



# Meridian 120 South *Condition 4* Change Request

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*Note: Meridian 120 South is in litigation before the Nevada Supreme Court*



# Condition 4

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Original Condition  
June 2020 Approval

4. Prior to the recordation of each final map for Villages 3, 4, 5, and 6, the applicant shall provide documentation that either an amendment to the Mortensen Garson Overlay District (MGOD) standards has been approved to increase the number of units allowed within Planning Area 3 or a mutually agreed upon reallocation of units is in place to accommodate the number of units proposed with the final map.

- Condition #4 should be deleted and replaced with the following:

In accordance with RMC 18.08.406(i) (Mortensen-Garson Overly District), the uses permitted within the Aerial Commercial zoning designation shall be those identified in the Reno Municipal Code, which currently has no maximum residential density resulting in an unlimited number of residential dwelling units. The applicant, however, shall not have an unlimited number of residential dwelling units within the Aerial Commercial zoning designation located within Villages 3 and 4 of the Meridian Tentative Maps. The number of residential dwelling units located within the Aerial Commercial zoning designation within Villages 3 and 4 of the Meridian Tentative Maps shall not exceed 285 residential dwelling units.

Proposed Condition Change  
Submitted in Jan 2021

# MERIDIAN 3 & 4 ARE SUBJECT TO THE 3,000 CAP

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1. Commercial zoning *HAS been changed to residential zoning*
2. Residential zoning IS subject to density
3. Residential units ARE dwelling units
4. Therefore, Meridian 3 & 4 ARE a change in density subject to the 3,000 dwelling unit cap

*SHOULD is Best Practice*

**SHALL is MANDATORY!**

# Codes at Time of Submission Prevail

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## *Staff Report Requirement:*

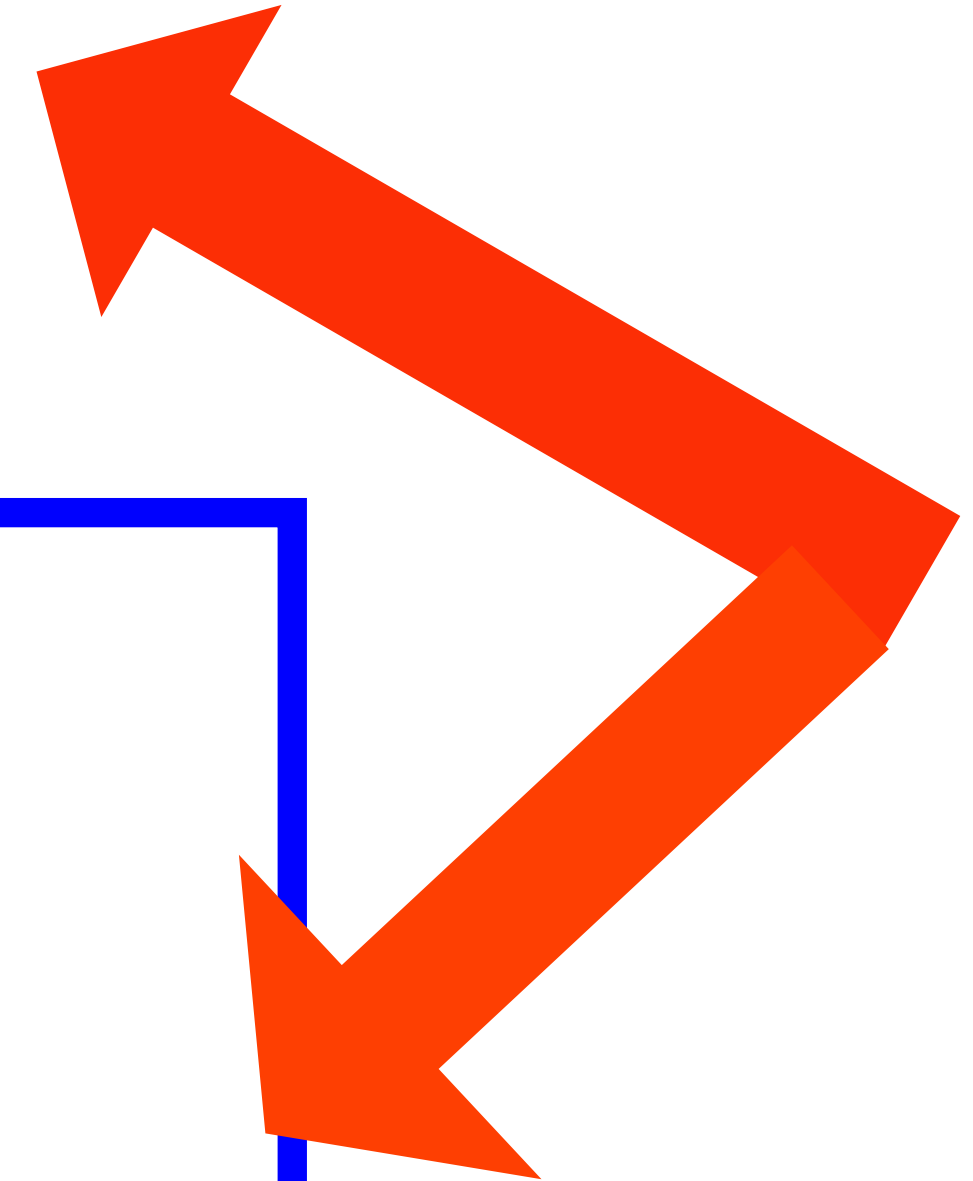
1. The **project shall comply** with all applicable City codes, plans, reports, materials, etc., **as submitted**. In the event of a conflict between said plans, reports, materials and City codes, **City codes in effect at the time the application is submitted, shall prevail.**

