

Purpose of Proposed Amendment

The purpose of the amendment is to clarify if there is an objection to the Planning Official's decision if the City Council will hear the application as a *de novo* public hearing, or an appeal that is not *de novo*. The proposal also includes the proposal to delete: GCC 8-6B-3.F as it is a conflicting provision. Reorganization, but not material amendments, may result in a better organization of the code. Finally, the proposed amendment intends on merging code and the public hearing procedures adopted by resolution.

The redline show potential suggested changes to enact the above. Items highlighted in blue may be relocated into new potential sections.

Potential Identified Changes

8-6A-2: DUTIES AND AUTHORITY:

A. Council: The council shall have the authority to set policy and legislation affecting land use and the administration of this title, including establishing application fees by resolution. The council shall act on recommendations from the commission in legislative matters, some quasi-judicial applications, and serve as the final authority on appeals. The council shall also have the authority to review any action taken through the administrative process with notice or public hearing process when an appeal is not made but the city council determines in a public meeting, within fifteen (15) days of the final decision, that there may be significant adverse impact to the city as a result of the final decision, making the city affected or aggrieved by the final decision, which would be final unless appealed. Such council reviews are not *de novo*, and shall be processed, noticed, and decided in the same manner as an appeal as established in the section of this code 8-6A-9 Appeals.

B. Planning and Zoning Commission: The planning and zoning commission shall be the designated planning agency for the city. The commission shall be responsible for final action on site-specific permits and appeal body as defined by this title and for recommendations to the council on land use legislation, comprehensive plan amendments, and other policy matters.

1. Duties of the commission regarding implementation of this title shall be as follows:

- a. Provide for citizen meetings, hearings, surveys, or other methods to obtain advice on the planning process, comprehensive plan, and implementation;
- b. Promote a public interest in and understanding of the commission's activities;
- c. Make recommendations to the council concerning the comprehensive plan, planning process, or implementation of the comprehensive plan;
- d. Initiate proposed amendments to this title and conduct reviews of the complete development code;
- e. Conduct public hearings, make recommendations to the council based on the required findings and standards for applications as set forth in article B, "Specific Provisions", of this chapter; and
- f. Serve as the review authority in appeals of decisions of the planning official, except when otherwise specified in this title.
- g. The commission may, at its discretion, delegate some of its functions to the commission chair, a commission subcommittee, or to the planning official.
- h. Written bylaws consistent with this title and other laws of the state for the transaction of business of the commission shall be adopted.

8-6A-2: DUTIES AND AUTHORITY:

E. The following Table 8-6A-1 is a summary list of the actions-authorities and procedures that the city shall take in administration of this title, including the body responsible for the action, and reference to the process under which the action shall be taken:

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker	Process	Appeal Body
Annexation		PZ	CC	PH	
Change of use to a permitted use		None	PO	A	PZ
Comprehensive plan amendment	DRC	PZ	CC	PH	
Conditional use		None	PZ	PH	CC
Conditional use, revocation		None	PZ	PH	CC
Design review, administrative		None	PO	A	PZ
Design review, administrative with notice		DRC	PO/ CC	AN/ PH	<u>CC</u>
Development agreement or amendment		PZ	CC	PH	
Development code amendment	DRC	PZ	CC	PH	
Floodplain/floodway		None	PO	A	PZ
Manufactured/mobile home		None	PO	A	PZ
Minor land division		None	PO	AN	CC
Modifications to an approved permit		Same decision maker and process as initial approval			
Nonconforming setback extensions		None	PO/ CC	AN/ PH	<u>CC</u>
Planned unit development	DRC	PZ	CC	PH	
Plat, boundary line amendment		None	PO	A	CC
Plat, final		PO	CC	PH	
Plat, condominium		PO	CC	A	
Plat, preliminary	DRC	PZ	CC	PH	
Plat, preliminary and final combined	DRC	PZ	CC	PH	
Signs		None	PO	A	PZ
Signs, master plan or design review	DRC		PO	A	CC

**TABLE 8-6A-1
AUTHORITIES AND PROCESSES**

Permit/Decision	Design Review Consultant(s) (DRC*) Consultation Required	Recommending Authority	Final Decision Maker	Process	Appeal Body
Site layout template (minor PUD)		None	CC	AN/PH	
Small cell facility		None	PO	A	CC
Specific area plan	DRC	PZ	CC	PH	
Variance		None	PZ	PH	CC
Zoning district amendment		PZ	CC	PH	

- | | |
|-----------------------------------|---|
| CC = Council | A = Administrative |
| PO = Planning Official | AN = Administrative with Public Notice |
| PZ = Commission | PH = Public Hearing |
| DRC = Design Review Consultant(s) | DRC* = Design review consultant(s) only provides comment when design is affected by the application |

8-6A-3: GENERAL APPLICATION PROCESS:

A. Purpose: The purpose of this section is to outline the general application process for a permit or decision under provisions of this title.

