit to that?

Simison: Mr. Hood.

Hood: So, I do believe Councilman Overton is -- is somewhat regurgitating some of our conversation about this and I -- you know, I know it's been this way for at least 21 years, because we haven't changed it since I have been here. So, I think that's why in at least 20 years we see on the screen and that this authority that you delegated to P&Z has been the case. I actually didn't do the research. I don't know how much longer before that it's been the case that this has been the way you have done business. Mr. Nary has been in one capacity or another part of -- of this for some time. So, he could probably -- and with a little research we could figure it out. It is -- it is -- it is typical. I think there are a couple of things here and maybe just to dissect them as you talk about them all together; right? There is a process and we can do whatever Council wants. If you want to change it from P&Z being the final authority on conditional use permits that's your call. We can change the code, do it like all the others, run that through so you know what's going on in your community and your final approver on conditional use permits. I think where Bill was trying to take it in September and even going forward and through the UDC focus group is trying to address the standard so we don't get so many CUPs and not only take it off of everybody's plate and we say if you can do this queuing analysis and you satisfy X, Y and Z, you don't need any other special approvals, we will try to do this administratively if we can. If we can't and that's not satisfied we will still have some version of a conditional use permit process. In that, though, I want you to be aware -- just be careful a little bit what you ask for, because drive throughs are not the only conditional use permit. There are a hundred uses that also are a conditional use permit. So, you could get a lot more on your plate if you just simply say not P&Z anymore, Council. You will be getting daycares, you will be getting all kinds of other uses that are conditionally allowed in those zones. So, again, back in

the day I don't know intent or why they -- city fathers at that time said, hey, this is the right approach. P&Z do all these. But just want you to be aware if you go that direction it wouldn't just be drive through conditional use permits, it would be conditional use permits. So, just eyes wide open. It might be the right thing to do and I'm not saying it's wrong. We can show you all the uses that require a conditional use permit and maybe there is a way we can even parse that up to say drive through CUPs -- if that's the only flavor of CUP you want to see, we potentially could do that. Anyways, I just wanted to speak a little bit and times change and maybe it is appropriate for Council to review drive throughs and/or all CUPs.

Overton: Mr. Mayor?

Simison: Councilman Overton.

Overton: Caleb, exactly what you are saying and some of the information I got on time was both from you and from our city attorney who served on the Council at that time and I believe it was done for the right reasons. I think it was done to try to shorten the process, make it more efficient, which we are always trying to figure out a way to make our system more efficient for people going through it. I'm certainly not looking at trying to lengthen that for all CUPs and I don't know whether there is a way we can just parcel out -- I don't know if you want to say parcel out any that -- I feel like I'm picking on some if they -- I just -- we parcel out just restaurants or if there is a way to parcel out just those CUPs for drive throughs that just by the site plan and the nature of how it is if there is stacking it's going to be on a public right of way, not on a private area side of development.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: I think maybe what Council Member Overton is inquiring about is if a drive through would require a queuing analysis from ACHD that be a threshold to, then, come before the Council for approval.

Hood: Mr. Mayor, Councilman Cavener, it could be; right? That would be a standard we could adopt in our code and say when some certain threshold -- and this is what I don't know with ACHD is how do they know when to ask for that queuing analysis? What are the things they are looking for in their site planning when they say, you know, for this one we need a queuing analysis, but for that one we don't. I don't know where that line is.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: I think I'm in the same spot and I think it was either you were Bill said we are not experts on this particular piece, that's why we rely on the partnership with the highway district and what I think where Council Member Overton come from -- he doesn't want to be subjective, he wants to remain objective, but also maybe wants a narrow set of sideboards of what would necessarily come to us, so that we are not sacrificing efficiency just for Council to always have their fingerprints on it. There is -- there is a basis on which these particular types of projects that have already been called out from the experts as maybe requiring more diligence, those naturally, then, come to us for -- for final -- final approval. I don't want to put words in Council Member Overton's mouth, I just -- that's I think what I was kind of hearing from them.

Overton: Mr. Mayor?

Simison: Councilman Overton.