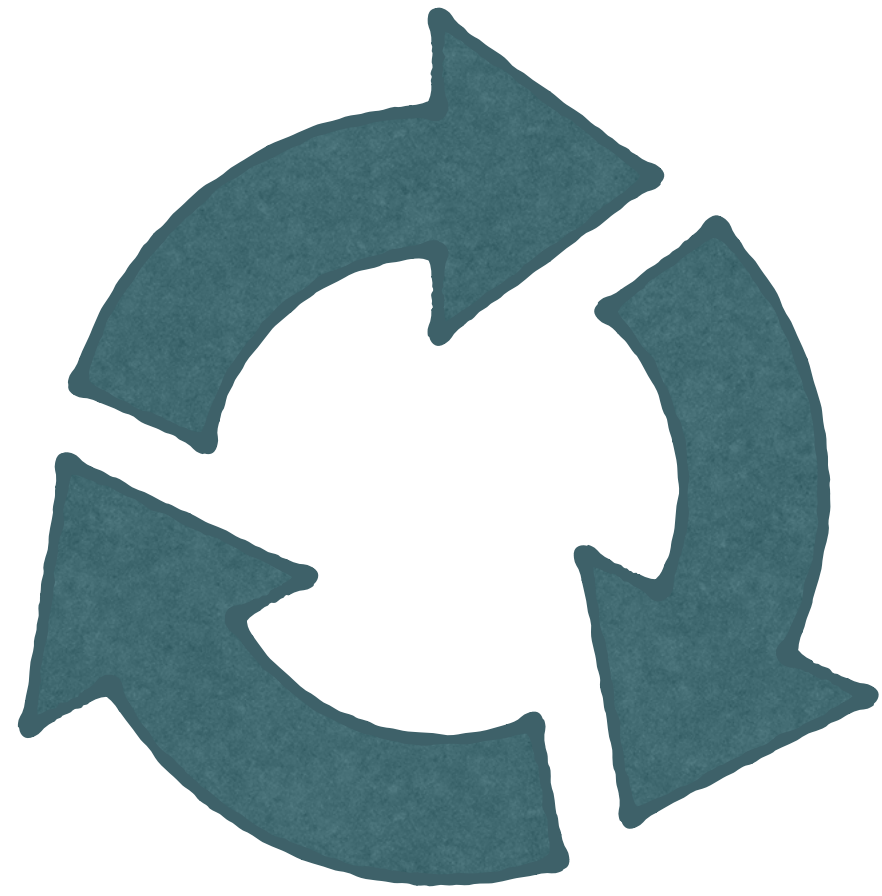
## *Approval Letter Requirement:*

Your approved request is subject to the following conditions to the satisfaction of Community Development Department staff unless otherwise noted:

1. The project shall comply with all applicable City codes, plans, reports, materials, etc., as submitted. In the event of a conflict between said plans, reports, materials and City codes, City codes in effect at the time the application is submitted, shall prevail.

One East First Street, Second Floor\*P.O. Box 7, Reno, NV 89504  
[www.reno.gov](http://www.reno.gov)





# It is a Circular Argument

Projects have to be compliant **WITH** code at submission!

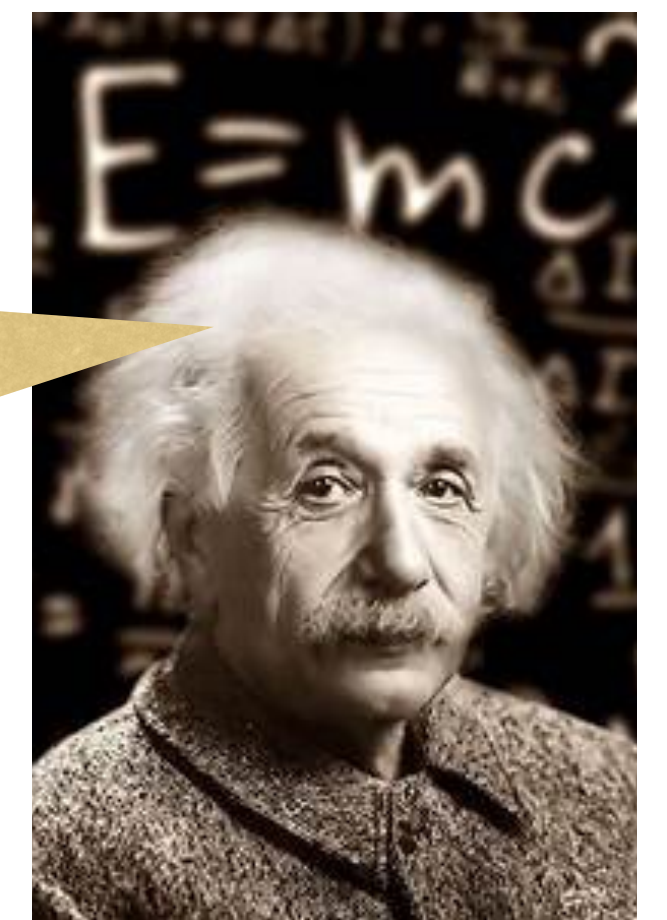
The codes in effect at the time of submission prevail

The 3,000 DU cap is **MGOD** code

The 3,000 cap was in effect when the Meridian projects were submitted

Therefore, Meridian South is BOUND to the 3,000 cap regardless of added conditions

*It is NOT  
Rocket Science*



# BT SOUTH AND THEIR COUNSEL ARE CONFUSED

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- RMC is IRRELEVANT

- The argument of RMC having no limit on residential units in the Arterial Commercial zoning is irrelevant
- The Meridian properties are under the **MGOD**
- The **MGOD**'s 3,000 limitation stands regardless of what RMC allows

BT South is attempting to AVOID **MGOD**

# IN SUMMARY

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- The Meridian projects are under the **MGOD**
- The use comes from RMC - the number comes from **MGOD**
- MGOD** prevails over RMC
- MGOD** has a 3,000 limitation on dwelling units, it is NOT ambiguous!
- The 3,000 cap was code when the Meridian projects were submitted
- The Meridian projects have to be reviewed under the **MGOD** that was in effect at the time of submission
- The 3,000 cap stands

