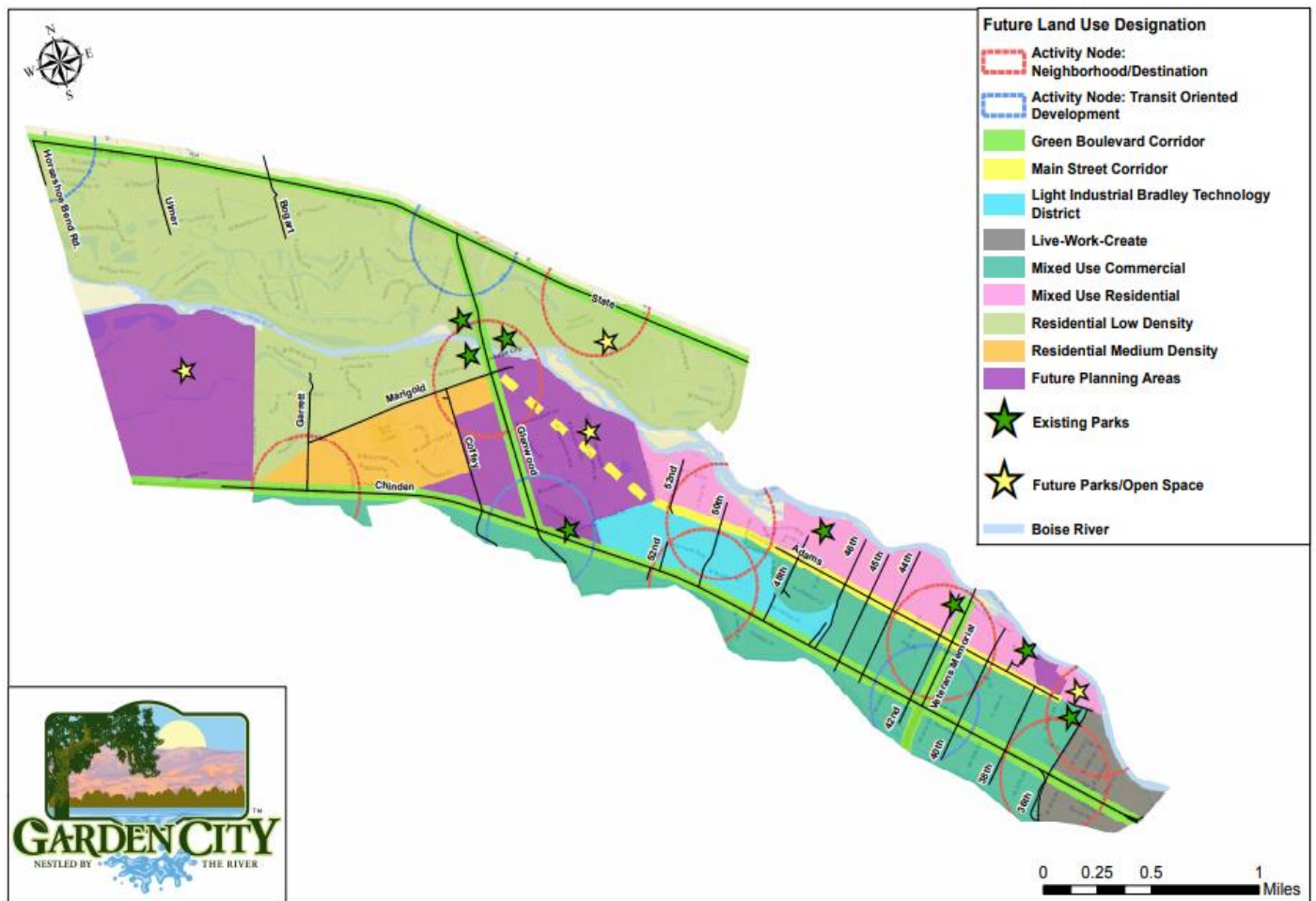


CITY OF GARDEN CITY

6015 Glenwood Street □ Garden City, Idaho 83714
 Phone (208)472-2921 □ Fax (208)472-2926

File Number: CPAFY2020-00005
For: Development Code Amendment to GCC 8-6B-6 Specific Area Plan
Applicant: Robert Taunton
Report Date: August 17, 2020
Updated to Include Recommendations: September 21, 2020
Updated to Include City Council Proceedings: November 9, 2020



Staff Report
 Report prepared by Jenah Thornborrow

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A. Requested Action

Public Hearing and decision for proposed amendments to Garden City, Title 8, Development Code related to Specific Area Plan (SAP) regulations. If approved, the first reading of Ordinance 1018-20 is also requested.