Overton: You are not putting words in my mouth. You are actually probably saying it a little better than what I was saying it, so I appreciate that. I guess one of the ways I would like to -- to maybe make this -- drive this home. When a business owner in the city calls me because there is going to be an issue with the stacking -- or potential issue with the -- the stacking on a drive through that's coming to the city and I get involved and want to try to help and see what we can do, what I came to learn -- and I didn't know that I wasn't going to get a chance to look at this because of the process -- was that they are not calling members of P&Z, they are calling their representatives on Council to be the one that they would discuss this with, although we do not have a chance to review it. So, it's -- it's -- what I'm trying to avoid is a situation where we try to do our best to help, whether it's a homeowner or a business owner, but by the time we are having contact it's too late and if that queuing analysis -- if we knew enough about how that was structured and it was consistent and how that was requested, then, that could be the tipping point, I would be okay with that. I just don't have any parameters to go by on whether that would be enough to take it to the level of the queuing analysis required, then, it comes in front of City Council.

Hood: Mr. Mayor, if I can address some of those remarks and kind of take it up slightly different, but in the same vein. Yes, that's an outstanding question. We need to get with ACHD and probably even ITD because some of these are, you know, their drive throughs are affecting state facilities as well. So, not just ACHD, but ITD as well and understand, you know, where that bar is or what -- what are they looking for, again, in that queuing analysis request. I want to, again, transition back to the process a little bit more though first conditional use permit -- and Bill kind of said it, but I want to -- I want to just make sure everyone understands this. It's not a principally permitted or otherwise allowed use, but it's really darn close. It's tough for the city to deny those. It's an approval with appropriate conditions. So, I just want to make sure that that's the -- you understand it's really not -- and you are used to saying yea or nay, thumbs up or thumbs down, and this is more of a yes and -- yes, you get to do that, but here is some things you need to -- to also do to address your impact. So, I just don't want to mislead anybody that if you get conditional use permits it's, yeah, we don't want that here now.

No, they -- it's just short of an entitlement. It's -- you are almost there, but you -- with some appropriate conditions to mitigate those impacts. So, I just want -- please just keep that in your mind as you are coming up with this and I think that may have played into why, again, 20 some years ago the city said let's give that to P&Z, they can come up with appropriate conditions for projects. Not if the project's appropriate or not, but appropriate conditions for those uses in those zones. Yes, we need the queuing analysis and, again, then, that's where that comes and even so, right, ACHD is not denying those projects. There is conditions that they are going to put on there. Now, this is right-in, right-out instead or whatever those -- you know, whatever that analysis shows to do there, but it really isn't a denial for most of these, it's an approval with -- with -- but, anyways, I just want that process piece. We will see what we can find out and also just as I give the mic back, I really think that's where we -- staff is kind of headed with this is let's standardize this and, then, when it's not appropriate we do need to daylight that with our community, either P&Z or Council, let's get that into a form where it's not -- we do have a little more ability to say no, because the queuing -- there is no mitigation for that. It's just not the right location. We anticipate too many cars -- and there is nothing you can do aside from going somewhere else. You know, the site is -- is just located in an elevation where you can't do anything about it. You can't operate that business without having a negative impact on our community. We are trying to get there with the standards for the UDC focus group and other professionals to say okay.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: A response to that either for you, Caleb or Bill. That is a hundred percent correct. But Council could apply additional conditions as part of that conditional use permit request; correct? So, if it comes before us and, yes, again, I have learned it's very very hard to deny a CUP, because we are conditioning this use. But Council could say, well, we appreciate what has come recommended. A, B, C and D are also required in order to -- to meet the needs; correct?

Hood: Absolutely. And I will, you know, Bill's been -- been quiet thus far and I'm not asking him to speak necessarily. There needs to be some nexus the right to those conditions; right? They shouldn't be just arbitrary. So, you can otherwise get to a denial. Hey, we need you to, you know, make them do loop de loops before they go through your drive through or, you know, turn your, you know, window on the other side so it's through the passenger what -- you know, it needs to be something like reasonable, right, that is trying to mitigate the concern you have. But absolutely yes. Council, P&Z, staff, whoever gets a bite to say do these things to again mitigate any negative impacts to our community at this makeup. So yes.

