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**Attorney for Interested and Affected Property Owners**

BEFORE THE CARDEN CITY COUNCIL  
GARDEN CITY, ADA COUNTY, IDAHO

In the Matter of:

Design Review  
585 N. Glenwood St. & 797 W.  
Marigold St.  
Garden City, Ada County, Idaho

DSRFY2023-0010

**MOTION FOR RECONSIDERATION**

(I.C. § 67-6535)

The undersigned, representing interest and affected residential and business property owners as defined by Idaho Code § 67-6521, respectfully moves this Council to reconsider the Findings of Fact, Conclusions of Law, and Decision made on August 12, 2024, concerning DSRFY2023-0010. The motion to reconsider is made pursuant to the applicable Idaho Code, Garden City Code, and is based on the grounds outlined below.

**I. INTRODUCTION**

The application in dispute was submitted for the construction of a new high density multi-family seven story structure. The property is located in the C-2 General Commercial zoning district and is part of the Activity Node: Neighborhood Destination, the Green Boulevard Corridor, and the Residential Medium Density Future Planning Areas of the Garden City Comprehensive Plan Land Use Designation.

The design went through several consultations, including on November 6, 2023, January 16, 2024, and May 20, 2024. Each consultation involved feedback from the Design Consultants and the City's planning staff, focusing on issues like building interaction with the surrounding streets, traffic impact studies, and the compatibility of the design with the neighborhood.

The project has received significant public involvement, with many written objections from local residents expressing concerns, particularly about traffic, the size of the project, and its negative impact on the surrounding neighborhoods.

## II. SUMMARY OF GROUNDS FOR RECONSIDERATION

1) **Error in Factual Findings:** The decision was made based on the factual finding that the proposed development does not create an adverse impact on the surrounding neighborhood. However, there was insufficient consideration of the public testimony and written comments that raised significant concerns regarding traffic, safety, noise, and the overall scale of the development. These concerns warrant further investigation and discussion.

There is an adjacent single level residential subdivision directly to the west of this project. This project would see a seven-story increase in the height disparity between two adjoining properties. The change in land use requested by this project will dramatically diminish the value of these single-story residential homes. It will be all but impossible for the current owners to use their back yards once this building goes up. The adjoining residential properties will also decrease in monetary value and will be significantly harder to sell in the future with a monstrous seven-story high density building directly behind them.

With the addition of 229 residential units will come a significant increase in traffic in the area. Where there was once a steady flow of commercial single visitors to purchase vittles, there will now be residents coming and going from the property throughout the day. The traffic study provided lacked

sufficient data and analysis to address this substantial increase in use of the local roads and changes to traffic patterns. While the City Council made admirable attempts to address this issue, the proposed “right in, right out” limitation to just Glenwood will likely have unintended consequences that have not been properly explored or addressed.

It appears from the design proposal that this project is attempting to use an adjacent property to comply with the required fire access lane and turn around. There is no record of the Assistance League agreeing to this and anything short of a stipulation for use is an imposition tantamount to a government taking. Furthermore, the designation of the alley on the Assistance League property as a fire lane for the project would improperly appropriate another’s land and it would create serious concerns regarding traffic and safety. The Assistance League property would become the de facto overflow or visitor parking lot for the apartment building, or it would turn into another access point WITHOUT prior consent or agreement.

- 2) **New Evidence:** New evidence is needed regarding traffic studies, fire lane access, and adverse affects on adjoining property values; All of which will have a material impact on the Council’s determination.
- 3) **Misapplication of Law:** The application of Garden City Code, specifically related to compatibility with the neighborhood in scale and intensity, may have been misapplied. The decision to approve the development did not fully align with the intent of the Comprehensive Plan, which emphasizes the preservation of neighborhood character and the prevention of over-intensification of land use. While there may not be an explicit restriction on the height of a project under current zoning conventions, Idaho Code and the City Comprehensive Plant do not automatically allow projects of any height to be built. Continuity and compatibility are not just aspirational statements. They are a requirement listed in Idaho State Law and are controlling in all aspects of City planning regardless of

current zoning designations. Under no circumstances is this project compatible with the local commercial buildings or residential subdivision directly adjacent to the property. Garden City Comprehensive Plan has a header at the top of the page that states: "Comprehensive Plan Elements Required by the Local Land Use Planning Act (Section 67-6508 of the Idaho State Code)". Therefore, compliance with Idaho Code Section 67-6508 is an integral and acknowledged part of the Garden City Comprehensive Plan. The City Attorney indicated at the public hearing of August 12, 2024, that this was not applicable for a design review hearing as it addresses planning and zoning. However, the design of any project must comply with the requirements of the zone in which it is to be built and the City has a duty to ensure that its zoning designations comply with Idaho law. They are inseparable and the Council must consider the appropriateness of the project with that in mind. If the project complies with the zoning requirements but violates Idaho Code, then either the project is inappropriate, or the zoning designation must be reworked to comply with Idaho law. The Council cannot blindly rely on a faulty City Ordinance or zoning designation when making a decision regarding whether a project design should move forward.

