

Wendy Carver-Herbert
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August 17, 2025

Garden City Planning & Zoning Commission
Jenah Thornborrow, Director
Planning and Development
City of Garden City
6015 N Glenwood St
Garden City, ID 83714

RE: ZONFY2025-0001

Dear Jenah,

I'm writing regarding the above referenced rezoning application. It has always been my position to submit comments after the Staff Report is made available to the public. Due to the complexity of land use planning matters, the Staff Report is the only clear record of exactly what is being proposed for final consideration by the recommending and decision making bodies. I respectfully request Planning and Zoning Commissioners allow this to be submitted into the record for consideration during the August 20, 2025 Planning and Zoning Commission meeting.

While I support the broader intent of this application to bring the zoning of identified areas into accordance with Garden City Comprehensive Plan, Adopted July 8, 2024 (*further known as the Comprehensive Plan*), I and many of the neighbors living south of Marigold and West of Glenwood Streets, are in strong opposition to how many of these properties are proposed to be rezoned.

First, we are opposed to the recommended rezone of properties currently zoned R-2 to the new R-M zoning district, as identified in the *Staff Report: Version 1, August 20, 2025, at page 9*.

Second, we are concerned not all properties currently zoned as R-3, located in the Medium Density designation of the Comprehensive Plan (*further known as Medium Density neighborhoods or Medium Density designation*) are included in the rezone to R-M, as identified in the *Staff Report: Version 1, August 20, 2025, at pages 11, 20 and 21*.

To put these objections into context, some of us have raised concerns with the City, since as early as 2019, when it was discovered the City had increased density (by 250%) and removed the height restriction for R-3 zoning as a part of a larger ordinance change in 2015 (*See Appendix 1*). Since that time, it has been our goal to bring the R-3 zoned properties into a more realistic vision of what medium density looks and feels like in the middle of a classically, low-density, residential area of the city.

R-2 Rezoning in Medium Density Neighborhoods (as identified in the *Staff Report: Version 1, August 20, 2025, at page 9*):

We understand Staff was directed by City Council to begin the process of bringing zoning for neighborhoods west of Glenwood into accordance with the Comprehensive Plan. The problem with Staff's recommendations is nearly all the properties currently zoned R-2 are already built

out at a density of six or fewer units per acre, and clearly meet R-2 zoning requirements. The majority of these properties also, are either governed by Home Owner's Associations, or they have been built within the past 20-25 years (some more recently). The possibility of them becoming blighted and ripe for redevelopment are far outside the typical 20-year planning window of a city's comprehensive plan. (*See Appendix 2*)

Due to the fact R-2 zoning is a lower intensity designation that does not exceed R-M zoning in density, height, uses, and is in accordance with the Comprehensive Plan's Medium Density designation, we did not contemplate the recommended upzone of the R-2 properties. To support our assumption, the Comprehensive Plan defines Medium Density as follows:

“Residential Medium Density: The residential medium density designation is shown for the areas north of Chinden and west of Glenwood. This designation allows for detached and attached dwelling units including duplexes and townhouses.” *Garden City Comprehensive Plan at page 35, emphasis added.*

If we would have ever considered the R-2 properties would be upzoned as a part of our ongoing work with city Staff and leadership, we would have first requested a Comprehensive Plan update to more accurately reflect how they are actually built out and will remain for the foreseeable future. For reasons stated above we did not feel this was necessary. More importantly, the greatest risk for infill development is currently in the R-3 zoned areas of our neighborhoods. Therefore, it was more expedient to move forward with the work that has brought us to this point today. Specifically, to support the creation of the new R-M zoning district and advocate for the rezone of R-3 properties to the new R-M designation.

The Willowbrook Estates Subdivision has quite adequately described the unintended consequences and undue burden and cost of the rezone, just to ensure their CC&Rs prevent the type of development or uses a rezone would allow. Unfortunately, Staff's recommendation to move forward with the rezone, but create development agreements seems impractical as these tend to be difficult to manage and administer over very long periods of time, particularly for property owners and HOAs. We also question whether there may be legal issues if the development agreement is not reached with each individual property owner versus the Willowbrook subdivision as a whole. Also, we reemphasize, not all properties in this area of focus are located within the Willowbrook subdivision, yet they are zoned R-2. These property owners may wish to retain the R-2 zoning on their properties. Willowbrook just happens to be the largest and most vocal participants in this process.

In our opinion, retaining the R-2 zoning designation is not spot zoning as long as all the properties currently zoned R-2 remain as R-2. They are all similarly situated; they do not exceed R-M zoning in density, height and uses; and they are in accordance with the Comprehensive Plan's Medium Density definition as outlined above. Just because the City is undertaking a rezone of R-3 properties to R-M does not mean spot zoning occurs if it does not rezone R-2 to R-M. Spot zoning is problematic when the City elects to rezone some properties from R-3 to R-M, while not rezoning all similarly situated R-3 properties to the same R-M zoning designation.