B. Application Requirements:

1. All uses, structures, or work defined by this title as requiring review by council, planning and zoning commission, design review consultant(s) or planning official must obtain the appropriate permit or permits prior to commencing the use, construction, or alteration in or on any property within the Garden City boundaries.
2. All requests for permits and decisions in accordance with this title shall submit an application to the planning official on forms approved by the planning official and provided by the city.
3. At a minimum, the application shall require the following information:
 - a. Name, address and contact information of the applicant and the applicant's representative;
 - b. Proof of current ownership in the property which is the subject of the application or signed letter of authorization from the property owner for making the application;
 - c. Legal description of the property; and
 - d. Statement of project intent for making the application.
4. Some requests for permits and decisions shall require additional application information.
5. As determined by the planning official, some information may be submitted in an electronic format.
6. All applications shall be accompanied by a filing fee in an amount established by council resolution.

C. Determination Of Completeness:

1. An application shall contain all information deemed necessary by the planning official to determine if the proposal will comply with the applicable requirements of this title. Incomplete applications will not be accepted.

2. Within thirty (30) days of receipt of an application, or such later time as reasonably appropriate consistent with city workloads, the planning official shall find the application as complete for review or require additional information to be submitted.
3. No further action shall be taken on the application until such additional information and materials have been submitted. If the additional information is not submitted within thirty (30) days from the planning official's request, or a date mutually agreed upon by the applicant and the planning official, the application will be returned to the applicant.
4. The planning official shall issue a notice of application acceptance and completion either by letter to the applicant or by public notice of the pending public hearing or action on the application.
5. The planning official shall begin processing the application once the application is deemed complete.

D. Action On The Application: After an application has been determined by the Planning Official to be complete, an action or decision shall occur as follows:

1. If no public hearing is required, the ~~decision-making~~decision-making body shall act upon the application within thirty (30) days.

2. If a public hearing is required, ~~the initial hearing shall be held no later than sixty (60) days after the date of the determination of completeness, unless waived by the applicant.:~~

- a. Within sixty (60) days of receipt of an application determined by the Planning Official, as complete, or as reasonably appropriate consistent with city workloads, the initial public hearing shall be conducted, unless waived by the applicant.

- b. Subsequent a recommendation, or if an appeal is filed, a hearing shall be scheduled with the City Council within (60) sixty days from the date of the decision or recommendation.

- c. The time for review and action may be extended by making a finding that additional materials and/or information are required due to the complexity of the application or for other reasons deemed appropriate.

- d. The decision maker may deny an application for which the public hearing has been continued repeatedly over an unreasonable period of time at the request of the applicant.

E. Resubmitted: No application that has been denied by the planning official, the commission, or the council shall be resubmitted, in substantially the same form for the same use, within one (1) year from the date of denial. The planning official may waive the one (1) year requirement and accept a new application, where the subject property is affected by amendments to the comprehensive plan or to this title.

8-6A-4: REQUIRED APPLICATION INFORMATION:

D. Applications shall be submitted with an accompanying application form as determined by the planning official.

8-6A-5: ADMINISTRATIVE PROCESS WITH NOTICE:

A. The purpose of this section is to outline the specific application process for actions with prior notice to adjoining property owners.

B. Upon the city's acceptance of an application, a neighborhood meeting shall be scheduled by the applicant.

1. A notice shall be sent to adjoining property owners within three hundred feet (300') and agencies with jurisdiction.

2. The applicant shall post on the property in accordance with the timing, location, language, and dimensional requirements of the city found in section [8-6A-7](#) of this chapter.
3. The notice and property posting shall identify the process for persons to be considered interested parties.
4. The content of the notice and property posting shall be approved by the planning official.
5. The neighborhood meeting must occur at least fifteen (15) days prior to a decision being rendered.

