

Proposed Amendments

A. 11-03-03.2 **Neighborhood Meeting**

Section 11-03-03.2(B) describes which residents and property owners are required to be invited to neighborhood meetings. The proposed amendment would only require adjacent residents and property owners to be invited to neighborhood meetings for administrative Design Review applications for accessory structures and alterations to existing homes on substandard lots of record. Currently all residents and property owners within 300 feet of the subject property are required to be invited to the neighborhood meeting for these applications, which can in some instances result in close to 100 residents and property owners being invited in denser neighborhoods.

The Planning Team finds this requirement to be excessive for homeowners proposing only to construct additions or accessory structures on their property. The Planning Team finds the invitation of only adjacent residents and property owners to a neighborhood meeting would be sufficient as these types of applications would have little impact on properties outside of the immediate vicinity of the subject property.

The proposed changes to Section 11-03-03.2(B) are as follows:

B. **Notification**

Notice shall be sent or delivered to residents and property owners within 300 feet of the site and to the registered neighborhood association. For variances and administrative Design Review applications for accessory structures and alterations to existing homes on substandard lots of record only adjacent (including across streets and alleys) residents and property owners and registered neighborhood associations need be notified. Mailed notices shall be postmarked at least seven days prior to the meeting. Hand-deliveries must occur at least five days prior to the meeting.

B. 11-03-03.4 **Notice**

Section 11-03-03.4(C) describes which residents and property owners are to receive mailed notice of development applications. The proposed amendment would only require adjacent residents and property owners to be notified of administrative Design Review applications for accessory structures and alterations to existing homes on substandard lots of record. Currently all residents and property owners within 300 feet of the property are required to be notified of these applications. As discussed above, the Planning Team finds notifying all residents and property owners within 300 feet is excessive for minor applications such as accessory structures or additions. The Planning Team finds that the notification of only adjacent residents and property owners is sufficient as these types of applications would have little impact on properties outside of the immediate vicinity of the subject property.

The proposed changes to Section 11-03-03.4(C) are as follows:

C. Mailed Notice

Notice shall be mailed to the registered neighborhood association. Notice shall also be mailed to the applicant and to property owners, purchasers of record, and residents:

- (1) Within the subject property;
- (2) Within 300 feet of the external boundaries of the subject property ~~with the following exceptions; for variances, adjacent; for Boise River System permits both sides of the river or channel 500 feet upstream and 1,000 feet downstream from project site;~~
 - (a) Only adjacent property owners and residents shall be notified of variances.
 - (b) Only adjacent property owners and residents shall be notified of administrative Design Review applications for accessory structures and alterations to existing homes on substandard lots of record.
 - (c) For Boise River System permits property owners and residents located on both sides of the river or channel 500 feet upstream and 1,000 feet downstream from the project site shall be notified.
- (3) For a height exception exceeding 100 feet, within a distance that is three times the proposed height;
- (4) Any additional area that may be impacted by the proposed change as determined by the Director when:
 - (a) The application could result in significant adverse traffic, environmental, aesthetic, noise, pollution, or population density impacts occurring outside the minimum 300-foot notice area.
 - (b) The public interest would be better served by expanding the notification area.

C. 11-03-04.14 Variance

Section 11-03-04.14(C2) describes the neighborhood meeting requirements for variances. The proposed amendment would eliminate the neighborhood meeting requirement for administrative variances. The Planning Team finds this step is unnecessary, as applications for administrative variances require signatures in support of the variance from all surrounding property owners and residents. As such the additional neighborhood meeting requirement involving the same property owners and residents is redundant. Language has also been added to clarify that surrounding property owners need to be invited to neighborhood meetings for non-administrative variances.

The proposed changes to Section 11-03-04.14(C2) are as follows:

C. Procedures

(2) Step 2: Neighborhood Meeting

Required only for non-administrative variances. Only the property owners and residents immediately adjacent to the project (including those across a roadway, street, or alley) project and the registered neighborhood association need be notified.

D. 11-04-03 Residential Districts

Section 11-04-03.5 details additional findings for conditional use applications within the A-1 and A-2 districts. The Planning Team proposes to remove this section, as these findings are already addressed by the standard conditional use findings and Foothills Planned Development Standards of the code. As such, this section is redundant.

The proposed changes to Section 11-04-03.5 are as follows:

5. FINDINGS FOR CONDITIONAL USES IN THE A-1 AND A-2 DISTRICTS

~~A. The proposed use; its bulk, height, intensity and location on the property; and all grading, paving and other associated site development modifications, are consistent with preserving the core values of the property as identified in the Comprehensive Plan or other appropriate guiding document, entitlement or deed restriction associated with the property.~~

~~B. The proposed use is consistent with the applicable open space requirements and allowances in Section 0 Foothills Planned Development Standards.~~

- C. ~~The use is compatible with, or can be conditioned to be compatible with, adjacent land uses. Conditions may include limitations on type, size, amount, location or operation of the use and all other property development modifications associated with the use.~~

E. 11-05-06.1 Boise River System Overlay Districts

Section 11-05-06.1(2) describes the process required to remove vegetation from Class A Lands. Currently the Code states that only the approval of the Planning Director is required to remove vegetation from Class A Lands. The proposed amendment would formalize the process by requiring an Administrative Review application to be submitted and approved prior to vegetation being removed.

The proposed changes to Section 11-05-06.1(2) are as follows:

(2) Additional Standards Applicable to Class A Lands and Waters

- (a) Class A areas within a development or subdivision shall be preserved in single common ownership through a conservation easement or other method approved by the city.
- (b) The removal of living or dead vegetation from Class A Lands the floodway shall not be permitted ~~except upon issuance of an Administrative Review permit. Such permit shall not be issued~~ unless:
- i. The vegetation poses a threat to persons or property;
 - ii. The vegetation contributes to a dangerous restriction of the flow of floodwater; or
 - iii. The removal of vegetation is part of an approved mitigation and enhancement plan.
- (c) Removal of vegetation shall be confined to the minimum necessary, while still maintaining the natural riparian areas. ~~Removal of vegetation is subject to approval by the Planning Director after review and recommendation by~~ Prior to issuance of an Administrative Review permit, comments and recommendations shall be received from the Urban Forestry Division of the Boise City Parks and Recreation Department.
- (d) Emergency situations under (2) (a) and (b) above may require actions to be taken before the Director can be contacted. If that is the case, then the action taken shall be reported to the Director and mitigation efforts shall be taken if the Director requires them.

F. 11-06-03.1 Single and Two-Family Living Uses

Section 11-06-03.1 (A) describes the requirements for accessory dwelling units (ADUs). The Code currently limits the size of ADUs to the smaller of 600 square feet or ten percent of the lot area. In response to numerous requests from residents wishing to construct ADUs larger than 600 square feet, the Planning Team recommends the maximum size allowed be increased to the smaller of 700 square feet or ten percent of the lot area. Continuing to limit ADUs to ten percent of the lot area would mean that ADUs over 600 square feet in size would only be allowed on lots over 6,000 square feet in size. Additionally, the 35% maximum lot coverage restriction for properties within Historic Districts would still apply, meaning the combined lot coverage of an ADU and all existing structures could not exceed 35% unless approved by the Historic Preservation Commission.

The Code would continue to limit ADUs to one bedroom, and require the property owner to live on site in order to rent the ADU. As such, the impact of the proposed Code amendment would have minimal impacts on surrounding properties, while allowing slightly more living area for those residing in ADUs. The Planning Team finds ADUs to be a good affordable housing option within the City that allows new living units to be established within developed areas of the City with existing facilities. Additionally, many ADUs are used by City residents to provide housing for relatives who need assistance or who are looking for an affordable housing option. As the property owner is required to live on site, ADUs generally provide a well-controlled form of rental housing.

The Planning Team finds that allowing ADUs up to 700 square feet in size would be consistent with the City's impact fee schedule. New dwelling units within the City 700 square feet or smaller are charged a significantly reduced impact fee by the Boise Parks, Fire and Police Departments due to the smaller financial impact homes of this size have on the community. The Planning Team finds that allowing ADUs up to 700 square feet would also be in line with surrounding communities. While Garden City limits ADUs to 600 square feet, Meridian allows 700 square foot ADUs and Ada County allows ADUs to be the smaller of 900 square feet or 60% of the size of the primary dwelling. Star allows 1,000 square foot ADUs, and Eagle allows ADUs ranging in sizes from 500 to 1,200 square feet, depending upon the size of the lot.

The proposed changes to Section 11-06-03.1 (A) are as follows:

A. Accessory Dwelling Unit

- (1) *The accessory dwelling unit (ADU) must be not larger than ten percent of the lot area or ~~600~~ 700 square feet, whichever is smaller, and shall not have more than one bedroom. Where practical, the ten percent size standard may be altered to accommodate logical expansions or internal conversions. Examples of this include, but are not limited to, the addition of a second floor to a detached garage or the separation of a basement as an accessory unit. Under no circumstances may the ~~600~~ 700 square foot maximum be exceeded.*

G. 11-06-07.3 General Standards for Accessory Uses

Section 11-06-07.3 describes standards for accessory uses. It is proposed that language be added requiring accessory structures located within floodplains or floodways to be anchored in order to prevent movement during flooding. While this requirement is already included in the Flood Hazard Regulations section of the Code, the Planning Team proposes it also be added to the Accessory Uses section in order to make it more visible to those considering construction of accessory structures.

An amendment is also proposed to reduce from six feet to three feet the amount of separation from other structures required for an accessory structure to utilize reduced setbacks. The Planning Team proposes this amendment due to feedback received from members of the public. In discussing accessory structure standards with residents, some have felt the six-foot separation requirement is excessive, and in some instances can make it difficult to construct an accessory structure on the property that complies with all necessary setback requirements.

As there is no building code provision requiring six feet of separation and the fire department has no concerns with the proposal, the Planning Team recommends the separation requirement be reduced in order to allow more flexibility to residents when locating accessory structures on their property. As property line setbacks will not be affected, and the reduction involves only the separation distance between structures contained on the property, the proposed amendment should not negatively impact surrounding property owners.

The proposed changes to Section 11-06-07.3 are as follows:

3. **General Standards for Accessory Uses**

All accessory structures located within a floodplain or floodway shall be anchored to prevent flotation, collapse or lateral movement of the structure. All accessory uses and structures shall also comply with the following general standards.

B. Location and Setbacks

- (6) Detached accessory structures with ~~six~~ three feet of separation from other structures may utilize the following setback reductions:
 - (a) Detached accessory structures under 120 square feet in area and under seven feet in height (from grade to the top of the wall under the roof) are permitted in any yard area except in front of the main building and in required street side and front yard areas.
 - (b) Detached accessory structures that are over 120 square feet, but less than or equal to 500 square feet of area and that are less than 14 feet in height, may have reduced interior side yard setbacks of three feet and rear yard setbacks of nine feet.
 - (c) Accessory buildings that use these reduced setbacks may not occupy more than 50 percent of the lot's rear or side yard widths.

H. 11-06-08 Temporary Uses

Section 11-06-08.2 describes uses that can be approved through the temporary use process. It is proposed that the portion of the section describing uses that cannot be approved as temporary uses be removed. The City Council voted to remove these restrictions on December 7, 2010 as part of a previous code amendment application (ZOA10-00008). However, due to an administrative error, the text remained in the Code. The Planning Team finds the provision prohibiting uses that require Planning and Zoning Commission approval from being approved as temporary uses is not necessary as the Planning and Zoning Commission approval requirement would take precedence over temporary use approvals.

It is also recommended that the restriction on temporary uses other than seasonal uses and uses incidental to construction on unimproved surfaces be removed in order to allow more flexibility. As the Code allows for non-seasonal uses and uses unrelated to construction to be approved through the temporary use process, there may be instances where it is appropriate to allow these types of uses to be approved temporarily on unimproved surfaces.

As the temporary use provision of the Code limits approvals to 180 days (with the exception of produce stands, which can be approved for up to a year), no long term use of property could be approved through the temporary use process.

The proposed changes to Section 11-06-08.2 are as follows:

2. APPLICABILITY

A. *Types of temporary uses and structures that may be approved under the temporary use approval process include:*

- (1) *Temporary buildings;*
- (2) *Temporary display and sale of merchandise;*
- (3) *Model homes, trailers, activities, and/or uses incidental to the construction of a building or group of buildings on the same or adjacent premises;*
- (4) *Seasonal uses (e.g., fireworks stands, Christmas tree lots, and Produce stands); and*
- (5) *Other uses that clearly are not associated with a holiday, the growing season, or a construction project may be considered for approval by the Director.*

~~B. Uses that may not be considered for temporary approval include:~~

- ~~(1) Uses that require PZC approval.~~
- ~~(2) Structures or uses that are intended to be placed upon unimproved property, other than seasonal uses or uses incidental to construction.~~