Simison: Council Woman Strader, do you --

Strader: Yes, Mr. Mayor. Please. If you don't mind. I don't think that our City Council would put arbitrary conditions on a -- on a business that needed a CUP. So, I just wanted to say that. But, you know, I kind of was going with -- if you feel like a queuing analysis will come consistently enough in the process for like the most problematic ones, I think that might make sense or I was curious about exploring the possibility where we give the Planning and Zoning Commission discretion on some of the more challenging CUPs to send it to City Council for review. That might be another approach that we could take. You know, if in their view there -- if there was some sort of a standard like they thought that this could have a very adverse impact on surrounding streets, etc., they could have the ability to -- the discretion to send it to us to opine on it. That might be another method. Just throwing that out there for consideration.

Taylor: Mr. Mayor?

Simison: Councilman Taylor.

Taylor: So, Bill and Caleb, I'm going to try to articulate what I'm thinking and I hope I can do a good job. So follow me if you can. So, with the conditional use permit and I like the way you articulated it's not quite an entitlement, but it's pretty close. These are allowed uses under certain conditions. I have always been one that would -- would lean towards the idea that if we don't have to have it come before P&Z and City Council I think that would be preferable. If there is a way where staff can essentially confirm that boxes are being checked, then, approval could be granted, that would be something I would prefer as a process. However, I recognize that not all things can go through that process. So, is there a way to, then, identify a threshold that to just go to P&Z and if there is something that, then, would have to elevate it to City Council just sort of in the circumstance, how hard would it be -- this is my first question. How hard would it be or challenging or time consuming would it be to establish sufficient clear guidelines, all applicants, when they are going to get a conditional use permit to say, we know exactly what we need to do to get the city -- you know, for you guys to sign off on that? Is that an easy process? And, then, would it -- just on top of that the process of identifying a threshold to say this really is a P&Z decision and, then, it's actually probably something that City Council needs to weigh in.

Hood: Mr. Mayor, Councilman Taylor, so that maybe just helps answer the question with just our current process. So, today if you are not within 300 feet of another drive through or residential district you are approved by staff with standards. There is still design standards you have to meet. Doesn't mean you can have your driveway and stack one car and, then, you are out in Ten Mile. There is still standards, but you meet those standards and you are not within 300 feet of a residential district or another drive through, it's just administrative. Two weeks basically to get through that process once you submit your application. So, it's all administrative with P&Z. So, even with Council Woman Strader's kind of scenario, you could do a tiered approach; right? So, again, now if you have 300 feet of those you go to P&Z today; right? That's -- that's -- so, we tell you that's about a 90 day process, because there's a public hearing. We have to notice newspaper and neighbors, you got to do a neighborhood meeting, it's the next

level of scrutiny. We could have this other -- I don't know exactly how we do this, I don't know that P&Z just gets to punt without some -- you know, to you if they are like, well, we don't know, let's take it to City Council, we probably want to have that defined. They make a recommendation still to Council, but it does get to Council somehow when, you know, the queuing analysis triggers something that goes to Council; right? So, that's kind of where we are at. And, again, Bill's got some of that now. We have recent contact with some other professionals that design layouts for drive throughs that we are going to try to see if we can take some of that work they have done in the past and, again, vet it through the UDC focus group and, then, back to Council to see if we can do some of that. But, again, today we can tell you this is your process. P&Z no go or whatever that is.

Parsons: Just to add a little bit more on that. So, any CUP can come to the City Council if someone doesn't like the decision the Commission made, so they can appeal that to you, realize that sets it over for another public hearing and it does cost money. So, it's -- it's 700 dollars. I think that's probably some of the discussion that you wanted to have tonight, too, that John probably -- sorry -- Councilman Overton probably had, too, is, yes, there -- there are other mechanisms to get these in front of you already in code it's just more money and time; right? So, I do appreciate the conversation tonight though, but that's the other -- you know, whether or not -- and I'm -- I'm spit balling ideas, too, because I don't have a perfect solution for this other than like you said, if you generated an exorbitant amount of traffic through a traffic study, then, that may be the case it comes to you, because, obviously, ACHD, ITD, they have thresholds for traffic studies and maybe that's the kicker. I don't know. But that's one way where it could get in front of you or the other conversation with the Council if you wanted to change code for drive throughs is it your intent to bypass P&Z or still keep them as a recommending body? Because if that's the case, then, you are really not gaining anything -- any value or time.

