



CITY OF GARDEN CITY

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Staff Report

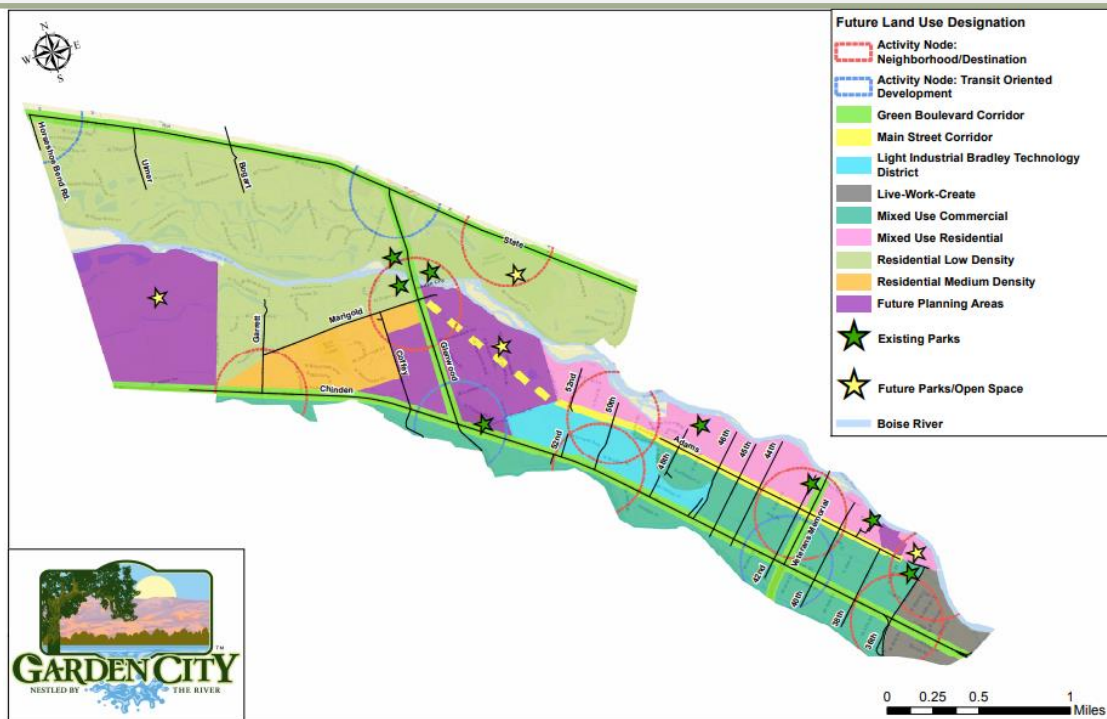
File Number: CPAFY2024-0005

For: Garden City Code 8-6A General Provisions and 8-6B-3 Design Review

Applicant: City of Garden City

Report Date: For September 9, 2024, City Council Hearing

Report Number: 2



Report prepared by Jenah Thornborrow

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A. Record Documents ([link to all documents, including reference documents](#))

Individual record document links:

1. Agency Comments: n/a
2. Public Comments: n/a
3. [Planning and Zoning Commission Recommendation](#)
4. Draft Potential Decision Document:
 - a) [DRAFT City Council Decision](#)
5. [Draft Ordinance 1051-24](#)

Noticing Documents * The noticing documents are not linked due to the addressing information, but they are available for review upon request.

B. Requested Action

Public Hearing and decision for proposed amendments to Garden City, Title 8, Development Code changing General Provisions and Design Review.

C. Recommendation

During the August 21, 2024, hearing, there was testimony provided that as drafted there were two areas of subjectivity. The first is that the timeframes for action were not specified clearly. The other area noted in public testimony as being subjective was the planning official's ability to recommend a public hearing for design review applications if it is not clear that the proposal adheres to code. This was noted as subjective as the code should not be unclear, and therefore it should be clear whether something is compliant with code.

The Planning and Zoning Commission felt that the drafted ordinance was clear and defensible. They unanimously moved to recommend the changes as drafted.

Notwithstanding, staff has provided two changes to the recommended ordinance that specifically addresses the concerns noted in testimony. These are highlighted in the draft ordinance.

The first change is to add that the planning official may extend established timeframes by one or more time periods of (30) thirty days, provided good cause necessitates an extension.

The second potential change notes that the planning official shall set a public hearing when there are more than ten people who have submitted written testimony in objection to the application, or if there may be significant adverse impact to the city as a result of a decision.

A final change that staff has suggested is that applications must be submitted to the development services department in a manner established by the planning official. There are established procedures on the city's website to submit materials to the development services department. All the same, there have been applicants who have submitted directly to decision makers or

other departments. This causes inefficiencies in administration and can lead to matters not being addressed in a timely manner.

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 Code Amendment	Planning and Zoning Commission hearing date: 8/21/2024	City Council hearing date: 9/9/2024

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.

For matters where design is affected by the application, a Design Review consultation is required. The Design Review comments are incorporated into the record for the Planning and Zoning Commission review and consideration.

The Planning and Zoning Commission is a recommending body 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 is a recommending authority. The City Council is the final decision maker for the requested application. The recommendation of the Planning and Zoning Commission does not constitute a final decision on the application.

E. Objective

The proposed amendment's objective is to clarify ambiguities in the administration of the code, remove conflicting provisions, simplify code, and combine and clarify procedures adopted by resolution with those adopted by ordinance.

F. Current Deficiencies

Currently the code requires a public hearing if there is an objection to the Planning Official's decision. This is drafted to follow the public hearing process with the hearing to be at City Council. The legal department has indicated that that this process would more appropriately be an appeal, and that appeals should not be de novo.

GCC 8-6B-3.F is a conflicting provision.

Finally, 8-6 contains hearing provisions, however the city has also adopted, by resolution, hearing, and appeal procedures.

G. Proposed Changes

The proposed changes are summarized below:

1. Clarify that objections to a planning official decision shall be processed as an appeal.
2. Clarify ambiguous provisions.
3. Make processes and timeframes consistent.
4. Add provisions for hearing procedures.
5. Identify grounds for decision.

6. Reorganize content location.

H. Agency Comments

The city has not received any agency comments.

I. Public Comment

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

J. Evaluation of Proposed Changes/ Compliance Statement

There is no identified conflict with any other regulation, adopted policy, the Garden City Comprehensive Plan, or other adopted plan of the city.

K. 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.

<u>Garden City Title 8 Code Sections</u>			
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	Not Determined	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	Not Determined	A Compliance Statement was received as required.
8-6A-7 Public Hearing Process	PZ/DRC/CC	Not Determined	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
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 amendment is neither in compliance nor is it not in compliance with the Comprehensive Plan. The amendment will not materially change provisions regarding property regulations. The amendment is to clarify existing standards and to simplify the required administrative provisions as required by Idaho Statute 67-65, the Local Land Use Planning Act.