C. The decision maker may make the following determinations based on the applicable required findings:

1. Intent to approve as submitted;
2. Intent to approve with changes/conditions;
3. Request changes and resubmittal;
4. Recommend denial; or
5. Recommend a public hearing.

D. The decision shall be sent to all interested parties.

E. If the determination is a recommendation for a public hearing, or if person(s) with standing object to the denial, the application shall be reviewed *de novo* and a decision rendered by the City Council via public hearing process established by [8-6A-7](#).

F. Conditions of approval that are deemed necessary to protect the public health, safety, and welfare, and prevent undue adverse impacts on surrounding properties may be required.

G. Written findings of fact and conclusions of law in accord with Idaho Code section [67-6519](#) stating the reasons for the decision reached shall be provided to the applicant. All conditions of approval shall be attached to the written decision.

8-6A-6: ADMINISTRATIVE PROCESS WITHOUT NOTICE:

A. The purpose of this section is to outline the specific application process for actions by the planning official with no required public notice.

B. ~~Administrative decisions that do not require notice~~ Applications shall be submitted on a form determined by the planning official.

C. The planning official shall take action within thirty (30) days, as within a reasonably appropriate timeframe consistent with staff workloads, of receipt of the request for an administrative decision.

D. The planning official may refer any administrative application to the planning and zoning commission, or the design review consultant(s) for any administrative application governed by chapter 4 of this title, for a decision when staff has a question as to whether applicable standards or purposes have been met.

E. The planning official shall respond in writing with a reasoned statement or statements that contains the basis of his/her decision to the person making the request.

8-6A-7: PUBLIC HEARING PROCESS PROCEDURES:

A. Purpose: The purpose of this section is to outline the specific application process for actions that require a public hearing.

B. Public Notice Requirements: Applications that require a public hearing shall be noticed in accord with the noticing requirements identified in Table 8-6A-3, and the following relevant procedures:

1. Neighborhood Meetings:

- a. Neighborhood meetings shall be required for some applications prior to submittal of an application.
- b. Notice of the neighborhood meeting shall be provided by the applicant to all property owners of record within three hundred feet (300') of the exterior boundary of the application property. Notice of the meeting shall be either hand delivered or mailed to the recipients. Notice shall also be provided to the planning official.
- c. Notice of the meeting shall be provided at least ten (10) days prior to the meeting.
- d. The meeting shall be held on a weekday between five thirty o'clock (5:30) P.M. and eight o'clock (8:00) P.M. not more than three (3) months or less than one (1) day prior to the submittal of an application.

2. Radius Notice: At least fifteen (15) days prior to the public hearing, the city shall send a notice by first class mail of the time and place, and a summary of the application to property owners or purchasers of record (as listed in the current records of the Ada County assessor) owning property within three hundred feet (300') of the property being considered.

3. Posting On The Site: A public notice shall be posted by the applicant on the premises for which the permit is sought. The notice shall be posted not less than ten (10) days prior to the public hearing.

a. Notice Form: The notice shall be in substantial compliance with the following form:

<p>CITY OF GARDEN CITY PUBLIC HEARING NOTICE THERE WILL BE A PUBLIC HEARING ON [DATE] AT [TIME] At CITY HALL 6015 GLENWOOD</p>
<p>Purpose: Property Location: Application By: Contact the City Planner at (208) 472-2921 with any questions</p>

<p>As required by the City of Garden City PUBLIC NOTICE THERE WILL BE A [INSERT MEETING/ HEARING TYPE] ON [DATE] AT [TIME] AT [LOCATION]</p>
<p>Purpose: Property Location: Application contact:</p>

- b. 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.
- c. 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 "City of Garden City Public Hearing 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.
- d. Notice Content: Each notice shall inform the public of the nature of the [meeting or](#) hearing, the date, time and address of the hearing location, a summary of the proposal to be considered, a [city](#) contact phone number [or email address](#), the location of the development and the name of the applicant, and if applicable, the proposed development.
- e. 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.
- f. Proof Of Posting: The applicant shall submit a notarized statement and a photograph of the posting to the city no later than seven (7) days prior to the public hearing attesting to where and when the notice(s) were posted. Unless the statement is received by such date, the hearing will be continued.

g. Notice Removal: The notice(s) shall be removed no later than three (3) days after the public hearing for which the notice(s) had been posted is ended.

