



## DEVELOPMENT SERVICES DEPARTMENT

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**TO:** Mayor and Council  
**FROM:** Jenah Thornborrow, Development Services Director  
**DATE:** 03/23/2020  
**SUBJECT:** DSRFY2019-25 Hearing

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### **PUBLIC HEARING**

**REQUEST:** Approval or Denial including Findings of Fact, Conclusions of Law for Design Review application of Design Review application for DSRFY2019-25, a mixed-use project located at 406 E. 40th, 507 E. 41st, and 510 E. 41st Streets, Garden City, Idaho.

**BACKGROUND:** On November 4, 2019 the Design Review Committee approved, with notice (as permitted in GCC 8-6A-5), the design for file DSRFY2019-25. The City received a written opposition which triggered a formal public hearing. The hearing was scheduled for March 23, 2020.

The City Council can approve the application, consistent with the Design Review Committee's action. Alternate actions include:

1. Deny application.
2. Continuance for more information.

**PROJECT SYNOPSIS:** The applicant is proposing mixed use development consisting of three structures that will include a mixed-use building (237 units and 8 retail spaces), 148 room hotel with two retail spaces, and a multi-family building (38 units). The proposal also includes the vacation of a portion of 41<sup>st</sup> Street. The project is intended to be constructed in four phases over a five-year timeframe.

### **POINTS OF DISCUSSION AT DESIGN REVIEW:**

A complete review of the project and its components are found in the attached staff report. The points of discussion at the Design Review Committee meeting include:

1. Privacy
  - a. Public testimony was received that noting concerns of:
    - i. Adjacent properties' privacy.
    - ii. Additional noise.
  - b. The applicant noted that to address privacy:

- i. There will not be a roof deck on the 406 building.
  - ii. The public patio will be setback 13' from the edge so that there is no sight line to neighboring properties.
- c. A view impact diagram was provided. It was indicated that the impact would be similar to a standard two-story home.
- d. The Design Review Committee noted:
  - i. Screening to the east needs to occur with additional vegetation\*.
  - ii. That the privacy of the neighbors can be addressed through building placement, architecture, and vegetation\*.

\*The applicant provided a revised proposal incorporating layout and vegetation suggestions to address privacy concerns. The Design Review Committee concluded that the concerns were addressed with the redesign.

## 2. Parking

- a. Public testimony noted concerns:
  - i. That the parking component was too large in the 406 building, thus creating a parking garage.
  - ii. There is not a current demand for the proposed parking.
- b. The applicant noted that all properties lines will be vacated, thus the project cannot be sold for individual uses separately.

## 3. Context with the surrounding neighborhood

- a. Public testimony was received that:
  - i. The development does not meet the intended character of the neighborhood.
  - ii. Proximity to current structures in the neighborhood.
  - iii. There is not relationship with the buildings and the street and pedestrians.
- b. The applicant noted that:
  - i. The scale of project requested by the public is not economically feasible.
  - ii. Multi-family is an allowed use.
  - iii. The Design Review Committee had requested public parking to replace the public parking to access the greenbelt that would be removed in the vacation of 41<sup>st</sup> Street.
  - iv. Setbacks are in excess of Garden City Code.

## 4. Displacement of current residents

- a. Public testimony noted concerns with displacement of current community members and loss of affordable housing.
- b. The Committee members noted agreement that affordable housing is an issue affecting the region but outside the purview of the decision at hand. Committee member Gresham requested that staff provide information that

can be accessible to the public related to how workforce and affordable housing can be incorporated into projects.

5. Potential Crime

- a. Public testimony noted concerns that the project would produce crime.

6. Infrastructure

- a. Public testimony noted concerns that:
  - i. There is a lack of public infrastructure to support the development.
  - ii. That there would be an increase in greenbelt usage.
- b. The applicant noted that they would be responsible to provide infrastructure.
- c. An ability to serve letter for the municipal water and sewer system was provided by the Garden City Engineer.

**POINTS OF CONCERN RECEIVED:**

A [letter of objection was received by Kira Tabor](#) (linked). For purposes of this memorandum the letter has been reorganized to be in three sections- Code, Comprehensive Plan, and Other.

**Code Objection**

The objections have been rearranged to be in order of the Garden City Code. Clarifications of text and citations have been added (in blue).

