

**OFFICE OF LES BOCK**  
5960 N. Willowdale Lane  
Garden City, Idaho 83714

September 30, 2025

HAND DELIVERED

Charles I. Wadams  
Garden City Attorney  
6015 N. Glenwood Street  
Garden City, ID. 83714

Re: Garden City Planning Services File No. DSRFY2025-0008 ("Application")

Dear Mr. Wadams:

The Application referenced above concerns a proposed multi-family development project ("Project") that was submitted to Garden City for design review with respect to Ada County Parcel No. S0525233602 (Bible College Parcel). The Project consists of a proposed 236 four story multi-family complex to be situated at 8647 and 8687 W. Marigold Street, Garden City, Ada County, Idaho.

This letter is a follow-up to my September 25, 2025, demand letter to you, which I hand delivered to your office on that same date. The purpose of this letter is to supplement my demand letter because I have been completing additional research into Garden City's zoning code actions after I purchased my property located at 5960 N. Willowdale Lane ("Residence") in 2010, and with respect to a "spot zoning" issue related to the Bible College Parcel.

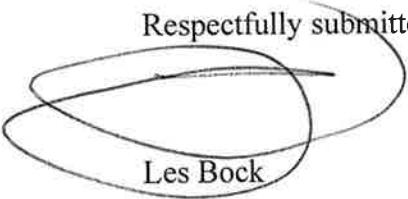
At the time that I purchased the Residence, it was my information and belief that the Bible College Parcel was zoned for single family residences. Given my understanding, I was quite shocked to receive a notice from Garden City Planning Services to the effect that the Bible College Parcel was to be developed to construct two four-story multi-family apartment buildings. I could only conclude that the Bible College Parcel had, in some way, been rezoned to allow for such a development inconsistent with the existing single-family residences surrounding the Bible College Parcel.

It follows that if the Bible College Parcel had been rezoned while I owned the Residence, I should have received some notice of the proposed action. Yet, during the entire period of my ownership, I never received any notice of any such rezoning, which would be required under Garden City's public notice requirements. (Note that my Residence is fewer than 300 feet from the Bible College Parcel.) Since I have never received notice of any rezoning actions during the period of my ownership, my rights of due process were violated. Any purported rezoning actions taken during my period of residency are void and of no force and effect.

Assuming for the sake of argument that, contrary to the above facts, that the Bible College Parcel had been rezoned to allow for two four-story apartment buildings, the applicant still faces other insurmountable obstacles for approval of the Application; namely, any such rezone would be "spot zoning." "Spot zoning" is a rezone that is not in compliance with a comprehensive plan. As I discussed in my September 25, 2025, demand letter, the Application does not, in fact, align with Garden City's Comprehensive Plan and cannot be approved. I continue to maintain that Garden City Planning Services should never have accepted it for filing.

As fully analyzed in the attached Givens Pursley law firm memorandum, dated April 27, 2023 (which is publicly available online), spot zoning is illegal if the zoning changes are not made in accordance with the Garden City Comprehensive Plan. Idaho Code § 67-6511. You may refer to my demand letter for an explanation as to why I have concluded that the Application does not align with the Garden City Comprehensive Plan.

Respectfully submitted,



Les Bock

cc: Garden City Planning Services  
Mayor John Evans  
Brian Ertz, Ertz Law PLLC

# GIVENS PURSLEY LLP

Attorneys and Counselors at Law

## MEMORANDUM

TO: David DiRienzo  
FROM: Jeffrey W. Bower  
RE: Sluder Road Tax Lot 122 Rezone  
DATE: April 27, 2023

### OVERVIEW

This Memorandum outlines the legal principle of “spot zoning” under Idaho law and analyzes whether the rezone of Blaine County tax parcels RP01N18023058A and RP005430000010 (collectively, the “**Property**”) from Heavy Industrial (“**HI**”) to Light Industrial (“**LI**”) (the “**Project**”) would constitute spot zoning. The conclusion of this Memorandum is the Project is not spot zoning because the proposed LI zoning is supported by the Blaine County comprehensive plan, including the land use map, and is generally consistent with the surrounding uses and zoning.

### OVERVIEW OF “SPOT ZONING” LAW

“A claim of ‘spot zoning’ is a claim a rezone is not in accord with the comprehensive plan.”<sup>1</sup> The case law in Idaho has developed to establish two types of spot zoning.

“Type one spot zoning may simply refer to a rezoning of property for a use prohibited by the original zoning classification. The test for whether such a zone reclassification is valid is whether the zone change is in accord with the comprehensive plan. Type two spot zoning refers to a zone change that singles out a parcel of land for use inconsistent with the permitted use in the rest of the zoning district for the benefit of an individual property owner. This latter type of spot zoning is invalid.”<sup>2</sup>

Idaho spot zoning case law aligns with the Idaho statutory requirement (LLUPA) that zoning changes be “in accordance” with a comprehensive plan.<sup>3</sup> Whether a zoning decision is “in accordance with” the comprehensive plan is a question of fact, which the courts may only overturn when the underlying facts are “clearly erroneous.”<sup>4</sup> Land use agencies are given wide latitude to determine whether zoning is in compliance with the applicable comprehensive plan and whether uses are generally consistent.

<sup>1</sup> *Evans v. Teton Cnty.*, 139 Idaho 71, 76, 73 P.3d 84, 89 (2003).

<sup>2</sup> *Neighbors for Pres. of Big & Little Creek Cnty. v. Bd. of Cnty. Comm’rs of Payette Cnty.*, 159 Idaho 182, 189, 358 P.3d 67, 74 (2015) (quoting *Evans v. Teton Cnty.*, at 76-77, 73 P.3d at 89-90).

<sup>3</sup> Idaho Code § 67-6511.

<sup>4</sup> *Evans*, 139 Idaho at 76.

The most recent spot zoning case decided by the Idaho Supreme Court is *Neighbors for Preservation of Big & Little Creek Community* from 2015.<sup>5</sup> In the *Neighbors* case, Payette County approved a rezone (agricultural to industrial) to accommodate a proposed nuclear facility.<sup>6</sup> Challengers argued the rezone constituted both type 1 and type 2 spot zoning. The court disagreed as to both.

On the type 1 claim, the Court stated: “The rezone was in compliance with the comprehensive plan’s designation of the land due to the amendment of the comprehensive plan to designate the property as Industrial. Because the rezone was in accord with the comprehensive plan, it was not impermissible type one spot zoning.”<sup>7</sup> On the type 2 claim, the Court found that the rezone was not impermissible because it was consistent with surrounding uses and zones and noted there were other industrial uses within five miles of the proposed nuclear facility and rezone site.

## SPOT ZONING ANALYSIS FOR THE PROJECT

### **A. The Project is not type 1 spot zoning because the rezone is in compliance with Blaine County’s comprehensive plan.**

Rezoning the Property from HI to LI is in compliance with the comprehensive plan. The land use designation of the Property under the County’s comprehensive plan is Industrial. The Comprehensive Plan Land Use Story Map provides that Industrial is the desired land use designation for land west of Highway 75.<sup>8</sup> The County’s land use matrix specifically states that LI zoning—as proposed by the Project—is proper within the Industrial designation on the land use map. Because the comprehensive plan expressly authorizes LI zoning on the Property, the approval of the Project would not constitute type 1 spot zoning. Attached as Exhibit A is the County’s land use matrix and a section of the County’s future land use map showing the Property is designated as Industrial.

### **B. The Project is not type 2 spot zoning because the rezone is consistent with the comprehensive plan and surrounding zoning and uses.**

The HI and LI zoning districts are inherently compatible, that is why the County’s zoning matrix expressly states both zones are permitted within land designated as Industrial on the future land use map. Put differently, it is expressly contemplated that HI and LI zones will be adjacent to each other. This alone would lead to a court concluding the Project would not constitute type 2 spot zoning. However, there are additional facts and circumstances further supporting the conclusion the Project would not constitute type 2 spot zoning because the LI zone is consistent with the zoning and uses in the area:

1. Uses surrounding and on the Property are uses either permitted or conditionally permitted in the LI Zone. These include a new trucking terminal directly between the two parcels that constitute the Property, the existing commercial nursery on parcel RP005430000010 is a

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<sup>5</sup> *Neighbors*, 159 Idaho 182, 184, 358 P.3d 67, 69 (2015).

<sup>6</sup> *Neighbors*, 159 Idaho 182, 184, 358 P.3d 67, 69 (2015).

<sup>7</sup> *Neighbors*, 159 Idaho 182, 189, 358 P.3d 67, 74 (2015).

<sup>8</sup> Blaine County Land Use Story Map available at

<https://storymaps.arcgis.com/stories/3dbbf1c245294231b2eb295045ee0f089>. Bellevue Triangle subarea.

permitted use in the LI zone<sup>9</sup>, and the storage yards to the south and west are also permitted in the zone.

2. Nearby there is other property zoned LI. Exhibit B shows a zoning map for the area. Exhibit B illustrates that parcel RP005430000010 is currently adjacent to property zoned LI and just a couple parcels to the north from parcel RP01N18023058A are parcels with LI zoning and uses.
3. The uses permitted and conditionally permitted in the HI and LI zone are not materially different and are all generally compatible.<sup>10</sup>

#### **CONCLUSION**

The Project's proposed LI zoning of the Property is neither type 1 or type 2 spot zoning because the rezone is in compliance with the comprehensive plan and the rezone would otherwise allow uses that are not inconsistent with the surrounding uses and zoning. The rezone at issue cannot be defined as spot zoning under Idaho law and the County's rezone decision is entitled to significant deference.

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<sup>9</sup> Blaine County Code § 9-15-2(F).

<sup>10</sup> Blaine County Code § 9-16-3 and Blaine County Code § 9-15-2.