

Planning & Zoning Commission Training
Workshop
December 15, 2022

**Presented by:
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Agenda

- Policies (Comp Plan) and Standards (UDC) Explained
 - Goals/Vision (Comp Plan) – Law (UDC)
- Discretion in Quasi-Judicial Decisions – Yes, you have some
- Interpreting and Applying Standards and Policies
- Making Fundamentally Sound (and Legally Defensible) Decisions in Idaho
- Q&A

Comprehensive Plan

- Required by State Law (LLUPA, IC §67-65)
- Meridian's vision for the future
- Sets citywide goals and policies
- Backbone for UDC Standards
- Includes Text (background and policies) as well as a Map (FLUM) with future land uses
- Designates future land uses within the Area of City Impact (ultimate City limits)

Unified Development Code

- Unified Development Code (UDC)
 - City Code (Title 11) that establishes standards for:
 - Zoning Districts (Residential, Office, Commercial, Industrial, and Traditional Neighborhood)
 - Dimensional standards (lot size, setbacks, height, etc.)
 - Uses allowed (permitted, conditional, accessory, or prohibited)
 - Improvement standards - landscaping, parking & drive-aisles, lighting, streets & sidewalks, waterways, etc.
 - Signs and fencing allowances and restrictions
 - Specific Use Standards – multi-family, restaurants, etc.
 - Process/Administration provisions – noticing, neighborhood mtgs., etc.
 - Subdivision standards – lots and blocks, roadways, easements, etc.

Policy (Comp Plan) and Implementation (Zoning/Code)

Both key in development review and Findings

Comprehensive Plan

- Long range and general
- Vision
- Aspirations for the future
- Advisory
- Based on legislation
- Sets direction for zoning

Zoning

- Specific
- Reflects current conditions
- Regulatory
- Based on constitution
- Implements the Plan

Policy and Implementation

Policy

- Comprehensive Plan
- Master Plans
- Specific Area Plans

Implementation

- Zoning
- Subdivision
- Use Permits
- Site and design review

Policy Implementation

Annexation and Zoning

- Sets framework for development
- First regulatory step

Conditional Use permit

- Allow for review of certain uses that may have impacts on surrounding uses

Subdivision

- Creates the way for property to be bought and sold
- Ensures adequate public facilities and buildable area

Site & design plans

- Ensures compliance with that specific development standards

Less Discretion

Policy and Implementation Relationship of Plan with Codes



What the LLUPA says: Actions must be in:

- conformity
- compliance
- accordance
- not in conflict with the policies of the adopted comprehensive plan.

What the courts have said:

- determined on a case by case basis
- based on a factual inquiry
- need not strictly conform
- non-compliance cannot be the sole basis for denial
- merely guidelines for guiding zoning decisions.



City Codes and Policies – When an Application Doesn't Seem Appropriate

What happens when the Commission hears from the public and that testimony doesn't align with what other agencies have done or commented?

What should the Commission do when specific standards don't appear applicable in a certain situations (eg – parking for multi-family, open space/amenities)?

What about having “bad feelings” or concerns with a proposal that are not expressly explainable?

What are the best practices for making a motion for denial (and approval)?

Finds of Fact, Conclusions of Law, Conditions and Decision “Rules”

Findings of Fact/ Conclusions of Law

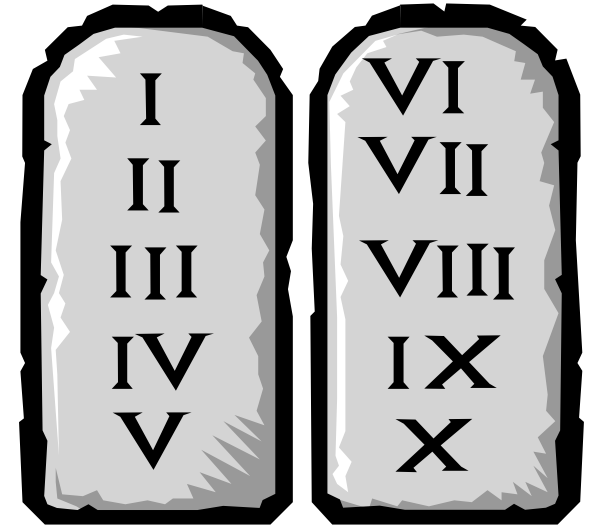
- ⑩ Understand the code requirements;
- ⑩ Identify facts relevant to the code; disregard what is not relevant to your code regulations.
- ⑩ Link the facts to conclusions of law
- ⑩ Conclusions must be supported by the findings of fact.