**Point Raised**

**8-1A-3 COMPLIANCE WITH COMPREHENSIVE PLAN:**

*Pursuant to the requirements of Idaho Code section 67-6501 et seq., zoning within the city shall be in accordance with the comprehensive plan adopted by the council on July 24, 2006, and as amended over time. (Ord. 898-08, 9-8-2008)*

**Point Raised**

*Garden City Municipal Building Code*

*8.1a.2d*

*A3 3. Consider the needs of all citizens, businesses and the environment.*

*F. Goal 6: Diversity in housing:*

*2. Maintain the city's "fair share" of affordable housing.*

*3. Maintain the diversity of housing*

-This development does none of these. In fact, it removes much needed affordable and diverse housing, replacing it with housing that few in our city or communities can afford. It is the complete opposite of the outlined goal. Once a project of this nature is approved without any concern for housing diversity, the city will no longer be capable of enforcing such requirements on new developments, therefore willingly assisting in the removal of diversity, culture, arts and thoroughly gentrifying our community.

[Citation Reference: this appears to point to references within the Purpose of the Development Code, GCC 8-1A-2 rather than the Building Code.]

**Point Raised**

*c. Compliance with the minimum standards does not automatically ensure acceptance of an application by the city. Additional requirements may be added by the decision maker before acceptance in order to implement the purpose of this code, the objectives of the comprehensive plan, or provide for the public health, safety, and general welfare. (Ord. 898-08, 9-8-2008)*

- It is the City Council's duty to ensure the well being of its current citizens, regardless of high hopes for development and tax dollars, the needs of the current residents should take priority. We hope the City Council is capable of making this distinction.

[Citation clarification: This is referencing GCC 8-1A-5.4.c Development Code; Language, Minimum Requirements]

**Point Raised**

*b. For multi-family developments between twenty (20) and seventy five (75) units, three (3) amenities shall be provided, with one from each category.*

*c. For multi-family developments with seventy five (75) units or more, four (4) amenities shall be provided, with at least one from each category.*

*Quality of life amenities: a) clubhouse; b) fitness facilities; c) enclosed bike storage; or d) public art.*

-There is no plan for public art, as required for a development of this nature. Suggest working with local artists to provide such.

[Citation clarification: 8-2C-15 Dwelling Unit, Multi-Family B.4. b and c]

[Text Clarification: B. Site Layout: All multi-family developments shall provide for quality of life, open space and recreation amenities to meet the particular needs of the residents as follows:

1. Quality of life amenities: a) clubhouse; b) fitness facilities; c) enclosed bike storage; or d) public art.
2. Open space: a) open grassy area of at least fifty feet by one hundred feet (50' x 100') in size; b) community garden; c) ponds or water features; or d) plaza.
3. Recreation amenities: a) pool; b) walking trails; c) children's play structures; or d) sports courts.
4. The number of amenities shall depend on the size of multi-family development as follows:
  - a. For multi-family developments with less than twenty (20) units, two (2) amenities shall be provided from two (2) separate categories.
  - b. For multi-family developments between twenty (20) and seventy five (75) units, three (3) amenities shall be provided, with one from each category.

c. For multi-family developments with seventy five (75) units or more, four (4) amenities shall be provided, with at least one from each category.]

**Point Raised**

*8-4b-1, C - To ensure that the design of structures and site development is compatible with the intended character of the neighborhood as set forth in the comprehensive plan.*

-This development is neither compatible, nor supportive of the surrounding community. There have been other projects brought before the council that have been rejected despite being far more fitting to the Comprehensive Plan and far more compatible with the community and its needs.

**Point Raised**

*8-4C-3*

*A. The design of all structures shall have a scale, massing and urban form that has a relationship to the street, the pedestrian, and adjacent properties.*

-This development has a scale and massing that is in extreme contrast to the surrounding neighborhood and properties.

**Staff's Response to Code Objection:**

GCC 8-1A-3 COMPLIANCE WITH COMPREHENSIVE PLAN. This section of code was not reviewed by the Design Review Committee. This provision requires that the zoning is in accordance with the Comprehensive Plan. This application was not a change to the City's zoning ordinance.

GCC 8-1A-2 PURPOSE. This section of code was not reviewed by the Design Review Committee. The section of code is noting the purpose of Garden City Code, Title 8, The Development Code of the City.