**You can NOT condition compliance with code**



The city **CANNOT** legally approve this change

---



- It **VIOLATES** code
- The city CANNOT *legally apply the original condition 4* – it goes AGAINST code



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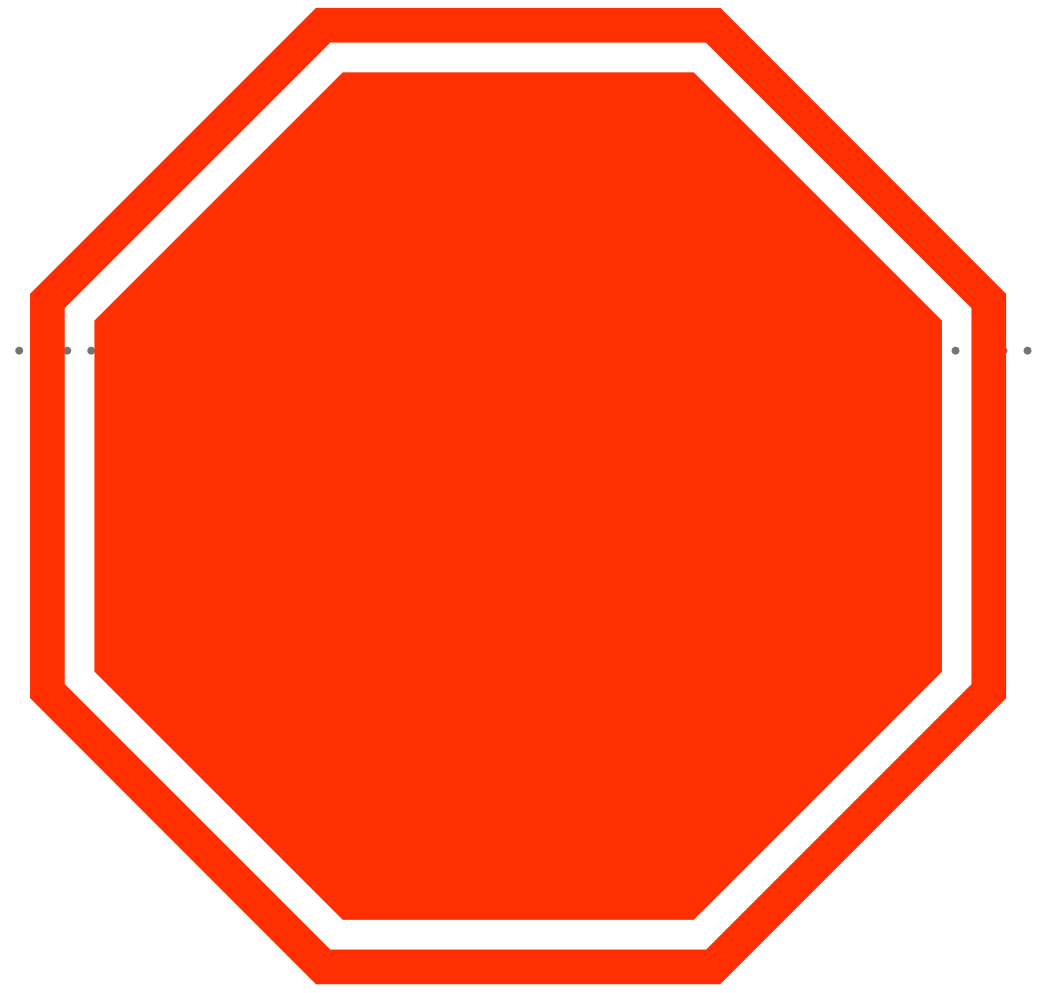
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**MGOD** = **CODE** = DENSITY shall **NOT** exceed 3,000