R-3 Rezoning in Medium Density Neighborhoods (as identified in the *Staff Report: Version 1, August 20, 2025, at pages 11, 20 and 21*);

As a result of the recent enactment of [Ordinance 1057-25](#) (Buffer's Ordinance), the R-3 zoning district was reclassified as a Mixed-Use District rather than a Residential District under Garden

City (GC) Code 8-2B-1A and B. (Also see *Staff Report: Version 1, August 20, 2025, at pages 27 and 28.*) This ordinance also expanded the permitted and conditional uses of R-3 zoning (now known as Mixed-Use Residential-R-3). With the creation of the new R-M zoning district for Medium Density neighborhoods, R-3 was intensified to encourage the type of development and uses in the Mixed-Use area of the City, as identified in the Comprehensive Plan (east of Glenwood, south of the Boise River). This is now problematic for the Medium Density neighborhoods since Staff did not recommend rezoning all R-3 zoned properties in our neighborhood to the new R-M zoning.

Staff has acknowledged the inadvertent omission of the Ruby neighborhood and provided reasoning for omitting the property known as the Boise Bible College. However, they did not recommend the rezone of a large swath of R-3 zoned properties just east of Garrett and south of Marigold Streets, as well as those bordering Chinden Blvd., as shown below.

South of River



Presumably, these properties – a mix of single-family, duplexes and townhomes – are not recommended for a zoning change because they fall within the Activity Node at Garrett and Chinden where higher density and intensity is encouraged and, to a certain extent, required. However, this Activity Node still falls within a Medium Density area – not a Mixed-Use area – of the Comprehensive Plan. The new R-M zoning district already accommodates a higher level of intensity with higher maximum and minimum density requirements for Activity Nodes under *GC Code 8-2B-1A* as noted below.

District	Maximum Density	Minimum Density	Typical Housing Types
Medium density residential (R-M)	15 du/acre except for in an activity node where the maximum density is 25 du/acre	14 du/acre in an activity node unless a mixed-use development or a successful obtainment of a conditional use permit	This zoning district is intended to implement the comprehensive plan's designation of medium density residential

It's been our long-standing position the intensity of R-3 zoning is not appropriate for our low and medium density neighborhoods. The changes to the R-3 zoning district as the result of Ordinance 1057-25 compound these concerns by allowing for more permitted and conditioned uses. The new R-M zoning actually provides for similar uses to what was previously allowed under R-3, which can adequately address the expectations of an Activity Node. Another fact of note is these properties are part of an integrated subdivision and street system known as Millstream Sub 1 and Millstream Sub 2, and none of these properties front to Chinden.

Boise Bible College:

We acknowledge the City's predicament regarding the Boise Bible College. However, we would like the record to reflect our objections to the exclusion of this property from the proposed rezone. After consulting with Brian Ertz, an attorney who has successfully represented Treasure Valley neighborhood associations at the Supreme Court level, foregoing rezone of this property to R-M, when other similarly situated properties are being rezoned to the same designation is due process deprivation under the spot zoning theory. (This applies to the due process of all property owners being rezoned, as well as those not being rezoned.) May the record also reflect this property unquestionably meets the criteria of R-M zoning as it resides in the Medium Density designated area; borders Low Density Residential neighborhoods to the north, as noted in the Comprehensive Plan; is not within an Activity Node, Transit Oriented Node or Neighborhood Destination; and fronts Marigold Street, which is not identified as a Main Street Corridor, nor does it meet the definition of a Green Boulevard Corridor.

In summary, failing to rezone all R-3 zoned properties within the Medium Density designated area to the new R-M residential zoning district is a failure to bring these properties into accordance with the Comprehensive Plan, disrupts neighborhoods and does nothing to alleviate unnecessary conflicts between property owners, which is a primary goal of a Comprehensive Plan. It also creates the potential for spot zoning claims.

While the majority of our comments focus on the proposed zoning changes affecting Medium Density neighborhoods, there is general support for the rezone of R-3 zoned properties to R-2 zoning in the Low Density Residential designated areas west of Glenwood Street. However, it may not be prudent to move forward with the rezone of those properties until the issues concerning the rezone of Medium Density neighborhood properties are more adequately resolved.

While we are in disagreement with some of Staff's recommendations, we appreciate their work in continuing to move forward with what has been a complex and (at times) confusing process that started in earnest more than a year ago. We recognize Staff's efforts as they have attempted to incorporate a great deal of our feedback. We just happen to be at a point where the proposed rezone falls short of what we envisioned and request the Commission and City leaders support where we hope it will end up.

We respectfully request the Planning & Zoning Commission take all of these comments and concerns into consideration as it formulates its recommendations for this application.

Sincerely,
Wendy Carver-Herbert

(Appendix to follow)

Appendix 1:

The motivation for pushing for the R-3 zoning changes in low and medium density neighborhoods dates back to the decision the city made in 2015 to amend a zoning ordinance, which significantly changed the allowed density and maximum height for these properties. There's anecdotal information these amendments were made to address the changing development pattern in the eastern part of the city (south of the river, east of Glenwood Street). With all the focus on addressing the planning and development needs and vision for the east end of the city, it continues to leave those of us in low-and medium-density neighborhoods west of Glenwood (particularly those south of the river) at risk of development that was never contemplated or intended.

