



GARDEN CITY

NESTLED BY THE RIVER



Planning and Zoning Commission

Roles and Responsibility

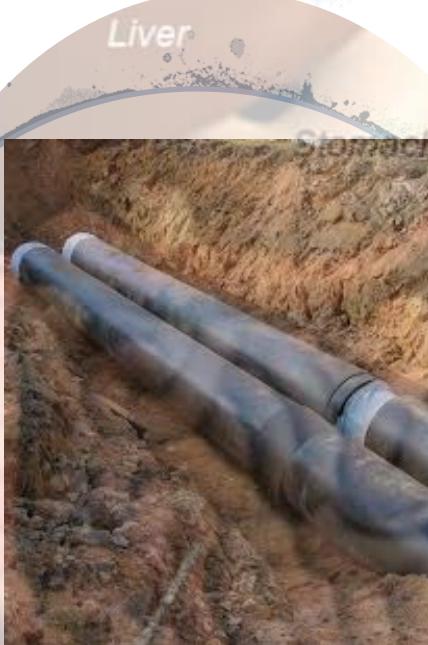
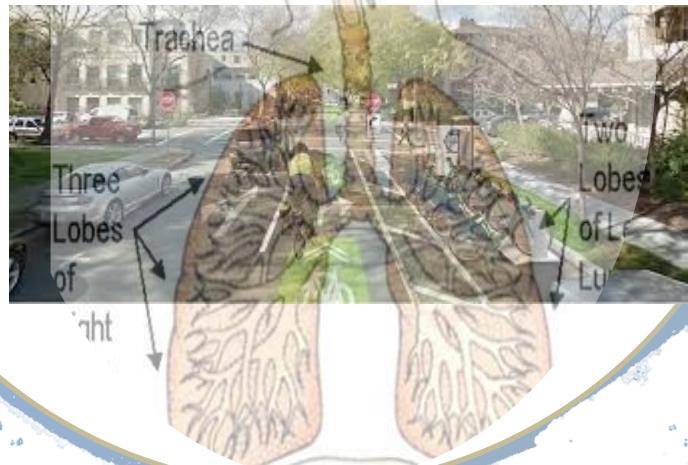
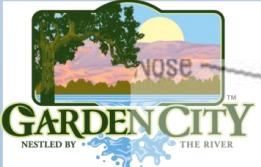
Why Plan?

- Buy in/ vetting of issues
- Adequate Facilities (establish a LOS for water, sewer, parks, roads)
- Health and Safety
- **Economic Development**
Effective and efficient growth/ systems enhancement
- **Stability/ Equity** Economic, social and environmental

Why Zone?

- Property rights protection
- Resource protection
- Health and safety
- Tool to implement plans





Just as in a living being, if one system is unhealthy, the entire body/structure may become unhealthy.

City System Examples

- Floodplain
- Water/ Sewer/ Refuse
- Transportation
- Housing
- Irrigation
- Parks and usable outdoor space
- Public Health
- Economic wellbeing
- Regional interface





The Foundation

A Standard State Zoning Enabling Act (SSEA)

- Developed by an advisory committee on zoning appointed by Secretary of Commerce (and later President) Herbert Hoover in 1921.
- The Government Printing Office published the first printed edition in May 1924, and a revised edition in 1926.
- The SSEA had nine sections.
 - Grant of power
 - A legislative body could divide the local government's territory into districts
 - A statement of purpose for the zoning regulations
 - Procedures for establishing and amending the zoning regulations
 - A legislative body was required to establish a zoning commission to advise it on the initial development of zoning regulations

A Standard City Planning Enabling Act (SCPEA)

- Published in 1928; six subjects:
 - Organization and power of the planning commission, which was directed to prepare and adopt a "master plan"
 - The content of the master plan for the physical development of the territory
 - Provision for adoption of a master street plan by the governing body
 - Provision for approval of all public improvements by the planning commission
 - Control of private subdivision of land
 - Provision for the establishment of a regional planning commission and a regional plan



Local Land Use Planning Act (LLUPA)

