

A Meeting of the Meridian City Council was called to order at 4:31 p.m., Tuesday, January 25, 2022, by Mayor Robert Simison.

Members Present: Robert Simison, Joe Borton, Luke Cavener, Treg Bernt, Jessica Perreault, Brad Hoaglund and Liz Strader.

Also present: Chris Johnson, Bill Nary, Kurt Starman, Caleb Hood, Bill Parsons, Crystal Campbell, Scott Colaiani, Joe Bongiorno and Dean Willis.

ROLL-CALL ATTENDANCE

<input checked="" type="checkbox"/> Liz Strader	<input checked="" type="checkbox"/> Joe Borton (4:35 p.m.)
<input checked="" type="checkbox"/> Brad Hoaglund	<input checked="" type="checkbox"/> Treg Bernt
<input checked="" type="checkbox"/> Jessica Perreault	<input checked="" type="checkbox"/> Luke Cavener
<input checked="" type="checkbox"/> Mayor Robert E. Simison	

Simison: We will call this meeting to order. For the record it is January 25th, 2022, at 4:31 p.m. We will begin this afternoon's City Council work session with roll call attendance.

ADOPTION OF AGENDA

Simison: Next item is adoption of the agenda.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I move adoption of the agenda as published.

Bernt: Second the motion.

Simison: I 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: FIVE AYES. ONE ABSENT.

CONSENT AGENDA [Action Item

- 1. Approve Minutes of the January 11, 2022 City Council Work Session**
- 2. Approve Minutes of the January 11, 2022 City Council Regular Meeting**

3. **Final Order for Shafer View Terrace Subdivision (FP-2021-0056) by Breckon Land Design, Located on the East Side of S. Meridian Rd., Midway Between E. Amity Rd. and E. Lake Hazel Rd.**
4. **Findings of Fact, Conclusions of Law for Apex East Subdivision (H-2021-0086) by Brighton Development, Inc., Located on Parcel S1405120902, South of E. Lake Hazel Rd. Between S. Locust Grove Rd. and S. Eagle Rd., in a Portion of Government Lot 2 and a Portion of the SW ¼ of the NE ¼ of Section 5, Township 2N, Range 1E.**
5. **Development Agreement (Settler's Square H-2021-0072) Between the City of Meridian and Brighton Ustick, LLC and Alturus Ustick, LLC, Located on the Northwest Corner of W. Ustick Rd. and N. Venable Ave.**
6. **City of Meridian Financial Report - December Fiscal Year 2022**

Simison: First item up is the Consent Agenda.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: I move to approve the Consent Agenda and for the Mayor to sign and Clerk to attest.

Bernt: Second the motion.

Simison: I 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 is agree to.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

ITEMS MOVED FROM THE CONSENT AGENDA [Action Item]

Simison: No items were moved from the Consent Agenda.

DEPARTMENT / COMMISSION REPORTS [Action Item]

7. **Community Development Department: Net-Zero Budget Amendment in the Amount of \$501,559.00 to Accept the Fiscal Year 2022/Plan Year 2021 Community Development Block Grant (CDBG) Award**

Simison: So, we will move on to Department/Commission Reports. The first item up is Item 7, a Community Development Department net zero budget amendment in the amount of 501,589 dollars regarding the CDBG grant. Crystal.

Campbell: Thank you, Mr. Mayor, Members of the Council. This is a net zero budget, as you had mentioned, to request spending authority for our CDBG grant. All of the projects were approved on our action plan, so it's really just to accept the funding and be able to spend it.

Simison: Thank you. Council, any questions? If not, do I have a motion?

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: I move that we approve the net zero budget amendment in the amount of 501,559 dollars to accept the fiscal year 2022 Community Development Block Grant Award.

Hoaglun: Second the motion.

Simison: I have a motion and a second to approve the budget amendment. Is there any discussion? If not, Clerk will call the roll.

Roll call: Borton, absent; Cavener, yea; Bernt, yea; Perreault, yea; Hoaglun, yea; Strader, yea.

Simison: All ayes. Motion carries. The item is agreed to. Thank you.

MOTION CARRIED: FIVE AYES. ONE ABSENT.

8. Community Development Department: Development Pipeline, Growth Projections, and Legal Guidance

Simison: Next item is from our Community Development Department regarding the development pipeline growth projections and legal guidance. Councilman Hoaglun, would you like to start with any comments or would you like to hear from staff first?

Hoaglun: Mr. Mayor, just -- I would like to make a few brief comments if I may. This is kicking off kind of a series of meetings that we will be holding regarding growth in our community and things related to school enrollment. What we are going to hear this afternoon is from Caleb Hood, who is going to kind of go over our growth in our community, what's in the development pipeline, those types of things that are -- that are coming from a city perspective and it's not to get into enrollment numbers and those types of things, but this is to give us background and information on what is going on in our community and kind of what's -- what we can look at down the road. Also Bill Nary and Kurt Starman for our Legal Department are going to give us some -- a tutorial, if you will, on annexations and moratoriums. What does that mean? What are the processes? We just have to -- we throw these terms out and we talk about them, but I don't think we sometimes fully understand the implications or limitations that they might have. So, it's

just to give us an understanding as we move forward and the next step will be the school district coming to talk about their matrix and how they are now calculating their enrollment numbers and whatnot. So, this is the first step. Then we will have that second step. And, ultimately, we would like to get together with the school administrators and school board down the road. It will be several months from now and have a discussion with them. So, this is just a continuation of our process of understanding what's going on in our community and how our partners are impacted in the education industry. But tonight is more about the facts and what we have here within our community from our city development process. So, with that, Mr. Mayor, good to hear from staff.

Simison: Thank you, Councilman Hoaglun. So, with that I will turn this over to Mr. Hood.

Hood: Thank you, Mr. Mayor and Council President. I appreciate those opening remarks. And there will be some implications into what I present and what you see this afternoon, but we are going to be pretty factual here and really focus in on what we have seen for applications and lots and sticking to the script here as far as it is on the -- the agenda for this workshop. I am going to take them in a little bit different order, starting with some of the -- the actuals and, then, getting into growth projections, pipeline stuff, but -- and, then, again, legal will talk at the end. So, I'm -- I'm going to share some historical data on dwelling units, lots, and residential entitlements in general. First of all, I had a lot of help. Bill Parsons, Miranda Carson, Brian McClure and Ryan in IT, in particular, over the last couple of weeks preparing for this. We had some holes in both accessing or mining the data in our database and what was put in the database originally. Sometimes people didn't put in the number of lots proposed with a plat, so we had a lot of cleaning up the database to kind of fix -- fix some holes. There may still be some out there, but I'm pretty confident what you see here is within tens of units, not within hundreds of units. So, the margin of error here -- and, again, props to those people for helping get -- get us to this point today. So, again, there is still some work to do, but the tables, graphs -- graphs and maps I'm going to show have come a long way just in the past couple weeks. I typically use notes, but I just made a note here for myself when I present, but I may largely read my notes to you today. There are details in here that I don't want to miss and so if I don't make eye contact I apologize. I'm not one for trying to just read from my script, but I do think I have some things that I definitely want to -- want to touch on. So, the first one you have probably already -- it's probably already caught your eye.

Simison: Mr. Hood, just real quick. Just for the record Councilman Borton joined us at 4:35. So, the public knows he's in the room.

