

## 10-2: APPLICATION PROCEDURES

### 10-2-1: GENERAL.

Chapter Purpose. This chapter outlines the zoning actions and appeals associated with the Twin Falls Uniform Development Code. Organization is based upon which entity has final approval over the action in question.

**Table 1 Zoning Application Review & Procedures Chart**

Zoning Application	City Staff	Historic Preservation Commission	Planning & Zoning Commission	City Council	Final Action
R – Recommendation D – Decision A – Appeal H – Public Hearing					
<b>Administrative Final Decisions</b>					
Building Permit	D		A	A	Permit
Landscaping Field Modification	D				Permit
Nonconforming Expansion Waiver	D		A	A	Permit
Shared Parking Request	D		A	A	Permit
Site Plan Permit	D		A	A	Permit
Zoning Use Permit	D		A*	A*	Permit
<b>Historic Preservation Commission Final Decisions</b>					
Certificate of Appropriateness		D		A	Certificate
<b>Planning &amp; Zoning Commission Final Decisions</b>					
Additional Building Height Request			H/D	A	Permit
Alternative Landscaping Plan			D	A	Reasoned Decision
Nonconforming Expansion Permit			H/D	A	Permit
Special Use Permit			H/D	A	Permit
Variance			H/D	A	Reasoned Decision
Zoning Permit – Revocation			H/D	A	Reasoned Decision

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Zoning Application	City Staff	Historic Preservation Commission	Planning & Zoning Commission	City Council	Final Action
<b>City Council Final Decisions</b>					
Annexation			H/R	H/D	Ordinance
Comprehensive Plan Amendment			H/R	H/D	Resolution
Vacation of Platted Element(s)			H/R	H/D	Reasoned Decision
Vacation of Public Right-of-Way			H/R	H/D	Reasoned Decision
Zoning Development Agreement			H/R	H/D	Ordinance
Zoning District & Title Amendment			H/R	H/D	Ordinance
<b>Subdivisions</b>					
Short Plat	D		A	A	Reasoned Decision
Preliminary Plat			D	A	Reasoned Decision
Final Plat				D	Reasoned Decision
<p><b>NOTES:</b></p> <p><i>*Appeals of a Zoning Use Permit shall only be based upon the correct application of code conditions. The appeal shall not be utilized to request a modification or deviation of a zoning use permit as found in 10-6 of this Title.</i></p>					

### 10-2-2: ADMINISTRATIVE DECISIONS.

#### A. Criteria Applicable to All Administrative Decisions.

1. Action by the Administrator: The Administrator shall make a determination within 15 business days after submission of a complete application.
2. Appeal of an Administrative Decision: The Administrator's decision may be appealed following the process outlined in City Code 10-2-7.

#### B. Building Permit. No person shall erect, construct, enlarge, alter, repair, move, convert or demolish any building or structure in the city or cause the same to be done without first obtaining a separate building permit for each such building or structure from the city building official.

1. Certificate of Occupancy Required: It shall be unlawful to use, occupy, or permit the use or occupancy of any building, premises, or part thereof, thereafter created, erected, changed, converted, or wholly or partly altered, or enlarged in its use or structure, until a certificate of occupancy has been issued stating that the proposed use of the building and/or land conforms to the requirements of this Title, and with all conditional provisions that may have been imposed.
  - a. A temporary certificate of occupancy may be initially issued for a period not to exceed six months.
    - i. A nonrefundable fee, and refundable retainer, as determined by the adopted master fee schedule, shall be collected prior to issuance of a temporary certificate of occupancy.

- ii. One extension may be granted for an additional three months upon new application and payment of additional nonrefundable fee.
  - iii. Temporary Certificates expire at 5:00 P.M. on the date listed.
  - iv. The refundable retainer shall be returned upon completion and issuance of certificate of occupancy.
  - v. In the event a temporary certificate expires without completion of the Required Improvements, the entire retainer amount shall be forfeited to the City of Twin Falls. In addition to the retainer forfeiture, the City may also initiate revocation proceedings of any permit, license, or any other approval, according to their respective revocation procedures.
- 2. Application For Permit: To apply for a permit the applicant shall first file an application in writing on a form furnished for that purpose by the city building official, who shall determine the acceptability of the request in conformance with the building code, and who shall thereupon issue or deny the application.
- C. Landscape Plan Field Modifications. Staff may approve Landscape Plan Field Modification(s) for required landscaping.
  - 1. Such Field Modifications may be approved by the Administrator per the requirements established in 10-9-13.
    - 2. Staff must approve or deny Landscape Field Modifications within five business days after receipt of a written request. The written request, if approved, shall become part of the pertinent building permit.
- D. Nonconforming Expansion Waiver. A nonconforming expansion waiver is required for any proposed alteration, improvement, reconstruction or expansion which requires a building permit of any property that consists of an existing residential nonconforming building, structure, or use.
  - 1. Application. The Nonconforming Expansion Waiver application will require all information deemed necessary as determined by the Administrator.
  - 2. Authority to Grant. The Administrator shall authorize Nonconforming Expansion Waiver permits upon review that the requested waiver does not expand or increase the nonconforming building, structure, or use associated with the subject property and other applicable regulations in Twin Falls City Code, have been met.
- E. Shared Parking Requests.
  - 1. A Shared Parking Request may be granted per the requirements established in 10-8-10 of this Title.
  - 2. Authority to Grant: The Administrator shall authorize Shared Parking Requests upon demonstration of the conditions in City Code 10-8-10, and other applicable regulations in Twin Falls City Code, have been met.

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F. Site Plan Permit: The site plan permit shall follow the same process and regulations as outlined in the Building Permit section of this chapter.

G. Zoning Use Permit.

1. A Zoning Use Permit is a land-use otherwise prohibited by the terms of this title in a given zone, but may be allowed with conditions under specific provisions of this title as found in City Code 10-6: Zoning Use Permit.
2. Authority to Grant. The Administrator shall authorize Zoning Use Permits upon demonstration that the conditions in City Code 10-6, and other applicable regulations in Twin Falls City Code, have been met.

### **10-2-3: HISTORIC PRESERVATION COMMISSION DECISIONS.**

Certificate of Appropriateness: See 10-4 of this Title.

### **10-2-4: PLANNING & ZONING COMMISSION DECISIONS.**

A. Criteria applicable to All Planning & Zoning Commission Decisions.

1. Non-Precedent Clause. A decision shall not be considered as establishing a binding precedent to grant other Planning and Zoning Commission decisions.
2. Commission Request for Additional Information. Prior to granting a decision, the commission may request studies from the planning staff or public agencies concerning social, economic, fiscal and environmental effects of the proposed application.
3. Post Hearing Commission Action. Within 30 days after the public

hearing, the commission shall either approve, conditionally approve or disapprove the application as presented.

4. Notification to Applicant. Within ten days after a decision has been rendered the administrator shall provide the applicant with written notice of the action on the request. Upon granting or denying an application the written notice from the commission shall specify:

- a. The regulations and standards used in evaluating the application.
- b. The reasons for approval or denial.
- c. The actions, if any, that the applicant could take to obtain approval.

5. The Planning and Zoning Commission's decision may be appealed following the process outlined in City Code 10-2-7.

B. Additional Height Request. An applicant may request for a greater height allowance following the same process and regulations as outlined in the Special Use Permit section of this chapter.

C. Alternative Landscaping Plan. See 10-9-6 of this Title.

D. Nonconforming Expansion Permit. A nonconforming expansion permit is required for any proposed expansion of any component of an existing nonconforming building, structure, or use.

1. Application. The Nonconforming Expansion Permit application will require all information deemed necessary as determined by the Administrator.

2. Public Hearing. Upon receipt of a complete application for a nonconforming expansion, the Planning and Zoning Commission shall hold a public hearing. Notice for public hearings shall be provided as set forth in section 10-2-10 of this title.
  - a. Standards Applicable to Nonconforming Expansions. The commission shall review the facts and circumstances to evaluate the following before approving a nonconforming expansion:
    - i. Will the proposed expansion be harmonious with and in accordance with the general objectives of the comprehensive plan and/or zoning regulation?
    - ii. Will the proposed expansion be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity?
    - iii. Will the proposed expansion involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare of the surrounding neighborhood by reason of excessive production of traffic, noise, smoke, fumes, glare or odors?
    - iv. Will the proposed expansion have any other adverse impact upon the surrounding neighborhood?
  - v. Considerations relating to traffic safety:
    - (A) The effect of the site development plan on traffic conditions on contiguous streets.
    - (B) The layout of the site with respect to locations and dimensions of vehicular and pedestrian entrances, exits, drives and walkways.
    - (C) The arrangement and adequacy of off-street parking facilities to prevent traffic congestion.
    - (D) The location, arrangement and dimensions of truck loading and unloading facilities.
    - (E) The circulation patterns within boundaries of the development.
    - (F) The surfacing and lighting of off-street parking facilities.
  - vi. Considerations relating to outdoor advertising and noise:
    - (A) The number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and the appearance and harmony with adjacent developments.
    - (B) The nuisance effect of additional noise.

- vii. Considerations relating to landscaping:
    - (A) The location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent developments or to conceal storage areas, utility installation or other unsightly development.
    - (B) The planting of ground cover or surfacing to prevent dust and erosion.
    - (C) The unnecessary destruction of existing healthy trees.
    - (D) The restoration of natural vegetation.
    - (E) The aesthetic effects on motorists, bicyclists and pedestrians passing along public rights of way adjacent to or included with the development.
  - viii. Considerations relating to buildings and site layout:

The considerations of exterior design in relation to adjoining structures in height, bulk and area openings, breaks in the facades and facing on streets, line and pitch of roof and arrangement of structure on the parcel.
  - ix. Considerations relating to drainage and utilities:
    - (A) The effect of the site development plan in relation to the adequacy of the storm and surface water drainage proposals.
    - (B) The use of city sewer and water.
    - (C) The underground placement of utilities.
- b. The commission may impose special conditions designed to lessen the impact of the proposed expansion on the surrounding neighborhood and in order to make the proposed expansion more compatible with the same. Violation of such special conditions, when made a part of the terms under which the nonconforming building expansion permit is granted, shall be deemed a violation of this Title.
- E. Special Use Permit. A special use is a use otherwise prohibited by the terms of this title in a given zone, but may be allowed with conditions under specific provisions of this title and when not in conflict with a comprehensive plan.
    - 1. Authority to Grant. The commission may authorize in specific cases special uses, subject, however, to the minimum conditions and requirements of the zoning district in which they are located and subject to additional conditions and requirements necessary to protect the best interest of affected persons and the city as a whole.

2. Application. An application for special use permit shall be filed with the administrator by at least one owner or lessee of property:
  - a. When a special use is proposed; or,
  - b. When an expansion of more than 25% over the original square footage approved through the special use permit process or a total increase in square footage over 10,000 square feet, whichever is less, or relocation of an existing special use is proposed.
3. Application Information. The Special Use Permit application will require all information deemed necessary as determined by the administrator.
4. Public Hearing. Upon receipt of a complete application for a special use permit, the Planning & Zoning Commission shall hold a public hearing. Notice for public hearings shall be provided as set forth in Section 10-2-10 of this Title.
5. Standards Applicable to Special Uses. The commission shall review the particular facts and circumstances of each proposed special use in terms of the following standards:
  - a. Will, in fact, constitute a special use as established by zoning requirements for the zone involved.
  - b. Will be harmonious with and in accordance with the general objectives or with any specific objective of a comprehensive plan and/or zoning regulations.
  - c. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.
  - d. Will not be hazardous or disturbing to existing or future neighboring uses.
  - e. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons responsible for the establishment of the proposed use shall be able to provide adequately any such services.
  - f. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.
  - g. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any person, property or to the general welfare by reason of excessive noise, smoke, fumes, glare or odors.
  - h. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares.
  - i. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major importance.

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6. Conditions and Restrictions. In granting any special use, the commission may prescribe appropriate conditions, bonds and safeguards in conformity with this title. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the special use is granted, shall be deemed a violation of this title. Conditions of approval may include but not be limited to:
    - a. Minimizing adverse impact on other developments.
    - b. Controlling the sequence and timing of development.
    - c. Controlling the duration of development.
    - d. Assuring the development is maintained properly.
    - e. Designating the exact location and nature of development.
    - f. Requiring the provision for on site or off-site public facilities or services.
    - g. Requiring more restrictive standards than those generally required in this title.
  7. If the applicant fails to provide proof of compliance within one year of approval, the special use permit shall be void.
- F. Variance. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.
1. Authority to Grant.
    - a. The commission may authorize in specific cases such variance from the terms of this title as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title would result in unnecessary hardship.
    - b. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted or nonconforming use of lands, structures or buildings in other districts shall be considered grounds for issuance of a variance.
    - c. Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this title would result in unnecessary hardship or the loss of a building or site that is on a national, state or local register of historic places or sites.
    - d. Variances Concerning Uses Prohibited. Under no circumstances shall the commission grant a variance to allow a use not permissible under the terms of this title in the district involved, or any use expressly or by implication prohibited by the terms of this title in said district.
  2. Application. The Variance application will require all information deemed necessary as determined by the administrator.

3. Public Hearing. Upon receipt of a complete application for a variance, the Planning and Zoning Commission shall hold a public hearing. Notice for public hearings shall be provided as set forth in section 10-2-10 of this title.
    - a. Standards Applicable to Variances. The commission shall review the particular facts and circumstances to evaluate whether the proposed variance meets all of the following:
      - i. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district.
      - ii. That a literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this title.
      - iii. That special conditions and circumstances do not result from the actions of the applicant.
      - iv. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures or buildings in the same district.
    - v. That a literal enforcement of the provisions of this title would result in unnecessary hardship. For purposes of this section, where a reasonable conforming use is, or can be, located on a lot or parcel, there is no unnecessary hardship.
  - b. A variance shall not be granted unless the commission makes specific findings of fact based directly on the particular evidence presented to it that support conclusions that the above-mentioned standards and conditions have been met by the applicant.
  - c. The Planning and Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Title.
- G. Zoning Permits - Revocation.
1. Any Special Use Permit or Zoning Use Permit hereinafter called permit may be revoked for the following reasons:
    - a. When a significant change in the use that does adversely impact neighboring developments occurs.
    - b. For violation of supplementary conditions, safeguards and/ or restrictions imposed by the city council or the planning and zoning commission at the time the permit was granted.
    - c. Use of a zoning permit or certificate for a use other than the use for which said permit or certificate was issued.

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2. A petition for revocation may be initiated in the following manner:
  - a. By adoption of a motion by the commission for revocation of the permit.
  - b. By adoption of a motion by the council for revocation of the permit.
  - c. By the filing of a petition by an aggrieved property owner or person who has an existing interest in property within the area affected by the contested use.
3. Notice of initiation of revocation proceedings shall be provided to the permit holder in writing within 15 days of the filing of the petition for revocation or the passage of a motion initiating revocation proceedings. Notice shall include the following:
  - a. The name of the party or parties petitioning for a permit revocation.
  - b. The date and time of passage of a motion to revoke by the zoning body, or the date of filing of the petition to revoke.
  - c. The change in circumstances that has been alleged to have occurred and the adverse impact that said change in circumstances is expected to have.
  - d. The supplementary conditions, safeguards and restrictions alleged to have been violated.
4. A public hearing on the motion or petition to revoke shall be held before the appropriate zoning body. The permit holder, city staff and/ or any aggrieved party may present testimony or other evidence at said hearing. Said hearing shall be held within 45 days of the filing of a petition for revocation or the passage of a motion initiating revocation proceedings. Notice for public hearings shall be provided as set forth in section 10-2-10 of this title.
5. The decision of the zoning body hearing a revocation proceeding shall be based on the record. If said zoning body finds substantial evidence on the record that continuance of the use in question will result in a significant adverse impact on the surrounding developments or other affected parties, and that the permit holder is unable or unwilling to alleviate the adversity, or if said zoning body finds substantial evidence on the record that conditions, safeguards or restrictions imposed by the commission or council have been violated, the zoning body may revoke the permit in question.
6. A permit that has been revoked may be reinstated only by reapplying for said permit.
7. Within ten days after a decision has been rendered, the administrator shall provide the permit holder with written notice of the action taken.

## 10-2-5: CITY COUNCIL FINAL DECISION

### A. Annexation.

1. Prior to annexation of an unincorporated area the subject property must meet the following:
  - a. The subject property must be contiguous with a City of Twin Falls incorporated parcel or lot; and
  - b. The subject property must be within the Twin Falls Planning Boundary as adopted by the City of Twin Falls.
2. Annexation Process.
  - a. The commission shall conduct at least one public hearing in which interested persons shall have an opportunity to be heard. The hearing shall not consider comments on annexation and shall be limited to the proposed zoning district(s). The Commission shall recommend to the Council approval, denial, or approval with modifications of the proposed zoning district(s).
  - b. After a recommendation by the Commission concerning the annexation plan and proposed zoning district(s) of the subject property, the City Council shall hold a public hearing and make a final decision.

### B. Comprehensive Plan Amendments. Follow the procedure for Title Amendment (10-2-5(F)).

1. The final action taken by the City Council is to pass a resolution.
2. Resubmission of Application. No application for a reclassification of any property that has been denied by the council shall be resubmitted in either substantially the same form

or with reference to substantially the same premises for the same purposes within a period of one year from the date of such final action.

### C. Vacation of Platted Element(s).

1. Petition Required.
  - a. Any property owner desiring to vacate plats or platted elements such as lots or easements, shall file a completed application with the Administrator.
  - b. In the case where lots have been sold in a platted area, the petition should include an acknowledged written statement from each of the owners of the aforesaid sold lots indicating whether or not they are in agreement with the proposed vacation.
2. Administration Action. Upon receipt of the completed petition the Administrator shall place it on the agenda for consideration at the next available Commission meeting.
3. Public Hearing. The Commission shall hold a public hearing and make recommendations on all petitions for vacation of plats or platted elements.
4. Public Notice Requirement. Notice of said public hearing shall be given, by certified mail with return receipt, at least ten days prior to the date of the public hearing to all property owners within 300 feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two consecutive weeks in the official newspaper of the City, the last of which shall not be less than seven days prior to the date of said hearing.

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5. Commission Recommendation. Within 60 days from the receipt of the petition for vacation, the Commission shall transmit its recommendation to the Council. The Commission may recommend that the vacation be granted or it may recommend a modification to the vacation, or it may recommend that the vacation be denied.
  6. Action by Council. The Council, prior to approving, modifying or denying the vacation, shall conduct a public hearing using the same notice and hearing procedures as the Commission.
- D. Vacation of Public Right-of-Way.
1. Petition Required.
    - c. Any property owner desiring to vacate an existing public right of way shall complete and file a petition with the Administrator.
    - d. In the case where lots have been sold in a platted area, the petition should include an acknowledged written statement from each of the owners of the aforesaid sold lots indicating whether or not they are in agreement with the proposed vacation.
  2. Administration Action. Upon receipt of the completed petition the Administrator shall place it on the agenda for consideration at the next available Commission meeting.
  3. Public Hearing. The Commission shall hold a public hearing and make recommendations on all petitions for vacation of public right-of-way.
  4. Public Notice Requirement. Notice of said public hearing shall be given, by certified mail with return receipt, at least ten days prior to the date of the public hearing to all property owners within 300 feet of the boundaries of the area described in the petition. Such notice of public hearing shall also be published once a week for two consecutive weeks in the official newspaper of the City, the last of which shall not be less than seven days prior to the date of said hearing.
5. Commission Recommendation. Within 60 days from the receipt of the petition for vacation, the Commission shall transmit its recommendation to the Council. The Commission may recommend that the vacation be granted or it may recommend a modification to the vacation, or it may recommend that the vacation be denied.
6. Action by Council. The Council, prior to approving, modifying or denying the vacation, shall conduct a public hearing using the same notice and hearing procedures as the Commission. Upon approval the Council shall provide adjacent property owners with a signed Quit Claim Deed for the vacated rights of way in such proportions as are prescribed by Idaho Statute.
- E. Zoning Development Agreement:
1. Zoning Development Agreement Amendments and Planned Unit Development Amendments shall follow the process outlined in this section.
  2. A zoning development agreement (ZDA) is designed to accommodate appropriate combinations of uses that may be planned, developed, and operated as integral land use units either by a single owner or a combination of owners. A ZDA is intended to accomplish some, or all of the following:

- a. Foster and promote a variety of appropriate land use combinations in a preplanned development pattern;
  - b. Encourage developers to use a creative approach in land development;
  - c. Retain and conserve natural land and topographic features;
  - d. Promote greater use of streetscape and pedestrian oriented aesthetics;
  - e. Promote the creation and efficient use of open spaces;
  - f. Create flexibility and variety in the location of improvements on lots;
  - g. Provide flexibility in development standards to facilitate creative land development concepts.
3. A ZDA subject parcel shall be a minimum of two acres unless the planning and zoning commission recommends and the city council finds that property of less than two acres is suitable as a ZDA by virtue of:
- a. Unique character; or
  - b. Infill development; or
  - c. Topography or landscaping features; or
  - d. Qualifying as an isolated problem area.
4. Each Zoning Development Agreement shall, at minimum, consist of the following elements:
- a. Development Agreement
  - b. Conceptual Development Plan
5. Development Agreement:
- a. The agreement shall declare and outline the underlying zone(s).
  - b. The property and buildings within a ZDA shall conform to all sections of this title unless specifically addressed in the Development Agreement document. All applications to the city shall list all requested variations from the standard requirements. Applications without this list shall be considered incomplete.
  - c. Deviations from the underlying zoning requirements such as uses, setbacks, heights, lot coverage, etc.
  - d. Infrastructure improvements such as roads, utilities, and public facilities.
  - e. Contributions or improvements for the overall public benefit such as open spaces, parks, etc.
  - f. Expected timeline of development. State date and completion date.
6. ZDA Conceptual Development Plan.
- a. A ZDA shall include a conceptual development plan that illustrates the standards contained therein. This plan shall be submitted by the applicant at the time the zoning and ZDA request is submitted. The plan shall show the applicant's intent for the use(s) of the land within the proposed ZDA in a visual manner.

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- b. Conceptual Plan Elements:
  - i. Required.
    - (A) Proposed general land use(s)
    - (B) Public/Private Streets & Access
    - (C) Preliminary Residential lot arrangements and dwelling unit count
    - (D) Preliminary Commercial building arrangements and building coverage of the site.
    - (E) Landscaped areas
    - (F) Color renderings or elevations to illustrate proposed architectural standards or requirements.
    - (G) Parking Areas
    - (H) Exterior boundary setbacks
  - ii. Items to consider
    - (A) Storm drainage
    - (B) Supporting text material to further explain the characteristics of the plan
    - (C) Access to sidewalks and trails
    - (D) Parks and open space location and size
    - (E) Topography
    - (F) Easements
- 7. Conformance to Zoning Development Agreement. Final development plans, including plats, construction plans, and/or site plans, submitted for the development of the ZDA subject parcel shall conform to the approved Zoning Development Agreement.
  - a. Minor Variations. Details on the final development plan(s) with minor variations from the conceptual development plan may be approved by the administrator, or designated city official without public hearing.
  - b. Changes to any of the following items constitute a departure from the conceptual development plan, thus changing the ZDA and the basic relationship of the proposed development to the adjacent property:
    - i. The permitted uses,
    - ii. Increase in density,
    - iii. Increase in building height,
    - iv. Increase in building coverage of the site,
    - v. Reduction in the off-street parking ratio,
    - vi. Reducing the building setbacks provided at the boundary of the site,
    - vii. Reduction of any open space plans, or
    - viii. Alteration of the primary architectural elements or building materials.
    - ix. Any other item that changes the basic relationship of the proposed development to the adjacent property, as determined by the Administrator.
  - c. If it is determined that a proposed change(s) constitutes a departure from the ZDA, it may be amended using the initial approval process contained herein.

8. Procedure.
  - a. Any applicant shall schedule a project coordination meeting with the administrator, or his/her designee.
  - b. The procedure for establishing a ZDA shall follow the procedure for zoning map amendments as set forth in Chapter 14.
  - c. Each ZDA shall submit a completed application and associated fee to the administrator.
  - d. The city council shall not adopt an ordinance rezoning the subject parcel until the property owner/developer has submitted a signed ZDA. The signed ZDA (Development Agreement Document and Conceptual Development Plan) shall be attached as an exhibit to the rezoning ordinance and recorded in the office of the county recorder.
  - e. Approval of a ZDA shall be based on the following standards:
    - i. The proposed uses shall not be detrimental to the health, safety and general welfare of the public.
    - ii. Any variation from the underlying zoning district development requirements must be warranted by the design and amenities incorporated in the conceptual development plan.
    - iii. The underlying zoning district and the conceptual development plan shall conform to the comprehensive plan.
    - iv. Existing and/or proposed streets and utility services are suitable and adequate for the proposed development.
    - v. How the request at the location in question would be in the community's best interest;
    - vi. How the list of uses permitted would blend with surrounding land uses;
    - vii. If the subject site is physically suitable for the type and intensity of land uses permitted under the proposed zoning district;
    - viii. If the uses permitted in the proposed development would be adequately served by public facilities and services such as thoroughfares, police and fire protection, drainage, refuse disposal, water, sewer, and schools, to ensure the public health, safety and general welfare;
    - ix. If the uses permitted in the proposed development would be compatible in terms of their scale, mass, coverage, density, and intensity with adjacent land uses;
    - x. Whether the proposed zoning designation is consistent with the comprehensive plan land use map designation.
9. Reversionary Clause. An expected development schedule. If no development has occurred on the ZDA subject parcel within the

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time identified, not to exceed 10 years, the planning and zoning commission and city council may review the original ZDA development requirements and conceptual development plan to ensure their continued validity. If the city determines the concept is no longer valid, then:

- a. The city may initiate a process to change the zoning classification, or
- b. New ZDA development requirements and/or a new conceptual development plan may be required to be approved prior to the city issuing a building permit for any portion of the area for which the ZDA is applicable.

### F. Zoning District Change & Title Amendments.

1. Authority to Amend. Whenever the public necessity, convenience, general welfare or good zoning practices require, the city council may, by ordinance, after receipt of recommendation thereon from the commission and subject to procedures provided by law, change the zoning district classification of property.
2. Initiation of Zoning District Changes.
  - a. By adoption of a motion by the commission.
  - b. By adoption of a motion by the council.
  - c. By the filing of an application by a property owner or a person who has an existing interest in property within the area proposed to be changed or affected by said amendment.

3. Criteria For Review of Zoning District Change. The planning and zoning commission and city council shall review the facts and circumstances of each proposal in terms of the following standards:

- a. How the requested zoning at the location in question would be in the community's best interest;
  - b. How the list of uses permitted by the zoning ordinance would blend with surrounding land uses;
  - c. If the subject site is physically suitable for the type and intensity of land uses permitted under the proposed zoning district;
  - d. If the uses permitted in the proposed zoning district would be adequately served by public facilities and services such as thoroughfares, police and fire protection, drainage, refuse disposal, water, sewer, and schools, to ensure the public health, safety and general welfare;
  - e. If the uses permitted in the proposed zoning district would be compatible in terms of their scale, mass, coverage, density, and intensity with adjacent land uses;
  - f. Whether the proposed zoning designation is consistent with the comprehensive plan land use map designation.
4. Commission Action.
- a. The commission shall hold a public hearing and evaluate the request to determine the extent and nature of the amendment requested.

- b. Within 60 days from the receipt of the proposed amendment, the commission shall transmit its recommendation to the council. The commission may recommend that the zoning district change be granted as requested, or it may recommend a modification of the amendment requested, or it may recommend that the amendment be denied. The commission shall ensure that any favorable recommendations for zoning district changes are in general conformance with the comprehensive plan.
5. Action by City Council. Prior to adopting, revising or rejecting the proposed zoning district change as recommended by the commission, the Council shall conduct at least one public hearing. Upon granting or denying an application to amend this title, the council shall specify:
- a. The regulations and standards used in evaluating the application.
  - b. The reasons for approval or denial.
  - c. The actions, if any, that the applicant could take to obtain approval of the requested zoning district change.
- 1. Reconsideration of City Council Decisions. Decisions made by the City Council are final.
  - 2. Per Idaho Code §67-6535(2)(b) (or as amended), any applicant or affected person seeking judicial review of compliance with the provisions of this section must first seek reconsideration of the final decision within fourteen (14) days. Such written request must identify specific deficiencies in the decision for which reconsideration is sought. Upon reconsideration, the decision may be affirmed, reversed or modified after compliance with applicable procedural standards.
- B. Timing of Appeal. The appealing party shall submit a complete appeal application and fee to the administrator within 14 days of the written decision.
  - C. Scheduling of Appeal. The application for appeal shall be forwarded to applicable appeal body, no later than 45 days after the appeal is filed.
  - D. Notice of Filed Appeal. The Administrator shall give notice that an appeal has been received to the parties of record. Failure of delivery or delay of receipt of the notice shall not extend the appeal period or be grounds for appeal.
  - E. Notice of Appeal Required.
    - 1. The appealing applicant shall follow the same process and notification requirements as the original party.
    - 2. Decisions made outside a public hearing do not require a public hearing upon appeal.

### **10-2-6 SUBDIVISION PROCESS.**

See Twin Falls Municipal Code 10-12 for subdivision (Short Plat, Preliminary Plat, and Final Plat) process and notification procedures.

### **10-2-7 APPEAL PROCESS.**

- A. Standing to Appeal. Any person aggrieved by a decision made by the Administrator, HPC, PZC, may file an appeal with the applicable appeal body as listed within Table 1, Section 10-2-1.

## CHAPTER 2 APPLICATION PROCEDURES

### 10-2-9: TRANSFER, REACTIVATION AND DISCONTINUANCE OF SPECIAL USE AND ZONING USE PERMITS

- A. Transfer of Permits. A permit is not transferable from one parcel of land to another, but may be transferable from one owner to another, provided all conditions of the permit continue to be met.
- B. Reactivation of Permits. Permits which have not been established within one year of the date of issuance of the permit, may be reviewed by staff to determine if the facts and circumstances have changed; staff may call for a new permit application.
- C. Discontinuance of Permits.
  - 1. Discontinuance of a permit shall comply with Idaho Code §67-6538.
  - 2. If the property is redesigned for a different use, the property owner shall be deemed to have abandoned any legal nonconforming right to the prior use of the property.

### 10-2-10: PUBLIC HEARING NOTICE REQUIREMENTS

Public notice shall be provided for land use actions requiring a public hearing. Public notice shall comply with the following requirements. Public hearings for zoning title amendments and comprehensive plan amendments not relating to a specific property, are not required to provide mail and site posting notice. Public notice for appeals shall follow the public notice requirements of the original application.

- A. Mail. Mail notice shall be provided as follows when required:
  - 1. At least 15 days prior to the hearing, notice of the time and place of the hearing and a summary of the proposal shall be provided by mail to the following:
    - a. Property owners, or purchasers of record, within the land being considered;
    - b. Property owners, or purchasers of record within the specified distance from the subject property perimeter as listed below:

Zoning District of Subject Property	Notification Distance
AG, RR, TN-1, TN-2, OS	500 feet
TN-3, AP, CC, COM, MU, CMT, CSI,	750 feet
IND-1, IND-2	1,000 feet

- c. Any additional property owners, or purchasers of record, that may be impacted by the proposed change as determined by the administrator, and
- d. All political subdivisions providing services within the planning jurisdiction, including the city, school districts, and the Magic Valley regional airport manager.

2. Vacations shall follow mailing requirements as outlined in Idaho Code §50-13.
  3. When a public hearing is to be conducted by the city council for a proposal that the planning and zoning commission has made a recommendation on, the notice for that hearing shall include the commission's recommendation in addition to the time and place of the hearing and a summary of the proposal.
  4. The applicant shall mail the notices to the required property owners. Upon mailing, the applicant shall sign an affidavit stating that he has notified in writing the required property owners as to his purpose of application, time and place of hearing, residents served, and date of service. A copy of the notification shall be attached to the affidavit and returned to the city not less than ten (10) days prior to the hearing.
- B. Site Posting. Notice shall be posted on site as follows when required:
1. At least 15 days prior to the hearing, notice of the time and place of the hearing and a summary of the proposal shall be posted on the premises.
  2. The applicant shall post the required notice on the premises as follows:
    - a. Notice shall be provided by not less than one sign located on the subject property adjacent to each street frontage of the property. In the event that the subject property is not adjacent to a public street, signs may be placed within the nearest public street right of way with prior approval from the administrator and the owner of the right of way.
    - b. Signs shall be placed on the property so as to remain clearly visible from adjacent streets. In the event that visibility of signs located on the property is obstructed, signs may be placed within the adjacent street right of way with prior approval from the administrator and the owner of the right of way.
    - c. Additional notice signs may be required as determined by the administrator.
    - d. The applicant shall remove the posted notice sign(s) from the property not more than five (5) days after the conclusion of the final public hearing for the proposed action.

## CHAPTER 2 APPLICATION PROCEDURES

3. Notice Sign Design Requirements.
  - a. Notice signs shall be made from metal, plywood, or an equivalent hard surface and shall be mounted on two posts in a manner that is most visible to the street.
  - b. Size of Notice Signs
    - i. Notice signs shall be a minimum of two feet tall by three feet wide and mounted so the bottom of the sign is at least two feet above the ground.
    - ii. Notice signs that are located along a city designated arterial street or a state highway shall be a minimum of four feet tall and four feet wide and mounted so the bottom of the sign is at least three feet above the ground.
  - c. Notice signs shall be white in color. At the top of the sign, notice signs shall include each of the following with a minimum size of six inch black letters:
    - i. The words, "Notice of Public Meeting,"
    - ii. The words, "for more information call", and then the phone number for the city's planning and zoning department, and
    - iii. The official city logo.
  - d. Notice signs shall include a brochure holder mounted to the sign containing handouts providing notice of the time and place of the hearing and a summary of the proposal.
  - e. When a public hearing is to be conducted by the city council for a proposal that the planning and zoning commission has made a recommendation on, the notice for that hearing shall include the commission's recommendation in addition to the time and place of the hearing and a summary of the proposal.
- C. Newspaper. Newspaper notice shall be provided as follows when required:
  1. At least 15 days prior to the hearing, notice of the time and place of the hearing and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction of the city.
  2. When a public hearing is to be conducted by the city council for a proposal that the planning and zoning commission has made a recommendation on, the notice for that hearing shall include the commission's recommendation in addition to the time and place of the hearing and a summary of the proposal.
  3. The administrator shall cause the newspaper notice to be prepared and published.

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- D. City Website. Notice shall be provided on the city website as follows when required:
1. At least 15 days prior to the hearing, notice of the time and place of the hearing and a summary of the proposal shall be posted on the city website, [www.tfid.org](http://www.tfid.org).
  2. When a public hearing is to be conducted by the city council for a proposal that the planning and zoning commission has made a recommendation on, the notice for that hearing shall include the commission's recommendation in addition to the time and place of the hearing and a summary of the proposal.
  3. The administrator shall cause the notice to be posted on the city website.