Idaho Code §67-65

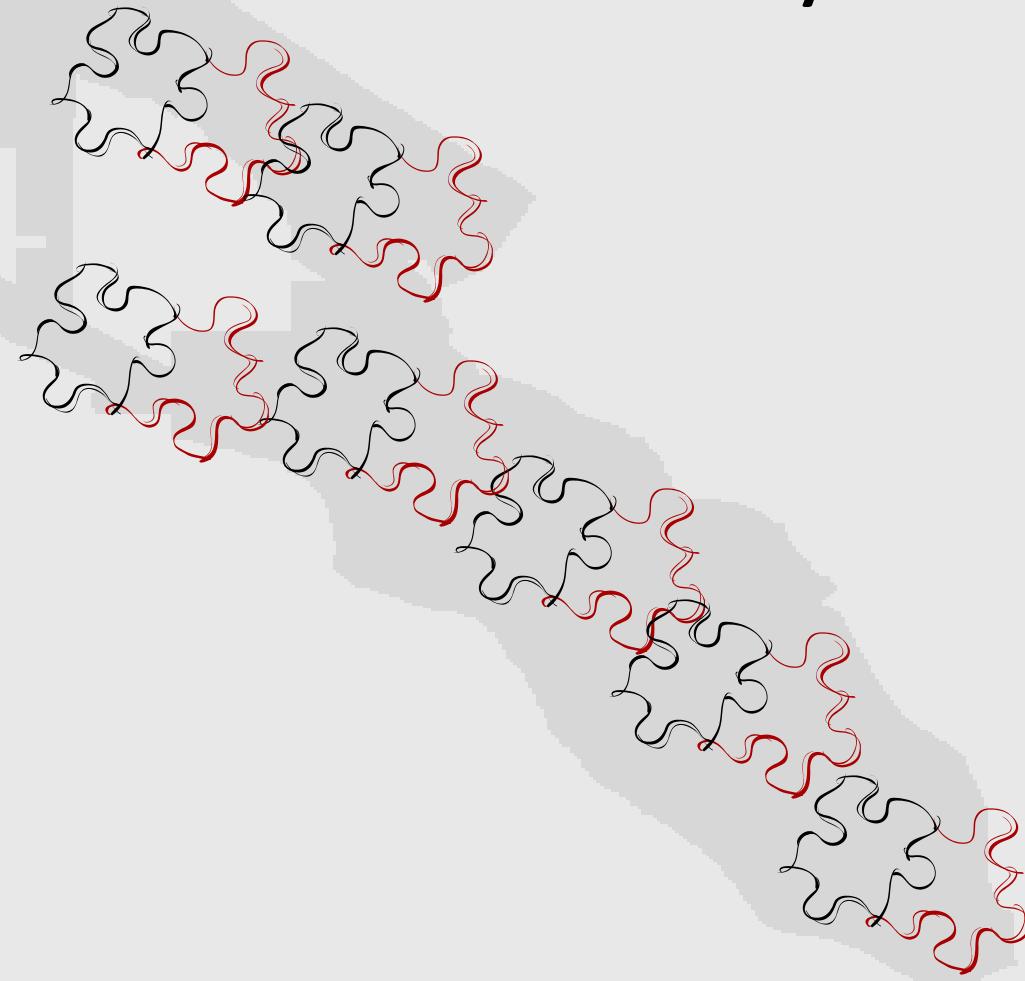
Promote health, safety, welfare-

- Protect property rights and economy
- Ensure adequate public facilities
- Protect sensitive and natural resources (and ag, forest, mining lands)
- Protect fish & wildlife
- Avoid pollution
- Encourage urban development in cities
- Avoid overcrowding
- Ensure development is compatible
- Protect against hazards