Hood: I was just going to add that -- Bill, thank you for bringing that. But you could -- we do have some application types where just from staff to Council DA mods; right? They don't go to P&Z. So, you can do something similar. If we have those whatever those matrix are and says, hey, this threshold go to P -- you to go to Council. I don't want to jump to that solution necessarily. Just saying that is an option if that -- if Council really wants to see these drive throughs, however, that gets defined, we could do it that way, too, and bypass P&Z altogether and just pour the -- in the interest of time, because every hearing is 30 to 45 days to a schedule and cost -- additional cost for everybody.

Taylor: Mr. Mayor, quick follow up.

Simison: Commissioner Taylor.

Taylor: So, you had mentioned the experts and I remember that from our last meeting that you had come in contact with them. I assume you are still looking to get some information or maybe I'm not sure where you are in that process, but it would seem to me -- and maybe this is more of a comment than a question -- that maybe there is some

clarity that they can provide around the entire process of designing that could just add another layer of clarity about what's really an acceptable design for drive throughs and, then, what's really something that really needs to come before Council. I'm all in favor of having as much of this figured out administratively as you said. In thinking about it, having to go through multiple processes of public hearings -- like if we don't need to do that I don't really want to do that. I'm not asking for more things to come before City Council, but if there is more we can clean up on the front end that would be my preferred desire. I'm intrigued by the idea of, you know, cutting out a month or, you know, month and a half of wait time and hearing times and noticing or something that probably doesn't need that to take place.

Parsons: So, Mayor, Council, just -- Councilman Taylor, so Council Member Overton is part of that UDC focus group committee, so he will be part of that discussion with that gentleman, so he will be looped in and get educated like the rest of us. So, really, probably the biggest takeaway that I -- my conversation with that gentleman as far as designing drive throughs is some of the information he shared with me is they actually have two stacking standards as part of their drive throughs. So, the first stack of vehicles is the distance between where the window -- ordering window is and the menu board and, then, you have another stack from the menu board to where you enter the drive through and so that -- that to me was very intriguing. How do you -- how do you build that into your code and he -- he sent me an example or a graphic of how it works. So, I think this particular place they required a minimum of five vehicles between the stack -- the window and the menu board and, then, additional four vehicles from the menu board to the entrance of the stacking lane. So, you are looking at a minimum of nine vehicles per stacking lane is how they kind of -- one jurisdiction. So, that was an intriguing thought to look at that and see how that would play into our design standards moving forward. But just wanted to share some of that information with you tonight.

Little Roberts: Mr. Mayor?

Simison: Council Member Little Roberts.

Little Roberts: Mr. Mayor. Caleb and Bill, have we had any in the last year, year and half, that have triggered an analysis that we are aware of?

Parsons: Mayor, Members of the Council, Council Woman Little Roberts, I'm trying to look that up. I know I have seen some from ACHD and I was like what's a queuing analysis? And, then, I also reached out to Mindy and asked her when she would require that and, I'm sorry, I don't remember all the discussion off the top of my head, but I know there is a threshold for that. So, I can't give you any specifics tonight. I apologize for that.

Hood: If I can -- and I don't know -- I didn't have those conversations. I actually wrote it down to figure out when -- when they required it, so I haven't had those conversations yet. I will say, though, we have had some businesses come to town with a cult following and, you know, a lot of them -- and I'm not -- this isn't going to characterize any

business or not, but a lot of them kind of anticipate that and they don't want their patrons to have a bad experience either; right? They don't want them to be in fender benders. They don't want them to have to wait longer than necessary, however you define that. But they will talk with us and our police department and others to come up with a traffic control plan and, you know, something that, really they are not trying to be -- in my experience they are not trying to be bad neighbors or cause issues; right? They want them to be a successful business in our community; right? By not negatively impacting others. So, to some degree, you know -- and this is a separate conversation, but related -- that curing analysis I don't know that that is the only thing we want to rely on, because you got a private business that's hiring -- they are hiring the person to write the queuing analysis; right? So, you are kind of -- you have the persons that are in charge of the -- you know, they are -- anyways, some of those studies and reports I don't trust very much. I will just say it that way. They are being paid to write some analysis by the person that wants it -- to show that they are not -- don't need to do a whole bunch of improvements. So, maybe there is something else that we look at or have, again, a peer review of those things that say, yeah, really, we kind of question if that's going to be enough. So, that's where I, too, want to be part of these conversations with these professionals, because, again, I think they are trying to be good actors for the most part and understand their impacts and so that this can function.