It is noted that this application and the associated draft ordinance 1018-20 came before the City Council on September 28, 2020. The City Council continued the application to provide for additional information and time to review the factors of creating a new zoning designation. The application was re-noticed for an additional hearing to be held on November 9, 2020.

B. [Linked Record Documents](#) (all)

Individual links below:

Application Materials-

[Initial Submittal](#)

[Proposed Text Amendment as reviewed by the recommending bodies](#)

[Application size document](#)

[Updated submittal to include recommendations](#)

[Planning and Zoning Commission Recommendation](#)

[Design Review Committee Recommendation](#)

[Noticing Materials](#)

[Noticing Materials for November 9, 2020](#)

Public Comment- see Section J for links

[Draft Ordinance](#)

[Draft Decision](#)

C. Recommendation Summary:

On August 17, 2020, a public hearing before the Garden City Design Review Committee was held. The discussion centered on complexities related to reversion if something is not addressed in the plan. The Committee unanimously recommended approval of the draft proposal with the conditions:

1. Additional language shall be added identifying mandatory requirement of an SAP to include:
 - a. Setbacks, setback exceptions, lot coverage, and height;
 - b. Density, both minimum and maximums;
 - c. Uses that are permitted, conditionally permitted, and prohibited. If any uses are different than GCC 8-7A-1 defined uses, the definition of such uses shall be provided.
2. Additional language shall be added to include a statement that the following components may be different than in code, but need to be addressed, Design criteria shall repeat the standards of Garden City Code 8-4 into the Specific Area Plan if there is no proposal that would contradict that regulation.
 - a. Parking and off-street loading provisions required number and allowable sizes; and
 - b. Design criteria including but not limited to:
 - i. Architectural guidelines;
 - ii. Transportation and connectivity;
 - iii. Sign provisions;
 - iv. Landscaping and tree protection; and
 - v. Open space

- c. Design criterial shall repeat standards of Garden City Code 8-4 into the Specific Area Plan if there is no proposal that would contradict that regulation.
- 3. Additional language shall be added to clarify that an omission of criteria found elsewhere in code is not considered a conflict.
- 4. Proposed procedure # 6 shall be amended to read “Development applications shall be administered as required by Garden City Code 8-6A-2, Table 8-6A-1 Authorities and Processes.”
- 5. Specific Area Plan Components #4 a shall read “shall” rather than “should”, thus: “The SAP shall be comprehensive enough to adequately guide the development or redevelopment of a property to achieve the vision of the SAP”

On August 19, 2020, a public hearing before the Garden City Planning and Zoning Commission was held. There was only one member of the public that testified during the meeting. The testimony was related to with Garden City’s noticing in general. The Commission was complementary of the applicant and indicated that they felt that this is a good and needed tool. There was a unanimous recommendation for approval requesting the same revisions that the Design Review Committee recommended be incorporated.

The linked draft ordinance shows highlighted text. The text that is highlighted in blue shows changes that the applicant has proposed to address the recommending bodies’ comments and concerns. The yellow is a potential date of the passing of the ordinance, should it pass. This anticipated date has changed and can continue to change based on the number of and dates of the readings of the ordinance. This date will be updated throughout the document to reflect an accurate account.

D. Decision Process

Proposed Scope of Work:

This application is for a Development Code Amendment per Garden City Code 8-7A-2 Definition of Terms:

ZONING DISTRICT, BASE: General district in which all properties are divided into residential, commercial or industrial uses and reflected on the zoning map.

General Provisions

This application is processed per GCC 8-6A-7 Public Hearing.