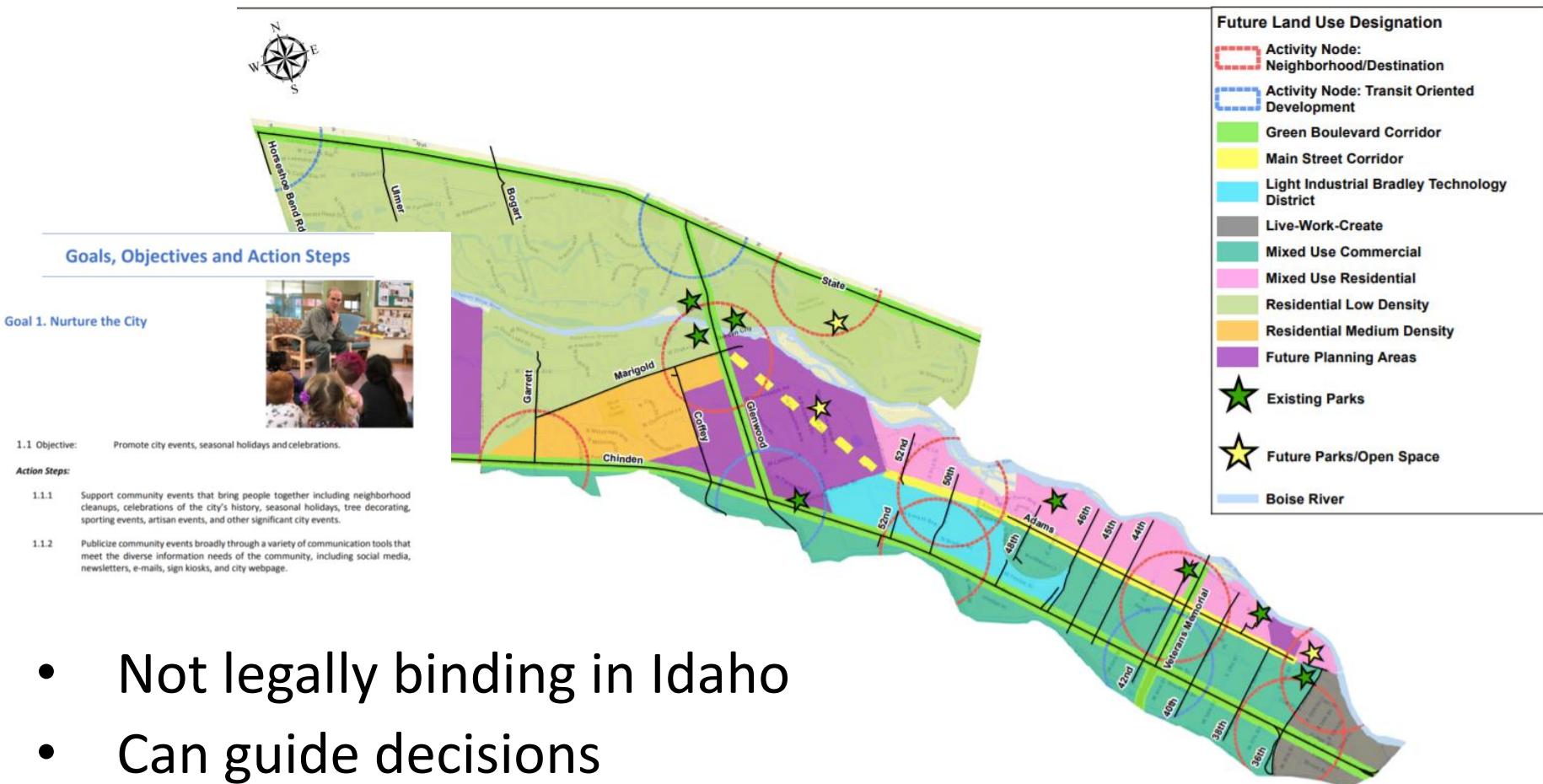


Planning

The picture on the puzzle box... a tool to guide systems towards community's vision



Garden City Comprehensive Plan

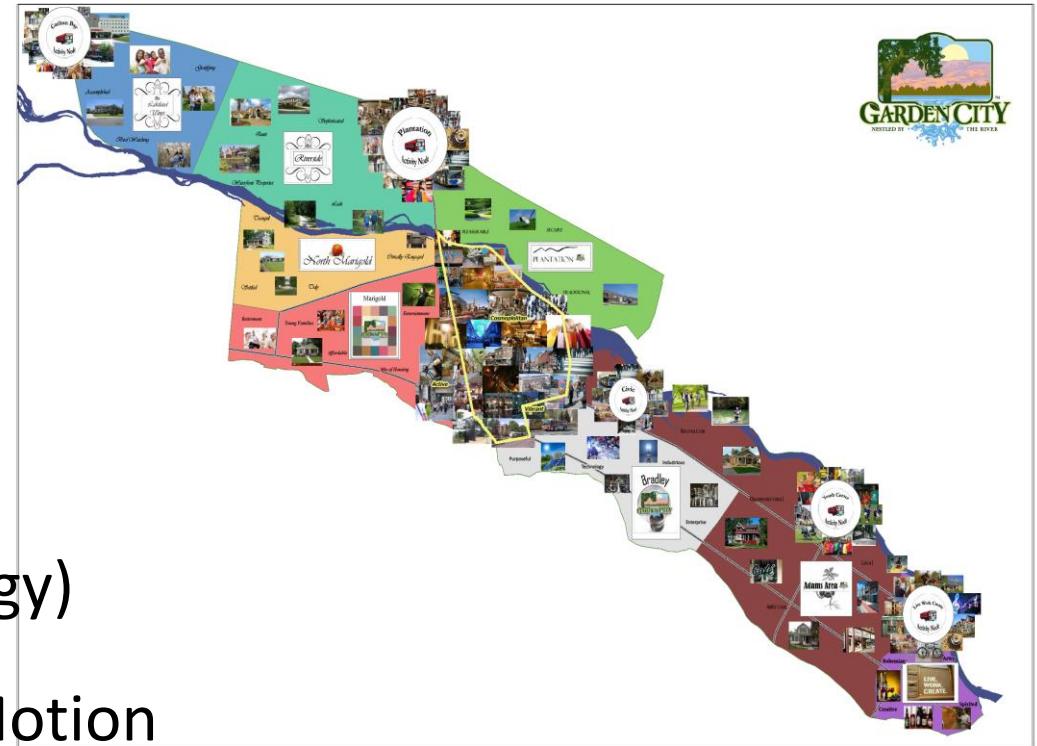


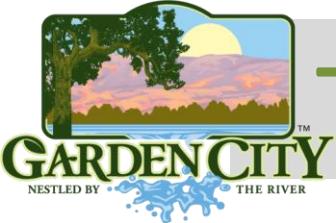
- Not legally binding in Idaho
- Can guide decisions
- Rezoning must be consistent
- Ordinances should be consistent