Simison: Council, food thought, then, I don't know if I'm going to throw a wrench into this or not, but I think it's perspective on thoughts. We often reply to people when they reach out to the city say we don't approve individual businesses, we approve uses, and when we start getting to the question about is there a cult following for a business or not, that really does change I think that viewpoint and that dynamic if we are going to be approving or considering what we allow or don't allow based on how successful or not successful we think a business will be. Now, don't want to close your eyes, but it also does beg the question in this context. Quite frankly, the size of the property in my opinion dictates more of this than anything. You put a very cult like following business out on ten acres, nothing else, do you need to go through all the processes that you are talking about potentially? And I'm not saying we are talking about anything specifically, but that may be a very different scenario than some of the situations where Council has said that's too many drive throughs on property. You know, we have had that conversation as well. So, I think that -- I don't know really where the conversation was headed tonight and that's -- we have heard a lot of things. In fact -- and we have seen a lot of things that have not gone well. We see how driver throughs create conflict points. You know, look right up here -- when you go to one that no one here was approved. I think Mr. Nary wasn't here. At the Taco Bell and the Kentucky Fried -- that's a mess in that area with drive throughs and intersection points for people trying to access areas. there is another one just right -- well, further down on Meridian Road right past Overland that has created a -- I have appreciated what Council has deliberated over, even though I understand everyone wanted to, you know, extend the process and make it speedy, but they change all the traffic patterns in every area and the walking patterns in every area and we need to be mindful of that in that context. So, just that's all I got. I know -- nothing else besides that. Councilman Overton.

Overton: Well -- and just to end my comments this evening. At no point do I think you guys aren't doing a fantastic job or that Planning and Zoning isn't doing their job. I think they are all doing their job very well. Saying law enforcement for years it was predictable. It was preventable. Just hope in some of these instances if we can predict that we are going to have a situation and just because of this location we may end up with a problem, that in some form or fashion that's also preventable, we should do everything in our power to do that and if that ends up being at a different location than coming, we have a process in place that gets that done that takes care of it. You know, the goal here is not to make a process longer as much as it is I would like to make sure that we are putting businesses in our city that are going to be successful, but also that their impacts to their neighbors will be with them successful as well.

Simison: Councilman Overton, did you have a question for anybody from the audience?

Overton: Mr. Mayor, yes, I actually have a member from the audience that I spent quite a bit of time talking to about an upcoming drive through. If permitted I would love to have him spend a few minutes. He just went through this process at Planning and Zoning. Hear firsthand how that process went. We have discussed what we think the process should look like what a business owner thinks that looked like from his perspective.

Simison: Mr. Nary, were you going to say something?

Nary: Yes. Mr. Mayor, Members of Council, my only concern is the particular property over here, that case is still pending and can be appealed. So, it could be in front of you. So, I would be apprehensive -- unless it's a very generic comment that the gentleman has, it's still an appealable case, so he still could bring that forward. So, I -- again, I don't know what he wants to say and if it's very general it's fine, but we do have to make sure the record doesn't get tainted by a conversation here in the case that he could still appeal.

Overton: Understood. I would leave that to the business owner. If he believes it would be very generic or if it's better not to make those comments at this time. Just leave this in our hands.

Simison: If you can -- Perry, if you want to come up and at least say what you are going to say on -- so, everyone can hear it. If you would state your name.