GCC 8-1A-5.A.4.c INTERPRETATION. This section of code was not reviewed by the Design Review Committee. This section of code is noting how to interpret language specific to minimum requirements found in the code.

8-2C-15 DWELLING UNIT, MULTI-FAMILY. Design Review Committee found that the application was complaint with this provision.

8-4B-1. C. PURPOSE, DESIGN PROVISIONS FOR RESIDENTIAL STRUCTURES. It should be noted that this is a provision noted in the Purpose of Design Provisions for Residential Structures. Design Review Committee found that the application was complaint with this provision.

8-4C-3.A GENERAL PROVISIONS FOR NONRESIDENTIAL DEVELOPMENT. It should be noted that this is an Objective identified in the General Provisions for Nonresidential Development. Design Review Committee found that the application was complaint with this provision.

### **Comprehensive Plan Objection**

The objections have been rearranged to be in order of the Comprehensive Plan. Clarifications of text and citations have been added. Duplicate references have not been removed. Clarifications of text and citations have been added (in blue).

#### **Point Raised**

*1.3.4 Explore new and innovative ways to assess the needs of all community members.*

-This development does not support the needs, and is in fact, detrimental to the current surrounding community. It would be wonderful for the council to recognize the current residents' needs.

#### **Point Raised**

*1.3.4 Explore ways to assess the needs of all community members.*

-How is the city assessing the needs of current residents in regards to this development? Can the council honestly say that this is supportive of the needs of ALL community members? It would seem it is very beneficial to the needs of only a few individuals who are NOT members of our community, at the detriment of many who are active, working and living members of our community.

[Text Clarification, full text reads: Explore new and innovative ways to assess the needs of all community members. For example, extend City Hall out to the neighborhoods using the model of the Bells for Books Library. ]

#### **Point Raised**

*1.5 Objective Celebrate the historic, the cultural and the artistic.*

-This development removes a large amount of cultural diversity from our neighborhood and replaces it with housing that is neither accessible or supportive of vulnerable populations of cultural diversity in our city.

#### **Point Raised**

*2.3.1 harmony with neighborhood;*

-This development is not even remotely harmonious with the current neighborhood, its residents or its current demographic.

[Text Clarification, full text reads: Amend the Land Use Code with improved design standards for all new and altered development. Consideration should be given to:

- site and building designs that create a sense of place and destination; and
- support for buildings that can be easily converted into a variety of uses;
- harmony with neighborhood; and
- a design review commission to administer the design standards.]

## **Point Raised**

### *3.1.4 accessibility that minimizes traffic, especially on surrounding neighborhoods.*

-This project stands to detrimentally increase traffic in the surrounding neighborhoods, a potential increase of over 10X the current traffic levels. 40th and 41st Streets are small, residential streets that dead end at the Boise Greenbelt, and cannot support the street traffic from approximately 300 apartments/families and 138 hotel rooms/guests, in addition to the increase in the general public accessing the amenities, retail, and restaurants.

[Text Clarification, full text reads: Based on recommendations of the master plan, seek opportunities with public and private partners to transform the Expo Idaho site to an urban center for the city, with the following features:

- site design with an orientation to the river with public gathering places for artists, families and activities;
- uses that include small scale retail, services, entertainment, education, restaurants, parks and protected open space areas;
- a destination that is connected to the greenbelt for pedestrians and bicyclists; and
- accessibility that minimizes traffic, especially on surrounding neighborhoods. (See also Action Step 3.1.1).]

## **Point Raised**

### *6.1.1 opportunities for mixed income housing.*

-This project provides no support for mixed income, and in fact, eliminates much needed low income housing with out replacing it.

[Text clarification, full text reads: Create incentives for improving the conditions of substandard housing and monitor their effectiveness in improving conditions. Among the considerations are:

- technical and design assistance;
- workshop on property maintenance for landlords;
- coordination with providers of low costs loans;
- expedited permitting;
- additional density; and
- opportunities for mixed income housing.]