Layered Vision

Comprehensive Plan
&
Area of Impact
Transportation Needs list
Streetlight Manual
Vision Document
Streetlight Manual
ACHD Master Street (Typology)
Master Parks Plan
COMPASS Communities in Motion
Capital Improvement Plans
Private Development Desires





Tools to Implement the Plans

Laws/ Ordinances:

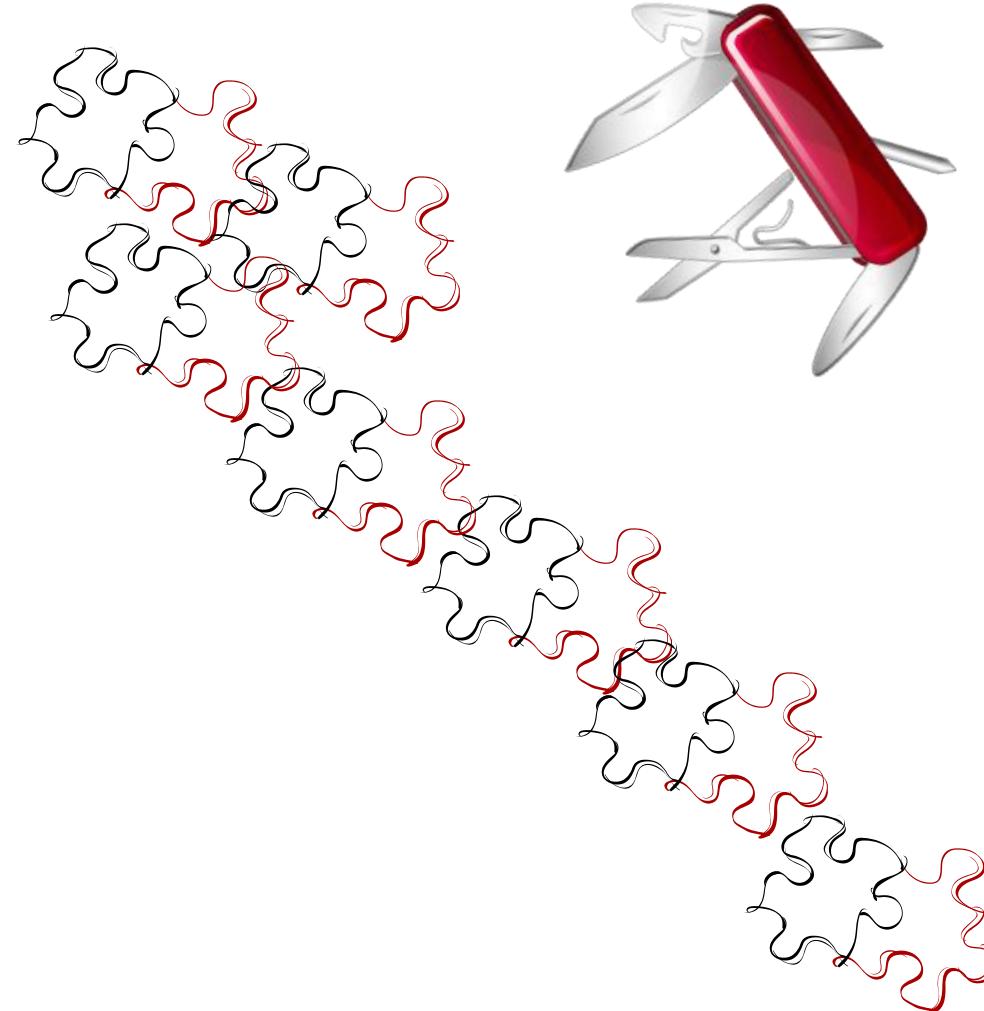
- Federal Law
- State Law
- Local
- Special Districts

Policies

Public Investment

- Infrastructure
- Fee relief
- Programs
- Grants

Agreements



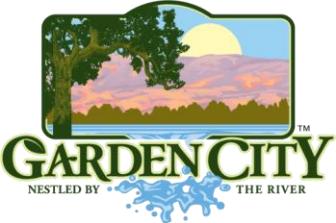


Legislative Actions

Actions that set values, adopt standards, rules, maps, that affect all or a significant portion of the population

Types of Legislative Actions

- ❖ Comp Plan/ Master Plan/ Functional Plans
- ❖ Zoning and land use ordinances
- ❖ CIP
- ❖ Area of Impact
- ❖ Moratoriums



Administrative Actions

Actions that enforce or administer the legislative decisions on a case by case or site-specific basis