Hood: And I'm glad he did as well. I'm glad that the whole Council is here, because this has been, as Council President pointed out, a -- somewhat of a topic of discussion. The modeling that's been talked about and the request for some of that I think plays into some of this presentation. So, I'm glad you all are here. So, the first tab is historical data. The numbers in this table are largely from Finance and what the city's growth committee uses. So, I want to point out just a couple of things in this table. Again, I think it's pretty self explanatory, but you can see the number of -- number of single family and multi-family households per year, add those together and it gives you the total number and what we

have added in there is just a year over change. So, from '12 to '13, for example, we added 1,300 new dwelling units and so on and so forth. So, you can kind of see how many total dwelling units were added and where we stand today is right around 40,000 single family residential dwelling units. So, 48,000 in total when you add the multi-family in. I colored these -- or these are colored purple just because they are projections. These are the actual numbers from Finance that we recognize largely based on permit sales; right? So, you need a water meter type of thing and so each unit is accounted for that way. I will get into that a little bit -- a little bit more. But, again, these are city generated dwelling units largely from Finance. Some of the other information you show on here -- again, sort of a work in progress a little bit. Our data gets more and more reliable the closer to today you get. We spent some time backfilling in the last few years. Again, some more work to go on '18, '17, '16 to provide you a little bit more on how much we have approved and even you can see here -- pretty confident in these numbers, but, essentially, if you add the estimated to the known it gives you roughly 2,000 preliminary plotted units in 2019 and 1,700 for the past calendar year 2021. I should say at anytime feel free to stop me, you know, if I'm going too fast or clarification or whatever on -- on -- on any of this. I will point out as we have the final plats, pretty confident in those numbers. We -- Miranda left estimated in here. But, really, there is no -- we think we have captured them all up here. So, pretty confident in these numbers. Again, just some things in here that maybe we don't have all of them. So, a little bit of a disclaimer on that one. And, then, building permits, so -- I mean that's the general cadence; right? Preliminary plat. Final plat. Building permit. Occupancy. So, kind of the last thing in there would be your unit counts. These are new units, then, for building permits issued per year for the last decade or so. So, I believe that was the request. Some of our data -- again, we will look at two or three year trends. We did go back a decade, though, for some of the historical numbers. I'm going to scroll down. I can scroll back up. This one I -- it doesn't really tell you much --

Simison: Mr. Hood?

Hood: Yeah.

Perreault: Can I ask a question on that chart?

Simison: Council Woman Perreault.

Perreault: Mr. Hood?

Hood: Yes, Council Woman Perreault.

Perreault: Thank you. The preliminary plats approved, those -- those were -- the plats were approved and not yet final platted or are those preliminary plats that were approved, there were 3,000, and, then, 2,260 of those have been final platted.

Hood: So, what this doesn't do -- Mr. Mayor, Council Woman Perreault, what this doesn't do is that math for you. So, there is not a running total and subtract that from this plat so

you know how many final plat lots are left. This is just the total citywide. So, in that year we have preliminary platted of this many, final platted of this many. Some of the ones we are final platting now may have been from 2017. So, if that makes sense. So, this is just the total number, not the running total, if that makes sense. And I will get -- I think a little bit more of what you are asking for in your question in one of the next slides. But, again, this is just total. So, there could be duplication. Could count a preliminary plat here and a final plat there or preliminary plat in '19 and a final plat in '21.

Simison: Mr. Hood, one other question. Your building permits issued, unit counts versus the top one, total dwelling units by type, where the numbers don't align year over year --

Hood: Right. So, almost the same thing with that. So, the way I can explain that -- I'm not a hundred percent sure, but I asked Miranda the same question and Brian. There is a lag; right? So, you issue a building permit, but it doesn't actually get occupancy typically within the same calendar year. It's a six month or so construction time frame. So, you will have a lag. Typically, though, you pull a building permit you get occupancy, but it doesn't necessarily happen within the same calendar year.

Simison: I assumed that was the case. I just want to make sure it's on the record when people look at the data.

Hood: Yeah. Thank you for that clarification. And, then, again, just real quickly, this doesn't add a whole bunch of value, but I think it kind of goes with the same. Again, it all adds up in the end. Whatever your preliminary plat, you are probably going to final plat, you are probably going to have a building permit pulled for, but it doesn't all happen within the same year. So, you can have a whole bunch of preliminary plats in one year and hardly any final plats in the next year, a bunch of final plats and hardly any preliminary plats. So, this graph is just to kind of show that, that -- I don't want to say it's random, because you have to have preliminary -- you have to -- you have to have approval of preliminary plats before final plats to get to occupancy, but it does kind of ebb and flow with what we are highest in. Are we strong in final plats this season or are we stronger in building permits. So, really, there isn't a correlation when you are looking at it in the year of things. So, again, I'm not going to dwell there, but just -- they are not all trending at the same rate. But over time they will. Okay. So, the second tab then. So, that's kind of our baseline, if you will. This is -- this is where we are today, if you will, right, as far as residential dwelling units in Meridian. The next part of the request and what's on the agenda, then, if it will go there. If I can zoom out a little bit. Be a little small, but try to get all that on one -- on the screen. So, this is kind of the next phase. So, this is entitled lands. So, one of the issues we ran into when we got into this exercise of trying to show how many unbuilt units or lots are already approved, that was the fact that some projects are annexed or rezoned without that information. For example, Council from time to time annexes property with only a concept plan. That plan and the corresponding development agreement may or may not -- may or more likely may not have any units associated. So, what we have done is assign the historic density that's been built to those properties by zoning designation. So, this tab shows what can generally be expected on top of existing dwelling units from the previous slide as entitled. So, to put that maybe a little more

clearly, right, so R-15 -- you can come and get annexation for R-15, but if you don't have a concurrent CUP or plat, we don't know exactly how many dwelling units. But time has told us that R-15 on average we get 13.82 dwelling units per acre. So, what we have done is we have taken those -- that land area that we have in the city and as of this week we have 193 acres of R-15 zoned land that's undeveloped right just yet. So, we have assigned this 13.2 to 193 and that gives us -- it's rounded; right? But 2,700 new dwelling units. So, when you take those for all of our zoning districts and extrapolate that out, again, to all those that didn't have a plat or haven't platted -- or final platted yet, you could add another roughly 13,700 dwelling units to the total. So, that's -- if you will, that's what we have committed to, to just put it in layman's terms. These are -- these are more -- that we can -- give or take, we are on the hook for providing services to that many more dwelling units I guess that's kind of a simple way of stating that.

Borton: Mr. Mayor?

Perreault: Mr. Mayor?

Simison: Councilman Borton.

Borton: Quick question. Caleb, on the undeveloped acres, meaning there is not a preliminary plat, it's only concept?

Hood: So, in this one it -- there could be a preliminary plat that hasn't developed yet. So, they haven't -- just to make sure I got my notes right on that one.

Borton: The reason to ask is is there -- is there any double counting?

Hood: So -- no. That's what we are -- that's what we tried to avoid. To fill in the gaps from the previous slide that had preliminary/final plats, this doesn't double count those land areas.

Simison: Council Perreault.

Perreault: Thank you. Do we happen to know how many of those acres are the area in the south side of Meridian that was annexed for the intent of helping, you know, set our boundaries versus what have actually been requested by applicants outside of the city?

Hood: Mr. Mayor, Council Woman Perreault, if you are okay if we put a pin in that for just a second. I wasn't prepared to go exactly there, but we have a cool tool that I'm going to show you at the end that maybe we can use that as a case study to see if we can find the answer to that. If you are okay pausing --

Perreault: Absolutely. Thank you.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thank you, Caleb. So, this is really helpful. I guess one thing I'm curious -- so this shows as kind of a snapshot in time, our -- like total pipeline of future development could take years -- could take ten years. Do we have any comparison point over time, even if it was like five years ago or something, what this total pipeline looked like for a way of knowing it's twice as much or it's the same -- or just kind of an historical context for it?