Required Decisions: The following decision processes are required for the project as governed by GCC Table 8-6A-1:

Decision	Recommendation Authority/ Hearing Date	Decision Authority
Development Code Amendment	Design Review Committee: Hearing August 17, 2020	City Council: Hearing September 28, 2020 November 9, 2020

	Planning and Zoning Commission: Hearing August 19, 2020	
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Required Findings:

For the approval of a Development Code Amendment, the City Council must find the application meets the following findings, found in [GCC 8-6B-5](#):

1. The text amendment complies with the applicable provisions of the comprehensive plan;
2. The text amendment shall not be materially detrimental to the public health, safety, and welfare; and
3. The text amendment shall not result in an adverse impact upon the delivery of services by any political subdivision providing public services within the city.

Decision:

After hearing the evidence and considering the application, the decision maker shall make their decision. The decision maker shall report the facts upon which it based its conclusion, the ordinance and standards used in evaluating the application, the actions, if any, that the applicant could take to obtain a permit, and whether a permit is granted, granted with conditions, or denied. The decision maker shall make its findings and decision no later than by the next regular scheduled meeting.

The Planning and Zoning Commission and Design Review Committee are recommending bodies for this application.

Recommendation

The Recommending Authority may take one of the following actions:

1. Recommend the City Council grant/ approve the application as applied;
2. Recommend the City Council grant/ approve the application with conditions as drafted or as amended to the City Council;
3. Recommend the City Council deny the application; or
4. Request the applicant return with revised materials for additional review.

The City Council is the final decision maker for this application.

Decision

The City Council may take one of the following actions:

1. Sustain the recommendation as presented to the City Council;
2. Modify the recommendation with conditions;
3. Reject the recommendations; or
4. Remand the application to a recommending body for additional proceedings and findings.

Appeal of Decision:

Pursuant to Garden City Code [Table 8-6A-1 Authorities and Processes](#), the Planning and Zoning Commission and Design Review Committees are recommending authorities to City Council, the final decision maker for the requested application. The recommendations of the Design Committee and the Planning and Zoning Commission do not constitute a final decision on the application.

Every final decision rendered shall provide or be accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis pursuant to section [67-8003](#), Idaho Code. An applicant denied an application or aggrieved by a final decision concerning matters identified in section [67-6521](#)(1)(a), Idaho Code, may within twenty-eight (28) days after all remedies have been exhausted under local ordinance seek judicial review under the procedures provided by [chapter 52, title 67](#), Idaho Code.

E. Objective

The objective of the proposal is to amend the Garden City Code, Specific Area Plan code to be more user friendly and more predictable. Also, the proposed amendment is intended to promote master planning and provide a tool to facilitate redevelopment in accordance with the Garden City Comprehensive Plan Future Land Use Designations Transit Oriented Development Nodes, Neighborhood and Destination Centers Activity Nodes, and Future Planning Areas.

F. Current Deficiencies

The applicant and/or staff have identified the following deficiencies in Garden City Code:

- 1) There is not a current base zoning district that specifically intends to implement the Comprehensive Plan future land designations of Transit Oriented Development Nodes, Neighborhood and Destination Centers Activity Nodes, and Future Planning Areas.
- 2) Currently a preapplication meeting is required with the Planning and Zoning Commission for a Specific Area Plan (SAP). As the code provisions currently set forth are quasi-judicial in nature this can create bias.
- 3) Under the current code, unless the applicant requests a development agreement, there is no mechanism to ensure that an approved SAP will be constructed. This may lead to fragmented development where portions of a SAP are implemented on some of the properties and other properties do not adhere to the plan. This increases uncertainties for those investing in components of a plan as well as the community overall.

G. Synopsis of Proposed Changes

Garden City Code 8-6B-6 Specific Area Plan

- 1) The Specific Area Plan would become a base zoning district. This change results in several proposed changes within this section of ordinance that conflict with a base zone designation including:
 - a) A Development Agreement (DA) or recording are unnecessary in that the property will be regulated by the zoning rather than a DA.
 - b) Establishes criteria for the adoption of an ordinance/master plan and rezone of a property or properties.
 - c) Establishes criteria for the implementation of the ordinance/master plan for the rezoned

property or properties.