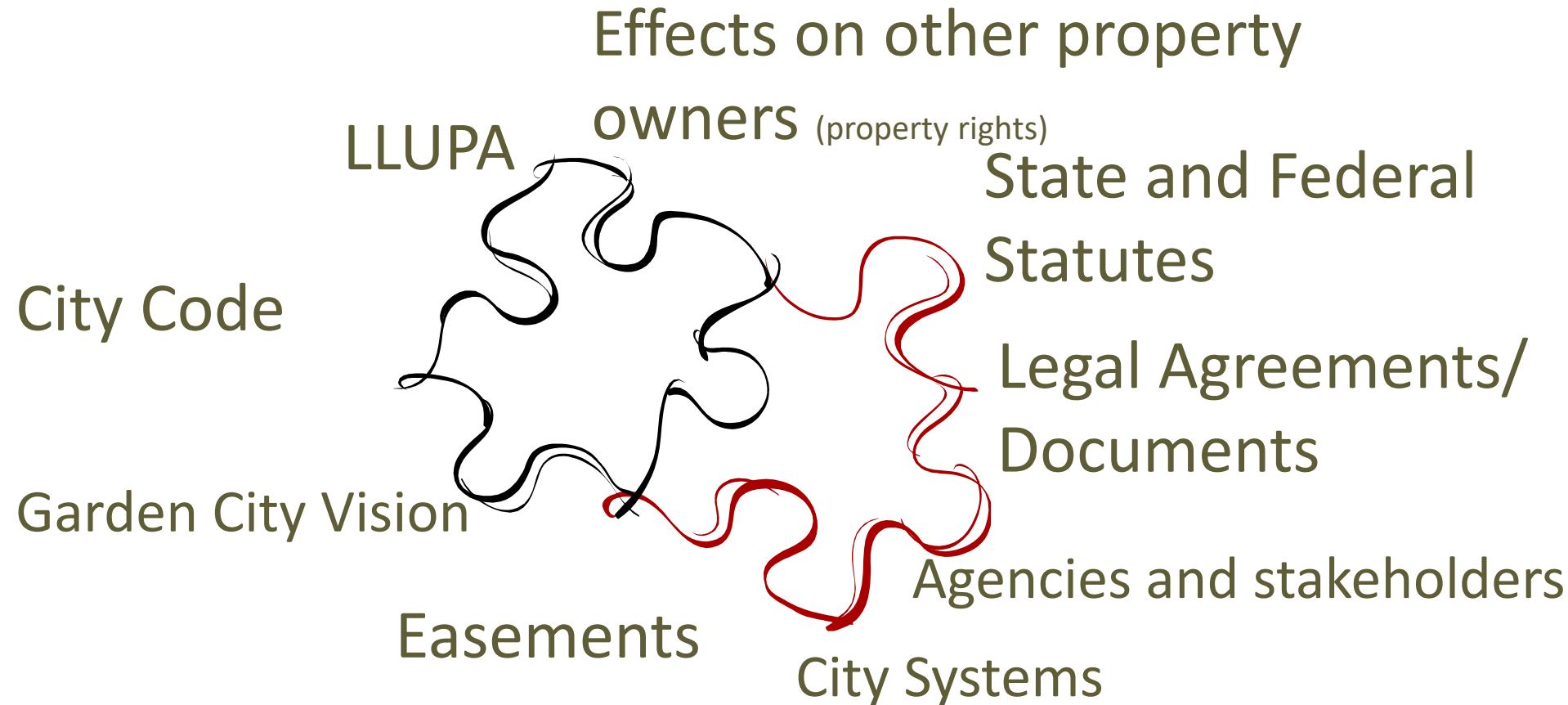
Types of Administrative Actions

- ❖ Conditional Use Permit
- ❖ Rezone
- ❖ Plat Approval
- ❖ Annexation
- ❖ Variance
- ❖ Staff level permits

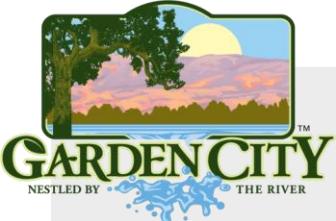
Administrative actions requiring a hearing and decision on the record are “quasi-judicial” actions



Quasi Judicial Decisions



If each piece doesn't make sense then the whole picture will be flawed



The Relationships

- Elected Officials
- Planning and Zoning Commission
- Design Review
- Staff
- Public
- Developers/ Businesses
- Experts (Engineers, Architects, Planners, Lawyers)
- Media
- Other Jurisdictions