Hood: Mr. Mayor, Council Woman Strader, I think we could do that, because we have this information that I have put back on the screen here. So, we could go see how many plats we had back there to see how many entitled land that we had before the dwelling units came on. I will just say -- again -- and I kind of glossed over it a little bit, but the year over change, right, I mean there is -- there is your trends. You can kind of look and see -- that doesn't -- that doesn't tell you your inventory, but it tells you your absorption. So, on, you know, two to three thousand kind of is what we have been averaging over the last handful of years. Obviously, that's up higher than it was in the five year bucket bid -- you know, before that. But, no, I don't -- we can look into that. I don't have an easy way today to find that, but we could look and say, okay, yeah, five years ago what -- what did your annexed yet undeveloped number look like?

Strader: Yeah. Thank you. I was just curious if there is a big deviation from that, you know, quote, total pipeline of potential development compared to past years, but I understand. Maybe that could be a future data point.

Hood: Sorry. I will just also say we do -- Brian puts together the land use report annually and we can even look back on that report and say -- I think we have only been doing that maybe four years now. So, maybe it doesn't go quite back as far as you would like, but it does have some of these numbers. So, if you look at the historical land use report that we publish every year and get the oldest version we have, it will -- it will generally tell you some of that information, too. So, sorry to interrupt.

Strader: Okay. No. Thank you. Oh, go ahead.

Simison: I will just say that may actually be better, because the large annexation we did in the south with that holding pattern is going to put a line in the sand anyways for the usable years of historical data, because that would have been 6,500 R-4 -- I know it wasn't all R-4. But, for example, that would have been about the number that would have changed in the pipeline just by that addition. If 1,500 was the right number. Was that how many acres?

Hood: Mr. Mayor, I'm sorry, I don't remember now and that was 2016, I believe. So, if we fill in the 25th --

Simison: I think 2017 forward it would be apples -- you would be able to see that trend. Anything before that we would have to extrapolate out that probably -- that meaningful

data.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Caleb, is it possible to get an Excel copy of this data, if it's more updated than the opengov dashboard? I would just love to play around a little bit with some numbers I'm reading.

Hood: Mr. Mayor, Council Woman Strader, Members of the Council, so, again, you guys are ahead of me a step or two where we are -- we have some tools that we are going to share with you that I think can probably do a lot -- you know, you can have fun and you can play and you can zoom and crop and filter and sort and do all kinds stuff. So, I think -- let me show you some of the things and if it doesn't do what you want it to do, I think we will get you there. And I can definitely share that the Excel -- you know, these couple of sheets and we have some more, I'm not planning on going through them today, but I have got some other spreadsheets and charts and tables that are associated, but just in the interest of time I think these are the most important ones that kind of get to the heart of the matter. But there is some more data behind that that I certainly can share, so -- okay. I just -- maybe a couple more notes on this one before I leave it. And, Councilman Borton, this may answer some of your question, too. I just wanted to note that if this Council wants to continue to attract this type of information long term, which it sounds like you do, you are interested in this, Planning will likely push and even require all proposed annexations or rezonings that don't include a plat or a detailed CUP for multi-family to propose a residential density that we could, then, put into a DA with a range or a cap or maybe some wiggle room of 20 percent up or down, but it helps us populate this going forward to say we are generally committing to this many number -- we realize sometimes you don't know exactly how many, but give us a range or a cap or something that we can kind of put a general number to and say, okay, well, let's allocate that much growth to that parcel. So, Bill and I talked about that today. I think we will take that to -- they will go through the Planning and Zoning Commission, but I think we are going to change our -- unless you guys are like, no, don't require the development community to do that. I think we are going to ask them to say you want this, you don't have a plan for it, give us -- what's your cap you are proposing on that residential density. We will evaluate that through the staff analysis process and, then, in a DA we will say you can build up to this or -- or whatever that process looks like. But I want to just get some head nods and it looks like generally everyone's okay with that. So, then, we can, again, really understand the impact of density long term. And, then, the unit count in this table is again -- and, then, I think I should just read my note before I take more questions, but the unit count in this table is annexed, but undeveloped as of January 1st. What that means is any parcel within Meridian zoning that hasn't developed yet. So, the property is annexed and maybe platted even, but no structure has been granted occupancy yet. So, I think that that's a better answer than mine. So, it may have a building permit, but it hasn't been granted occupancy, so it doesn't show -- it's not double counted, because it's not a dwelling unit yet, it's still under construction. Doesn't have occupancy. Okay. I think everyone

understands that and -- and the C-G in particular. So, in C-G it's a mixed use zone and we can get multi-family and mixed use. That's the other thing just to call to your attention here. So, C-C and C-G allow multi-family developments with a conditional use permit, but they are largely nonresidential zones. That's where you get your commercial uses, your restaurants, all that good stuff. So, when you look at a citywide average it really brings your average down, because you only average about a dwelling unit in those areas, but the whole thing's zoned C-G, but 90 percent of it is commercial. So, that's one of the problems we had here. But we keep using the citywide average, because we don't have a better thing to do. That was just the methodology we kept. But just to call that out this maybe -- if you get again a wholly multi-family project in C-G you are probably in the 15 dwelling units per acre range typically. So, it may be a little low. So, just a caveat on that one in particular, C-G, 1.43 -- the residential portions -- residential land use portions of property zoned C-G we certainly get more than 1.43 dwelling units per acre. Okay. Let me go through my notes. Okay. So, we have looked at the historical dwelling units, entitled and imminent dwelling units, and the last factor, then, that I was going to cover are in process dwelling units or pending applications. So, this is largely Bill's side of the house and things that are -- that are in process coming -- staff's reviewing them, they haven't been acted on yet by you, but these are applications -- let me move my cursor. These are applications that we have accepted and began to process, but they haven't been through the hearing process just yet. So, you can -- you can potentially add these to the two tables we saw before, but these are pending review and approval. So, some or all of these may be approved, but some of them may not be, so -- so, just to do a little bit of that math. I didn't do this. But, again, we have, you know, roughly 45, 50 thousand plus the thirteen seven of entitled but not yet developed units. You could add all those up for -- to figure out, again, what we have on the books and what you can expect for the foreseeable future. Again, I will -- and Council Woman Strader I think alluded to this a little bit. We talked about it. You only absorb -- we only absorb 2,500 to 3,000'ish dwelling units per year. So, we may have 13 or 14 thousand in the queue, but we can only go so fast and so historically we have only issued permits and occupied roughly 2,500 at least over the last five years. So, just keep that in mind. We won't absorb all 14,000 over the next year. Or at least I hope not.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Caleb, could you -- I apologize if I missed this. These are preliminary plats that are both being reviewed by planning staff or have all been approved by Council?

Hood: These are only ones that have -- they haven't been to Council. So, they may be various -- they maybe have been to the Planning and Zoning Commission, but maybe not, maybe we just scheduled it for hearing and the hearing at P&Z is coming up or they have been through P&Z, but not to you. Maybe they are on your docket next week. But they haven't been approved yet. So, they are somewhere in that process of between application acceptance and scheduling for hearing and ordinance. They haven't been approved by you yet. The other note I will make on that is we have another handful, five

or six I think Bill told me earlier today, that have been submitted, but have not done a completeness review or we are waiting on some other things for them to be -- to get to that point where we say, okay, you are complete, we are going to schedule you for hearing now. So, we already have some that are even in the pre-pipeline, if you want to call it that, that are waiting and are really close, but we are still needing a couple of things from them to deem them complete, so we can begin this process. So, these numbers, again, tell that story, but there is even more coming than what's on this slide.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: So, Caleb, would it be fair to say, then, looking at this, that we have just under -- I guess you are totaling each column, so it's just under 2,000 additionally -- no. I guess it would be -- sorry. I'm just looking at this for like 1,200 units in southeast Meridian, then, specifically that are in this kind of pending bucket that we would expect to see in the next year come before us. Is that accurate?