4. Alternate Forms Of Notice: When mailed notice is required of two hundred (200) or more property owners, alternate forms of notice may be provided by the city as follows:

- a. Posting of the notice in three (3) conspicuous locations within the city;
- b. Making notice available to all forms of media for use as a public service announcement; or
- c. Paid advertisement of notice in local print media.

5. Legal Notice: At least fifteen (15) days prior to the public hearing, the city shall publish a public notice of the time, [place](#), and description of the application in the official newspaper of general circulation.

6. Public Service Announcement: At least fifteen (15) days prior to the public hearing, the city shall provide a public notice to other newspapers, radio and television stations serving the city for use as a public service announcement.

7. Agency Review; Notification To Agencies With Jurisdiction: At least fifteen (15) days prior to the public hearing, the city shall give notice to all political subdivisions providing services within the city, including the school district.

8. Transmittal To Other Agencies: The planning official may transmit the notice, application and other documents submitted for review and recommendation to city departments and other agencies and community organizations as adopted by commission resolution.

9. Failure To Notify: The failure to comply fully with the notification provision shall not invalidate the action, provided the spirit of the procedure is observed.

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties
Administrative with notice		X			X		X
Appeal							X
Annexation or rezone	X	X	X	X	X	X	
Comprehensive plan or ordinance amendment ¹	X	X	X		X	X	
Conditional use ²	X	X	X	X	X		
Conditional use, revocation			X				
Design review process under section 8-6A-5	X	X		X	X		X
Development agreement	X	X	X	X	X		

**TABLE 8-6A-3
PUBLIC NOTICING REQUIREMENTS**

Permit/ Decision	Neighborhood Meeting	Radius	Legal	On Site	Agencies	Public Service Announcement	Interested Parties
Development agreement revocation			X		X		
Planned unit development	X	X	X	X	X		
Plat, amendment		X		X	X		
Plat, final		X		X	X		
Plat, preliminary	X	X		X	X		
Plat, preliminary and final combined	X	X	X	X	X		
Minor land division	X	X	X	X	X		
Site layout template							
Specific area plan	X	X	X	X	X	X	X
Variance	X	X	X	X			
Zoning district boundary amendment ³	X	X	X	X	X	X	

Notes:

1. Comprehensive Plan Amendment: If the commission or design review consultant(s) recommends a material change to the plan after the public hearing, the public notice for the council hearing shall include the recommendation.
2. When mailed notice is required for two hundred (200) or more people, the alternate noticing requirements as set forth in subsection B.4 of this section may be substituted for mailed notice.
3. Zoning District Boundary Amendment: Notice may be sent to property owners beyond three hundred feet (300') of the external boundaries of the rezone area to those property owners who may be impacted by the rezone application.

C. ~~Planning and Zoning Commission~~ Public Hearing:

1. Hearing Date:

- a. Within sixty (60) days of receipt of an application certified as complete, or as reasonably appropriate consistent with city workloads, the initial public hearing shall be conducted.
- b. The time for review and action may be extended by making a finding that additional materials and/or information are required due to the complexity of the application or for other reasons deemed appropriate.

c. The decision maker may deny an application for which the public hearing has been continued repeatedly over an unreasonable period of time at the request of the applicant.

2. The presider of the hearing shall determine the order of the hearing and the allotted amount of time to address the body.

3. Parliamentary procedure shall be utilized.

4. Public Hearing-Testimony:

a. The decision maker shall hear public testimony from members of the public wishing to provide testimony at the duly noticed public hearing.

b. The applicant shall offer competent evidence in support of the application sufficient to enable the decision maker to consider the matter and to make findings on the subject. The applicant has the burden of presenting all necessary and relevant information and evidence in support of the application.

c. Written statements, including exhibits, mailed or hand delivered to City Hall and timely received six (6) or more working days in advance of the public hearing, shall be entered into the record of the hearing.

d. If testimony fails to comply with the following standards the decision maker may determine that testimony is inadmissible:

i. The name and address of the person providing testimony;-

ii. The testimony must address the issue at hand;-

iii. Testimony must be factual; and-

-iv. Testimony shall not be personally derogatory.

e. When a design review consultation is required as part of an application that requires a public hearing, public testimony regarding design will be heard by the planning and zoning commission at the planning and zoning commission's scheduled hearing.

