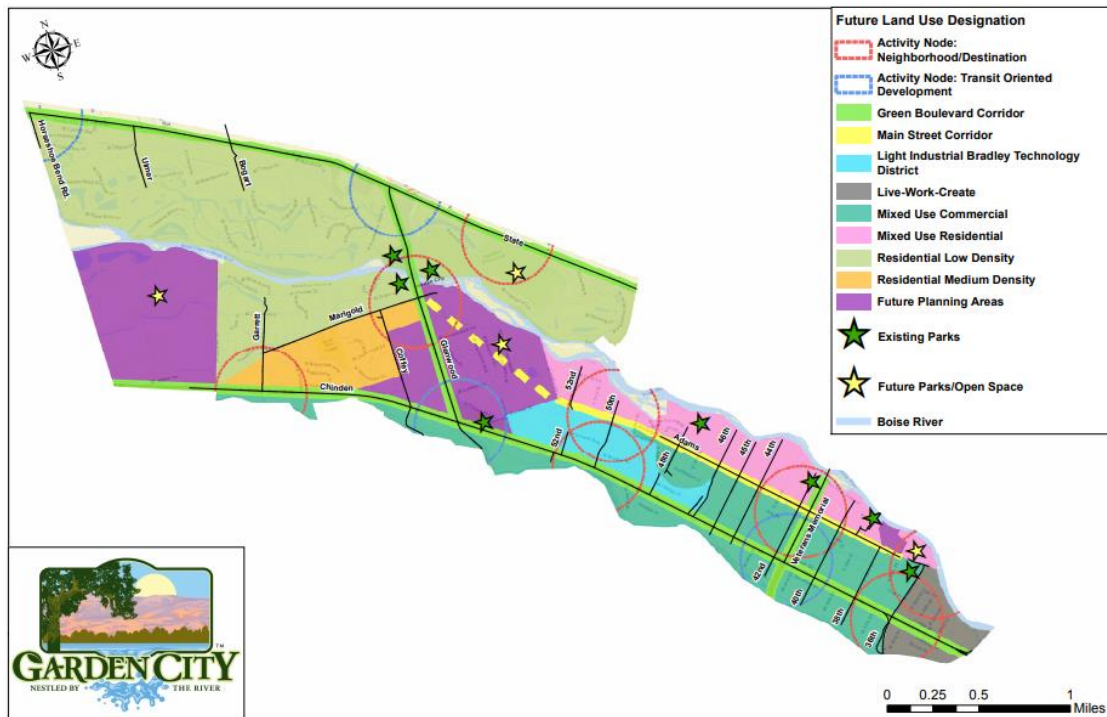


CITY OF GARDEN CITY

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File Number: CPAFY2022-0003
For: Development Code - Design Review Consultant
Applicant: Garden City
Report Date: September 7, 2022



Staff Report
 Report prepared by Jenah Thornborrow

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A. Meeting Summary

1. A Design Review Committee hearing was held on July 18, 2022. The Design Review Committee discussed the new application process and suggested that the Design Review Consultant(s) be able to review the application prior to meeting with the applicant. The Design Review Committee also noted that per policy, it would be preferred that the consultant(s) provide their comments prior to a consultation. They indicated that prescribing this in code is undesirable as it would reduce flexibility. Motion passed to approve the modifications, on the condition that “consultant” be changed to “consultant(s).”
2. The Planning and Zoning Commission hearing was held on July 20, 2022. Due to the timing of the hearing the recommendation will be summarized orally at the July 25, 2022 City Council hearing.
3. City Council held a hearing on July 25, 2022. The Planning and Zoning’s recommendation to approve the proposed ordinance was summarized by Staff. City Council unanimously voted for a first reading of the proposed ordinance.
4. City Counsel conducted the second reading on August 8, 2022.
5. On August 22, 2022, City Council continued the matter for further review.
6. The matter is now before City Council on September 12, 2022, for a potential third reading. The minor changes discussed have been made the ordinance.

B. Record Documents ([link to all documents](#))

Individual links:

1. Application Materials
2. [Noticing Documents](#)
3. Agency Comments: linked in [Section I](#)
4. Public Comments: None Provided
5. [Draft Decision Documents](#):
 - a) Design Review Committee
 - b) Planning and Zoning Commission
 - c) City Council
6. Recommendations: (linked on web)
 - a) [Design Review Committee](#)
 - b) Planning and Zoning Commission¹
7. Proposed Ordinance
 - a) [Work Sessions Draft June 1, 2022](#)
 - b) [Draft July 13, 2022](#)

C. Requested Action

Public Hearing and recommendation for proposed amendments to Garden City, Title 8, Development Code changing the Design Review Committee to Design Review Consultant(s).