Hood: So, Mr. Mayor, I would say even within the next three or four months.

Strader: Okay. Wow.

Hood: Because typically it's about 45 days to get before the Planning and Zoning and, then, roughly another 30 days to get to you. So, this isn't even -- this isn't even a year's worth of -- now, again, things can get continued. You may not act on them. But, yeah, these ones -- again, if I had to ballpark it's probably closer to six months than a year. Maybe nine months, but -- yeah. So, not inaccurate, but within the year you will do more than what you see on here.

Strader: Right. That makes sense with the 2,500 units a year, approximately, that are kind of coming through. Thank you.

Hood: And so this is one of the tools that -- so, these are pending. So, again, that's what we have asked for. You could go to approved if you wanted to see that and you could see what those values look like in our demographic area. So, we broke the city up into eight demographic areas. So, again, this was some of the questions and some of the cool tools that you can play with if you would like and look at some of those and even, you know, Meridian west, look at the multi-family to single family ratio of approved single family and you could play by that -- by year -- you can sort it by year, by dwelling type, whatever, and it will give you the -- again, by demographic here and I have got another one that the dashboard -- called the dashboard that I will show next that you can even do some more. But even on this slide active would be no. So, this is something that's been approved. I think this is for '18, '19, '20 and '21, I believe. Do you remember, Bill, if this was -- no. Sorry. These are the pending ones. Sorry. So, these -- again, these are the same six months worth of things coming approved. So, this should have changed I guess a little bit; right? There you go. That looks better. Sorry. I saw the numbers down here.

So, you can -- you can change some of these and it will update the table with whatever you select. Okay. So, the last thing I wanted to show you is the next map. Before I jump to the map, the -- the dashboard itself, I wanted to just give you this -- this shows the demographic -- the demographic areas that Meridian is broken down into. We worked with COMPASS for -- it's probably been two or three years now on some of these boundaries. This, for the most part, matches our city limits really well. Before they were using like state highways, which made some sense from their perspective, but we worked with them on some of these borders. So, it really is northeast Meridian -- northeast Meridian and some of northwest Boise. So, I'm pretty proud of that, that our demographic areas actually match our future city limit boundaries pretty well. So, I'm going to show you that real quick and, then, I'm going to jump to the actual dashboard. Okay. On to the presentation -- all right. Sorry about that. Okay. So, what the -- the dashboard is -- has permit data from 2018 to yesterday. So, every night our database updates with information from Ada county and so this information is valid as of 12:30 a.m. or whenever it updates and it has -- right now I have got turned on all permits, so that includes, obviously, commercial and residential for, again, 2018, '19, '20, '21 and so far into '22. Not that far into '22.

Simison: Mr. Hood, are these only building permits?

Hood: So, these are -- yes. Building --

Simison: TI's. Commercial. Are they --

Hood: So, this includes residential-commercial. I will note that all permits does not include additions, remodels, TI's, et cetera. It only shows new residential and commercial permit activity.

Simison: Thank you.

Hood: And you can play with this, again, if you want to get into different -- and that's why the last one, the boundaries of those demographic areas are a little bit hard, because this map gets a little busy, but each ring represents -- and the bigger the ring the more dwelling units -- represents a permit issued. So, you can -- again, you can sort it by year, you can sort by area, you can sort it by year and area. I will note just another quick note. If you select residential, if you look -- it looks a little odd right now and don't know -- let me make it bigger real quick. But if you just click on residential you will notice that all 7,800 permits we have done in '18, '19, '20, '21 are single family. Well, that's because multi-family is technically a commercial building permit. So, it doesn't show up here. So, if you are going here to look for a ratio of single family, multi-family, you won't get that here, because, again, technically for the building code multi-family is a commercial building permit. So, just wanted to call that to your attention real quick. So, again, there is a lot of stuff in here. You can see the -- the valuation of those permits. And, again, that's -- there is somewhat of an honor system; right? The valuation permit is whatever the puller of the permit says the structure is going to be worth. So, that's based on -- not the assessor's value, but just through our building permit process what each permit value is -- is tied to. So, there is a

lot here. I don't know what you want -- want to look at or any of it. This is a cool tool, but to orient you would probably take -- you know, there is -- there is a lot of layers that you can turn on, off, zoning and future land use and basically anything -- sewer sheds and all kinds of stuff we could put over the top of this. So, we have really got it paired back right now just for ease to look at demographic area. So, this is -- Council Woman Perreault, if we wanted to look at south Meridian a little bit more, quite frankly, that is split into two different demographic areas and I'm not an expert at this yet, so you would have to select both of them or look at one and, then, add it to the other to see how many of those acres -- we turn zoning on and they will come -- I think it should be pretty evident even when we look at it just like this, because the projects say like Apex, right, was done originally with that mass annexation, but it's come in since for some platting. So, some of those show permits that have been built. But you can tell where a lot of them haven't. I don't have the acreage, but we could get that I'm sure. So, again, that's probably not the best use of our time to go and figure out how many acres that were annexed in 2016 were there, but we could come up with that total of properties that were annexed with that south Meridian annexation that are -- have some level of entitlement and, Mayor, to your point here is one of those lands that we actually didn't give R-4 to, they got some R-15. I think this is the R-15 and this is the C-G. This may be R-8. So, there is -- most of it was R-4, but they negotiated some higher -- some higher zoning on that area. So, I know that didn't fully answer your question, but it is possible. I just didn't do that math before this meeting. So, I can circle back. But, again, this tool has a little bit better access to questions like that. So -- okay. Before I turn it over to Kurt, I think just -- for, again, some of that legal guidance as stated on the agenda. A couple of notes on entitlements. And I know most of you understand the discretion you have with the various application types, but I really do want to reinforce this a little bit related to the date -- the data in table two in particular. That once a property is annexed and zoned we have, essentially, committed to allowing development. So, at that stage you have a lot of discretion in whether to approve or deny, condition, or accept as is. Post-annexation, though, city code really controls a lot of that discrepancy and the discretion goes away. So, that said, you and the Planning and Zoning Commission, in the case of a conditional use permit, have quite a bit of discretion in that realm. There should be a nexus between any condition and the impact of a proposed project. But, essentially, the condition is included to mitigate the impact of approval. Moving further down the discretion spectrum on preliminary plats -- so the UDC Title 11 includes the standards for new plats and subdivisions. There are some elements that are gray, like the appropriateness of a proposed amenity perhaps, but most of how a plat is reviewed is black and white and code and you either meet the dimensional standards or you don't. So, again, once the project gets zoning and the plat conforms to dimensional and other standards, et cetera, very difficult to deny something like that. So, final plats even further down the spectrum, then, practically no discretion and I'm not in the building department, but, essentially, the same holds true there at the building permit stage. If the zoning and building codes are met we issue a permit. So, again, at the annexation and rezone stage the city is making a commitment to serve the property and allow it to develop. Just a -- more of an example on that, Public Works accounts for future dwellings and their ERUs and they take the capacity out very early in the process of what they have in capacity and modeling very early, because they need to account for that, because, again, it's assumed that it's going to go forward. So, with that

I will turn it over to Kurt, unless there is any questions for me and, obviously, I will stick around, so he can do his thing, too.