Coles: Perry Coles and I represent the Copper Canary building at 2590 North Eagle Road. What has been talked about tonight is very similar to the situation that we are in right now. Most of you know -- or maybe some don't know -- we had an entrance on Eagle Road that was closed and, then, with the right turn lane put in and so our customers -- our employees with the right turn around our buildings go into our parking lot. That's the new entrance for us, which is actually just fine. We are happy with it. We understood coming in that we were going to get closed and actually I think it's a lot safer

for customers and our employees. So, all in all it was a good idea. The issue that I have is the right turn lane is a 25 foot wide lane and, then, it goes to a -- we will just call it a backage road. There is a two lots that are north of me, which are undeveloped and, obviously, one of them is in process right now of getting approval. The backage road is, again, only north-south, just the distance of the two lots and, then, on the other side of that 25 foot wide road is a hotel that's going in. It's about 130 units. The Wyndham Hotel. Behind that is 340 apartments that are now being finished also that are going to be on that road and, then, they opened it up to the 400 and something apartments just behind us. So, we have about 800, 900 units that people are going to come out. We have already seen moving vans. We have seen a lot of things. And what I'm really concerned with is the amount of traffic on a 25 foot wide road that's, again, very short north to south and you can pass a car and a truck in either direction, but there is no ability to stack anything. So, when you put in, you know, a really successful business where the cars going to go? The first place that I see them going is go back up to Eagle Road, because the second right turn may -- will go into right turn lane into that and that area is where you go into Trader Joe's also. So, again, you have that, too. And, then, they come through the back of the lot and there is really no place for the cars to go. There is only a couple -- there is a double drive through with seven cars each.

Simison: Getting a little specific.

Coles: Sorry.

Simison: So, stacking of -- stacking -- adequate stacking for drive through --

Coles: Stacking for drive through is a really big issue, because there is nowhere for the cars to go. All this tremendous traffic coming from all the things being built and developed all in the exact same spot and I'm really concerned about my customers being able to get to my property and certainly to get there safely and to get out safely, because the entrance and exit of our parking lot is right on the edge of that road. We have nowhere else to go. So, everything is converging from three different directions in the exact same place. So, at a minimum I would love to see some kind of solution, whether they widen the road ten feet or have a stacking lane -- I'm not against businesses --

Simison: Maybe just want to see the -- it contained to the property and not extended out to other areas and is the property able to accommodate that or not. Just trying to be more general.

Coles: Right. Yeah. Is there a place for all the traffic and all the cars to go? And that's my concern and it doesn't appear to be like that. So, again, you know, as a property owner, as a business, we have the 60 parking spaces here. We have plenty of parking. But what's coming about -- there is no place to park, there is no place to pass, I don't know what to do other than I just -- you know, thank you for --

Simison: Thank you.

Overton: Mr. Mayor, quick follow up.

Simison: Councilman Overton.

Overton: I know when I explained to Perry tonight that what we are talking about is future applications, not the ones that are in front of us that are in process right now. For us to go back and make any changes or modifications or simplify this process we can't really do that with anything that's already in process right now. We have had that conversation. Again, I think the whole -- the whole goal is -- is when some of these products come in to different areas and they are kind of piecemeal -- pieces may initially look like they are all going to fit together, that's not necessarily the case when we are dealing with collector roads and arterial roads so close to these projects. I appreciate the comments from Planning again tonight. I think the solution's in front of us. I don't exactly know what that is. But we can tighten this up, work closely with their work group on that language as we continue to go.

Simison: Maybe you just said something right there that is, you know, proximity to -- I mean in a lot of ways. I mean that -- that can be an indicator of certain challenges, at least from what we have visually seen around the city is when you are accessing in and out. So, sorry, that was not -- in and out around a specific area that that's where you get the conflicts is when the, you know, drive aisle access near where the entrance access also exists on the property -- or close to a major roadway in that context. So, again, I don't know, but that's what I tried to infer in -- from all these is how do you apply that -- should you apply this in any specific situation. So, great conversation.

Nary: Mr. Mayor?

Simison: Mr. Nary.