## **Point Raised**

### *6.2 Continue to be a leader and set an example for the region in creating a diversity of housing.*

-This project eliminates some of the most diverse housing in the city. This project is the exact opposite of leadership in housing diversity

*Participate in and support a regional dialogue on affordable housing. Better understand the future housing challenges and need for affordable housing.*

*Partner with private developers and other agencies in maintaining a supply of affordable housing. Use the city's positive experiences as examples for other communities to follow.*

-This project sets a negative example for affordable housing. Not only does it eliminate a large amount of needed affordable housing, the project will only be providing housing that is far in excess of the means of the vast majority of the population and demographics of our city.

[Citation clarification: This is both Action Steps 6.2.1 and 6.2.2]

**Point Raised**

*6.2.1 Initiate and support a regional dialogue on affordable housing.*

-There has been zero attempt to establish affordable housing, either in regards to this specific project, or in any enforceable means such as code requirements.

[Text Clarification, the text is: Participate in and support a regional dialogue on affordable housing. Better understand the future housing challenges and need for affordable housing.]

**Point Raised**

*6.2.2 Partner with others in maintaining a supply of affordable housing.*

-This project displaces low income residents and eliminated much needed affordable housing in order to build over-market rate housing.

[Text Clarification, the text is: Partner with private developers and other agencies in maintaining a supply of affordable housing. Use the city's positive experiences as examples for other communities to follow. ]

**Point Raised**

*6.2.3 Consider the formation of a city commission on housing.*

-Probably a good idea to actually undertake instead of just outlining in a Comprehensive Plan.

[Text Clarification, the text is: Consider the formation of a city commission on housing. The mission of the commission would be to look to the future needs of housing within the city, exploring options researched from around the county. The commission would recommend policy direction, and an implementation plan including funding strategies to the City Council and provide city representation on regional housing initiatives.]

**Point Raised**

*6.3 Maintain the diversity of housing.*

-This project eliminates much needed low income housing and cultural/age diversity, without providing a replacement, assistance to those displaced, or even access to housing within the proposed development. With over 300 units of housing, it seems detrimental to our city to not have any low income housing or attempt in maintaining income or cultural diversity.

*Provide for a variety of housing types in the Land Use Code including smaller cottage and second housing units. Allow for housing that attract niche markets such as senior housing, live-work structures, and cooperative housing.*

-This project is the opposite of this distinction, and is detrimental to current residents who could benefit from such development.

[Citation clarification: This is Action Step 6.3.1]

**Point Raised**

*Continue to explore opportunities that encourage mixed income housing in new developments.*

-This is an ideal project to explore mixed income housing, however there has been zero attempt to require or request such. This is a very important step in the development of our city that seems to be grossly overlooked.

[Citation clarification: This is Action Step 6.3.2]

**Point Raised**

*6.3.2 Encourage mixed income housing in new developments.*

-This project proposes the exact opposite of this, and the lack of code to require such building practices is detrimental to the current population and without code to enforce, just contributes to the gentrification of our city.

[Text Clarification: Continue to explore opportunities that encourage mixed income housing in new developments.]

**Point Raised**

*7.3. Protect neighborhoods from through traffic.*

-This project stands to increase through traffic in the neighborhood from the current 28 families with cars, to over 300 families with cars on a dead end street without the infrastructure to support it. This will have a direct negative impact on the current residents.

**Point Raised**

*10.3.2 Recognize the stability of many areas within the city and focus future planning efforts on neighborhoods of rapid change and regeneration, especially east of Glenwood Street on both sides of Chinden Boulevard.*

-The removal of low income housing and vulnerable population housing from the neighborhood is very negative to the stability and cultural diversity of the neighborhood and city as a whole.

**Point Raised**

*10.4.3. Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods.*

-This project is in no way, shape or form compatible with the current neighborhood. The height and scale of the project is excessive and detrimental to the existing community. A transition from single story housing to 5 and 9 story buildings cannot be seen as a compatible transition.

**Point Raised**

*10.4.3 Transition development to be compatible with the existing surroundings.*

-This project is not compatible either socially or visually to the existing surroundings.

[Text clarification: Provide a transition in the height and scale of development that is compatible with the existing surrounding neighborhoods. ]

**Point Raised**

*11.2 . Investigate the feasibility and community support for creating a cultural center, museum, theater and a community center for all ages.*

-We can create as many cultural centers as we want, however, if we eliminate all the culture from the neighborhood, the city is supporting an obvious anti-cultural diversity agenda.