¹ Due to the timing of the hearing, this is anticipated to be linked on the web prior to the City Council hearing.

D. Decision Process

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 Amendment	Code	Design Review Committee: Hearing July 5, 2022 Planning and Zoning Commission: Hearing July 20, 2022	City Council: Hearing July 25, 2022 City Council: Hearing September 12, 2022

Required Findings:

For the approval of a Development Code Amendment, the City Council, as the final decision maker 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 regularly 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.

If there is a denial, the state code requires that the decision-maker identify what could be done to obtain approval.

The Appeal of a 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 is accompanied by notice to the applicant regarding the applicant's right to request a regulatory taking analysis under 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. Per Idaho Code 67-6511 (2)(a) this provision extends to an amendment of zoning ordinances applicable to an owner's lands.

E. Objective

The purpose of these amendments is to simplify the Design Review process to better achieve the design review committee's intended charge to provide expert guidance to Garden City redevelopment projects. The proposed changes to the Garden City Code include changes to Garden City Code 8-2C, 8-4B, 8-4F, 8-6A-2, 8-6A-3, 8-6A-4, 8-6A-5, 8-6A-6, 8-6A-7, 8-6A-9, 8-6B-3, 8-6B-5, 8-6B-8, 8-6A-2.

F. Background

Garden City Code identifies several types of projects that require a committee-level design review approval or a recommendation to the City Council. The most typical types of projects that are seen by the committee are non-residential structures, or more than two attached dwelling units that are either new construction or otherwise altering the structure or site by more than 25%. The committee is also a recommending body to City Council for Planned Unit Developments, Subdivisions, and legislative matters that might affect design. A complete list of project types is found in Garden City Code Table 8-6A-1.

The design review process can be concurrent with other processes such as a conditional use permit, or the Planning and Zoning Commission hearing process, which also is a recommending body to City Council for Planned Unit Developments, Subdivisions, and legislative matters.

The Design Review Committee as currently established is enabled by Local Land Use Planning Act, I.C. § 67-6504(b), as a subcommittee to the Planning and Zoning Commission, as an assisting committee to fulfill the responsibilities of Idaho Code Title 67, Chapter 65. The Design Review Committee is currently a group of nonpaid, volunteer Garden City community members who are experts in development and design. The committee may consist of architects, landscape architects, planners, developers, expert gardeners, and the like who are experts dedicated to assisting the development in their community to best achieve compliance with Garden City Code design standards. Since its inception, this volunteer board has been integral to the revitalization of Garden City.

At the meetings, the committee determines if the application is compliant with Garden City Code and may move to approve the application, deny the application, or offer suggestions on how to revise the application to be compliant with the code and Garden City's adopted vision.

Design Review Process Intent

When the city established the Design Review Committee in 2008, it was the intent to have the committee collaborate with the applicant to make the best proposal possible within the confines of code, be an expeditious process, and allow for public input. There was a tag line that the applicant could come in with a sketch on a napkin so that they could receive guidance without large expenditures. Once the committee approved an application, there would be an intent to approve or deny notice that gave people 10 days to object. If the city did not receive an objection, then the application would be finalized without a hearing. If the city received an objection, then the City Council would hear the item.

Design Review Current Process

Step 1: A pre-application meeting with the committee is required per code. Staff drafts a report and the committee's input is provided to the applicant at a public meeting.

Step 2: The applicant submits a formal application. Notice is provided by the city. The staff report is refined. The public can provide written testimony or attend a hearing. The Design Review Committee will either decide on the application or request changes to be brought back before the committee for further review.

Step 3: A decision is rendered. An appeal may be made to City Council by the public at large or by the applicant.

Step 4: If triggered, a City Council appeal hearing is noticed. A staff report is provided. The public can provide testimony. The decision is final.

G. Current Deficiencies

The issues with the current process have been identified include:

1. Due to errors in the way code Garden City Code 8-6A-5 Approval with Notice and Table 8-6A-1 Authorities and Processes are written, the intent of the code cannot be adhered to. The Garden City Legal Department has advised that, based on code, a public hearing must occur at the Design Review Committee level. Then there is a secondary appeal

hearing at City Council. Having two hearings can be confusing for the public and burdensome for both the applicant and the public.