3. Decisions and Recommendations: By the next regular scheduled meeting, the decision maker shall make its findings and decision.

a. In its decision or recommendation, the reviewing authority shall base its findings upon the factual matters presented in the record.

b. The findings of fact must be based exclusively on the evidence in the record. After hearing the evidence and considering the application, the decision maker shall make their decision.

c. The Within a reasonable timeframe from when the decision is made, dependent upon staff loading, the decision maker shall provide a written report that includes:

i. The decision determination.

ii. Determinations of the required findings.

iii. A reasoned statement in support of the decision.

iv. ~~the~~ The facts upon which it based its ~~conclusion~~ decision,

v. ~~the~~ The ordinance and standards used in evaluating the application, ~~and~~

vi. ~~the~~ If denied, the actions, if any, that the applicant could take to obtain a permit approval, and whether a permit is granted, granted with conditions, or denied.

b. By the next regular scheduled meeting, the decision maker shall make its findings and decision.

D. Council Public Hearing Procedures post recommendation:

1. Transmittal: Upon recommendation of approval or disapproval by the recommending body, the application, together with a complete copy of the record documents reviewed by the recommending body's findings and report of action, shall be transmitted to the council final decision maker.

2. Public Hearing: Within thirty (30) days of the recommending body completing its findings and report, the city shall notice a council-subsequent public hearing.

a. The public notice shall be made in accordance with the Idaho public hearing process.

b. Public nNotice shall also be sent to all persons who appeared in person and provided a legible record of their name and address, or submitted testimony in writing before the reviewing body's proceedings interested parties. Such notification shall be made at least fifteen (15) days prior to the council meeting hearing.

3. Public Hearing-Testimony: At the hearing before the council, tThe council-final decision maker shall consider the record and report of the recommending body commission and may or may not elect to hear additional testimony of representatives of the applicant and any witnesses, including interested citizens affected by the proposed application.

4. Council Decision:

a. Upon conclusion of its review, the council shall take action on the application and adopt its findings of fact and conclusions by the next regular scheduled council meeting.

b. In its decision, the council shall base its findings upon the record and report of the commission and, if taken, testimony presented before it.

c. The council decision maker may sustain, modify with conditions, or reject the recommendations of the recommending authority; or remand the application for additional proceedings and findings.

8-6A-9: APPEALS AND CITY COUNCIL REVIEWS:

A. Standing to Appeal, City Council Review, Standard of Review, and Notice of Appeal:

1. An applicant, the development services director, the public works director, the chief of police, and/or those who (1) have standing under the Idaho Local Land Use Planning Act; and (2) testified may appeal the action of the final decision maker. However, the development services director, the public works director, and the chief of police shall only have standing to appeal, as a representative and designee of the city, if he/she believes there may be a significant adverse impact to the city as a result of the action of the final decision maker, making the city affected or aggrieved by the final decision. Such appeals are not de novo.

2. Any action taken by the planning and zoning commission regarding conditional use permits, which would be final unless appealed, may be reviewed and heard by the city council, when an appeal is not made but the city council determines in a public meeting, within fifteen (15) days of commission action, that there may be significant adverse impact to the city as a result of the final decision by the commission, making the city affected or aggrieved by the final decision. Such council reviews are not de novo.

3. An appeal shall be made on the form provided by the city and filed with the city within fifteen (15) days after the action of the decision maker.

4. An appeal or council review shall stay all proceedings related to the application unless there is imminent peril to life and property, as determined by the commission or court order.

B. Review Authority: Appeals of commission decisions are heard and decided by the council. Except when otherwise specified in this Title, appeals of the planning official decisions are heard and decided by the commission.

C. Hearing Notice:

1. The city shall set the ~~appeal hearing matter for hearing by the review authority at the next regularly scheduled meeting of the review authority if such scheduling provides in a timeframe that is reasonably adequate time for all parties involved to be prepared to conduct the hearing.~~

2. The city shall give notice of the time and place of the hearing on appeal or council review by sending copies of the notice to the applicant or petitioner, the appellant and to any interested person who has filed a written request for notice with the city.