How the customer explained it



How the Project Leader understood it



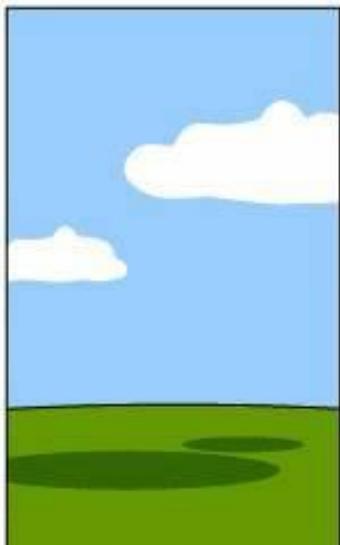
How the Analyst designed it



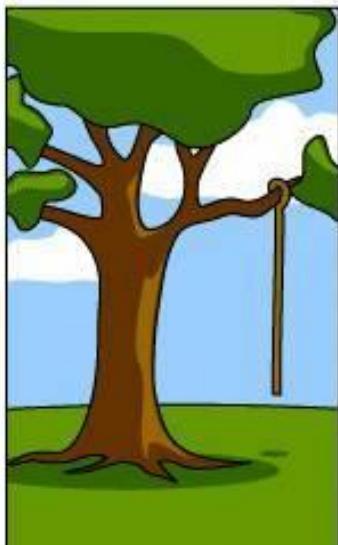
How the Programmer wrote it



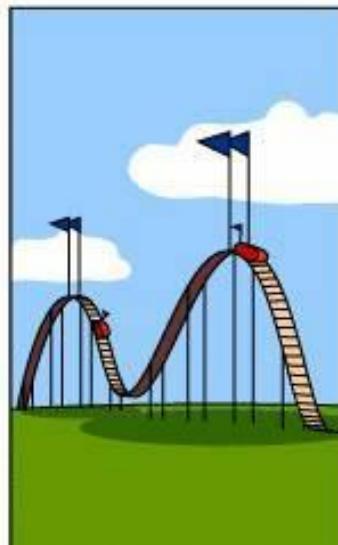
How the Business Consultant described it



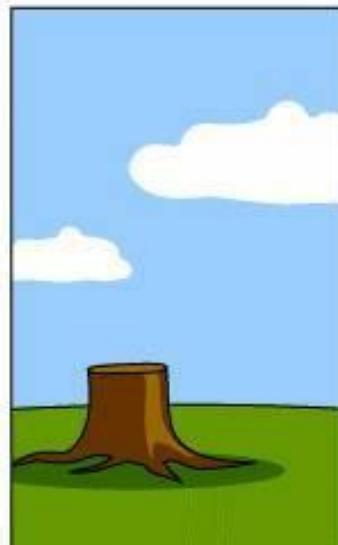
How the project was documented



What operations installed



How the customer was billed



How it was supported



What the customer really needed



Mayor and Council

- Set and communicate policy direction
- Focus on large issues. Defer certain decisions to P&Z or staff
- Respond to constituent needs- may be a change from the Commission's recommendation
- Make the final decision



Planning and Zoning Commission

GCC Titles 8 & 7

- Advisory to the Mayor and Council- Comp Plan, Code, Subdivisions, Annexations, Rezones- do the 'heavy lifting' for the elected officials
- Commission actions should be consistent with Mayor and Council policies
- Responsible to give reasoned decisions- compliant with the code
- Final decision in some quasi-judicial decisions- Conditional (special) Use, Variance
- Appeals board for staff level decisions
- Board of appeals for building code
- Provide the means for hearing from the public



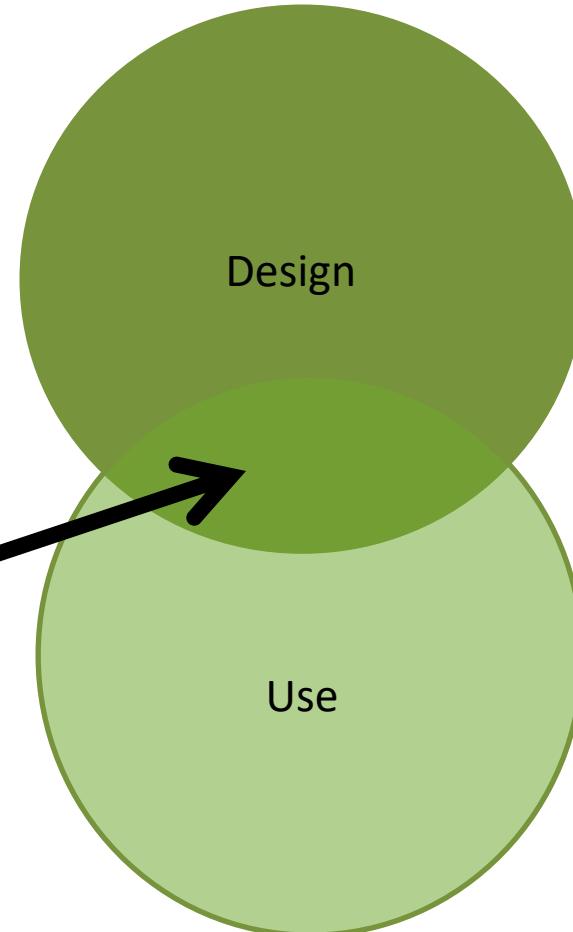
Design
Review
Consultants

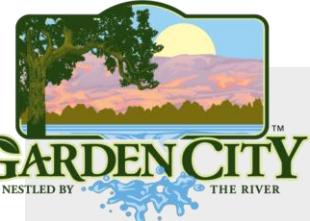


Design Review GCC 8-4

- Title 8-4 design of projects

- Footprint
- Setbacks
- Height
- Landscapes standards
- Pathways and connections
- Materials
- Signage
- Orientation
- Parking
- Manufactured Home Parks
- Open Space