As directed by Idaho State Code 67-6508, the City must conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereinafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board." (i.e. the City Council) "The plan shall consider... compatibility of land uses," and "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 ensure 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..." The City Council inappropriately indicated that their

hands were tied as the current zoning allowed for this type of structure. This is both baffling and wrong. The Council has the full authority to deny this project as violating both City and State law. They also have the authority to amend, alter, and change the zoning designations through the normal course of City governance. They ultimately have responsibility for all aspects of City governance and therefore cannot be limited in the manner they erroneously indicated.

Garden City has listed several goals as part of its land use plan. In particular: Goal 2. Improve the City Image: “2.1.1 Amend the Land Use Code to adopt new neighborhood provisions for development including: Context and connectivity with the surrounding neighborhood.” The approval of this project would allow a building to rise without context or connectivity to any other buildings for miles. This project would stick out like a sore thumb and create an eye sore in the community.

4) **Public Interest:** Given the significant public opposition to the project, as evidenced by the volume and substance of the comments received, it is in the public interest to reconsider the decision. The potential impact on the quality of life for nearby residents and the broader community needs further evaluation.

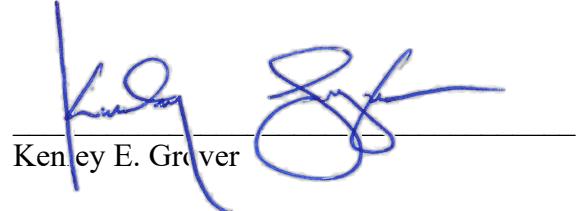
5) **Supporting Details and Analysis:** Attached hereto as Exhibit A is a more detailed breakdown of the recent Findings of Fact, Conclusions of Law and Decision and the areas warranting reconsideration.

A copy of the letter that was mailed through Certified Mail, Return Receipt Requested, to Mayor John Evans and Garden City Council on August 5<sup>th</sup>, 2024, is attached hereto as Exhibit C. The letter was confirmed received on August 8, 2024.

### III. PRAYER FOR RELIEF

- 6) Reconsider the Findings of Fact, Conclusions of Law, and Decision made on August 12, 2024, regarding DSRFY2023-0010.
- 7) Reopen the record to allow for the introduction of new evidence, particularly concerning traffic impact, adverse affect on adjacent properties, and neighborhood compatibility.
- 8) Re-evaluate the conditions of approval, including but not limited to traffic mitigation measures, building scale, and compatibility with the existing neighborhood.
- 9) Provide a thorough and reasoned statement addressing all public concerns raised during the initial hearing.

DATED: August 23, 2024



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Keney E. Grover

# Exhibit A

## EXHIBIT A

Subject: Opposition to DSRFY2023-0010 Proposed Development at Marigold and Glenwood Streets Garden City, ID 83714 approved by Garden City Council by Findings of Fact, Conclusions of Law, and Decision dated August 12, 2024

The factual errors, misapplication of law, or failure to consider public interest are referenced below by specific page and paragraph number of the Findings of Fact, Conclusions of Law, and Decision dated August 12, 2024 (hereinafter referred to as the Decision dated August 12, 2024):

**Page 2 paragraph 13.** The sentence that reads: "The following plans and policies apply to this proposal" omitted what should have been included as letter d. Idaho State Code Title 67 Chapter 65 paragraph 6508.

Material fact omitted: Page 70 of the Garden City Comprehensive Plan has a header at the top of the page that states: "Comprehensive Plan Elements Required by the Local Land Use Planning Act (Section 67-6508 of the Idaho State Code)". Therefore, compliance with Idaho Code 67-6508 is an integral and acknowledged part of the Garden City Comprehensive Plan, however, it was not included under page 2 paragraph 13 of the Decision dated August 12, 2024, and therefore was omitted with respect to the mandates required by Idaho law.

Idaho Code Title 67 Chapter 65 under Local Land Use Planning paragraph 6508 directs cities, through their planning and zoning commission, to develop a comprehensive plan. It specifically states:

"It shall be the duty of the planning and zoning commission to conduct a comprehensive planning process designed to prepare, implement, and review and update a comprehensive plan, hereinafter referred to as the plan. The plan shall include all land within the jurisdiction of the governing board." (i.e. the city council) "The plan shall consider... compatibility of land uses," and "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 ensure 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..."