By way of background, Idaho's Local Land Use Planning Act, and more specifically, Idaho Code §§ 67-6511(1) provides that, "zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan." [Emphasis added] On April 27, 2015, the Garden City Council adopted Ordinance 975-15. This included amendments to Garden City (GC) Code 8-2B-1, which, among other things, increased the allowable density in the R-3 base zoning district to 35 du/acre. This move increased the maximum allowed density by 250% from the previous maximum of 10 du/acre. This dramatic increase in medium density was not in accordance with the city's Comprehensive Plan in place at the time. In fact, the R-3 medium density change to 35 du/acre was much higher than what was described as high density residential in that Comprehensive Plan. The plan described, high-density residential as twenty-two units per acre in transit-oriented development zones, which was intended to be higher density areas of the city. *Garden City Comprehensive Plan, Adopted July 24, 2006, at p. 19.*

The April 2015 R-3 base zoning district amendment also totally removed maximum height restrictions for that zone under R-3 Base Zoning Form Standards GC Code 8-2B-3. To apply this standard to low and medium density neighborhoods, was not in accordance with the 2006 Comprehensive Plan. The plan vision was, "three and four-story, mixed use along Chinden Boulevard; three-story, mixed-use south of the Chinden Corridor; and no more than two stories closer to the river". *Garden City Comprehensive Plan, Adopted July 24, 2006, at p. 19.*

Additionally, The April 2015 ordinance amendment changed the definition for "Dwelling Unit, Multi-family" found under GC Code 8-7A-1, by deleting the word "townhouse" and adding the word "apartments." Once again, this amendment did not comport with the Residential Low OR Medium Density definitions in the 2006 Comprehensive Plan which were defined as follows:

"Residential Low Density: The areas designated for low density residential are north and south of the river, west of Glenwood. These areas are predominately single-family detached housing, although some areas of attached housing may be appropriate near major arterials and public facilities.

"Residential Medium Density: The residential medium density designation is shown for the areas north of Chinden and west of Glenwood. This designation allows for detached and attached dwelling units including duplexes and townhouses." *Garden City Comprehensive Plan, Adopted July 24, 2006, at p. 35.*

Please note, the plan did not list apartments or multi-family as options for these low- and medium-density residential areas of the city. It is also important to emphasize these definitions

remain virtually unchanged in the most recently updated Comprehensive Plan and remain the guiding vision for development in low and medium density neighborhoods. *Garden City Comprehensive Plan, Adopted July 8, 2024, p. 61*

Additionally, 10.4.3 of the current Comprehensive Plan states, future development should “Provide a transition in the height and scale of development compatible with the existing surrounding neighborhoods.” *Garden City Comprehensive Plan, Adopted July, 2024, p. 49*

Idaho Code §§ 67-6511(1)(a) authorizes governing boards to establish standards, “to regulate and restrict the height, number of stories, size, construction, reconstruction, alteration, repair or use of buildings and structures; percentage of lot occupancy, size of courts, yards, and open spaces; density of population; and the location and use of buildings and structures.” According to the Givens Pursley *Land Use Handbook*, “no Idaho court has invalidated a zoning ordinance for exceeding this grant of authority.” *Givens Pursley Land Use Handbook, 3/12/2024, p. 73*

The Findings of Fact and Conclusion of Law for the April 2015 ordinance amendments state a mailed notice was sent to mobile home park owners of record, even though it was not required. However, there is no indication that notice was sent to any other property owners impacted by any of the ordinance changes. More specifically, no other owners of R-3 zoned properties received notice. This selective noticing prevented property owners in these low and medium density neighborhoods from participating in the public process and may have violated their due process rights. At a minimum, it may have averted the challenges these neighborhoods face today.

A 2019 analysis and verbal survey of property owners adjacent to a proposed five-acre multi-family project on Strawberry Glenn Road, north of Marigold Street indicated nine out of 12 property owners owned their properties prior to the April 2015, R-3 zoning change. Yet none had any knowledge or meaningful input into that process because they were not notified. A current review of Ada County property records for properties adjacent to one of the largest tracts of R-3 zone property in the southeast part of the city shows that more than half (34 out of 46) owned their properties prior to the April 2015, R-3 zoning change.

Appendix 2:

Neither Idaho’s Local Land Use Planning Act, Garden City Development Code, or the Garden City Comprehensive Plan note the expected period of time a Comprehensive Plan envisions. However, a quick search of Google.ai for other Idaho cities indicates a future look of 10 to 20 years, but some are more forward future looking. However, it appears those with longer planning periods are cities with massive, undeveloped land and areas of impact where longer planning periods maybe more appropriate. Garden City is not in that position due to its “land locked” location and more limited areas of impact. In these cases, it is recommended updates should be considered more regularly, such as every five to 10 years to reflect changing conditions and community values.