D. Hearing Record:- ~~Both a~~ An appeal ~~and a council review~~ will be on the record of the decision maker.

E. Decision:

1. After the ~~appeal hearing on the appeal or council,~~ the review authority shall make its decision and adopt findings of fact and conclusions.

2. In its decision, the review authority shall determine whether the ~~application or petition appeal~~ should be granted, granted with conditions, remanded to the decision maker for additional proceedings and findings, or denied.

3. The city shall transmit a copy of the written decision by the review authority together with a copy of its findings and conclusions to the decision maker; and shall transmit a copy of its decision, ~~findings~~findings, and conclusions of law to the appellant.

4. The decision on an appeal made by the commission or planning official may be further appealed to the council. The decision of the council shall be final.

8-6B-3: DESIGN REVIEW:

A. Purpose: The purpose of this section is to establish the specific process and findings for approval of design review applications.

B. Objectives: The objectives of the design review process are to involve the city in the earliest possible time in the development and design of a project, and to work with the applicant in an iterative process of review and design to better the design of a project. The review process is intended to be flexible and tailored to the needs of the project and the applicant.

C. Applicability: This process shall apply to all development as more specifically described below. Provisions of title 8, chapter 4 ("Design and Development Regulations") shall be reviewed as follows:

1. The following development shall be reviewed by the design review consultant(s) and utilize the administrative with notice procedures:

a. Nonresidential Development:

(1) New principal structures;

(2) Accessory structures visible from the right-of-way;

(3) Additions that add more than twenty-five percent (25%) of the gross floor area of an existing principal;

(4) Renovations visible from the right-of-way where more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored;

- (5) Site expansions or reconfigurations exceeding twenty-five percent (25%) of the existing site's gross square footage;
- (6) Any improvement within seventy feet (70') of the Boise River's ordinary high water mark; and
- (7) Developments requiring design review consultant(s) consultation elsewhere in code.

b. Residential Development:

- (1) More than two (2) dwelling units on the same property, including, but not limited to, multifamily dwelling units;
- (2) Dwelling units where there are more than two (2) proposed units attached to one another on separate properties; and
- (3) New detached accessory dwelling units [visible from the right-of-way](#).

2. The following development shall be reviewed under the procedures set forth in section [8-6A-6](#), "Administrative Process Without Notice":

a. Nonresidential Development:

- (1) Accessory structures not visible from the right-of-way;
- (2) Structural additions that add up to twenty-five percent (25%) of the gross floor area of an existing principal structure and are not visible from the right-of-way;
- (3) Renovations, visible from the right-of-way, where more than twenty-five percent (25%) of the facade is altered, replaced, rehabilitated, or restored so long as there are no reductions in glass; and
- (4) Site expansions or reconfigurations less than or equal to twenty-five percent (25%) of the existing site's gross square footage, where there is no additional curb cut, reduction in landscaping, or new structures.

b. Residential Development:

- (1) Up to two (2) attached dwelling units on the same property; and
- (2) Accessory structures [and accessory dwelling units](#) that do not otherwise require design review consultant(s) recommendation as defined by this title.

~~3. e.~~ The thresholds identified are cumulative within a twenty-four (24) month time period.

~~3. Any applications that are noncompliant with code will be denied.~~

D. Design Review Consultant(s):

- 1. When design review consultant(s) consultation is required, the consultation shall be timely scheduled with the consultant(s) as established by resolution.
- 2. The purpose of the consultation is for expert(s) to assist the decision maker by providing direction to the applicant on the city-adopted design criteria.

3. The consultation is between the design review consultant(s) and the applicant. Timely written public comment shall be incorporated into the materials reviewed during the consultation.

4. The applicant may meet with the design review consultant(s) one (1) or multiple times before an application is ready for a recommendation.

~~5. Appropriate fees for design review consultation shall be established by resolution.~~

E. Required Findings: In order to approve a design review application ~~after a recommendation by the design review consultants that requires design review consultant review~~, the decision maker shall make a determination ~~with written reasoned statements on~~ the following findings:

1. The proposed design shall comply with all design standards in this title;
2. The proposed design shall provide effective bicycle and pedestrian access and movement to, from, within, and across the site;
3. The proposed design shall be compatible with or improve the public's use of existing and planned public spaces, including but not limited to the greenbelt and pathways, sidewalks, parks, roadways, open space, public facilities, Boise River and waterways, canals, and other surface irrigation;
4. The proposed design shall be compatible with the neighborhood in scale and intensity;
5. The proposed design shall not create an adverse impact on the surrounding neighborhood;
6. The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood;
7. The proposed design and landscape shall improve the design and function of the site and be consistent with southwest Idaho climatic conditions; and
8. The proposed design shall be compatible with applicable natural, scenic, and historic features, including but not limited to wetlands, the Boise River, waterways, and historic structures.