2. A hearing at the Design Review Committee level after working with an applicant through several iterations of a proposal could create the appearance of bias during the hearing.
3. There have been hearings held at Design Review that were predominantly political rather than code-based. The committee cannot consider political strategies, and this becomes a misuse of the volunteer's valuable time.
4. The City wishes to retain its current high-level experts and have the ability to attract new experts.
 - a. The committee is a volunteer committee and the meetings can be long and thankless. The City wishes to not create unnecessary fatigue.
 - b. The committee is small, and the recruitment of qualified individuals has been difficult. Having a small committee puts pressure on members to not be able to miss meetings.
5. The procedures established in Garden City Code 8-6A-5 and hearing procedures established in Resolution RES1053-18 are not consistent.

H. Proposed Changes

The proposed changes are outlined below:

1. The Design Review Consultant will consist of one or more experts in a design-related field. Ideally, there will be at least one architect, a landscape expert, a transportation and connectivity expert, and a river expert (for projects adjacent to the river).
2. Consultants may receive a stipend per application reviewed.
3. The consultant is no longer a body that provides hearings, but rather an expert advisor to the staff during an interactive consultation with the applicant. There may be a resubmittal of the application to assist in the guidance of the proposal. Decisions made after the consultation are final unless a hearing is triggered by the Administrative with Notice process.
4. Administrative appeals will be heard by the City Council.
5. The consultant(s) will continue to make recommendations on subdivisions and legislative matters where design is a component.

DESIGN REVIEW APPLICATIONS PROCESSED UNDER ADMINISTRATIVE WITH NOTICE PROCEDURES:

Step 1: Application

1. The application will be issued a City file number and the date of a work session where the consultants will review the application.
2. Documents as required by Planning Official to ensure adequate review and legal wellbeing including but not limited to elevations, landscaping, connectivity, etc. will be provided to the City at the time of application submittal. Incomplete applications will not be processed.
3. The application materials will include the date, time, and location of the applicant's intended neighborhood meeting.
4. A review fee will be required at submittal.
5. The application must be made at least 12 days **before** the neighborhood meeting date.

6. If necessary, there may be a resubmittal process prior to a determination being rendered by the consultants.

Step 2: Neighborhood Meeting Notice

1. Site posting: The applicant will post the development site at least 10 days before the neighborhood meeting with neighborhood meeting information.
 - a. Notice Size: The notice(s) shall consist of a four-foot by four-foot (4' x 4') plywood or other hard surface mounted on two (2) four-inch by four-inch (4" x 4") posts.
 - b. Notice Lettering: Centered at the top of the four-foot by four-foot (4' x 4') notice(s) in six-inch (6") letters shall be the words "Neighborhood Meeting Notice". The date of the hearing shall be in bold four-inch (4") letters. The remainder of the notice shall be in two-inch (2") letters. Each notice shall be painted white, and the letters shall be painted black and shall appear on both sides.
 - c. Notice Content: Each notice shall inform the public of the nature of the meeting, the date, time, and address of the meeting, a summary of the proposal, the address of the proposal, the name and contact information of the applicant, and an approved city contact email.
 - d. Notice Placement: The notices shall be posted on the property being considered along each street that is adjacent to the subject property boundaries. The notice(s) shall be located on the property, outside of the public right-of-way. If the notice cannot be placed on the property and still be clearly visible, the notice may be placed within the right-of-way if the applicant can obtain the consent of the owner of the right-of-way. The notice shall be posted perpendicular to the street and mounted so that the bottom of the notice is at least three feet (3') above the ground.
 - e. Proof of Posting: The applicant shall submit a notarized statement and a photograph of the posting to the city with the application.
 - f. Notice Removal: The notice(s) shall be removed no later than three (3) days after the neighborhood meeting for which the notice(s) had been posted is ended.
2. Agency notice will be provided by the City.
3. Radius Notice: The applicant will notice to property owners of record within 300' of the property at least 10 days in advance of the neighborhood meeting indicating on a notice provided by the City:
 - a. File number.
 - b. Date, time, and location of the neighborhood meeting.
 - c. Date, time, and location of the application review with the Design Expert.
 - d. Before to application a neighborhood meeting is held by the applicant to allow for questions and input.
 - e. If there is interest in the application, please notify the City of interest to be an interested party. The City will inform interested parties of revised materials, meeting dates, and hearing dates.
 - f. Written comment to the City creates standing.
 - g. Written concerns will be added to the record documents reviewed by the Design Expert if received 7 days or more in advance of the application review.
 - h. Those with standing can request a hearing at the City Council within 5 days of the administrative decision if the concern states how the code was misinterpreted or misapplied.