- 2) The areas that the Specific Area Plan applies to are further refined as Comprehensive Plan future land designations of Neighborhood Destination Center, Transit Oriented Development Node, and Future Planning Areas.
- 3) Currently an SAP is required of any development of 10 acres or greater. This proposal removes this requirement and establishes 10 acres as the minimum unless the planning official deems the lesser acreage is appropriate.
- 4) Amendment procedures are refined to either follow the design review procedures or code amendment procedures as established by Garden City Code.

Supportive Code

The following sections of code are requested to be amended to support the proposed changes to Garden City Code 8-6B-6 Specific Area Plan as a base code:

- 1) TABLE 8-2A-1 Base Zoning Districts Established
- 2) 8-2B-1 Purpose
- 3) 8-2B-2 Allowed Uses
- 4) 8-6A-4, Table 8-6A-2 Required Application Information- proposes additional application information to parallel what is required of a zoning map amendment (rezone).
- 5) 8-6A-7, Table 8-6A-3 Public Noticing Requirements- proposes additional noticing. The noticing will include a neighborhood meeting, radius notice, legal advertisement, on-site posting, agency referral, and public service announcement.
- 6) 8-7A-2 Definition of Terms

H. Evaluation of Proposed Changes

Assurances for Investors and Public

This proposed ordinance changes provide a level of assurances to investors and public that a project will be implemented.

Under the current regulations nothing precludes property with an approved SAP from building to underlining zoning regulations unless there is a Development Agreement (DA). This includes setbacks, densities, height and uses. For SAP projects that may have several lots that are then sold separately, there are insecurities for investors that the other properties will develop as planned. Similarly, there is insecurity that is created for public service and infrastructure planning. The proposal will promote orderly and efficient development patterns that will avoid the conflicts and financial loss that occur with piecemeal development decisions.

Specific Area Plan Purpose

As noted above, the code as currently adopted is more likely to result in disconnected redevelopment. Developing in this manner falls short of meeting the objectives as set forth in the purpose section of the SAP.

Flexibility

This proposal creates the ability for a zoning ordinance to be tailored to a desired development pattern and context of the surrounding area.

Furthermore, large developments cannot typically be constructed quickly. Depending on the size of the project and market conditions large projects can take years to be fully executed. Uses

and market viability are constantly changing. Moreover, it is not uncommon to see a development stall momentarily based on situations such as an economic downturn. Applications that are more specific, such as the SAP in its current form, or a Planned Unit Development, have less flexibility to accommodate changes to a project. The more general nature of a zoning ordinance coupled with a master plan will allow for flexibility while still maintaining adherence to a concept.

Application and Enforcement

During the work session with the Design Review Committee, the concern of application and enforcement was brought up. The applicant discussed with the City of Boise head of Code Enforcement, Martin Bautista, the perception of difficulties related to the application and enforcement of an SAP.

Mr. Bautista indicated that those within a development tend to know the rules governing the development much like those living within a development know the governing CC&Rs. Mr. Bautista mentioned the Historic District as an example and offered that the key is to provide education and training about unique codes.

Enforcement has also been discussed with Garden City enforcement staff. Staff indicated that it might be easier to regulate in that there is less of a likelihood that there may be a Planned Unit Development or other waiver to the underlying zoning district. If that is the case, the enforcement staff can refer directly to the adopted zoning regulations.

Specific Area Components

There are certain sections of code that the SAP will not be able to change. The proposal includes a requirement for adherence to the 70' setback minimum to the ordinary high-water mark, floodplain, drainage, and general conformance to the design standards such as interface with public realms and street trees.

Incorporating the recommending body's suggestions, while the provisions may be different than what is prescribed by code, mandatory components of an SAP will include:

1. Setbacks, setback exceptions, lot coverage, and height;
2. Density;
3. Uses that are permitted, conditionally permitted, and prohibited. If any uses are different than GCC 8-7A-1 defined uses, the definition of such uses shall be provided.
4. Parking and off-street loading provisions required number and allowable sizes; and
5. Design criteria principles including but not limited to:
 - a. Architectural design;
 - b. Transportation and connectivity;
 - c. Sign provisions;
 - d. Landscaping and tree protection; and
 - e. Open space.