Other Jurisdictions

- Actions impact others
 - Jurisdiction departments
 - Cities and County
 - School Districts
 - Transportation agencies: ACHD/ITD/ VRT/ COMPASS
 - Utilities
 - Special Districts: Irrigation Companies, NACFR, Urban Renewal
- Notice and Opportunity to respond



Public

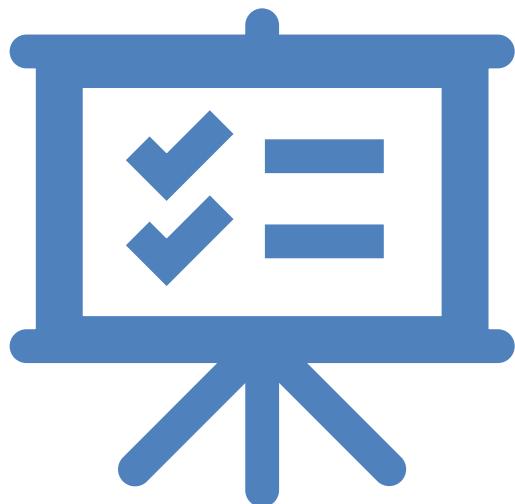




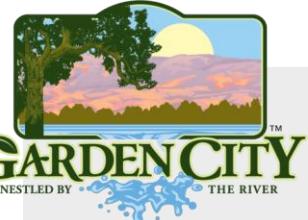
Staff

- Staff work for the decision-making bodies, but are accountable to the Mayor
- Staff provide professional expertise
- Do the leg work and the processing

Commissioner requirements



- Appointed by the Mayor
- Must have lived in the County for 2 years
- Must reside in the City for the duration of the term
- All meetings must be recorded
- Must have at least 9 monthly meetings a year



A Good Commissioner

- Knows the vision of the City
 - Familiarize yourself with the Comp Plan
 - Meet with staff
- Understand the code
 - Call staff if you have a question
- Know the application
 - Read the packet
 - Call staff if you would like clarification
- Focus on the draft decisions
 - Do the draft conditions make sense?
 - Do the draft reasoned statements make sense?
- Be engaged
- Be respectful and courteous
 - Can disagree with someone cordially
 - Watch your mic time
 - No surprises
- Don't be afraid to have a different opinion
- Ability to communicate effectively and efficiently
- Objective
- Make meetings

Conflict of Interest

- I.C. 59-704 Purpose: a public official shall not take any official action or make a formal decision concerning any matter where there is a conflict of interest (Ethics in Government)
 - Protect integrity of government
 - Assure impartiality and honesty of public officials (including appointed public officials)
 - Prevent public office from being used for personal gain or special interest
- I.C. 59-703 Terms
 - Conflict of interest definition- any action or recommendation which would be to the pecuniary benefit to the person, business, family, household (anyone within the second degree - LLUPA)

What to do when there is conflict

- Disclosure does not affect quorum.
- May request guidance from Garden City attorney.
- You may supply a written statement describing conflict.
- I.C. §67-6506 Anyone with an actual or potential interest must disclose and can not participate in any aspect of the decision-making process (knowing violation is a misdemeanor).
- Garden City requests that you recuse yourself from the proceedings and leave the room.

Bias

- **Legislative**- ordinance recommendations, Comprehensive Plan/ Master Plan recommendations
 - Affects everyone (or a group), all views are important to consider wherever obtained
 - You may speak to people on the matter at hand outside the hearing proceedings
 - You may publicly state a position
- **Quasi-judicial**- conditional use permits, platting, variance
 - Specific property
 - You must confine your decision to the record produced at the public hearing. Failing to do so violates due process.
 - Cannot speak to applicant, public, or fellow decision makers 'off record'
 - Visiting the site? In a small town there may be familiarity with a site, but it should not be the basis for the decision
 - Appeals are limited to the record already created
 - Avoid the appearance of impropriety
 - You must consider all the evidence, so a position prior to the conclusion of the public hearing would be improper
 - Make sure there is a fair hearing