**Page 3, paragraph 17.** The sentence that reads: "Written public comments were received from:" is misleading because this sentence does not clarify that all written public comments received by Garden City were in opposition to this project.

Material fact omitted: Therefore, by this omission, the Decision dated August 12, 2024, is non-compliant with Garden City Comprehensive Plan Section Goal 8 Section 8.2.1. which reads "One City-One Team approach that brings together city officials and staff in partnership with the public." The Decision dated August 12, 2024, did not adequately recognize public opposition comments and therefore, the City did not sufficiently recognize or consider public interest in

operating in partnership with the public in a "One City-One Team approach that brings together city officials and staff in partnership with the public."

**Page 6 paragraph 22.** Item h. ii. The item that reads "Obligations to uphold the code" is non-compliant because the mandates of Idaho Code 67-6508 have not been considered:

Material fact omitted: By the omission of Idaho Code Title 67 Chapter 65 par 6508 as referenced under page 2 paragraph 13 above, the Decision dated August 12, 2024 does not consider the provisions mandated by Idaho State Code 67-6508 as prevailing mandates which the City Attorney, during the Public Hearing of August 12, 2024 recognized as State Code superseding Garden City Code, therefore by this material omission DSRFY2023-001 is non-compliant.

**Page 6, paragraph 22.** Item h. ix. The item that reads "Compatibility with the neighborhood" is non-compliant because it does not follow the mandate of Idaho Code 67-6508 which directs cities to have comprehensive plans that "shall consider compatibility of land uses"

Material fact omitted: A seven-story apartment complex immediately adjacent to single story commercial and residential buildings clearly does not "consider compatibility of land uses" and is therefore in conflict with Idaho Code. During the Public Hearing of August 12, 2024, when asked by one of the city council members what code supersedes other codes, the city attorney stated that State Code would supersede City or Local code. While the land may have been zoned C-2 which technically does not limit the height of a building, this project does not comply with Idaho Code or the City plan in its scale and density.

**Page 6, paragraph 22.** Item xi. The item that reads "Size of project" is non-compliant because the proposed project location would put a seven story 229-unit structure with a swimming pool and large onsite parking lot immediately adjacent to single story business and residential structures which would overwhelmingly dwarf the existing buildings with a looming totally incompatible structure.

Material fact omitted. Another point to consider in opposition to DSRFY2023-0010 is the letter written by architect Don W. Caskey FAIA to the Mayor and Council dated October 24, 2023, written on behalf of Garden City residents Darren Caskey and Ron Voigt who live at 8979 W. Beckton Lane in Garden City. That is, with Don Caskey's considerable experience in buildings design, as cited in his curriculum vitae submitted with his letter in opposition to DSRFY2023-0010, Mr. Caskey can be considered to be an expert. Therefore, the opinion expressed in his letter stating:

"The scale and massing of this project is totally incompatible with the surrounding community." should be considered as expert testimony. That professional assessment, when supported by Idaho Code at Section 67-6508, which directs cities' comprehensive plans to "consider... compatibility of land uses", must be recognized as a compliance directive in following this provision of Idaho Code, which this project does not meet.

**Page 6. Paragraph 23.** Item e. The section that reads "The record contains Design Review Consultation Staff Reports" is misleading because it does recognize that at page 19 section 8-41-5 of the Design Review Pending Report dated August 12, 2024, still in pending status as of that date, the report component of Perimeter Landscaping Provisions is listed as "Not compliant".

Material fact omitted: Section 8-41-5 of the Design Review Pending Report dated August 12, 2024, is still Not-compliant" and states "North Ada County Fire and Rescue has stated that the southern property boundary line is only allowed to have small bushes and shrubs due to the fire truck access via the fire lane on the adjacent property. In this instance there are two conflicting codes, the city's and the fire department's. Additionally, the alleyway being utilized as the fire lane **IS NOT** on the subject property. The fire lane is on the adjacent Boise Assistance League's property to which there have been objections from the business (see public comments)." Public comments refer to a letter from the Assistance League president to the Mayor and Council dated August 4, 2024, in which she expresses concern about using the Assistance League's alleyway as a fire lane by her sentence on page 1 of her letter that states: "1. In the Resubmittal documents dated June 6, 2024, the proposed design has identified our alley as their southern border fire lane..." and goes on to state: "Although we do not park in our alley, it is used for many deliveries of clothing and school supplies as well as donor goods picked up by the Mission and Deseret Industries." On page 1 item 2 of her letter, she states: "To prevent apartment residents or their guests from parking in our lot, we would need to install our own fence on the current border, thus limiting access to our alley for use as a fire lane. Our parking area needs to be kept clear for our volunteer parking as well as access for the school buses to drop off and pick up the students." Obviously, by the Assistance League president's letter, there are unresolved issues related to fire department access to the proposed project site. This issue remains non-compliant on the Design Review Pending Report dated August 12, 2024, and until this issue is resolved, the Design Review Process cannot be completed.