Simison: Yeah. Why don't you stay right here for a few minutes.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: A couple of questions unrelated to each other. The piece that -- that we are -- we discussed quite a bit in regard to school enrollment is not only the numbers, but how quickly they will -- you know, they will be occupied. Different from area to area, developer to developer, but at some point we do ask them for a phasing plan. What -- at what point in the process do we ask for that? And can that information be requested earlier, rather than even later, so that that can be kind of plugged into this -- these spreadsheets as what we expect to see happen in the next three to four years?

Hood: Good question, Mr. Mayor, Council Woman Perreault. So, we ask for the phasing plan at the preliminary plat stage. So, we get a phasing plan. What the -- what that phasing plan doesn't do, though, is put a timeline to that. It just says I will do phase one, then phase two, then phase three, then phase four. They could do all four of those in one year. It just says I'm going to go one, two -- this -- from north to south or east to west or north, south, east, west, whatever. We haven't historically done that. And I guess I would -- obviously, you all can do whatever you want. I would caution you a little bit on tying them to a phasing plan too much, just for the burden that that puts on staff a little bit. So, just a little perspective there. I'm not saying what trumps what, but if you were to say you can do phase one in 2022 and phase two in 2024 and phase three in 2026 or whatever, that's on us, then, to track it. If someone tries to pull a building permit, if we are -- we are the backstop that enforces that and we just don't have the capacity to go and figure out and we got to hunt and peck and find and just -- let's talk through a little bit before we jump to something like that and hold a phasing plan to a -- you can do a plan a year for the next ten years. It's possible and if you want to do that we can go there, but I just -- again, let's think that through a little bit on how logistically that will work. Because, again, you get those at preliminary plats. We historically haven't tied that to you get one phase a year or you get 50 lots a year or whatever we -- we have. I can't think of a project we have ever done that for at the final plat stage. I would just say -- and this is my two cents. If you are that concerned about it I would rather deny the project, because you are committing to -- you are saying welcome to the City of Meridian, we would love to have you, but we are not, we are saying, well, we could kind of have you. Really you need to look at it and assume those are coming online. Again, that's what Public Works does. It -- 200 lots, they know they are not all flushing toilets tomorrow, but they got to remove that from their capacity numbers to know what's really -- for the next one how much they have left. You got to subtract that. So, sorry, I will stop. But you have the information, you can do with it what you want, and we can even highlight that more in a staff report. Here is the phasing plan, if that's really what you want to see. But, again, right now they are not tied to a year.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you. I appreciate that clarification. From what I have seen they -- the phasing plans are also intended for how they plan on building out and selling. So, perhaps I wasn't aware of that. I have not yet seen a development that has built multiple phases all at one time and sold them all at one time, but -- so, maybe that's my misunderstanding.

Hood: And maybe just to clarify. So, a phasing plan is really just to record the plats. They could pull -- you know, they could record 200 lots and pull building permits where ever they want within the subdivision. So, the phasing is the phasing of the plat recordation. So, they are going to put the public infrastructure in for phase -- they could put all the streets and an open space and never pull a building permit if they wanted to and go record phase two. So, there is a little bit of a disconnect even with -- you don't have to have phase one built out as far as occupied, you can -- you could -- again in theory someone could record one final plat that has 300 lots in it. You just have to have all of the roads built and all of the amenities in before you can pull your first building permit. That's why you get phases.

Perreault: Mr. Mayor, one more question.

Simison: Council Woman Perreault.

Perreault: Thank you. I -- yes. That happened quite a bit, actually, in the mid 2000s, which caused a lot of sitting inventory when the market shifted. So, the -- the multi-family versus single family, sort of big picture ratios, you showed a slide here that looks like were about one-third, two-thirds on -- I didn't know what the criteria was that I had seen, but it -- does the Comprehensive Plan -- did we set like a desired ratio of multi-family versus single family and -- and has that conversation been had and is -- and if not, maybe it's not necessary, because maybe just the -- the zoning itself will limit how that plays out. But do we have some sort of idea of -- you know, if we were to get to a point that we thought multi-family was -- that we had too much multi-family in relationship to a single family or, you know, townhome or just keeping a balance?

Hood: Mr. Mayor, Council Woman Perreault, so, no, that is not addressed as a goal or a vision for the city in our Comprehensive Plan as far as the ratio of single family to multi-family. We do have policies in the Comprehensive Plan talking about -- we want to be a community that has a mix of different housing types, but that doesn't go to the point of 80/20 or whatever. No, there is no real talk about that. We do have some other policies in there that talk about, you know, the distribution, we don't want to put all of the multi-family right along your road necessarily. We want -- you know, it should be generally intermixed in different demographic areas. We have looked at it -- as staff we have looked at just, okay, what's -- for a healthy community what do you get? What -- what other cities -- what's -- what's a normal number of mix of -- and it really is all over the place. I mean you can -- you can see our ratio certainly has jumped way up. I mean look at today; right?

I mean that -- that's a lot different than where we were ten years ago for sure. No doubt about it. I will -- I think this -- this may help a little bit. So, again, I don't have those numbers and I can't tell you the best practice in the planning profession is that 25 percent multi-family -- I'm not aware of any study that says in a community this is what your target should be for homeownership, rentals, multi-family, single family. Every community is a little bit different and I think, again, a mix and opportunities are what it's about, not a ratio. I'm going to show you just real quick, because I think this also helps, anyways, to your question. So, this is COMPASS. So, this will just show you in Ada -- Canyon county, then, that's at the top of my table. That ratio. So, if you look down here percent multi-family and manufactured. So, you can see other communities then. So, to your question at least in the valley where other cities and counties are at with their ratio. So, if you look at the percentage that year -- and, again, we can do some of the math and show some other tables, but it shows you generally what other cities in the area are doing as far as single family, multi-family, including multi-family manufactured; right? But -- yeah. So, we have some -- we have access to things like that. And we -- we track it, but we are -- certainly it's a shift and I'm glad you asked the question, because we have shifted and we have seen a lot of multi-family come in our inventory, but there still seems to be a market for it. I'm -- they are going to stop building it when people aren't renting anymore; right? I -- but I don't know what -- long term what -- is 35 percent too much? I don't know, so --

Simison: Caleb, one of the things that I think some of the Council was hoping that we would see is what's currently been -- has an active application in the pipeline. You know, Councilman Hoaglun has made the comment that whatever -- if we are going to make a policy decision about how we want to treat -- do we treat it from a certain day moving forward or not, any idea what the -- everything from annexations, you know, what -- what are the current applications that are out there? Is there a way to identify them?

Hood: So, Mayor --

Simison: Maybe I don't -- and the type. Because I think the questions are should annexations be different than a rezone or a final plat or -- yeah. What's the best way to get a listing of all applications which are currently submitted, at least so Council can get an idea about the immediacy pipeline, because, you know, they made a decision to continue one application until, essentially, five months from their last hearing and I think the question is -- is that -- if that's the approach they want to take, I think it's important to figure out what is -- what's coming. Do we have 30 annexations coming for R-4 or multi-family in the next two months?

Hood: So, Mr. Mayor, I'm going to put Bill on the spot here a little bit. So, the numbers that are on the screen now -- particularly up here are lots. That doesn't equate to applications. So, I know that doesn't -- and that's where I'm going to put him on the spot and see if he remembers how many applications that are in the pipeline this actually equates to. Plus the five or six that are --

Simison: Maybe a list of everything. Would it be possible just to get a list sent out to Council of the active applications which are scheduled -- you know, not -- not since it's

been -- if there is no active application with a scheduled hearing. Anything with a scheduled hearing in front of -- that's planned for P&Z, moving through Council, at least get that list provided. Is that possible?