~~F. Limitations Of Design Review Authority: Except for development on substandard lots of record, the design review consultant(s) is prohibited from requiring reductions in height, density or floor area ratio, or other general bulk regulations.~~ **Conflicting provision**

Potential New Section

Decisions and Recommendations

a. Upon conclusion of its review, the decision maker shall make its decision by the next regularly scheduled meeting.

b. In its decision, the decision maker shall base its findings upon all factual matters in the record, the recommendation, and if taken, factual testimony.

c. The findings of fact must be based exclusively on the evidence in the record.

d. The decision shall be accompanied by conclusions of law.

e. Decision shall be consistent with the grounds identified in Table **TBD**:

Table TBD

Recommendation and Final Decision with no previous recommendation
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<u>Decision/Recommendation</u>	<u>Grounds for decision/recommendation</u>
<u>Approve</u>	<u>The application, as submitted, and supported by the record, is in compliance with applicable regulations.</u>
<u>Approve with Conditions</u>	<u>The application, as conditioned, and supported by the record, is in compliance with applicable regulations.</u> <u>All conditions of approval shall be attached to the written decision.</u>
<u>Request changes for additional review</u>	<u>There are changes that could make the application compliant with code that will require further review to verify compliance or if the application lacks sufficient documentation to determine compliance.</u>
<u>Deny</u>	<u>The application, as supported by the record, is not in compliance with all applicable regulations, or if there is inadequate record to determine compliance.</u> <u>All applications that are noncompliant with code will be denied.</u>
<u>Recommend Public Hearing</u>	<u>The Planning Official may recommend a public hearing for items that are processed under the Administrative With Notice process if it is unclear whether the application is compliant with code and the intent of code and there may be significant adverse impact to the city as a result of a decision.</u>
<u>Final Decision with recommendation</u>	
<u>Sustain the recommendation</u>	<u>The recommendation shall be sustained unless the recommendation is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>
<u>Sustain and modify recommendation with conditions</u>	<u>Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met.</u> <u>All conditions of approval shall be attached to the written decision.</u>
<u>Reject the recommendation</u>	<u>The recommendation shall be rejected if the application can not be sustained</u>
<u>Remand the application for additional proceedings and findings</u>	<u>The decision maker may remand the application to remedy unlawful procedure or to require the review information that was not previously considered.</u>

<u>Appeal</u>	
<u>Grant</u>	<u>The decision is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied</u>
<u>Grant with modifications</u>	<u>Modifications may be made when new evidence has been added to the record, or an equally good or better decision can be met.</u>
<u>Remand to the decision maker for additional proceedings and findings</u>	<u>There are changes that could make the application compliant with code that will require further review to verify compliance, if the application lacks sufficient documentation to determine compliance, or if procedural processes are required to be remedied.</u>
<u>Deny</u>	<u>Deference shall be given to the decision. The decision shall be sustained unless the decision is in violation of constitutional or statutory provisions, in excess of statutory authority, made upon unlawful procedure, not supported by evidence, is arbitrary, capricious or an abuse of discretion, or the true intent of code has not been correctly applied.</u>

e. A reasoned statement consistent with Idaho Code 67-6519 shall accompany the decision.

f. A written document consistent with the requirements of Idaho Code 67-6535 shall be provided within a reasonable timeframe, dependent upon staff loading, from the date that the decision is rendered. The written document shall include:

- i. The decision determination.
- ii. A determination of the required findings.
- iii. A reasoned statement in support of the decision.
- iv. The facts upon which it based its decision,
- v. The ordinance and standards used in evaluating the application,
- vi. If denied, the actions, if any, that the applicant could take to obtain approval.

8-7A-2

Neighborhood Meeting: A meeting that the applicant hosts. The intent of the meeting is to encourage dialog between ~~the~~ those with concerns and the applicant so that the application can potentially be refined prior to city review.