



Planning and Zoning
Commission
Roles and Responsibility

Why Plan?

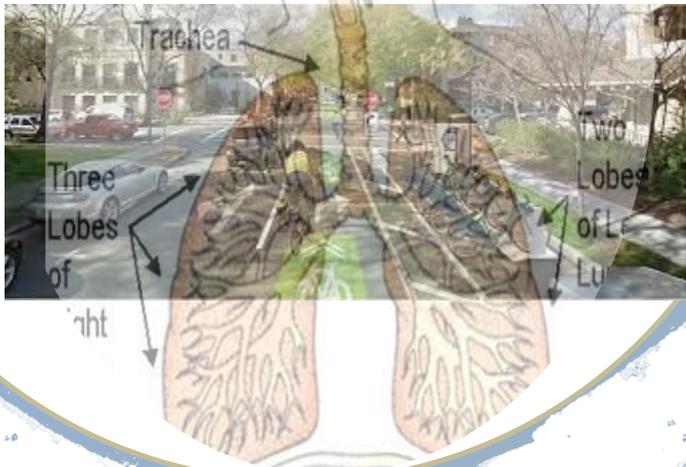
- Buy in/ vetting of issues
- Adequate Facilities (establish a LOS for water, sewer, parks, roads)
- Health and Safety
- Economic Development
Effective and efficient growth/ systems enhancement
- Stability/ Equity Economic, social and environmental

Why Zone?

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

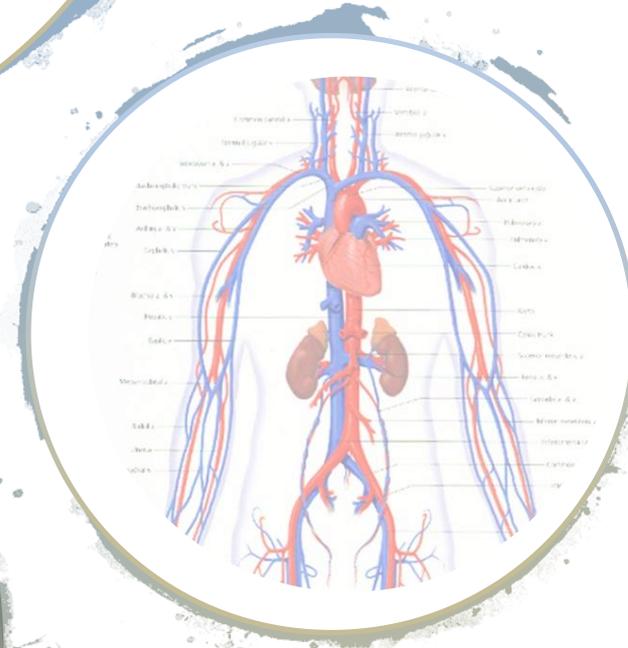


Just as in a living being, if one system is unhealthy, the entire body/structure may become unhealthy.



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 (SZA) (v. other states who may be Home Rule model- whose authorities are more broad)

- 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 SZA 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



Dillon's Rule

Local governments only have powers explicitly granted by the state, plus those necessarily implied or essential to their duties.

Idaho is a Dillon's
Rule State

- Municipalities have no home-rule authority and are limited to powers defined in state law.
- Idaho Code §31-601 confirms counties have only the powers specified in statute or necessarily implied.
- Most services are state-mandated, ensuring consistent governance statewide.

Impact

- Local governments cannot act independently without state authorization.
- This framework maintains uniformity in taxation, zoning, and essential services across Idaho.



Local Land Use Planning Act (LLUPA)