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- Section 18.08.406(i)
- **(15) Administration/amendments.**
  - **a. Amendments.**
    - **1. The total amount of development resulting from any change in density shall not exceed 3,000 dwelling units and 300 commercial acres cumulatively for all the properties in the **MGOD**.**



Meridian is BOUND by **MGOD**

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- Planning Commission DENIED Meridian 3 & 4 because it EXCEEDED the 3,000 unit cap **DENIED!**
- City approved with **REGULATORY MANDATE** of Condition 4

# Court ordered City to follow **MGOD** as it existed at time of application

IN THE SECOND JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF WASHOE

STAN LUCAS, an individual, and D. FRED ALTMANN,  Petitioners,  vs.  CITY OF RENO, a political subdivision of the State of Nevada,  Respondent.	Case No.: CV20-00253  Dept. No: 1
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ORDER GRANTING PETITION FOR JUDICIAL REVIEW



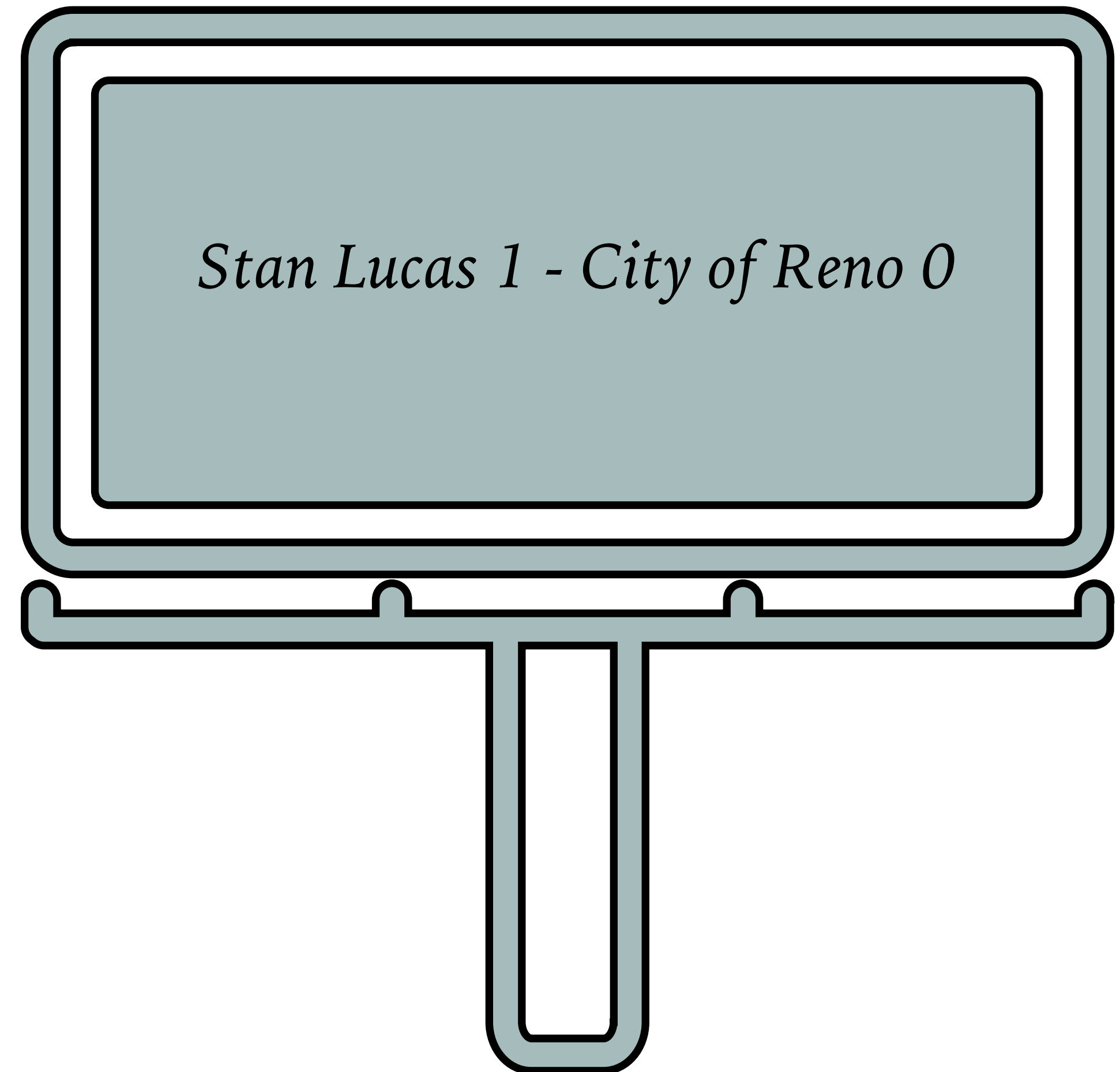
- Therefore, this Court **vacates** *the City Council's decision* to uphold the Planning Commission's denial the Application, and **remands** the matter to the City Council for further consideration consistent with the following conditions:

- 1. The Applications must be reviewed, processed, and considered under the **MGOD** Ordinance, RMC §18.08.406(i) (1-15), as it existed at the time the Application was filed.

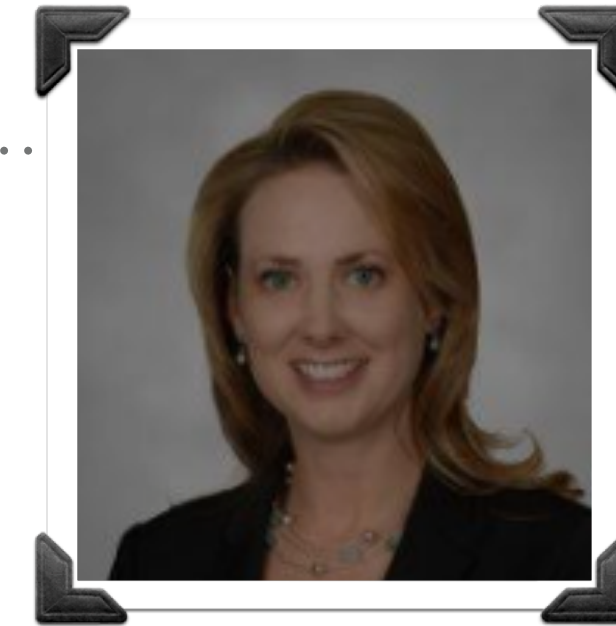
# STAN LUCAS WINS

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- **MGOD** property owner, Stan Lucas, lost at the City, but **WON** at the court because the City completely misapplied the **MGOD**



# “**MGOD** trumps RMC” stated Angela Fuss



*City Employee*

- *City transcript for Stan Lucas:*
- Ms. Fuss stated “[a]gain, **MGOD** is the very specific language that trumps the code. So there’s a discrepancy between what the code says and the **MGOD** says, we need to follow the **MGOD**.”
- The court agreed with Ms. Fuss and remanded Stan Lucas back to the city **with the order to follow the **MGOD** that was in effect at the time the application was filed**



# IN SUMMARY

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- The 3,000 cap was code when the Meridian projects were submitted
- The Meridian projects have to be reviewed under the **MGOD** that was in effect at the time of submission
- The 3,000 cap stands

