



Technical and Steering Committee
Special Consensus Building Meeting
Area of Impact Process Workshop

Thursday, January 18, 2007 8:30 A.M. to 3:00 P.M.
Meridian Police Department

AGENDA

- I. **Discussion Items – Draft Adequate Public Facilities Request for Proposal**
a. **Discuss comments received on the Draft Adequate Public Facilities Request for Proposal (8:30 A.M. – 8:45 A.M.)**

One set of comments were provided to Doherty & Associates on the Draft Adequate Public Facilities Request for Proposal. These comments will be provided to the attendees at Thursday's meeting. Outcome of this discussion item will be a recommendation to the Technical/Steering Committee on February 1 to approve the draft RFP for consideration by the Consortium at the February 1 meeting.

- II. **Discussion Items – Area of Impact Process Modifications**

- a. **Background: What role does Area of City Impact play within Blueprint for Good Growth (8:45 A.M. - 9:30 A.M.)**

A review of the function of Area of City Impact will be discussed relative to the Blueprint for Good Growth.

- b. **Finalize Process Modifications as Agreed upon at the November Steering Meeting (9:30 A.M. - 11:30 A.M.)**

Participants seem to agree that the three general steps, as discussed at the November Steering Meeting, will succeed for Area of City Impact process modification within Ada County. These steps are 1) identification of 20-year Area of City Impact Expansion Boundary, 2) completion of a subarea plan, and 3) adoption of the subarea plan(s) and amended Area of City Impact ordinance. This discussion will focus on the details of those three key steps. Details which need to be finalized include:

- How is the initial planning boundary established? (20-year planning horizon?)
- What are the components of the subarea plan?
- Is a comprehensive plan sufficient for the subarea plan?
- How are the growth targets outlined in the BGG plan measured and monitored?

Outcome of this discussion shall be consensus on the three general steps and details for those three processes for presentation at the February 1 Technical/Steering Meeting.

c. Lunch (11:30 A.M. – 12:15 P.M.)

Box lunches will be provided for those who provided RSVPs to Doherty & Associates.

**d. Review of Draft Area of City Impact Process Legislation (12:15 P.M. – 2:30 P.M.)
(Pgs. 3-16)**

Discussion will be held regarding the draft Area of City Impact Process Legislation which was edited by Anna Canning.

e. Meeting Wrap-up and Assignments for February 1 Meeting (2:30 P.M. – 3:00 P.M.)

Upcoming 2007 Technical and Steering Meetings are as follows:

February 1, 10:00 AM – 12:00 PM, Meridian Police Department – Regular Tech/Steering Meeting

March 1, 10:00 AM – 12:00 PM, Meridian Police Department – Regular Tech/Steering Meeting

April 5, 10:00 AM – 12:00 PM, ACHD Auditorium – Regular Tech/Steering Meeting

May 3, 10:00 AM – 12:00 PM, ACHD Auditorium – Regular Tech/Steering Meeting

June 7, 10:00 AM – 12:00 PM, ACHD Auditorium – Regular Tech/Steering Meeting

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6508. PLANNING DUTIES. It shall be the duty of the planning or planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board. The plan shall consider previous and existing conditions, trends, desirable goals and objectives, or desirable future situations for each planning component. The plan with maps, charts, and reports shall be based on the following components as they may apply to land use regulations and actions unless the plan specifies reasons why a particular component is unneeded.

(a) Property Rights -- An analysis of provisions which may be necessary to insure that land use policies, restrictions, conditions and fees do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property and analysis as prescribed under the declarations of purpose in chapter 80, title 67, Idaho Code.

(b) Population -- A population analysis of past, present, and future trends in population including such characteristics as total population, age, sex, and income.

(c) School Facilities and Transportation -- An analysis of public school capacity and transportation considerations associated with future development.

(d) Economic Development -- An analysis of the economic base of the area including employment, industries, economies, jobs, and income levels.

(e) Land Use -- An analysis of natural land types, existing land covers and uses, and the intrinsic suitability of lands for uses such as agriculture, forestry, mineral exploration and extraction, preservation, recreation, housing, commerce, industry, and public facilities. A map shall be prepared indicating suitable projected land uses for the jurisdiction.

(f) Natural Resource -- An analysis of the uses of rivers and other waters, forests, range, soils, harbors, fisheries, wildlife, minerals, thermal waters, beaches, watersheds, and shorelines.

(g) Hazardous Areas -- An analysis of known hazards as may result from susceptibility to surface ruptures from faulting, ground shaking, ground failure, landslides or mudslides; avalanche hazards resulting from development in the known or probable path of snowslides and avalanches, and floodplain hazards.

(h) Public Services, Facilities, and Utilities -- An analysis showing general plans for sewage, drainage, power plant sites, utility transmission corridors, water supply, fire stations and fire fighting equipment, health and welfare facilities, libraries, solid waste disposal sites, schools, public safety facilities and related services. The plan may also show locations of civic centers and public buildings.

(i) Transportation -- An analysis, prepared in coordination with the local jurisdiction(s) having authority over the public highways and streets, showing the general locations and widths of a system of major traffic thoroughfares and other traffic ways, and of streets and the recommended treatment thereof. This component may also make

recommendations on building line setbacks, control of access, street naming and numbering, and a proposed system of public or other transit lines and related facilities including rights-of-way, terminals, future corridors, viaducts and grade separations.

The component may also include port, harbor, aviation, and other related transportation facilities.

(j) Recreation -- An analysis showing a system of recreation areas, including parks, parkways, trailways, river bank greenbelts, beaches, playgrounds, and other recreation areas and programs.

(k) Special Areas or Sites -- An analysis of areas, sites, or structures of historical, archeological, architectural, ecological, wildlife, or scenic significance.

(l) Housing -- An analysis of housing conditions and needs; plans for improvement of housing standards; and plans for the provision of safe, sanitary, and adequate housing, including the provision for low-cost conventional housing, the siting of manufactured housing and mobile homes in subdivisions and parks and on individual lots which are sufficient to maintain a competitive market for each of those housing types and to address the needs of the community.

(m) Community Design -- An analysis of needs for governing landscaping, building design, tree planting, signs, and suggested patterns and standards for community design, development, and beautification.

(n) Development Outside City Limits - Required of City Comprehensive Plans Only - An analysis of the development activities that may be appropriate within the area of city impact when such development is not within the city limits. This analysis should address noticing requirements, proposed lands uses, appropriate densities of development, necessary public services, and other development standards, policies, or maps deemed appropriate by the city. This analysis will become the basis of the area of city impact agreement with a county.

(o) Implementation -- An analysis to determine actions, programs, budgets, ordinances, or other methods including scheduling of public expenditures to provide for the timely execution of the various components of the plan.

Nothing herein shall preclude the consideration of additional planning components or subject matter.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6509. RECOMMENDATION AND ADOPTION, AMENDMENT, AND REPEAL OF THE PLAN.

(a) The planning or planning and zoning commission, prior to recommending the plan, amendment, or repeal of the plan to the governing board, shall conduct at least one (1) public hearing in which interested persons shall have an opportunity to be heard. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement. Notice of intent to adopt, repeal or amend the plan shall be sent to all political subdivisions providing services within the planning jurisdiction, including school districts, at least fifteen (15) days prior to the public hearing scheduled by the commission. Following the commission hearing, if the commission recommends a material change to the proposed amendment to the plan which was considered at the hearing, it shall give notice of its proposed recommendation and conduct another public hearing concerning the matter if the governing board will not conduct a subsequent public hearing concerning the proposed amendment. If the governing board will conduct a subsequent public hearing, notice of the planning and zoning commission recommendation shall be included in the notice of public hearing provided by the governing board. A record of the hearings, findings made, and actions taken by the commission shall be maintained by the city or county.

(b) The governing board, as provided by local ordinance, prior to adoption, amendment, or repeal of the plan, may conduct at least one (1) public hearing, in addition to the public hearing(s) conducted by the commission, using the same notice and hearing procedures as the commission. The governing board shall not hold a public hearing, give notice of a proposed hearing, nor take action upon the plan, amendments, or repeal until recommendations have been received from the commission. Following consideration by the governing board, if the governing board makes a material change in the recommendation or alternative options contained in the recommendation by the commission concerning adoption, amendment or repeal of a plan, further notice and hearing shall be provided before the governing board adopts, amends or repeals the plan.

(c) No plan shall be effective unless adopted by resolution by the governing board. A resolution enacting or amending a plan or part of a plan may be adopted, amended, or repealed by definitive reference to the specific plan document. A copy of the adopted or amended plan shall accompany each adopting resolution and shall be kept on file with the city clerk or county clerk.

(d) Any person may petition the commission or, in absence of a commission, the governing board, for a plan amendment at any time. The commission may recommend amendments to the land use map component of the comprehensive plan to the governing board not more frequently than once every six (6) months. Such time limits shall not apply to a county commission with regard to making recommendations on a comprehensive plan within an area of city impact as set forth in 67-6526. The commission may recommend amendments to the text of the comprehensive

plan and to other ordinances authorized by this chapter to the governing board at any time.

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS
CHAPTER 65
LOCAL LAND USE PLANNING

67-6526. AREAS OF CITY IMPACT -- ~~NEGOTIATION~~ PROCEDURES.

(a) Purpose. Areas of city impact are areas within the unincorporated areas of counties where future city growth is expected to occur yet where the city has no extraterritorial powers regarding land use and/or development activity. However, development or other land use-related activity in these areas can result in economic, social or environmental consequences for nearby cities. Area of city impact agreements are intergovernmental contracts that define and provide for implementation of land use policies and regulations between counties and an included or nearby city. The governing board of each any county and each city therein, or nearby, may implement an area of city impact agreement by shall adopting one or more county by ordinances following the notice and hearing procedures provided in section 67-6509, Idaho Code, a map identifying an area of city impact and setting forth accompanying regulations within the unincorporated area of the county. A separate ordinance providing for application of plans and ordinances for the area of city impact shall be adopted. Subject to the provisions of section 50-222, Idaho Code, no an area of city impact must be established before a city may annex adjacent territory outside of an agreed upon or statutorily designated area of city impact, unless expressly requested to do so by a property owner.

Negotiated aAreas of city impact, together with plan and ordinance requirements, may cross county boundaries by agreement of the city and county concerned if the city is within three (3) miles of the adjoining county.

(b) Process. Prior to a city undertaking a comprehensive plan amendment that includes an expansion of the city's area of city impact, the city and county shall hold a joint hearing following the notice and hearing procedures provided in section 67-6509, Idaho Code, to decide upon a planning boundary for said comprehensive plan.

(i) Prior to the hearing, the city will provide information supporting the proposed boundary as being approximately the area needed to accommodate up to twenty (20) years of growth for said city. The boundary should avoid abnormally shaped boundaries unless such boundary can be reasonably justified by the city. The supporting information from the city may include but not be limited to one or more of the following:

- (A) Reasonable and expected growth rates;
- (B) Sufficient excess land capacity to allow the market to operate efficiently;
- (C) Capital improvement plans and planned location of public infrastructure improvements;
- (D) Service district boundaries including but not limited to irrigation districts, drainage districts, library districts, school districts, fire districts, sewer districts, recreation districts, and water districts; and/or
- (E) Identifiable physical boundaries including but not limited to rivers, creeks, lakes, irrigation facilities, highways, roads, and/or natural contours such as bluffs or ridges.

(ii) After conducting the public hearing, each governing body shall vote separately on the planning boundary. If a city and a county do not reach an agreement on the proposed boundary, a statutory planning boundary shall be established hereby. Such statutory planning

boundary shall extend one-half (1/2) mile from a city's existing city limit if the city's population is less than 5,000; one (1) mile if the population is more than 5,000, but less than 25,000; and two (2) miles if the city's population is greater than 25,000. Population shall be determined by the current estimates published by the Idaho Department of Commerce in cooperation with the US Bureau of the Census.

(iii) Once a planning boundary is established, a city shall prepare a comprehensive plan consistent with such boundary and section 67-6508, Idaho Code. Upon adoption by the city of the comprehensive plan amendment, the city shall petition the county to adopt the provisions related to development outside city limits as set forth in section 67-6508(n), Idaho Code, and to include such provisions within an area of city impact agreement. The comprehensive plan boundary shall be deemed the area of city impact boundary unless the city and county mutually agree to another boundary.

(A) In the event that the city and county disagree on the boundary, the statutory planning boundary shall be deemed the area of city impact boundary. The county shall update such boundary the first of January each year based on the population estimates and city limits at that time. Such area of city impact boundary may overlap with that of another city area of city impact boundary.

(B) In the event the city and county disagree on the provisions of the area of city impact agreement, the statutory minimum provisions shall be established hereby. The county comprehensive plan shall apply within the area of city impact. The county shall provide a minimum of 28 days written notice of any land use activity for which a public hearing will be required by state law or county ordinances. Such notice shall be provided to the city clerk of the city or to such other city official as the mayor might designate. ~~If the requirements of section 67-6526(a), Idaho Code, have not been met, either the city or the county may demand compliance with this section by providing written notice to the other of said demand for compliance. Once a demand has been made, the city shall select its representative as hereinafter provided, within thirty (30) days of said demand, and the process set forth in this subsection shall commence. The county commissioners for the county concerned, together with three (3) elected city officials designated by the mayor of the city and confirmed by the council, shall, within thirty (30) days after the city officials have been confirmed by the council, select three (3) city or county residents. These nine (9) persons shall, by majority vote, recommend to the city and county governing boards an area of city impact together with plan and ordinance requirements. The recommendations shall be submitted to the governing boards within one hundred eighty (180) days after the selection of the three (3) members at large and shall be acted upon by the governing boards within sixty (60) days of receipt. If the city or county fails to enact ordinances providing for an area of city impact, plan, and ordinance requirements, either the city or county may seek a declaratory judgment from the district court identifying the area of city impact, and plan and ordinance requirements. In defining an area of city impact, the following factors shall be considered: (1) trade area; (2) geographic factors; and (3) areas that can reasonably be expected to be annexed to the city in the future.~~

(c) ~~If Negotiated~~ areas of city impact for different cities may overlap with consent of the board of county commissioners according to terms and conditions that are agreeable to all cities and the counties affected., the cities involved shall negotiate boundary adjustments to be recommended to the respective city councils. If the cities cannot

~~reach agreement, the board of county commissioners shall, upon a request from either city, within thirty (30) days, recommend adjustments to the areas of city impact which shall be adopted by ordinance by the cities following the notice and hearing procedures provided in section 67-6509, Idaho Code. If any city objects to the recommendation of the board of county commissioners, the county shall conduct an election, subject to the provisions of section 34-106, Idaho Code, and establish polling places for the purpose of submitting to the qualified electors residing in the overlapping impact area, the question of which area of city impact the electors wish to reside. The results of the election shall be conclusive and binding, and no further proceedings shall be entertained by the board of county commissioners, and the decision shall not be appealable by either city involved. The clerk of the board of county commissioners shall by abstract of the results of the election, certify that fact, record the same and transmit copies of the original abstract of the result of the election to the clerk of the involved cities.~~

(d) ~~Areas of city impact, plans, and ordinance requirements established pursuant to this agreement shall remain fixed until a board of county commissioners both governing boards agrees or decides to revise the to renegotiated agreement. No change of a negotiated area of city impact agreement shall be effective until the board of county commissioners has conducted a public hearing concerning any proposed change for which notice has been provided pursuant to section 67-6509, Idaho Code. In the event an affected city disagrees with an adopted area of city impact agreement, the statutory minimum requirements as set forth in subsection (b)(iii)(B) of this section shall apply. The county commissioners shall process an ordinance implementing such provisions within thirty (30) days of receiving a request signed by the mayor and city council of the affected city. In the event the city and county cannot agree, the judicial review process of subsection (b) of this section shall apply. Renegotiations shall begin within thirty (30) days after written request by the city or county and shall follow the procedures for original negotiation provided in this section.~~

(e) ~~Prior to revising negotiation or renegotiation negotiated of areas of city impact boundaries, plans, and/or ordinance requirements, the governing boards shall submit the questions to the planning, zoning, or planning and zoning commission for recommendation. Each commission shall have a reasonable time fixed by the governing board to make its recommendations to the governing board. The governing boards shall undertake a review of negotiated areas of city impact at least every ten (10) years of the city impact plan and ordinance requirements to determine whether renegotiations are in the best interests of the citizenry.~~

(f) This section shall not preclude growth and development in areas of any county within the state of Idaho which are not within the areas of city impact provided for herein.

~~) If the area of impact has been delimited pursuant to the provisions of subsection (a)(1) of this section, persons living within the delimited area of impact shall be entitled to representation on the planning, zoning, or the planning and zoning commission of the city of impact. Such representation shall as nearly as possible reflect the proportion of population living within the city as opposed to the population living within the areas of impact for that city. To achieve such proportional representation, membership of the planning, zoning or planning and zoning commission, may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504,~~

~~Idaho Code. In instances where a city has combined either or both of its planning and zoning functions with the county, representation on the resulting joint planning, zoning or planning and zoning commission shall as nearly as possible reflect the proportion of population living within the impacted city, the area of city impact outside the city, and the remaining unincorporated area of the county. Membership on such a joint planning, zoning or planning and zoning commission may exceed twelve (12) persons, notwithstanding the provisions of subsection (a) of section 67-6504, Idaho Code.~~

STATE GOVERNMENT AND STATE AFFAIRS
TITLE 50
MUNICIPAL CORPORATIONS
CHAPTER 2
GENERAL PROVISIONS -- GOVERNMENT
-- TERRITORY

50-222. ANNEXATION BY CITIES.

(1) Legislative intent. The legislature hereby declares and determines that it is the policy of the state of Idaho that cities of the state should be able to annex lands which are reasonably necessary to assure the orderly development of Idaho's cities in order to allow efficient and economically viable provision of tax-supported and fee-supported municipal services, to enable the orderly development of private lands which benefit from the cost-effective availability of municipal services in urbanizing areas and to equitably allocate the costs of public services in management of development on the urban fringe.

(2) General authority. Cities have the authority to annex land into a city upon compliance with the procedures required in this section. In any annexation proceeding, all portions of highways lying wholly or partially within an area to be annexed shall be included within the area annexed unless expressly agreed between the annexing city and the governing board of the highway agency providing road maintenance at the time of annexation. Provided further, that said city council shall not have the power to declare such land, lots or blocks a part of said city if they will be connected to such city only by a shoestring or strip of land which comprises a railroad or highway right-of-way.

(3) Annexation classifications. Annexations shall be classified and processed according to the standards for each respective category set forth herein. The three (3) categories of annexation are:

(a) Category A: Annexations wherein all private landowners raise no objection to annexation, or annexations of any residential enclaved lands of less than [than] one hundred (100) privately-owned parcels, irrespective of surface area, which are surrounded on all sides by land within a city or which are bounded on all sides by lands within a city and by lands for which owner approval must be given pursuant to subsection (5)(b)(v) of this section, or which are bounded on all sides by lands within a city and by the boundary of the city's area of city impact.

(b) Category B: Annexations wherein:

(i) The subject lands contain less than one hundred (100) separate private ownerships and platted lots of record and where not all such landowners have consented to annexation; or

(ii) The subject lands contain more than one hundred (100) separate private ownerships and platted lots of record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have evidenced their consent to annexation at the outset of the annexation process; or

(iii) The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provided such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.

(c) Category C: Annexations wherein the subject lands contain more than one hundred (100) separate private ownerships and platted lots of

record and where landowners owning more than fifty percent (50%) of the area of the subject private lands have not evidenced their consent to annexation at the outset of the annexation process.

(4) Evidence of consent to annexation. For purposes of this section, prior consent to annex shall be deemed given when evidenced by written authorization or approval executed by the owner or the owner's authorized agent. Consent shall be implied for the area of all lands connected to a water or wastewater collection system operated by the city and for lands subject to a written consent to annex recorded in the county recorder's office. Written consent to annex lands, if recorded in the county recorder's office, shall be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; provided however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to such city.

(5) Annexation procedures. Annexation of lands into a city shall follow the procedures applicable to the category of lands as established by this section. The implementation of any annexation proposal wherein the city council determines that annexation is appropriate shall be concluded with the passage of an ordinance of annexation.

(a) Procedures for category A annexations: Lands lying contiguous or adjacent to any city in the state of Idaho may be annexed by the city if the proposed annexation meets the requirements of category A. Upon determining that a proposed annexation meets such requirements, a city may initiate the planning and zoning procedures set forth in chapter 65, title 67, Idaho Code, to establish the comprehensive planning policies, where necessary, and zoning classification of the lands to be annexed.

(b) Procedures for category B annexations: A city may annex lands that would qualify under the requirements of category B annexation if the following requirements are met:

(i) The lands are contiguous or adjacent to the city and lie within the city's area of city impact;

(ii) The land is laid off into lots or blocks containing not more than five (5) acres of land each, whether the same shall have been or shall be laid off, subdivided or platted in accordance with any statute of this state or otherwise, or whenever the owner or proprietor or any person by or with his authority has sold or begun to sell off such contiguous or adjacent lands by metes and bounds in tracts not exceeding five (5) acres, or whenever the land is surrounded by the city. Splits of ownership which occurred prior to January 1, 1975, and which were the result of placement of public utilities, public roads or highways, or railroad lines through the property shall not be considered as evidence of an intent to develop such land and shall not be sufficient evidence that the land has been laid off or subdivided in lots or blocks. A single sale after January 1, 1975, of five (5) acres or less to a family member of the owner for the purpose of constructing a residence shall not constitute a sale within the meaning of this section. For purposes of this section, "family member" means a natural person or the spouse of a natural person who is related to the owner by blood, adoption or marriage within the first degree of consanguinity;

(iii) Preparation and publication of a written annexation plan, appropriate to the scale of the annexation contemplated, which includes, at a minimum, the following elements:

(A) The manner of providing tax-supported municipal services to the lands proposed to be annexed;

(B) The changes in taxation and other costs, using examples, which would result if the subject lands were to be annexed;

(C) The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed;

(D) A brief analysis of the potential effects of annexation upon other units of local government which currently provide tax-supported or fee-supported services to the lands proposed to be annexed; and

(E) The proposed future land use plan and zoning designation or designations, subject to public hearing, for the lands proposed to be annexed;

(iv) Compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in section 67 6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied thereto; provided however, the initial notice of public hearing concerning the question of annexation and zoning shall be published in the official newspaper of the city and mailed by first class mail to every property owner with lands included in such annexation proposal not less than twenty-eight (28) days prior to the initial public hearing. All public hearing notices shall establish a time and procedure by which comments concerning the proposed annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one (1) page summary of the contents of the city's proposed annexation plan and shall provide information regarding where the annexation plan may be obtained without charge by any property owner whose property would be subject to the annexation proposal.

(v) In addition to the standards set forth elsewhere in this section, annexation of the following lands must meet the following requirements:

(A) Property, owned by a county or any entity within the county, that is used as a fairgrounds area under the provisions of chapter 8, title 31, Idaho Code, or chapter 2, title 22, Idaho Code, must have the consent of a majority of the board of county commissioners of the county in which the property lies; and

(B) Property, owned by a nongovernmental entity, that is used to provide outdoor recreational activities to the public and that has been designated as a planned unit development of fifty (50) acres or more and does not require or utilize any city services must have the express written permission of the nongovernmental entity owner.

(vi) After considering the written and oral comments of property owners whose land would be annexed and other affected persons, the city council may proceed with the enactment of an ordinance of annexation and zoning. In the course of the consideration of any such ordinance, the city must make express findings, to be set forth in the minutes of the city council meeting at which the annexation is approved, as follows:

(A) The land to be annexed meets the applicable requirements of this section and does not fall within the exceptions or conditional exceptions contained in this section;

(B) The annexation would be consistent with the public purposes addressed in the annexation plan prepared by the city;

(C) The annexation is reasonably necessary for the orderly development of the city;

(vii) Notwithstanding any other provision of this section, railroad right-of-way property may be annexed pursuant to this section only when property within the city adjoins or will adjoin both sides of the right-of-way.

(c) Procedures for category C annexations: A city may annex lands that would qualify under the requirements of category C annexation if the following requirements are met:

(i) Compliance with the procedures governing category B annexations; and

(ii) Evidence of consent to annexation based upon the following procedures:

(A) Following completion of all procedures required for consideration of a category B annexation, but prior to enactment of an annexation ordinance and upon an affirmative action by the city council, the city shall mail notice to all private landowners owning lands within the area to be annexed, exclusive of the owners of lands that receive water or sewer service and owners of lands that are subject to a recorded consent to annex. Such notice shall invite property owners to either give written consent or express written opposition to the annexation, include a description of how that consent or opposition can be made and where it can be filed, and inform the landowners where the entire record of the subject annexation may be examined. Such mailed notice shall also include a legal description of the lands proposed for annexation and a simple map depicting the location of the subject lands.

(B) Each landowner desiring to consent to or oppose the proposed annexation must submit the consent or opposition, in writing, to the city clerk by a date specified in the notice, which date shall not be sooner than twenty-one (21) days after the date of the mailing of such notice.

(C) After the date specified in the notice for receipt of written consent or opposition, the city clerk shall compile and present to the city council a report setting forth: (i) the total physical area sought to be annexed, and (ii) the total physical area of the lands, as expressed in acres or square feet, whose owners have consented in writing to the annexation, plus the area of all lands receiving water or sewer service from the city and the area of all lands subject to a recorded consent to annex. Objections received after the conclusion of the twenty-one (21) day period shall not be considered unless the late objection is due to the city's failure to follow the procedures provided herein. Objections received from owners of lands subject to a recorded consent to annex, or from owners receiving water or sewer service from the city, shall not be considered objections for purposes of this section. The clerk shall report the results to the city council.

(D) Upon receiving such report, the city council shall review the results and may thereafter confirm whether consent was received from the owners of a majority of the land areas and those providing written consent, in addition to all lands subject to the implied consent provisions set forth herein and those subject to consent of record in the office of the county recorder. The results of the report shall be reflected in the minutes of the city council. If the report as accepted by the city council confirms that owners of more land area have consented to annexation than oppose such annexation, the city council may enact an ordinance of annexation, which thereafter shall be published and become effective according to the terms of the ordinance. If the report confirms that owners of more land area oppose

annexation than consent to such annexation, the category C annexation shall not be authorized.

(6) The decision of a city council to annex and zone lands as a category B or category C annexation shall be subject to judicial review in accordance with the procedures provided in chapter 52, title 67, Idaho Code, and pursuant to the standards set forth in section 67-5279, Idaho Code. Any such appeal shall be filed by an affected person in the appropriate district court no later than twenty-eight (28) days after the date of publication of the annexation ordinance. All cases in which there may arise a question of the validity of any annexation under this section shall be advanced as a matter of immediate public interest and concern, and shall be heard by the district court at the earliest practicable time.

(7) Annexation of noncontiguous municipal airfield. A city may annex land that is not contiguous to the city and is occupied by a municipally owned or operated airport or landing field. However, a city may not annex any other land adjacent to such noncontiguous facilities which is not otherwise annexable pursuant to this section.

(8) A city shall not annex land that is outside its negotiated area of city impact and within another city's negotiated area of city impact unless expressly requested to do so by the property owner and consistent with the provisions of this section. The city seeking to annex must obtain the consent of a majority of the members of the city council of the affected city as discussed at a noticed public hearing consistent with section 67-6509, Idaho Code. Such permission shall not be arbitrarily denied if it is within the best interests of the public. The annexation shall be considered to be in the best interests of the public when the city and/or property owner(s) seeking annexation can demonstrate the following:

(a) that the manner and cost of providing tax supported municipal services to the lands proposed to be included in the annexation are more timely, more efficient and/or less expensive in the city seeking annexation;

(b) the annexation will not cause a negative fiscal impact on affected service providers, including but not limited to sewer, water, fire protection, schools, libraries, irrigation, drainage, and police and/or sheriff;

(c) the annexation boundary relates to easily identifiable physical boundaries, including but not limited to rivers, creeks, lakes, irrigation facilities, highways, roads, and/or natural contours such as bluffs or ridges; and

(d) the annexation avoids abnormally irregular boundaries.
Upon consent of the affected city council, the city seeking annexation may process the annexation request of the property owner.

Any concurrent or subsequent development plan shall be consistent with the applicable comprehensive plan and adopting ordinances of the affected city as agreed to in the area of city impact agreement of section 67-6526, Idaho Code.

(9) A city shall not annex land that is outside its negotiated area of city impact and NOT within another city's negotiated area of city impact unless expressly requested to do so by the property owner and consistent with the provisions of this section. The city seeking to annex must obtain the consent of a majority of the members of the county commissioners as discussed at a noticed public hearing consistent with section 67-6509, Idaho Code. Such permission shall not be arbitrarily denied if it is within the best interests of the public. The annexation shall be considered to be in the best interests of the

public when the city and/or property owner(s) seeking annexation can demonstrate the following:

(a) that the manner and cost of providing tax supported municipal services to the lands proposed to be included in the annexation are timely and efficient;

(b) the city has planned urban land uses and the supporting services for the area, and the annexation will not cause a negative fiscal impact on affected service providers, including but not limited to sewer, water, fire protection, schools, libraries, irrigation, drainage, and police and/or sheriff;

(c) the annexation boundary relates to easily identifiable physical boundaries, including but not limited to rivers, creeks, lakes, irrigation facilities, highways, roads, and/or natural contours such as bluffs or ridges; and

(d) the annexation avoids abnormally irregular boundaries. Upon consent of the county commissioners, the city seeking annexation may process the annexation request of the property owner.