Changes to Size

This proposal removes the requirement that an SAP is utilized on all projects greater than 10 acres and establishes 10 acres as the minimum that an SAP can be applied to unless the planning official deems the lesser acreage is appropriate. This may be appropriate for this tool

to be utilized in geographical areas where the area is part of an obvious neighborhood or district. However, it should be noted that the only SAP that the City has processed to date was just over 7 acres. Also, a master planning component for all large developments presents certain benefits.

Public Awareness

This proposal increases noticing to the public.

I. Agency Comments

None to date.

J. Public Comment

The following is a summary of the public comments and testimony that were provided in accordance with [Resolution 1053-18](#). All comments are included in their entirety as a part of the record.

Commenter	Comment Date	Summary
Wendy Carver- Herbert	7/31/2020	Neutral: Update GCC 8-6A-4, 8-6A-7 Tables 8-6A-3 and 8-6A-2; noticing should be akin to rezones with signage at the intersections; Materials submitted should be akin to PUD
Fogelman 1 and 2	8/14/2020 & 9/1/2020	<ul style="list-style-type: none"> • 8-6A-2- Additional required application materials • Applicability-Clear and concise definitions of Comp Plan designations for TOD, Activity, and Future Planning Areas should be included • Consider having independent land use law attorney review code
Hollar	8/17/2020	<ul style="list-style-type: none"> • Transparency concerns • Amendment will undermine Comp Plan • Conflict of interest concerns

K. Code/Policy Review

The below serves as an analysis of applicable provisions Garden City Code, Title 8, Development Code and identified applicable policies, plans, and previous approvals.

Garden City Title 8 Code Sections		
Code Section	Compliance Issues	Analysis/ Discussion
Title 8, Chapter 6, Article A: Administration		

8-6A-3 General Application Process	No compliance issues noted	The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.
8-6A-4 Required Application Information	No concerns noted	A Compliance Statement was received as required.
8-6A-7 Public Hearing Process	No compliance issues noted	The applicant provided a neighborhood meeting more than one month and less than three months prior to application submittal. The City provided notifications to agencies with jurisdiction, and for all noticed hearings the City ran a 2”X 4” legal notice in the Idaho Statesman, at least 15 days prior to the first hearing, conspicuously posted notice at the Garden City Library, Garden City Hall, online, and Garden City Police Department, and provided notice to radio, newspaper, and television.

Other Items Reviewed

Plan/Policy	Discussion/ Analysis
Idaho Code 67-6511	The Local Land Use Planning Act requires that code amendments be compliant with the Comprehensive Plan. The proposed changes establish standards to implement provisions of the Comprehensive Plan.
Idaho Code 67-6519	Garden City Code and procedures are consistent with The Local Land Use Planning Act Application Granting Process.

[Garden City Comprehensive Plan](#)

This proposal most notably applies to the future land use designations of the Comprehensive Plan:

- b) Activity Node: Neighborhood Destination**
- c) Activity Node: Transit Oriented Development**
- d) Future Planning Area**

However, the proposal could be utilized elsewhere if there is a large phased project proposed that could benefit from this tool.

In and of itself, a Comprehensive Plan is not legally binding. However, a required Conclusion of Law for zoning amendments both in Garden City Ordinance and Idaho State Statutes is that the amendment is in conformance with the Comprehensive Plan.

The proposal is supported by the Comprehensive Plan's Objectives:

- 2.1.4 Explore the opportunities to create distinctive neighborhoods
- 2.3.6 Promote good design
- 2.4.5 Improve the City 's gateways
- 3.1.1 Develop a vision for a city center or multiple centers including the Expo Idaho site
- 3.1.2 Partner with Ada County to implement the vision for the Expo Idaho site
- 3.1.4 Transform the Expo Idaho site to an urban center for the city
- 5.4.1 Evaluate creating a more urban setting along portions of the Boise River
- 10.3.1 Develop master plans
- 10.3.2 Focus on neighborhoods of rapid change and regeneration
- 10.4.1 Amend the Development Code for TOD's
- 10.4.5 Amend the Development Code for destination and neighborhood centers
- 10.4.6 Transition development to be compatible with the existing surroundings