**You can NOT condition compliance with code**

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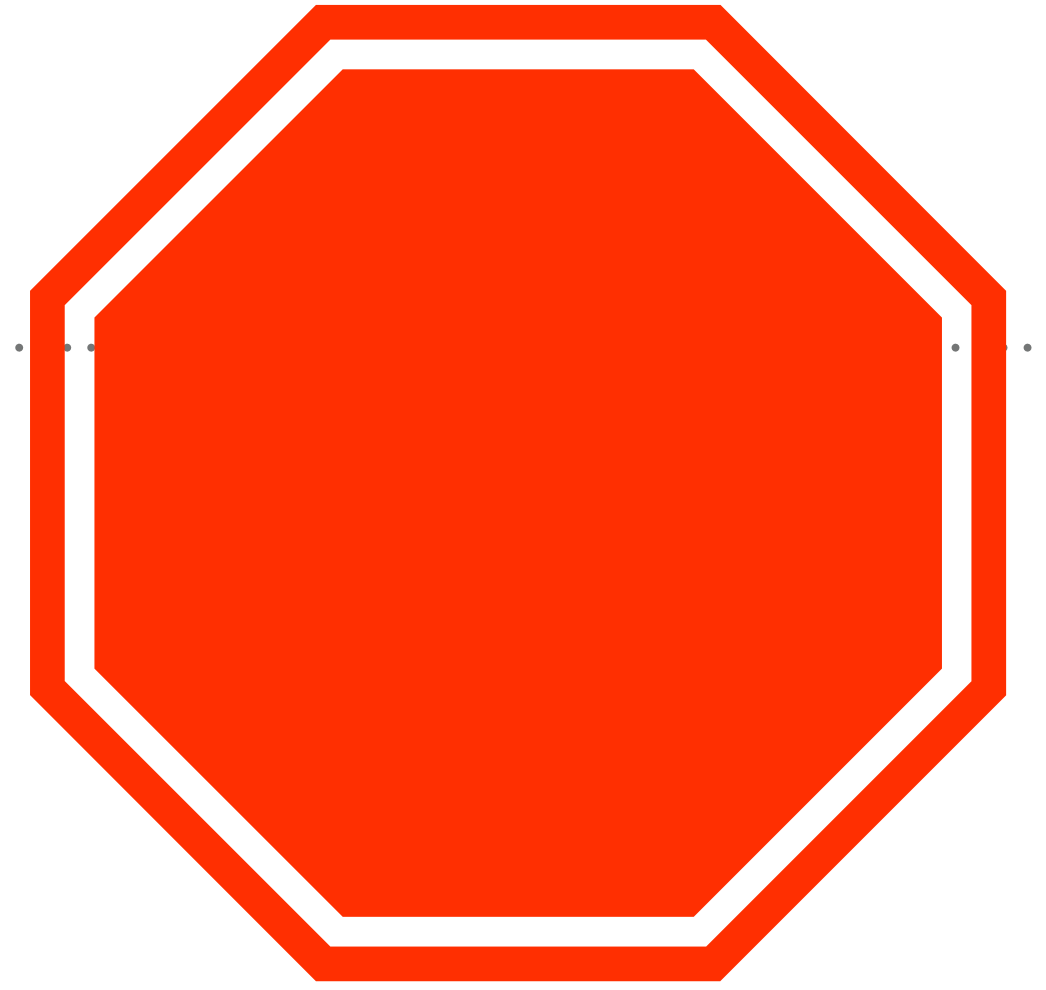
# CITY ACKNOWLEDGES CAP!