Idaho Code §67-65

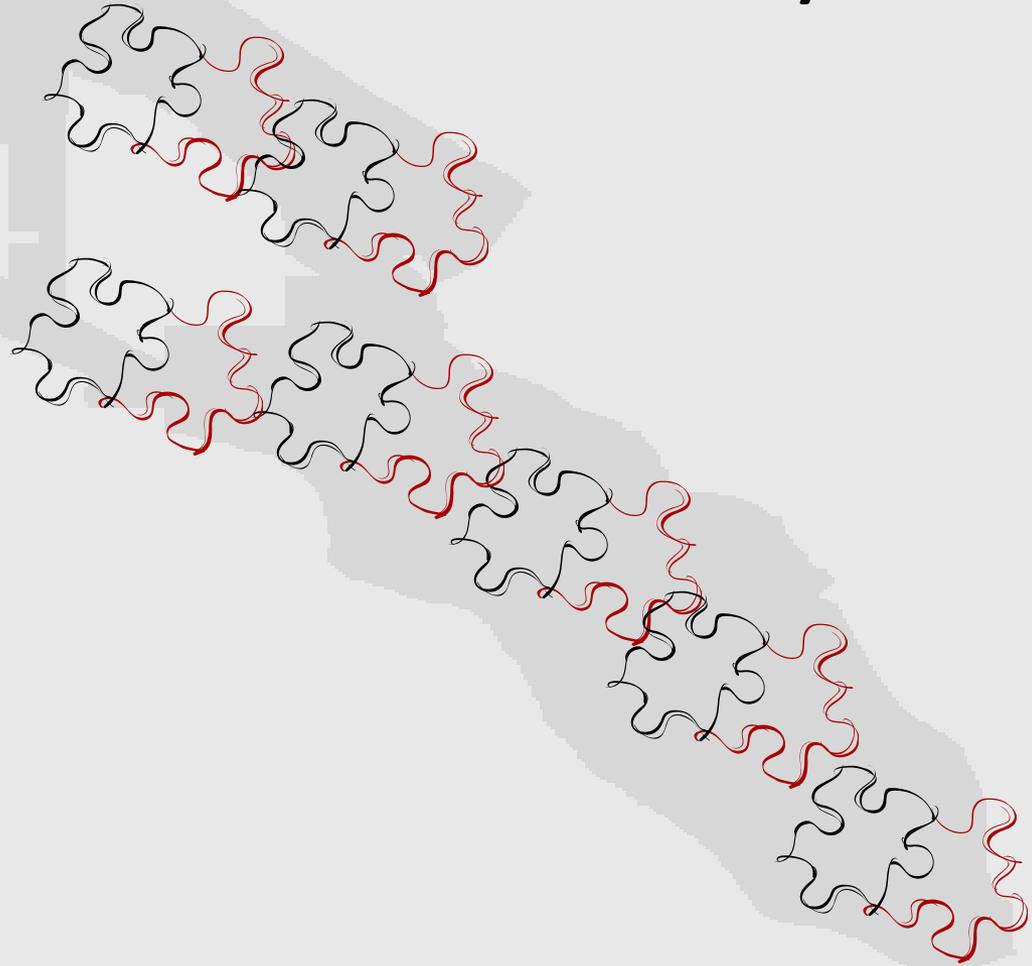
Promote health, safety, welfare-

- 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



Goals, Objectives and Action Steps

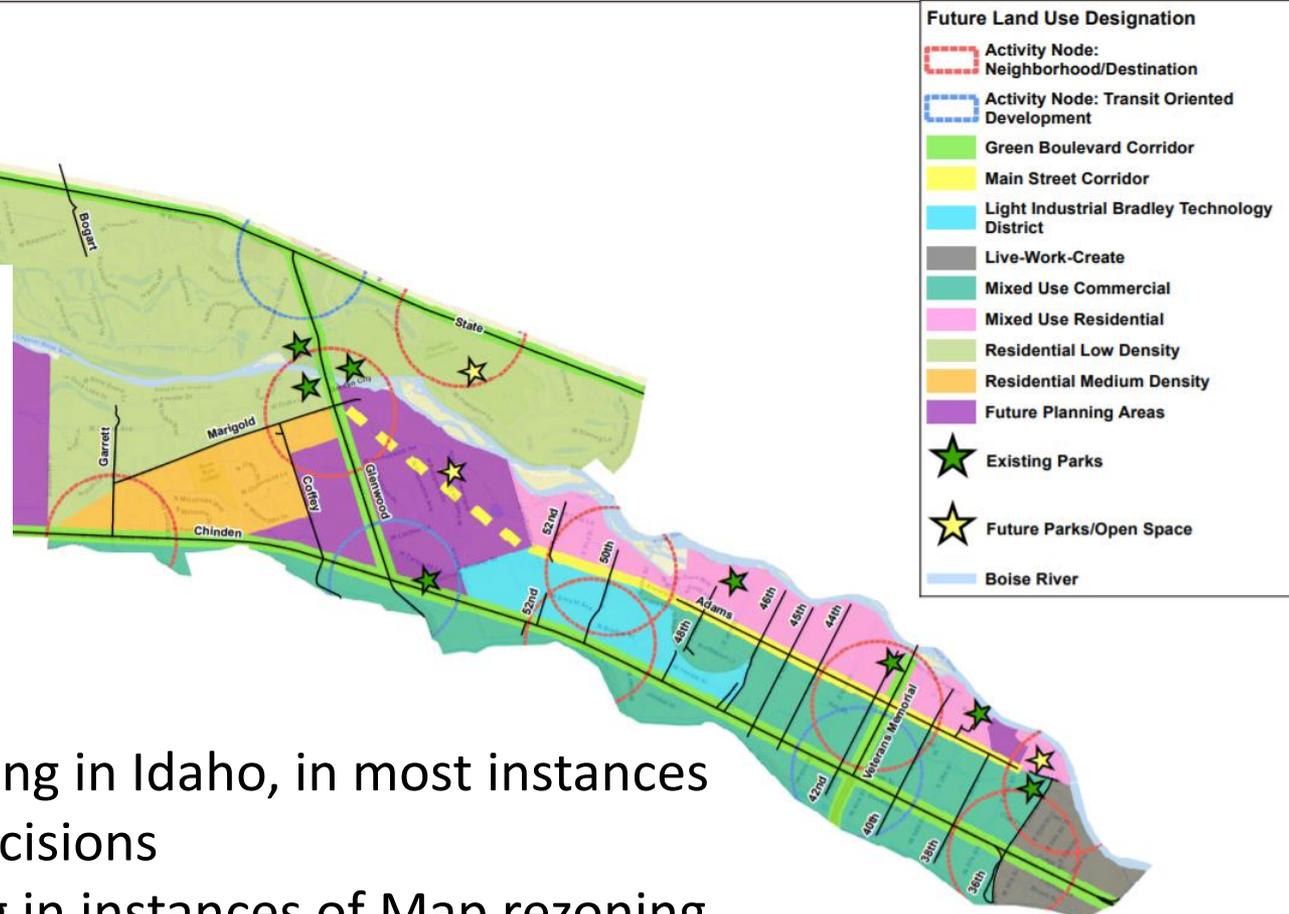
Goal 1. Nurture the City



1.1 Objective: Promote city events, seasonal holidays and celebrations.

Action Steps:

- 1.1.1 Support community events that bring people together including neighborhood cleanups, celebrations of the city's history, seasonal holidays, tree decorating, sporting events, artisan events, and other significant city events.
- 1.1.2 Publicize community events broadly through a variety of communication tools that meet the diverse information needs of the community, including social media, newsletters, e-mails, sign kiosks, and city webpage.



Future Land Use Designation	
	Activity Node: Neighborhood/Destination
	Activity Node: Transit Oriented Development
	Green Boulevard Corridor
	Main Street Corridor
	Light Industrial Bradley Technology District
	Live-Work-Create
	Mixed Use Commercial
	Mixed Use Residential
	Residential Low Density
	Residential Medium Density
	Future Planning Areas
	Existing Parks
	Future Parks/Open Space
	Boise River

- Not legally binding in Idaho, in most instances
- Should guide decisions
- Is legally binding in instances of Map rezoning and conditional uses
- 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:

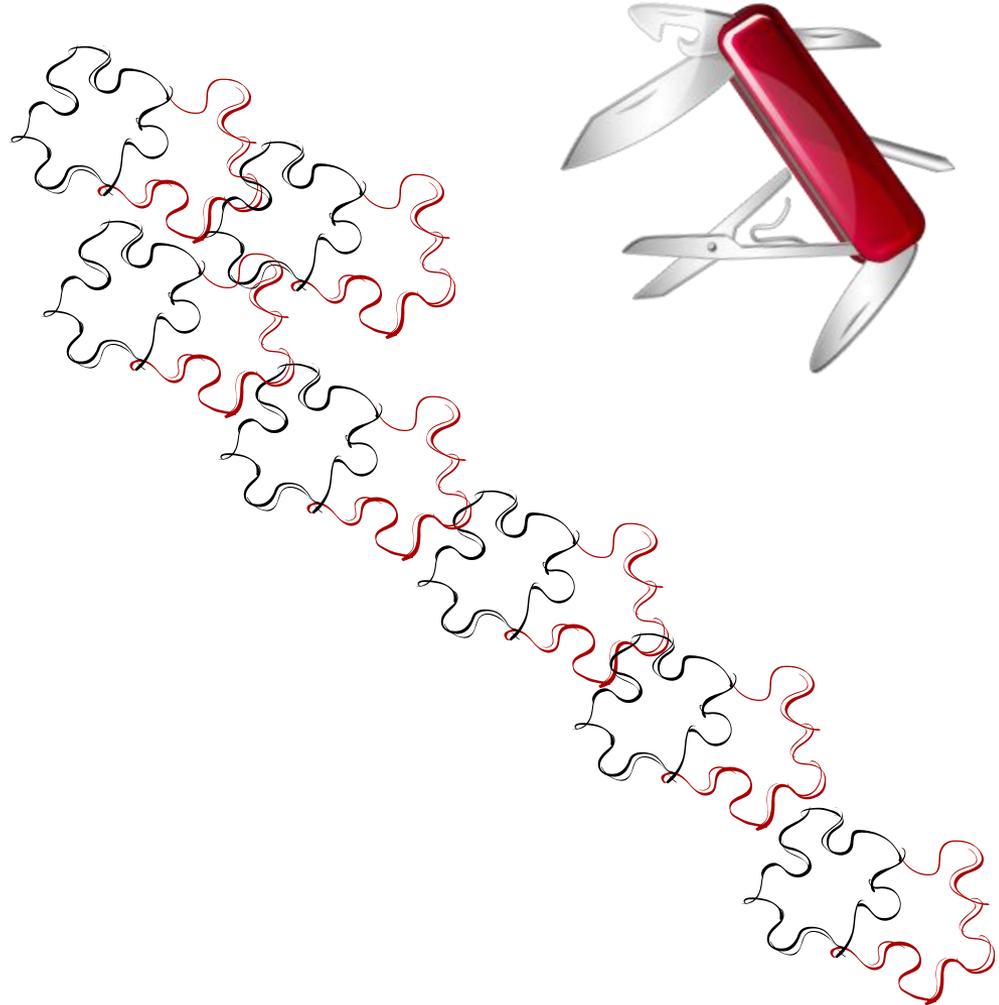
- Federal Law
- State Law
- Local
- Special Districts

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 of administer the legislative decisions on a case by case or site-specific basis

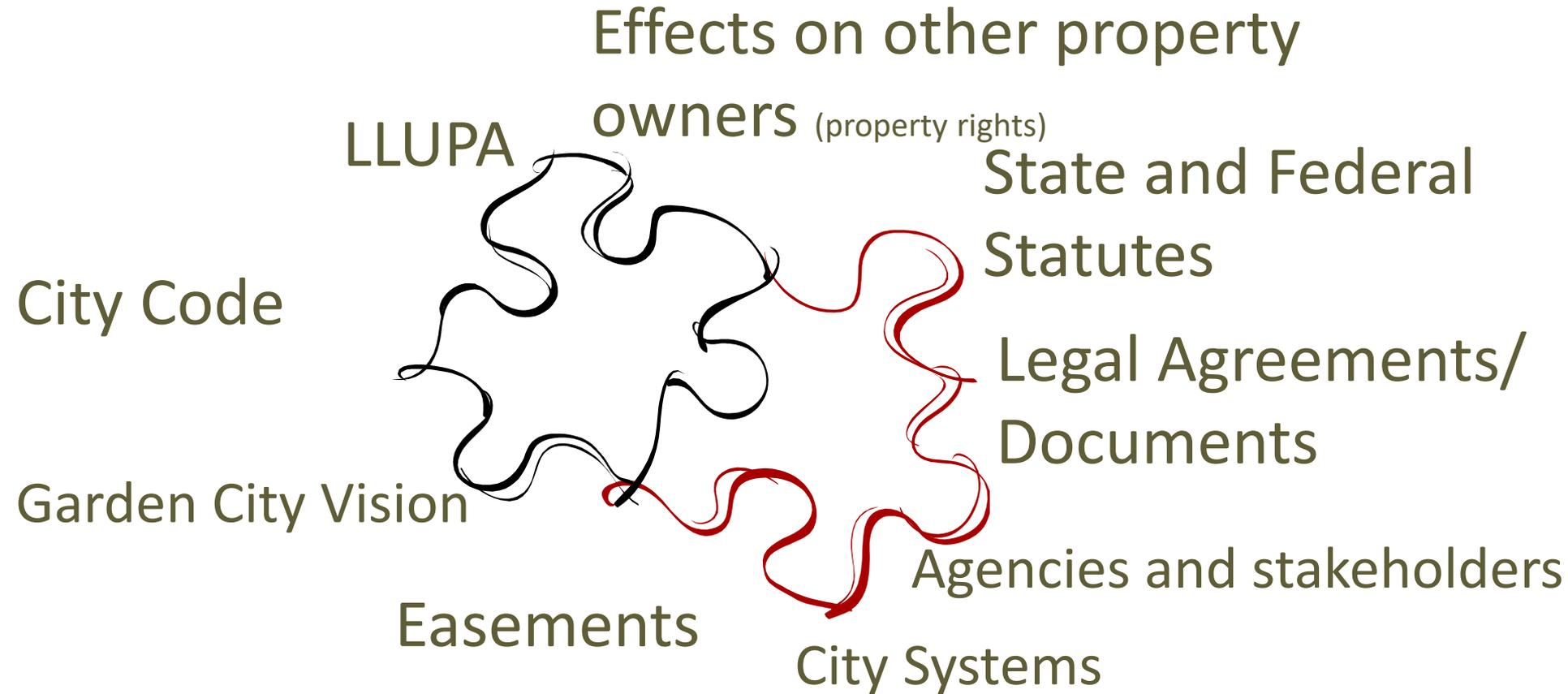
Types of Administrative Actions

- ❖ 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 picture will be flawed

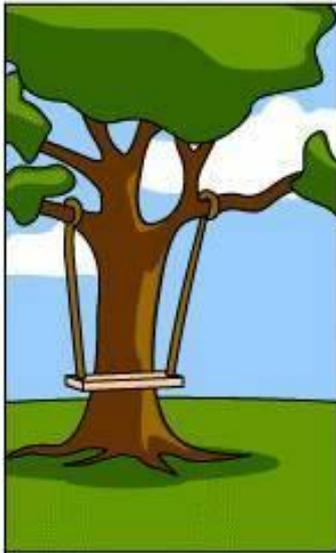


The Relationships

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



How the customer explained it



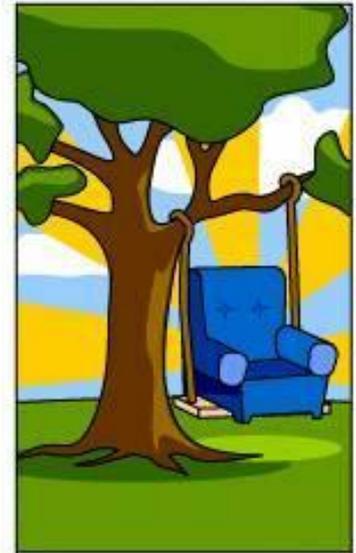
How the Project Leader understood it



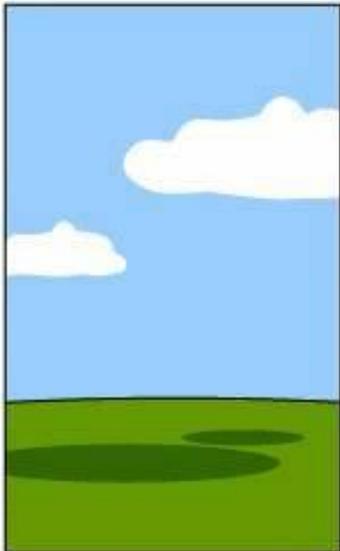
How the Analyst designed it



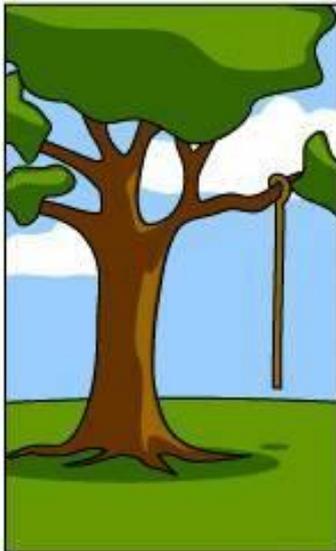
How the Programmer wrote it



How the Business Consultant described it



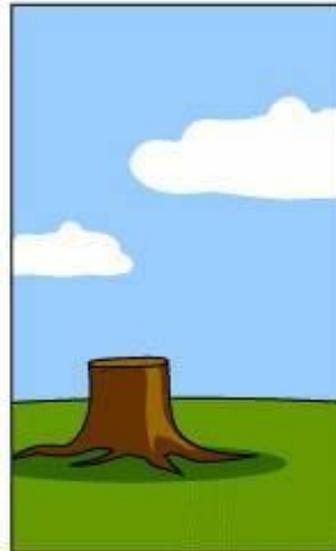
How the project was documented



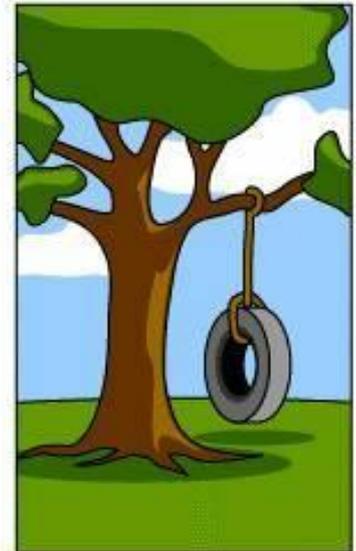
What operations installed



How the customer was billed



How it was supported



What the customer really needed



Mayor and Council

- Respond to constituent needs
- Set and communicate policy direction
- Defer certain decisions to P&Z or staff
- Make the final decision



Planning and Zoning Commission

GCC Titles 8 & 7

- Provide the means for hearing from the public
- Advisory to the Mayor and Council-
Comp Plan, Code, Subdivisions,
Annexations, Rezones- do the 'heavy
lifting' for the elected officials
- Final decision in some quasi-judicial
decisions- Conditional (special) Use,
Variance
- Actions must be consistent with code
and adopted policies
- Responsible to give reasoned decisions-
compliant with the code
 - Reasoned statements must address all
disputed matters
 - In instances of a denial must include what
the applicant could do for an approval
- Appeals board for staff level decisions
- Board of appeals for building code



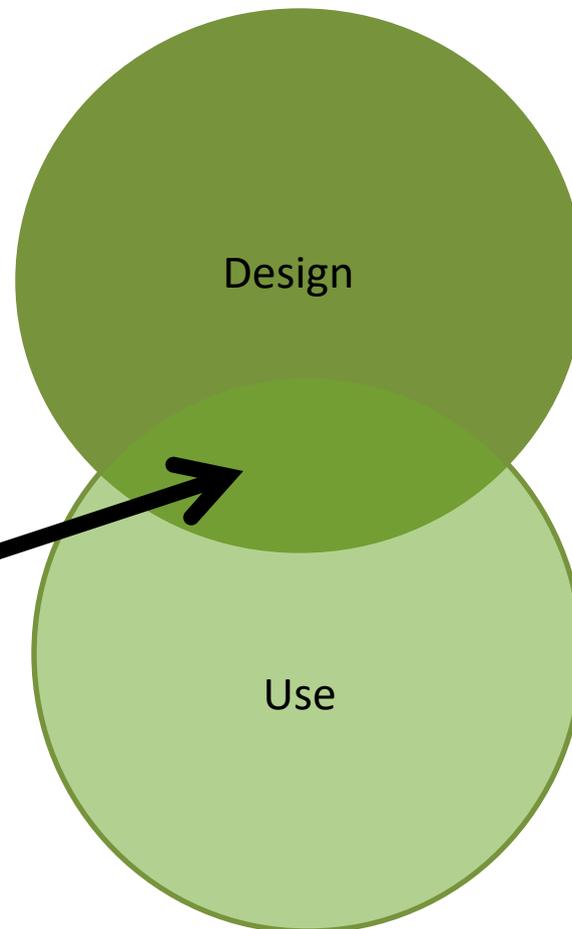
Design Review Consultants



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
 - Public Works
 - Police Department
 - Cities and County
 - School Districts
 - Transportation agencies: ACHD/
ITD/ VRT/ COMPASS
 - Utilities
 - Special Districts: Irrigation
Companies, NACFR, Urban Renewal
- Notice and Opportunity to respond

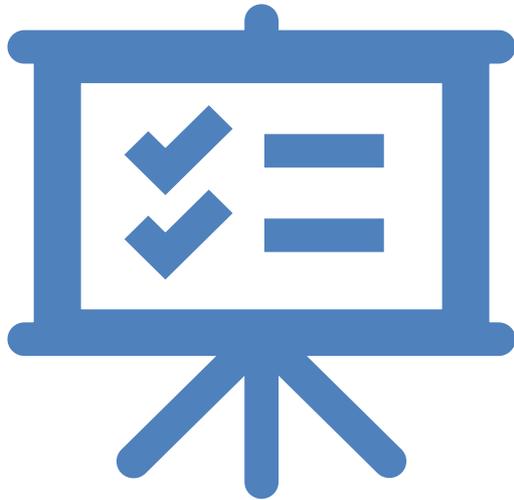




Staff

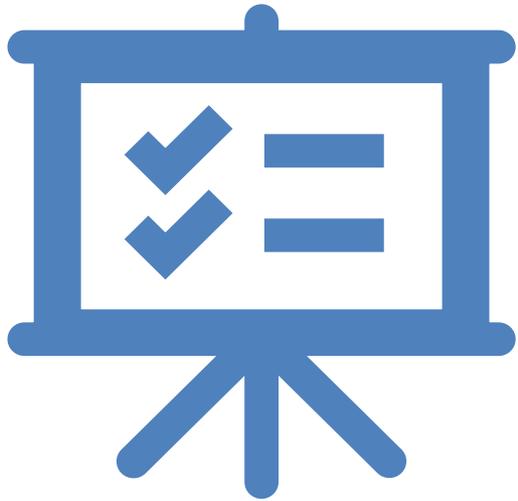
- Staff work for the decision-making bodies, but are accountable to the Mayor
- Staff provide professional expertise
 - Can ask question of staff regarding code, policies, and materials
- Do the leg work and the processing

Commission Requirements



- All meetings must be noticed per Idaho Statute 74-204/205
- All meetings must be recorded (transcribable record)
- Must have at least 9 monthly meetings a year
- Quasi-judicial – limited to what is on the record

Commissioner requirements



- Appointed by the Mayor, confirmed by Council
- Must have lived in the County for 2 years
- Must reside in the City for the duration of the term



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.

Staff Report

- Record Documents: A list of the documents included in the record, the record documents are summarized in the staff report for ease of review
- Recommendation: Staff's recommendation based on code/ policy review and record documents
- Discussion: A discussion, if necessary, of more complicated matters
- Project Information: A summary of the project details
- Decision Process: The process established for the particular application type
- Agency Comments: A summary of the comments received by other departments and agencies
- Public Comments: A summary of the written comments received by the public
- Code and Policy Review: A summary of the thorough review of each applicable code section and policies

Decision Document

- Staff provides a draft decision document based on their recommendation. This includes the record to date prior to the hearing.
- The decision document is the Planning and Zoning Commissions Decision:
 - Must be in writing
 - Includes Findings of Fact
 - Includes a statement regarding the ability to ask for a takings analysis
 - Must be based on “expressed standards” (compliant with code, policies, etc.)
 - Must be supported by record documents
 - Includes Conclusion of Law
 - Reasoned statements must
 - State the reason that the application was approved/denied (not just that it is)
 - Address all matters contested
 - Includes the LLUPA required notification of the ability to request a takings analysis

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 1234-26
 - Hearing Procedures

Common Mistakes

Reasoning for Decision

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

Meetings

- Quorum outside of a scheduled meeting
 - Reply all

Not Creating Clear Record

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



Resources

<https://gardencityidaho.org/planning-and-zoning-commission/>



Discussion and Questions