Conditions and Decision

- ⑩ Conditions
 - Connect to time or action
 - Nexus and proportionate
 - Avoid the grocery list approach
- ⑩ Decision must be supported by the findings, conclusions, and conditions.

Ten Commandments of Good Quasi-judicial Decision-making

1. Follow the Code
2. Avoid politics
3. Be politically correct and dignified
4. Consider all the evidence
5. Make a good record
6. Have written findings and conclusions
7. Support the decision with real evidence
8. Impose only lawful conditions
9. Do not invade the province of staff
10. Think like a judge, act like a judge and decide like a judge.



Making Motions-Basic Outline

1. “Move to...” and then describe the action
 - A. Approve
 - B. Disapprove (with reasons that tie-back to Comp Plan and/or Code)
 - C. Approve with conditions
2. If there are conditions:
 - A. State them
 - B. Reasons for the condition
3. Motion is seconded
4. Discussion on the motion (Staff may ask for clarification)
5. Chair calls the Question
 - A. Asks if there is a need to re-state the motion
 - B. Restates the motion or has recorder do so
6. Vote on the motion



“Hold that insightful legal point until we’re back from commercial.”

Legal Requirements Under LLUPA

Approval or Denial of Applications

- Idaho Code section 67-6535(1)
- The approval or denial of any application required or authorized pursuant to this chapter shall be based upon standards and criteria which shall be set forth in the comprehensive plan, zoning ordinance or other appropriate ordinance or regulation of the city or county. Such approval **standards and criteria shall be set forth in express terms in land use ordinances in order that permit applicants, interested residents and decision makers alike may know the express standards that must be met in order to obtain a requested permit or approval. Whenever the nature of any decision standard or criterion allows, the decision shall identify aspects of compliance or noncompliance with relevant approval standards and criteria in the written decision.**
- Idaho Code section 6535(2)
- The approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by **a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.**
- (a) **Failure to identify the nature of compliance or noncompliance with express approval standards or failure to explain compliance or noncompliance with relevant decision criteria shall be grounds for invalidation** of an approved permit or site-specific authorization, or denial of same, on appeal.
- Idaho Code section 6535(3)
- It is the intent of the legislature that decisions made pursuant to this chapter should be founded upon sound reason and practical application of recognized principles of law. In reviewing such decisions, the courts of the state are directed to consider the proceedings as a whole and to evaluate the adequacy of procedures and resultant decisions in light of practical considerations with an **emphasis on fundamental fairness and the essentials of reasoned decision making. . .**
- Idaho Code section 67-6519(5)
- Whenever a governing board or zoning or planning and zoning commission grants or denies an application, it **shall specify:**
 - (a) The ordinance and **standards used** in evaluating the application;
 - (b) The **reasons** for approval or denial; and
 - (c) The **actions, if any, that the applicant could take to obtain approval.**



It's QUESTION TIME!!

Resources

- ❖ *Idaho Land Use Handbook*, Givens Pursley attorneys at Law; 2007
- ❖ Association of Idaho Cities- www.idahocities.org
- ❖ American Planning Association (APA)-www.planning.org
- ❖ American Planning Association Idaho Chapter - <http://idahoapa.org>
- ❖ Planning Commissioners Journal-www.plannersweb.com
- ❖ The Commissioner - APA quarterly
- ❖ *The Job of the Planning Commissioner*, Albert Solnit.
- ❖ *The Planning Commissioners Guide*, David J.Allor
- ❖ *The Citizen's Guide to Planning*, Christopher Duerksen

Planning & Legal Staff