Step 3: Neighborhood Meeting

1. Neighborhood meetings shall be required not more than three (3) months or less than twelve (12) days before the scheduled Design Expert review of the application.
2. The meeting shall be held Monday through Thursday between five-thirty o'clock (5:30) P.M. and eight o'clock (8:00) P.M.

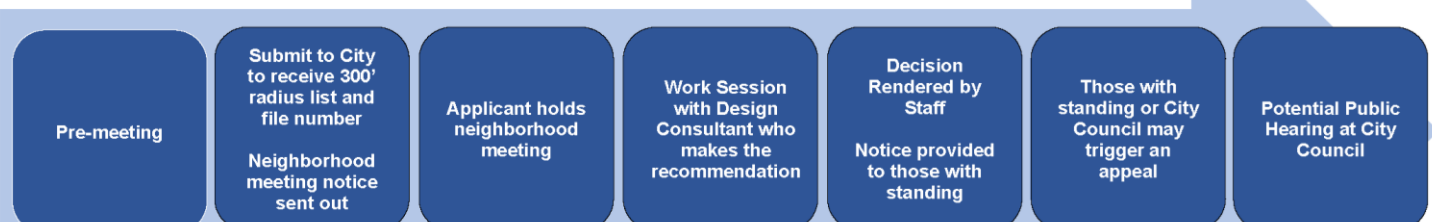
Step 4: Design Review Consultant Consultation

1. Staff will generate a staff report identifying the applicable code.
2. Written comments can be submitted for record up to 7 days in advance of the consult meeting. Staff will note public concerns in the report.
3. The consultants will provide interactive feedback to guide the application within the confines of the code.
4. Oral testimony will not be permitted by the public during the consultation.
5. Based on the consultation feedback the Planning Official or designee will:
 - a. Approve as submitted
 - b. Approve with changes conditioned
 - c. Request changes and resubmittal
 - d. Denial
6. For projects that have components that will be heard by the Planning and Zoning Commission, a decision must be rendered regarding the design prior to Planning and Zoning Commission's review.

Step 5: Post-Consultation Determination

1. Garden City staff will notify interested parties of the decision.
2. If there are revisions to the proposal, once the revisions are received, the interested parties will receive notice at least 10 days before the subsequent meeting with the consultants.
3. If the recommendation is for denial or a public hearing, a public hearing will be scheduled with the City Council. The City Council will be provided a reason for the recommendation including recommended findings of fact and conclusions of law.
4. If the decision is intended to approve with or without changes those with standing will receive notice that they can request a hearing at City Council within 5 days.
5. The approval decisions will be placed on the subsequent City Council consent agenda if a hearing has not been triggered by someone with standing. The Council shall have the ability to review any application. Should the Council wish to review the application a hearing will be scheduled following hearing procedures identified in the code.
6. If there is no hearing triggered, a decision document including findings of fact, conclusions of law, and the decision will be issued by staff based on the design consultant's review for applications.

The diagram below shows the steps of the new proposed process:



I. Evaluation of Proposed Changes

The staff has reviewed the whole of Title 8 and sees to affect or conflicts that this amendment would create. There is no known conflict with any other regulation, adopted policy, the Garden City Comprehensive Plan, or other adopted plan of the city.

J. Agency Comments

The following is a summary of the agency comments that were provided at the time of the drafting of this report. All comments are included in their entirety as a part of the record.

Agency	Comment Date	Summary
Garden City Legal Department	7-13-2022	Overview
Engineer Review	6-30-2022	No concerns

K. Public Comment

1. No written public comments were received.
2. Oral public comments were received from the following individuals:
 - a. Hannah Ball: In favor of the changes; asked about final decision maker and timeline for design review applications.

L. Code/Policy Review

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

Garden City Title 8 Code Sections			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
Title 8, Chapter 1: General Regulations			
Title 8, Chapter 6, Article A: Administration			
8-6A-3 General Application Process	PZ/ CC	No compliance issues noted	
8-6A-4 Required Application Information	PZ/ CC	No concerns noted	A Compliance Statement will be provided.
8-6A-7 Public Hearing Process	PZ/DRC/CC	No compliance issues noted	The city provided a neighborhood meeting more than one month and less than three months before application submittal. The City provided notifications to agencies with jurisdiction and ran a 2" X 4" legal notice in the Idaho Statesman, at least 15 days before the first hearing, conspicuously posted a 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.
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 application applies to all of the future land use designations of the Comprehensive Plan.