Hood: Sure. I -- no, we have had that. We can certainly share that. I -- yeah.

Simison: Let Council look at it for themselves.

Hood: Sure. We can show --

Simison: List the names of the projects and if it's an annexation, if it's a -- whatever it is. Quite frankly, a lot of the description that's on the agenda is -- at least is a start.

Hood: Yeah. Right. Yep. We have all that. So, we will just send you -- in fact, it's probably in one of these -- we will send it to you. We do have a -- one of our tabs that has a list of all, you know, file number, name, you know, so it's been paired way back, so we can send you that and just look at the ones that haven't yet been approved that are in process and get you that list. Sure.

Simison: Councilman Hoaglund, was that what you were looking for from a --

Hoaglund: Mr. Mayor, that's correct. Yes. So, Caleb, yeah, we can get together on that and get that sent out to Council or --

Hood: Sure.

Hoaglund: Know how to use the tool appropriately. Thanks.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Caleb, on this chart that you have up, that's -- that's -- you had said that was the number of lots, but is that actual number of -- on the multi-family it's number of units; right? And the single family it's lots.

Hood: Which would be the same thing for single family. But yes. Thank you for clarifying that, because sometimes we don't -- in fact, a lot of our multi-family projects don't plat and so you get zero lots with 64 units.

Simison: Any additional questions or we will bring Kurt up. All right.

Starman: Thank you, Mr. Mayor, Members of Council. This will be part two of your discussion tonight. I will segue a bit from what Caleb had presented. Again Kurt Starman with the city attorney's office. Mr. Nary and I are going to -- I liked Council President Hoaglund's description earlier. A little tutorial or maybe -- I guess I will call it a high level

primer on two topics that I think sometimes get conflated and we will talk about -- first about moratoria and what that means and what the implications are and, then, also want to talk about annexations and particularly Category A annexations, because I think those topics sometimes get mixed together and so one of our goals for today is to kind of talk about both those things and separate those two topics for you. So, with regard to moratoria, state law does provide cities and counties the opportunity to implement a moratorium on new growth under certain circumstances and there are sort of two categories there that I will chat with you about today. So, one is under the header of an emergency moratorium and I will describe that more in a moment or two and, then, secondly, an interim moratorium and I will describe that for you as well. So, under that -- under that category of moratoria we have two flavors, if you will. With regard to the emergency moratorium, I think probably the one -- you know, the kind of the ways we can think about that -- I will just use a -- an example or two. But as its name implies, there is something compelling that or something that falls into an emergency category. So, as an example, if we had a sewer treatment plant that was failing and it could not accommodate additional growth or a water system that cannot accommodate additional growth, it may be that a city would want to implement an emergency moratorium in that circumstance to put a temporary cessation -- cessation on new development, new permits, and, then, allow the city or the county some time to correct that situation. I think importantly I think it's one of the areas where this -- this issue does get conflated as importantly with regard to moratoria of either variety, emergency or interim, the moratoria applies to development -- or permits, to be more precise, permits within the existing -- I will call it -- we are going to stick with cities today -- within the existing city limits. So, it's not -- it's not -- we are not talking about -- when we say -- we use the word moratorium we are not talking about development in the area of city impact or annexations, we are talking about putting a temporary pause on development within the city boundaries. So, with regard to the emergency moratorium, an example like the water or sewer example I gave you earlier, what the -- what state law requires is that the -- the legislative body, the City Council, make a finding that there is imminent peril -- I'm going to talk about that phrase or term in a moment. But imminent peril to the public health, safety, or welfare. In other words, our police powers, as a local government agency. And so that -- that phrase imminent peril I think is important. It's important also on the interim -- imminent -- excuse me -- the interim moratorium as well. But imminent peril -- we don't have an Idaho appellate decision that has defined that term, but we can sort of extrapolate from criminal law and just from other areas of law that -- I think it's likely a court would define that term of imminent peril to mean, you know, something that is certain and something that's going to be an immediate danger to -- you know, within our police powers, of public health, safety, or welfare. So, that's -- in my opinion that's a pretty high bar to say, you know, the -- for a legislative body to make a finding there is imminent peril and, therefore, we are going to put an emergency moratorium in place until we can address that issue. So, that's -- that's number one. I think it's probably fair to say -- Mr. Nary and I were having this discussion a couple of days ago that, really, if I look at -- kind of the balance there, really, the law provides a lot of protection for private property rights in that context is that there is a very high bar to put -- put a moratorium on new growth or new permits and there is all that to protect private property rights. Another way that state law protects private property rights in this context is that there is a very short time frame when such a

moratorium can be put in place. So, for an emergency moratorium you make that finding of imminent peril, which, again, is a high bar and, then, under state law that -- that moratorium cannot be in place for longer than 182 days or roughly six months. So, there is a timeline there and it cannot be extended beyond that six months, unless you want to move into that second category that I mentioned of the interim moratorium. I will describe that in a moment or two. I think an important concept I just wanted to put on the table and we are not -- you know, today we are talking very conceptual. I'm just talking about cities in general, not necessarily Meridian or, you know, any projects that you are considering, but I think in a -- in a broad context, just sort of in that context of a tutorial or a primer, there is some risk to a city, in my opinion, that implements an emergency moratorium, because you have to make that finding, number one, imminent peril, which is, you know, again, a high bar and, then, to the extent, you know, a court later decides that that was not the case and that the moratorium was unlawful, it does potentially -- I'm not saying it's a certainty, but certainly if there is a potential to open up the door for a regulatory -- a temporary regulatory taking argument that a developer or a property owner was negatively impacted by that moratorium if it wasn't lawful, there is a possibility of a takings argument, which could result in liability to the jurisdiction that implemented such a moratorium. So, I just plant that seed again in a very general sense, not -- not with regard anything that's on our plate today. The second form or flavor of moratoria is the interim moratorium also codified in state law. Again, it applies to projects and permits within the city boundary. Does not apply to the area of impact. So, very similar in that regard and in a way there is even a -- another hurdle or another finding, I suppose, that is required above and beyond the emergency moratorium and that is that, number one, you still have to make -- the legislative body still needs to make a finding of imminent peril with respect to the public health, safety, or welfare and so there is a second criteria as well -- so, we need to find imminent peril and the city needs to make a finding that they -- that it's in the process of either adopting a Comprehensive Plan or an element of that plan or is amending the plan. So, it's sort of those two boxes that need to be checked for the interim moratorium, imminent peril and there is a -- you know, other -- a Comprehensive Plan is being adopted or being amended in some way, shape, or form. Again, some of the same risks that apply to the emergency moratorium would apply in this context as well. I mentioned with regard to the emergency moratorium there is a six month limit on that moratorium. Likewise, there is -- there is a limit as well on the interim moratorium. That's for one year. So, in theory you could go from an emergency moratorium into an interim moratorium or you could just start with the interim moratorium, but under that category of the interim moratorium it's a one -- up to a maximum of one year. It could be shorter, of course, but no longer than one year. And, again, some of those same risks I talked about earlier. So, those are two forms of moratoria that, you know, they are just, again, to sort of just have a high level discussion about what -- what's available under Idaho law. So, I want to put a pin in that for a moment, put that to the side and talk now about annexations and particularly about category annexations, which --

Simison: Can we see if Council has any questions on the moratorium before we move off of this topic?

Starman: Of course.

Simison: Just so we keep our --

Borton: Mr. Mayor?

Simison: Councilman Borton.

Borton: Real quick question. So, would that mean that a city could -- assuming there is a policy decision to have a moratorium, that they could -- with either moratorium you couldn't use it to -- in an annexation application, but it would apply to, for example, the issuance of building permits that would follow from an annexation?

Starman: Mr. Mayor and Council Member Borton, so I'm going to -- I'm going to return to the annexation comment in just a moment, but I think what the statute envisions is putting a hold on permits and building permits would be the prime example of what would be applicable. So, with an emergency moratorium or interim moratorium clearly that would apply to building permits that already are -- you know, to property within the city itself. The moratorium -- either form, emergency or interim, would not have a direct impact on annexations, because, really, what the moratorium says is within your city boundaries you can put a pause on permitting. It doesn't speak to annexations, but I will talk more about that in a moment.

Cavener: Mr. Mayor?

Simison: Councilman Cavener.

Cavener: Kurt, real quick. I appreciate your examples of rationale or basis jurisdictions could use. Could a jurisdiction use an imminent peril argument if the peril is being caused by a jurisdiction other than their own? For instance, the examples you referenced were water, wastewater, which as a city we have got a certain level of control of making sure that we are addressing that, but issues like schools and roads where we don't have direct control, can a city use the basis of traffic safety or the welfare of our students as a basis for -- for enacting a moratorium?

Starman: Thank you, Mr. Mayor, Council Member Cavener. The case law I have looked at and examples I have looked at have all been sort of services or physical plants and things like that that are under the city's control or county's control. I haven't seen an example like that. I think in theory, you know, the law doesn't prohibit that, so in theory we could go there. I would say on -- on some of the examples you pose, like schools as an example, just to touch on that issue, I think the -- the more difficult part of that discussion is -- part one is those are things not within the city's control directly, number one, but perhaps even more importantly is I think it's very difficult to make a finding that an incremental increase in student enrollment would have imminent peril on -- on the community. That would be a very -- I think that would be a difficult finding to make. I'm not saying it's impossible. I would ask Mr. -- Mr. Nary if he has an opinion about the first

topic in terms of making the finding of imminent peril when the peril is being created by a different -- you know, an outside government entity as an example. I haven't seen any case law on that, but --

Nary: So, Mr. Mayor, Members of the Council, yeah, I mean it's a great question and whether the -- and the answer is at least undefined in the state of Idaho and if you read the implications of the statute and the case law, it's always been within the control of the people imposing it. When it's outside of it, especially on the interim moratorium where the requirement is that your other finding is, what are you going to do about it? What plan are you going to change? What comp plan feature are you going to address and if there isn't one, then, you can't even make that finding. So, you know, again, how a court would review that I don't know. Again, there is no appellate cases in the state of Idaho, so it has never gotten above a district court level. So, I couldn't tell you that it's an absolute yes or no, but there is certainly a significant risk. I look at it -- and Kurt kind of stated it and we will get to this on the -- on the annexation side. I look at it as a meter on what is greater into the property owners control, which is where moratorium sort of land and where the property owner has a lot more rights that have attached to their property, what rights they have in developing their property, to the opposite end of that spectrum, which is annexation, where the city has a great deal more of interest and discretion on whether to annex property and add it into its city. So, somewhere in that spectrum are other types of applications. For example, a rezone application is appealable to the district court. And annexation -- annexation denial is not. So, that's why you have probably heard me say more than once, if you are going to deny a rezone, we need a reason and it can't just be I don't like it, it's got to meet your comp plan, it's got to meet your code, it's got -- it's got to have other reasons, because we have to be able to explain to a court what legal basis did we have and it's beyond just absolute discretion. So, it falls a little further up the meter than complete discretion that you may have in an annexation context.

Starman: I will add -- you know, it's in the back of my mind I can't -- I couldn't tell you the case name right off the top of my head, but I -- in the back of my memory banks I do -- I think I recall a case that does -- that -- with floodplain type issues, that might come close to what you were talking about where -- you know, where the floodplain lies is not a function of what the city did or did not do necessarily, it's a function of Mother Nature and I think -- if I recall there was a scenario where concerns relative to floodplain issues was a reason for a moratorium. So, there may be -- that would be sort of kind of related to something beyond the city's control or something the city didn't create or didn't cause.

Nary: Mr. Mayor, though, to add on top of that, in that scenario, more likely than not, you are going to have either an ability to make a finding that someone else has a plan in place that will take effect within that time period, or you are going to be amending your comp plan to take that out of a buildable area and so now you are, again, meeting that standard in the code of you are going to amend your comp plan, because the floodplain moved and we have expanded it and it is contracted in different parts of the city based on -- on various studies over the last ten, 15 years. So, there is the dovetail connection you can make that's connected to your comp plan.

Perreault: Mr. Mayor?

Simison: Council Woman Perreault.

Perreault: Thank you. In line with that I'm still not completely connecting the dots on the interim moratorium, why it has to be within the time frame of adopting or amending the comprehensive plan. Help me connect the dots on why the moratorium must happen within that time frame. It -- to me the imminent peril and the comprehensive plan -- imminent peril could happen -- you know, the Comprehensive Plan in our city is reviewed every ten years. It could happen the year five. So, then, would you only been able to enact the emergency moratorium at that point or -- I'm not really connecting the dots there.

Starman: Thank you, Mr. Mayor, Council Member Perreault. So, I probably was not clear, so I apologize for that. So, there are two flavors of moratoria. With the emergency moratorium, the -- and this is really just a function that the legislature adopted when it adopted that -- these particular statutes. With regard to the emergency moratorium it speaks to the imminent -- you know, I think a legislative body needs to make a finding of imminent peril. That's a box that needs to be checked to satisfy state law. With regard to the interim -- interim moratorium, the legislature -- I couldn't tell you why they did this or for what purpose, but there is actually two things that need to be accomplished on the interim moratorium, which could be in place up to one year and what the law says is that you have to be in the process of adopting a comp plan or amending -- so, I will give you an example in a moment, but adopting or amending a comprehensive plan and you need to make a finding -- if you wanted the moratorium and you had to make a finding if imminent peril. So, with regard to -- I'm trying think of a good example. Let's take our sewer plant example from earlier. So, we have a sewer plant that is failing and not capable of taking on additional households in the near term. So, you know, we may -- the -- a city -- just generically a city could be doing two things simultaneously. It could say we are going to revisit our comp plan, maybe densities, for example, we can't accommodate higher densities, we need to revisit our comprehensive plan to reduce densities in the area that is going to be developed in the future and at the same time we are going to put a moratorium in place until we can accomplish that, amend our comp plan, and/or, you know, get the wastewater plant in a better position to accommodate new growth. I don't know if that's a good example or not.

Simison: Thanks, Kurt.

Starman: The second -- second topic that I will speak about -- and Mr. Nary already touched upon some of the key features here, but -- is annexation. So, again, I want to really draw that distinction. When we talk about moratoria we are talking about putting a pause on development within, you know, property that's already been annexed within the city boundaries and I want to compare and contrast that with annexations and particularly Category A annexations, which is what the City Council sees most frequently and as you know from your experience the Category A annexations -- typically they come -- the applicant, the property owner, is coming to the city with requests to annex and all the property owners are in agreement and they consent to the annexation. So, this -- the

situation with this property is not in the city today, they want to be annexed to the city in order to develop the property, at perhaps higher densities and receive sewer, water, and other city services to accommodate that. So, cities -- what the courts have held and with -- what Idaho law says and what courts have held -- the Idaho Supreme Court in particular -- is that cities have a great deal of discretion to make a decision to decline annexations. So, a property owner comes to the city with a request and a legislative body, the city council, has a great deal of discretion to decline to annex that property and I will go even farther in the sense of what the court has -- has held is that under state law relative to annexations is that when the applicant -- applicant comes forward and requests annexation and the city council declines to annex that property, that decision is not even subject to judicial review. You can't -- the applicant -- the property owner couldn't even seek redress from the judicial system. What the -- what state law says and how the Idaho court -- how the Idaho Supreme Court has interpreted that state law is that that's not even subject to judicial review. The city council's decision on that is final relative to the decision not to annex. So, that's a situation where the city has a great deal of discretion to say if there is a -- you know, for whatever reason, public policy reasons or infrastructure reasons, if a slip -- if a city wants to slow growth or limit growth for some period of time by not annexing more property, there is a lot of discretion in terms of how the city council can deal with annexation requests. I think also I mentioned in the case of moratoria, there is -- there is some risk to a city that puts a moratorium in place in terms of a temporary regulatory taking. That's -- that risk is far less in the case of annexation, because those are legislative decisions that are not subject to judicial review and so in terms of -- from a risk management perspective or liability perspective, much less risk to the city in making decisions like that versus in the context of moratoria. So, in summary, you know, I guess I will say -- and be happy to answer questions you have about annexations or what additional questions you might have about moratoria, but I think, you know, some of the key points -- I will just reiterate it in closing here is, with the moratorium that, you know, it's a high standard to be able to make a finding that -- that there is imminent peril to the public health, safety, and welfare -- is a point I like to stress. The other point is that moratoria applies to development or permits within the existing city. We are not talking about annexations or the area of city impact, just within the city itself, and that, you know, to the extent the city makes -- a city makes a decision to implement a moratorium and it's later reversed by a court, there is some potential for liability there due to a temporary regulatory taking. And, then, in closing, annexations, just to recap what I mentioned just a moment ago, is that that's an area where cities have a lot more flexibility and ability to determine how quick or even if the city wants to annex at all and, again, the risk there -- quite a bit less. So, with that I'm happy to stand for questions on either of those two topics and Mr. Nary and I would be happy to try to answer them.

Strader: Mr. Mayor?

Simison: Council Woman Strader.

Strader: Thanks, Kurt. Is it -- I read you loud and clear. It sounds like even while we were kicking it around it didn't even apply, actually; right? So, moratoria for permits, things that are in the process, but annexations are different. Is there anything legally that

prohibits us from dealing with annexations on a blanket basis or in a systematic way or are we legally required to deal with each annexation separately?

Starman: Thank you, Mr. Mayor and Council Member Strader. The sound is not great here, so maybe let me recap the questions. I think I heard it and make sure I got it correct and the Mayor can correct me or Council Member Strader can do so. But I think the question was with regard to annexations -- I'm going to use my words here. But could -- can -- can a city simply say we are not doing any annexations as a blanket statement versus sort of on a -- sort of case-by-case basis? Is that the gist of the question?

Simison: Or hold them and only do them once every three months or -- you know.

Starman: Okay. So, I think what I have -- and I will give you a couple thoughts and invite Mr. Nary to -- to join me as well here. My thinking on that is that I think, first of all, I will start with what I said earlier, cities have quite a bit of flexibility relative to annexations, but I think, you know, we could run into other issues, constitutional issues or otherwise, if, you know, decisions are arbitrary or capricious. So, I would say it would be better to deal with annexations on a case-by-case basis and have your reasons for saying yea or nay, as opposed to a blanket policy. I'm not saying that isn't a possibility, but I think dealing with annexations on a case-by-case basis and having specific reasons to say yes or no puts a city in a stronger position, as opposed to a blanket policy that says we are not doing annexations and -- you know, with very high level reasoning and rationale for that. And, then, with respect to the idea of can -- can annexations be -- I will use the term sort of bundled or packaged and dealt with on a periodic basis -- every three months, for example, I think that would be fine. I think that's within the city's discretion to be able to, you know, process applications as it sees fit and if it's more -- if it's the City Council's pleasure to deal with those, you know, in increments or in, you know, every three months or six months, I think that would be okay. Mr. Nary, any additional thoughts?

Nary: Mr. Mayor, Members of the Council, I agree. I think the bundling certainly -- I don't see that as problematic, unless it's a staffing issue from the planning side. I wouldn't know. On the other one, you know, that -- as Kurt stated, I mean every application should stand and fall on its own merit and there is other factors that may have a greater impact that -- the fair housing is one of them. Again, there are some expectations that when you have a comp plan that you are going to abide by it to some degree, so taking a blanket statement makes it a little bit tougher to -- to deal with, but from a challenge standpoint, as Kurt stated, it's not subject to review. Your -- probably your bigger risk factor is the legislature of changing the statute. Now in the past they have only generally gotten into change the statute when they believe cities in general have overreached their authorities and gone beyond what the legislature felt was appropriate. So, in a case where you are sort of going differently than that, you know, that -- that may not catch their attention or raise their temperature level. So, those are probably the only cautions I would have is that the legislature certainly has a greater control over that issue than the courts do at the moment.

Hoaglund: Mr. Mayor?

Simison: Councilman Hoaglund.

Hoaglund: One question, Kurt, on -- on the process. I know of a community in the area, smaller town that they have limited staff and the applications they process for development, whether they are annexations or just development for already zoned areas, they say it's -- it's going to take a length of time, we are only going to process them as -- as we can and there is -- there is no problem with saying, okay, there is a timing issue, there is a spacing issue, so if it's going to take nine months for that to come before council, it takes nine months. Are there any issues with -- with that as seeing as you need to speed your process up or hire more people to handle the influx?

Starman: Mr. Mayor, Council President Hoaglund, I think like a lot of these types of topics I think that there are legitimate business reasons why a city, you know, because of staffing concerns or just the complexity of a project, that takes additional time. I think that -- that is fine. I will contrast that with if -- if we are -- if a city is sort of -- if it's a pretext to slow development is to say we are not going to get to it for nine months and so sad for you, I think there is -- there is a potential problem there. But if it's a legitimate issue of we have so many resources and we can only do what we can do within the period of time, I think that's certainly justifiable, as long as it's not a pretext for just simply, you know, slowing a process and maybe to the detriment of a property owner.

Bernt: Mr. Mayor?

Simison: Councilman Bernt.

Bernt: You know, I wanted to thank Council President and Bill Nary and -- and Kurt for bringing this forward. This is great information. I think that we have all been thinking about this for a long time and what that looks like and -- and so thanks for the clarity. I think that we needed this discussion this evening. So, thank you so much.

Simison: Council, any additional questions?

Hoaglund: Mr. Mayor, not a question, but just to thank also Caleb, Bill and Bruce, Miranda, who is probably listening and whatnot, for your work on putting this information together to help give us that foundation and the basis and if there are -- you know, one, limited, we don't want to take up staff time, but if there is something let me know. If there is a number that you really need and we can -- we can see what we can do as staff to get that -- get that number among all the other things that they do, so -- but thank you, Kurt. Bill as well.

Strader: Mr. Mayor?

Simison: Oh. Council Woman Strader.

Strader: Mr. Mayor, I don't -- what I just wanted to say was thank you very much. I thought this was really good information and I would really appreciate receiving a copy of the spreadsheet at the appropriate time when it's ready. Thank you.

Simison: Thank you. Then, with that, Council, do I have a motion to adjourn?

Hoaglund: Mr. Mayor, move we adjourn.

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

MOTION CARRIED: ALL AYES.

MEETING ADJOURNED AT 5:46 P.M.

(AUDIO RECORDING ON FILE OF THESE PROCEEDINGS)

MAYOR ROBERT SIMISON

_____/_____/_____
DATE APPROVED

ATTEST:

CHRIS JOHNSON - CITY CLERK