Nary: Just a couple things. I think maybe, yes, this -- as the committee, you know, and the UDC committee discusses some of this, keep in mind -- I mean, again, I think this is the challenge that Planning is -- is always dealing with is trying to distinguish what we might think common sense is there are different uses of property that legally are very difficult to change. I mean we are talking about the properties that at one point maybe was approved for a convenience store and now it's a drive through. Now, we might see those and the average person would say those are two different things. But if I had to legally define why is that use of the property different, it isn't significantly different. I mean many convenience stores have drive throughs in them and they have stacking lanes and they have multiple cars and they are very popular. You know, again, we have never had, until the last few years in the city, the impact of particular businesses, as Council Member Overton said, that have this very large popular following. I mean we had one. We had Krispy Kreme. That was it. Didn't have a whole lot of businesses like that. It was very unheard of for the city. I agree with the Mayor, I wasn't here when they approved Taco Bell and Kentucky Fried Chicken, but I was when they tried to put another one in the middle of it and that's why we don't allow three drive throughs on properties anymore, because it's almost impossible to make them function. So, it is --

that's really the challenge and even in this conversation I think all of you can see it's very hard to distinguish -- well, why is this different? You know, this was approved to be a bank, now it's a food restaurant. The McDonald's on Ten Mile and Cherry Lane was originally going to be a laundry and, then, it became a McDonald's. So, I mean it really -- when you get right down to it from the planning side and the legal side, it's really hard to carve these out. That's why they are looking for standards like roadway access. The Mayor brought a great point. Access to arterials and those things that are much more generic and objective, rather than based on what type of business it is or this type that really can't have discretion and that's a part of the reason why it was changed from a Council decision to the Planning and Zoning is because it's predominantly driven by the code. It's not a discretionary choice and Council tends to have decisions that have some level of discretion. Is it good for the city? Is this a good use of the city to have this type of business here? But when you get right down to it, as Caleb said, it's almost an approved type of use with conditions. Those are very code driven issues. Why -- what's the condition. Not is this a good idea. It's already been decided. It's an okay idea. So, now it really has been down at the P&Z level. All of those can change. All those reasons can change. But we really have to try to keep it at that very, you know, narrowly focused on objective things and not -- not discretionary things. That's kind of what we have been looking for.

Simison: Council, anything further on this topic?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Yeah. Just, you know, your comments got me thinking. I was kind of wondering if Planning had thought about, you know, maybe looking at some case studies of here are drive -- you know, we don't know the names, but maybe just here are examples of drive throughs that we don't think function well, maybe taking some examples and trying to, you know, take a look at our standards through that lens. I mean that might be one way to try to do it. I feel like having some case studies or kind of some examples might help crystallize it. I guess I was sort of thinking about the discretion -- it may be in a narrower way where if Planning and Zoning felt like, you know, there were certain factors that were kind of extraordinary that they would have the ability to -- to send it to us for -- you know, for us to weigh in, but I understand, you know, kind of -- the challenge and I do agree, I -- you know, a business might start out with an overwhelming amount of demand and, then, it can calm down, too; right? So, I want to be sensitive to that, like just because somebody opens and has a crazy month doesn't necessarily mean that that's the kind of steady state that we are going to expect once it's kind of a mature business. So, I -- I also want to be sensitive to that. I am very -- like I hate having a concentration of a large number of drive throughs in one small area. So, that -- that to me is kind of an important point. It sounds like we have already covered that in our standards, but I would want to make sure that we are kind of covering that pretty comprehensively. I don't know where we are going to go with this tonight, because -- you know, it's kind of an open topic. It feels like it needs to go

through a focus group. We need more information about the conditions that trigger queuing reports and so forth.

Simison: Based on what I heard I thought Councilman Overton was going to be working with Planning and outside to maybe examine this in further detail is kind of what I heard as next steps.

Strader: Got it.

Overton: Mayor, that's correct. I was already going to be a part of the focus groups moving forward and now this will become one of our agenda items in that process.

Simison: Okay. Councilman Cavener, anything else? Okay. Thank you very much. We will look forward to the ongoing conversation and many more land use applications that involve drive throughs I'm certain, so -- perfect.

FUTURE MEETING TOPICS

Simison: Council, any future meeting topics or a motion to adjourn?

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Move we adjourn the meeting.

Simison: Motion to adjourn. All in favor signify by saying aye. Opposed nay? The ayes have it. We are adjourned.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

MEETING ADJOURNED AT 7:07 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT SIMISON

DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK