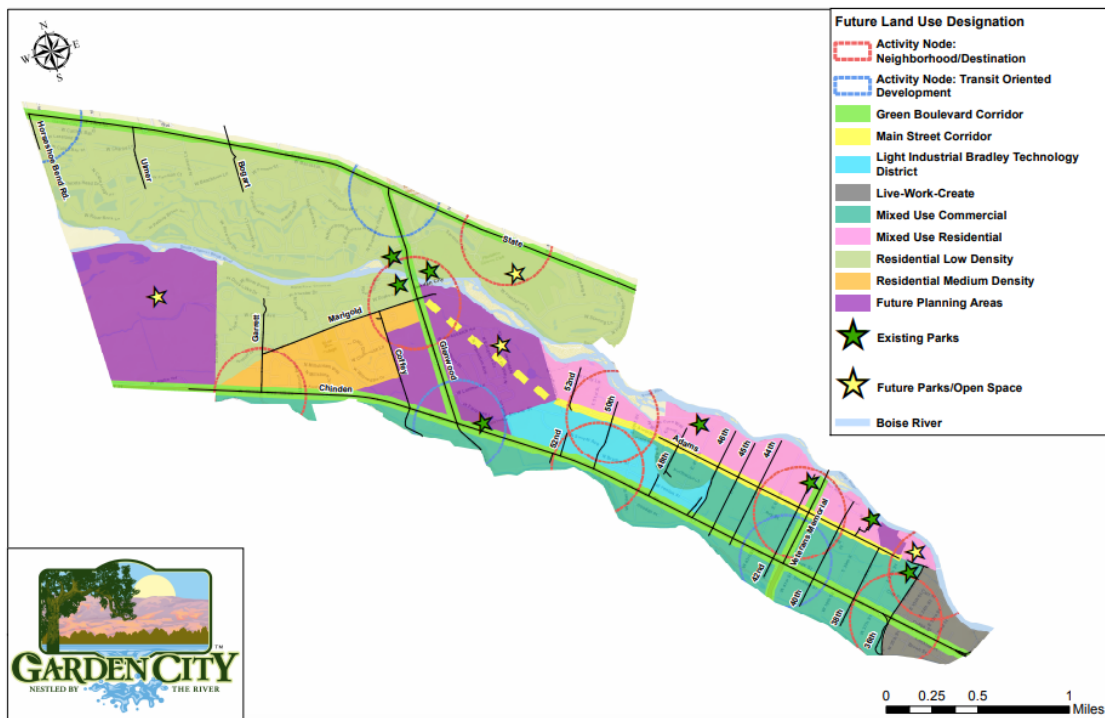




CITY OF GARDEN CITY

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File Number: CPAFY2023-001
For: Development Code
Applicant: City of Garden City
Report Date: 12/12/2022



Staff Report
 Report prepared by Nicole Jenkins

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A. Record Documents

[LINK to all documents](#)

Individual links:

1. Application Materials
 - a) [CPAFY2023-001](#)
2. Noticing Documents
 - a) [City Noticing](#)
3. Agency Comments: linked in Section H
4. Public Comments: n/a
5. Recommendations
 - a) [Planning and Zoning Commission](#)
6. Draft Potential Decision
7. Proposed Ordinance No. [1030-22 Surety Code](#)

B. Requested Action

Public Hearing and decision for proposed amendments to Garden City, Title 8, Development Code related to Guarantee of Completion of Improvements.

The Planning and Zoning Commission unanimously recommended approval of the application.

C. Decision Process

Proposed Scope of Work:

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

BASE ZONING DISTRICT:	The underlying zoning district.
COMPREHENSIVE PLAN:	The adopted plan for Garden City pursuant to the Local Land Use Planning Act, Idaho Code section 67-6501 .
ZONING DISTRICT, BASE:	General district in which all properties are divided into residential, commercial, or industrial uses and reflected on the zoning map.
ZONING DISTRICT, OVERLAY:	A special district which supplements or substitutes the requirements of the base zoning district in order to address particular circumstances on the site.

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: n/a Planning and Zoning Commission: Hearing December 21, 2022	City Council: Hearing January 9, 2023

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.

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

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 is 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. Per Idaho Code 67-6511 (2)(a) this provision extends to an amendment of a zoning ordinances applicable to an owner's lands.

D. Objective

To repeal the Garden City Code, Guarantee of Completion of Improvements, and replace it with Financial Surety to establish procedures to guarantee the completion of required improvements of an approval, but the improvements have not already been completed.

E. Current Deficiencies

The city has identified the following deficiencies in Garden City Code, Title 8:

The current code language is limiting as to what a surety can apply to, the minimum amount of a surety, and is inflexible as far as staff and city discretion.

F. Synopsis of Proposed Changes:

- Repeal the current surety language in 8-5B-7, ordinance 898-08.
- Add surety code to 8-6A-15.

G. Evaluation of Proposed Changes:

- Adjust the surety process to allow city staff discretion as to what can qualify for a surety.
- Require a minimum percentage for surety amount which can be adjusted based on the estimated cost of construction and other cost data submitted by the city official and the developer.

H 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	11-10-2022	Authorities Allowed Percentages

I. Public Comment

No public comments were provided as of the drafting of this document.

J. 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	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	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	PZ/ CC	No concerns noted	A Compliance Statement was received as required.
8-6A-7 Public Hearing Process	PZ/DRC/CC	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 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
<u>Idaho Code 67-6511</u>	The Local Land Use Planning Act requires that code amendments be compliant with the Comprehensive Plan.
<u>Idaho Code 67-6519</u>	Garden City Code and procedures are consistent with The Local Land Use Planning Act Application Granting Process.
<u>Garden City Comprehensive Plan</u>	This application is applicable to all future land use designations of the Comprehensive Plan.