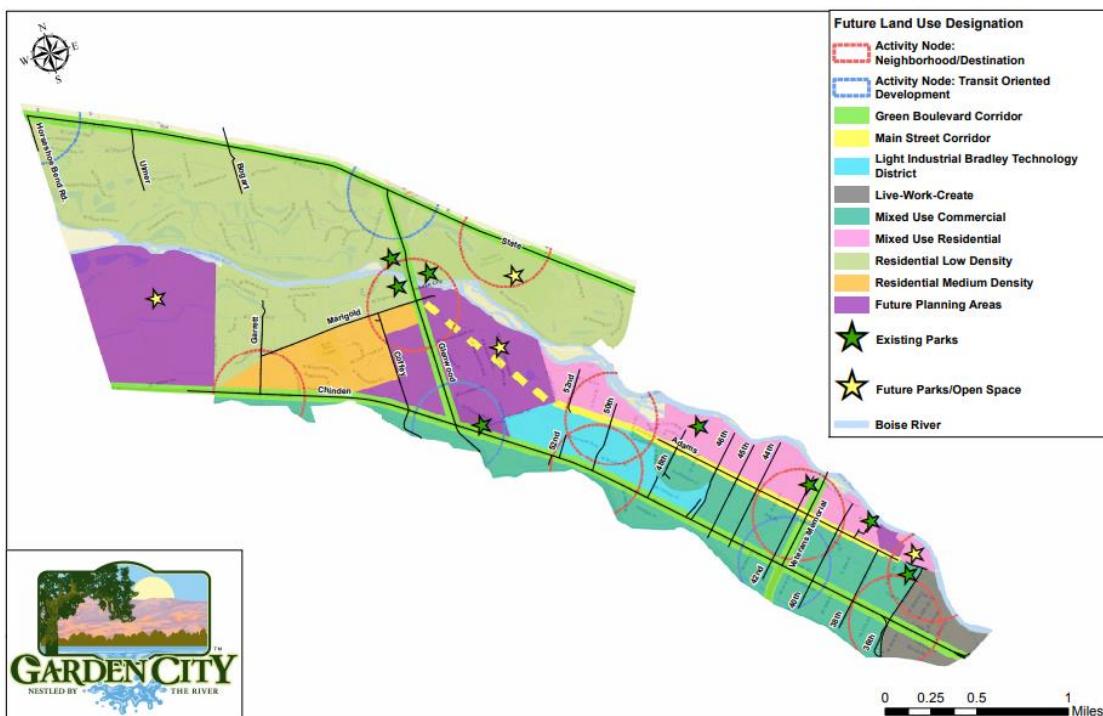


## CITY OF GARDEN CITY

6015 Glenwood Street □ Garden City, Idaho 83714  
Phone (208)472-2921 □ Fax (208)472-2926

**File Number:** CPAFY2023-0003  
**For:** Garden City Title 8 Development Code Text Amendment Title 8 Chapter 4  
Article H: Flood Hazard  
**Applicant:** City of Garden City  
**Report Date:** 7/22/2024



## Staff Report

Report prepared by Brian Seeger

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## **A. Record Documents** ([link to all record documents](#))

Record Documents:

1. Noticing Documents
2. Agency Comments: n/a
3. Public Comments: n/a
4. Draft Potential Decision Documents:
  - a) Planning and Zoning Commission Recommendation
  - b) City Council
5. Planning and Zoning Commission Recommendation (to be submitted as a late exhibit)
6. Draft Ordinance 1046\_24

## **B. Requested Action**

Public Hearing and decision for proposed amendments to Garden City, Title 8, Development Code changing Flood Hazard.

## **C. Recommendation**

Due to the timing of the hearings, the formal recommendation will not be in the packet seven days in advance of the hearing. It will be submitted as a late document prior to the 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 Code Amendment	Design Review Committee, via consultations  Planning and Zoning Commission hearing date: 7/17/2024		City Council hearing date: 7/22/2024

### **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.

Every final decision rendered shall be 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**

To amend the Garden City Code, Title 8 Development Code, Flood Hazard to: (1) increase the city code's compliance with federal and state statutes governing floodplain land use; (2) clarify existing provisions; (3) lessen the necessity to cross reference different sections of the code for term definitions; and (4) streamline defined terms and code to increase clarity.

## **F. Current Deficiencies**

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

Many of the defined terms found in 8-4H-2 are either non-conforming with 44 C.F.R. Part 9, redundant, or mismatching to similar defined terms, creating unnecessary confusion. Some defined terms also do not incorporate the scope of what is to be included by the term (ex. terms defining Highest Adjacent Grade and Lowest Adjacent Grade do not include Accessory Structures into the calculation).

In relation to the deficiencies related to defined terms, some provisions of 8-4H are non-compliant with the relevant federal regulations. Other areas of the code are worded unclearly, creating syntactical ambiguities.

Moreover, the current code lacks additional policies unrelated to federal regulations that should be added to achieve the city's policy goals.

## **G. Proposed Changes**

The proposed changes are summarized below:

1. Consolidate, reorganize, amend, and add additional defined terms to increase the existing code's compliance with federal regulations.
2. Amend the code itself to meet and exceed federal requirements.
3. Amend the code to cure for ambiguities arising from syntax.
4. Add the additional regulations desired by the city.
5. Conflicting sections are repealed.

## **H. Agency Comments**

The Garden City legal department has reviewed this proposal and does not have concerns with the proposal.

## **I. Public Comment**

Members of the Boise River Enhancement Network (BREN) board verbally indicate support for the changes on July 11, 2024.

## **J. Evaluation of Proposed Changes**

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.

<b>Garden City Title 8 Code Sections</b>			
Code Section	Review Authority	Compliance Issues	Analysis/ Discussion
<b>Title 8, Chapter 1: General Regulations</b>			
Title 8, Chapter 6, Article A: Administration			
<a href="#"><u>8-6A-3 General Application Process</u></a>	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.
<a href="#"><u>8-6A-4 Required Application Information</u></a>	PZ/ CC	Not Determined	A Compliance Statement was received as required.
<a href="#"><u>8-6A-7 Public Hearing Process</u></a>	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.

<b>Other Items Reviewed</b>	
Plan/Policy	Discussion/ Analysis
<a href="#"><u>Idaho Code 67-6511</u></a>	The Local Land Use Planning Act requires that code amendments be compliant with the Comprehensive Plan.
<a href="#"><u>Idaho Code 67-6519</u></a>	Garden City Code and procedures are consistent with The Local Land Use Planning Act Application Granting Process.
<a href="#"><u>Garden City Comprehensive Plan</u></a>	This proposal applies to all land use designations in the Comprehensive Plan.