Ex parte communication

- Follow adopted procedures (rebuttal must be allowed), preserve due process (must have a fair hearing for all)
- You must confine your decision to the record produced at the public hearing. Failing to do so violates due process.
 - Cannot speak to applicant, public, or fellow decision makers 'off record'
 - Visiting the site?
 - View of property without proper notice may be a violation of due process
 - In a small town there may be familiarity with a site, but it should not be the basis for the decision (no error has occurred as long as the hearing yielded substantially the same evidence that would be garnered from a visit to the site)
 - Appeals are limited to the record already created
- If someone discusses the matter with you ahead of time, disclose the nature of the discussion on the record and whether you believe that the discussion biases you. If it does, recuse yourself.
- *Ex parte* creates an appearance of impropriety and increase the likelihood that a decision will be overturned
- *Ex parte* does not apply to staff

Complete the record

- A finding is erroneous if there is no testimony or evidence to support it
- If a hearing is continued it must be to a date certain or re-noticed
- Must render a decision within a reasonable timeframe
- Adopted procedures allow for 3-minute testimony (unless applicant, agency or spokesperson). This may be extended to allow for adequate for due process.
- Must make findings in writing
 - Ordinances and standards reviewed
 - Reasoned statements for approval or denial
 - Actions, if any, that the applicant could take to obtain permit (if denied)
 - Staff will provide a staff report with an analysis of applicable ordinances, standards, and plans
 - Staff will provide draft decisions in the affirmative and for denial. Affirmative may include potential draft conditions of approval. Both will include potential supportive reasons for conclusions of law.
 - The Commission should provide evidence for each conclusion of law. It is recommended that the conclusions should be addressed individually. Conclusory statements are not sufficient.

Decision Document

Standards: GCC 8-6A-8 Expiration of Approvals	Conclusions	Reasoned Statements
<ol style="list-style-type: none">1. Good Cause exists for the request.2. The application and or applicable regulations have not changed.3. There has not been change in the neighborhood, plans or policies that affect the compatibility of the project.4. The property is compliant and has been compliant, or actively pursuing compliance with all city, state, and federal with codes and laws since the date of approval.5. It is in the City's best interest to grant the extension.	<p>The request meets the standards.</p>	<ol style="list-style-type: none">1. Good Cause exists for the request: <u>Explanation:</u> Good Cause does exist in that there has been a delay in the State Street and Pierce Park Lane intersection project. The project is dependent upon the timing and design of the ACHD intersection project.2. The application and or applicable city regulations have not changed. <u>Explanation:</u> There have been changes to City Code. However, these changes do not affect the application.

1. In order for approval by Garden City, the proposal must be in compliance with all standards of 8-XX-X. This project is not in compliance with 8-XX-X standard(s) 1,2,3 because it is not in compliance with the Garden City Comprehensive Plan Sections X, Y, Z and Garden City code sections X, Y, Z. Compliance can be met by e.g., providing additional parking; adhering to setbacks; providing a scale and form more align with the existing and planned neighborhood.

Open Meeting

I.C. §74-2

- All meetings shall be open to the public.
- If a meeting is to be conducted remotely, at least one member of the Commission must be present.
- Meetings must have an agenda.
- Amendments to the agenda must take place at least 48 hours prior to the meeting (regular meeting, 24 for special meetings) or the amendment must be made by a motion and state a good faith reason that the item was not included in the initial agenda.
- Special meetings must be noticed at least 24 hours in advance.
- Action items must be identified as such on the agenda.
- Minutes must be made available to the public (I.C. 67-6536 requires a transcribable record in that appeals require a transcribed record to be kept).

Procedural Rules

- Title 8-6 Administration
 - A General Provisions
 - B Specific Provisions – required findings
- Resolution 1053-18
 - Order
 - Time limits
 - Record Keeping

Common Mistakes

Reasoning for Decision

- Subjective
- Not clearly backed by code
- In violation of regulations such as Fair Housing Act
- Not in record

Meetings

- Quorum outside of a scheduled meeting
- Reply all

Not Creating Clear Record

- Lack of reasoned statements
- Not identifying what could be done to obtain approval



Resources



The Planning and Zoning Commission

The Planning and Zoning Commission is the designated planning agency for the City. The Commission advises on the Garden City Comprehensive Plan and other planning policies, development legislation, and subdivisions, and is the final decision maker for certain land use applications such as conditional use permits or variances. The Commission also serves as the appeals board for building services and certain staff-level decisions.

Each Commissioner is appointed by the Mayor and confirmed by the Garden City City Council. The Planning and Zoning Commission is a board of volunteer Garden City residents who serve without pay. While the Commission is a volunteer board, Garden City is fortunate to have a Commission that is comprised of individuals with extensive knowledge and expertise and who are willing to dedicate many hours to ensure legally sound and fair decisions that are aligned with the adopted vision of the City.

[Meeting Schedule](#)

[Meeting Materials](#)

[Planning and Zoning Commission Reference Materials](#)

This section has a number of useful documents and links that are applicable to a Commissioner's role or to decisions they may be making.

Planning and Zoning Commissioners

- Chairman, Ryan Montoya
- Vice Chair, Kent Brown
- Starr Shepard
- Kimberly E. Smith
- Matthew Wilde



Discussion and Questions