[Citation clarification: This is Action Step 11.2.2]

**Point Raised**

*On a periodic basis, evaluate the effectiveness of all community services and facilities in meeting the needs of the community.*

-How does this meet the needs of the community? Displacement, removal of low income housing, lack of reasonable access to proposed facilities, and burdening small residential neighborhoods to high density through traffic. Is this how the city meets our needs?

[Citation clarification: This is Action Step 11.2.3]

### **Point Raised**

*Work in partnership with groups such as AARP, the Looking Glass Academy, and the Garden City Community Collaborative in continually assessing the physical, social, health, mobility, educational and cultural needs of the city.*

-Removing affordable housing without replacing it, particularly housing that supports a Hispanic and elderly community, is counter productive if this is actually a desire of the city.

[Citation clarification: This is Action Step 11.2.4]

### **Point Raised**

*12.3.2 Recognize the economic value of the arts and culture. Explore additional ways to brand and promote the existing and attract additional arts and culture venues to the community.*

-Proposed project does a good job of removing the current culture and diversity and provides no affordable artist or cultural support.

*Support the evolving east end of the city as a gateway destination for resort accommodations; recreation-oriented businesses; arts, entertainment and cultural venues; and craft beverage hub. Encourage non-residential uses that are compatible with the surrounding residential neighborhood.*

-Important note- “support” and “**compatible with surrounding neighborhood**”, which this project is not.

[Citation clarification: This is Action Step 12.3.3]

### **Point Raised**

*12.3.2 Recognize the economic value of the arts and culture.*

-Removing culture and artist demographics from our city does not appreciate the economic or social value of such.

[Text clarification: Recognize the economic value of the arts and culture. Explore additional ways to brand and promote the existing and attract additional arts and culture venues to the community.]

### **Point Raised**

#### **MIXED USE COMMERCIAL:**

*The mixed-use commercial designation is for the area south of Adams Street. The intent of this designation is to create an area for mixed uses, including residential, office, retail, and small scale industrial, that are more urban in character than in the mixed-use residential area. Three story buildings and 40%- 60% lot coverage, with aggregated open spaces for pocket parks should guide the development pattern in this area.*

-Important note- "**Three story buildings** and 40%- 60% lot coverage, with aggregated open spaces for pocket parks should guide the development pattern in this area."

**Point Raised**

*"The number of owner-occupied units is estimated in 2016 at 53%, a decrease from 66% in 2010. The median value of a home has increased to an estimated value of \$188,000 in 2016. Median rent has increased 49% since 2000 to \$767/month in 2016. The number of households paying more than 35% of their income on housing is estimated at 47%. At the time of this writing a number of additional multi-family units are under construction or permitting that for the future will represent a greater percentage of the city's housing stock."*

-This project assists in creating the loss of owner occupied and affordable housing, which creates an extremely negative impact on the growth and success of a city, particularly in the long term.

[Citation clarification: this is in the update to background information related to housing.]

**Response:**

The Comprehensive Plan is not a legally binding document.

A number of the citations can be open for interpretation on if and how they apply to this application.

The objection references the Mixed-Use Commercial land use designation. This proposal is within the Activity Node Land Use Designation of the Comprehensive Plan. Below is the Comprehensive Plan's definition of Activity Node:

**ACTIVITY NODE:** *Activity nodes are identified on the Land Use Map for neighborhood centers, local and regional destinations, and locations in proximity to existing and future transit stations and stops. Activity centers range in size depending on their function and location. Some nodes may be centered around the intersection of major streets or extend down a street to connect major community facilities. The common characteristics of the activity nodes are a mix of uses, public spaces, compatible transition to the uses surrounding the nodes and non-motorized connections to within a quarter mile walkable area of the node center. Some nodes, especially around transit stations, would have higher density (at least 14-20 units per acre) and multi-story development (three or more stories). It is not intended that all nodes could be developed within the twenty-year period of the plan.*

*Activity Nodes by type shown on the Land Use Map are as follows:*

*Neighborhood and Destination Centers: The centers should be focused on uses that facilitate making the location a destination. Uses may include small scale retail, art, office, and higher density residential. Identified centers are:*