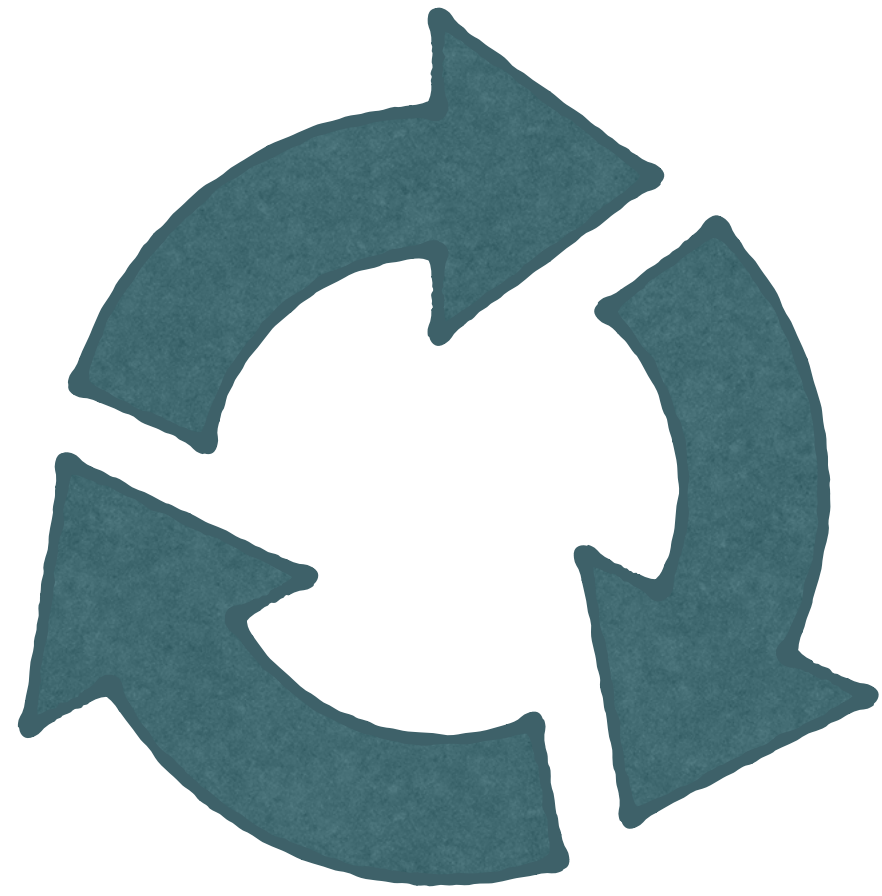
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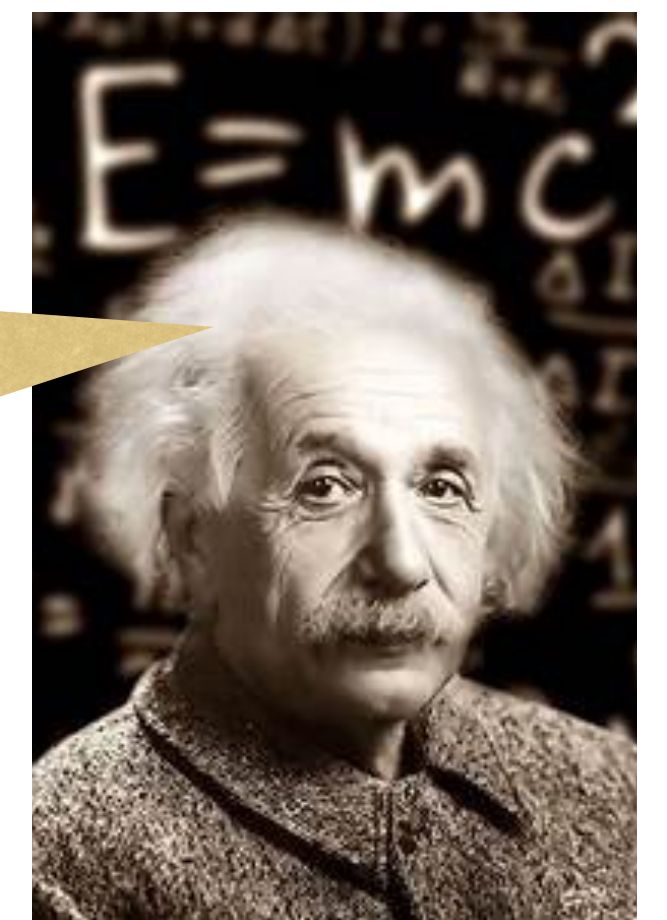
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- The 3,000 cap stands



*3,000 Cap is SET in STONE!*



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# CITY ACKNOWLEDGES CAP!



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It is undisputed that **MGOD** still  
rules the Meridian South properties