- *Adams and 50<sup>th</sup> Streets intersection to the Boise River*
- *Adams and 42<sup>nd</sup> street intersection to the Boise River.*
- *East city boundary to 36<sup>th</sup> street between the Boise River and Chinden Boulevard*
- *Glenwood and Marigold Streets intersection*
- *Chinden Boulevard and Garrett Street intersection*
- *Chinden Boulevard and 50<sup>th</sup> Street intersection*
- *State Street and Pierce Park*

### **Other Objection**

#### **Point Raised**

We would also like to bring up the requirement for detached sidewalks for this project, the community would much prefer attached sidewalks with tree wells (as implemented on 36th and Clay). There are no detached sidewalks anywhere near the proposed development and current residents strongly disagree with this requirement as it does not fit our neighborhood and will negatively impact surrounding properties and require excessive maintenance on behalf of current property owners.

#### **Point Raised**

It is the duty of the City Council to look into the future as a city grows. It is also, more importantly, its duty to consider the needs and well being of its CURRENT residents and develop in a manner that is suitable and beneficial to them. Council members must remember that they are in their positions because of the current citizens. It is easy to see a trailer park or low income area and envision a modern landscape with all the bells and whistles of a big city with clean modern development. While this should be a goal, it should not be accomplished simply by removing and replacing the people who's well being and best interests have been put into the hands of the City Council. A look at any developed city will show a lack of forethought for the populations who were first established, the result is a place where a wealthier population thrives at the expense of the working class. However, if you think we need working folks - garbage people, trades folks, laborers, service industry workers - less than we need wealthy citizens, who can afford the luxuries such development brings, I ask, who will take away your refuse? Who will fix your car or house? Who will serve you a meal at your favorite restaurant? These are the people of Garden City. These are the people who need a City Council that looks after their needs. These are people who bring us culture, art and diversity. The only way to have a successfully developed city that sets an example for positive growth, is to take the needs of its most vulnerable and easily displaced populations as a priority. These are the people who need your consideration. This city has become what it is on the backs of the working class. Let us lead by example and show that just because the foundation of a great city is built upon the working class, does not mean

they are to be stuck at the bottom and forgotten about. We have a unique opportunity within our city to grow together and truly create something we can ALL be proud of and an integral part of. If you believe in the ideas set forth in the Comprehensive Plan, then you should realize the most important part of our development is to be absolutely certain that it is inclusive of all, with the focus on maintaining the population that got us to where we are today. Gentrifying our community in hopes to create an ideal future is the most detrimental way to grow a city. Please look after the needs and well being of those of us who elected you to your seats.

Thank you for your time and consideration, and for considering the needs and well-being of our current residents and community members while deciding on this proposal. This will set the stage for further development in our community and it is extremely important to ensure that we live up to ALL the elements of the Comprehensive Plan and the surrounding codes. The decisions made over this development will have lasting effects on our community and we hope the City Council has the interests of its constituents on the top of the list, not the back burner.

**Response:**

**Pertinent Code related to detached sidewalk requirement:**

**8-4E-6 SIDEWALK STANDARDS:**

All sidewalks shall be designed and constructed to the following standards:

C. Detached sidewalks shall be required unless in conflict with a street plan adopted by the transit authority and/or the city or there is existing attached sidewalk on both sides adjacent to the property.

There is not an existing adopted plan for attached sidewalks nor is there attached sidewalk on both sides of the proposed sidewalk.

**DESIGN REVIEW REQUIRED FINDINGS FOR APPROVAL, (GCC 8-6B-3. D ADMINISTRATION, SPECIFIC PROVISIONS, DESIGN REVIEW COMMITTEE, REQUIRED FINDINGS)**

1. The proposed design is in conformance with the purpose of the zoning district and all dimensional regulations of that district;
2. The proposed design adheres to standards for the protection of health, safety, and general welfare;
3. The proposed design creates a sense of place and contributes to the uniqueness of the different districts and neighborhoods within the city;
4. The proposed design improves the accessibility of development to non-motorized and public modes of transportation;
5. The proposed design supports a development pattern in nodes rather than strip commercial along arterial corridors;
6. The proposed design supports a compact development pattern that enables intensification of development and changes over time; and
7. The proposed design provides outdoor spaces and landscaping compatible with the southwest Idaho climatic conditions and that encourage pedestrian activity.

**ATTACHMENTS:**

- Design Review record documents
- Draft Decision
- Noticing documentation