Therefore, unless and until the Fire Department access route and turnaround area is resolved, this not-compliant design review element cannot be ruled compliant. Since this issue is still to be determined, the Assistance League of Boise has retained the services of local counsel to further object to this project and file their own Motion to Reconsider. With an issue as important as fire department access, a LIFE SAFETY ISSUE, still non-compliant on the Design Review Pending Report dated August 12, 2024, there is no choice but to deny this project. Attached hereto as Exhibit B are pages 19 and 20 of the Garden City Design Review Report and Decision, DSRFY2023-0010, from August 12, 2024, highlighting the related section.

**Page 7 Finding 1.** The sentence that reads "the proposed design shall comply with all design standards in Garden City Code, Title 8" - is a misapplication of Garden City Code because it cites Finding 1. as compliant and then goes on to state: "with the exception of 8-41-5 Perimeter Landscaping Provisions which is conflict with fire code. For the review of this application deference was given to the fire code."

Material fact omitted: The Design Review Pending Report dated August 12, 2024, states section 8-41-5 Perimeter Landscaping Provisions as non-compliant. This is the same section referenced in Page 6. Paragraph 23. Item e. above and is, in fact, a NON-COMPLIANT LIFE SAFETY ISSUE because fire department access to the project site has still not been resolved. With an issue as important as fire department access, a LIFE SAFETY ISSUE, still non-compliant on the Design Review Pending Report dated August 12, 2024, there is no choice but to deny this project.

**Page 8 Finding 4.** The section that reads: "The proposed design shall be compatible with the neighborhood in scale and intensity" is a misapplication of law because it inappropriately relies on a blanket zoning of C-2 and completely ignores the vision contained in the City's Comprehensive

Plan and most importantly disregards the directive in Idaho Code 67-6508 which clearly states: "the plan shall consider compatibility of land uses..."

Material fact omitted: Idaho Code was clearly not acknowledged or followed in this misapplication of law because a seven-story apartment complex immediately adjacent to single story commercial and residential buildings clearly does not "consider compatibility of land uses" and is therefore in conflict with State law. During the Public Hearing of August 12, 2024, when asked by one of the city council members what code supersedes other codes, the city attorney stated that State Code would supersede City or Local code, therefore Idaho Code 67-6508 should prevail in finding DSRFY2023-0010 non-compliant. Another main issue when considering compatibility is the strain this project will place on local roadways. The Council made an attempt to address this issue by recommending that the project only have one point of access on Glenwood as 'right in, right out.' This was based on a review of an extremely limited traffic study that does not address the impact on Marigold or what traffic patterns would change to if 229 residents could only access the property in such a limited fashion. Finally, the word compatibility denotes similarity. This project could not be more dissimilar to all adjacent land uses. There is not a high-density residential building in the near vicinity of this project. The north and south neighbors are single story commercial buildings. To the west are single story patio homes. This project is asking to make a seven-story leap in land use. While looking to Garden City's future, tall buildings will inevitably be built. However, it is unconscionable to force this giant of a building into a place it doesn't belong.

**Page 8 Finding 4.** The section that reads: "The use of a high density residential multi-family development, and its proposed structural design is cohesive with the adjacent uses" is a misapplication of law because a seven story grandiose structure immediately adjacent to single story commercial structures to the north and south of the proposed project site, and immediately adjacent to single story residential structures to the west of the proposed project site is totally incongruent to an acceptable continuity of land uses.

Material fact omitted: Architect Don W. Caskey in his letter to the Mayor and Council dated October 24, 2023, in opposition to this project stated: "The scale and massing of this project is totally incompatible with the surrounding community." An architect with Mr. Caskey's experience and expertise in buildings design, as verified by his curriculum vitae submitted with his letter of opposition to this project, should be considered as an expert and his assessment followed in the application of Idaho Code 67-6508 which mandates cities to develop comprehensive plans that: "shall consider compatibility of land uses".

This project will adversely impact property values for adjacent homeowners – especially for Westminster and Penny Lane Subdivision homeowners who will have this seven-story structure looming over their backyards. Who would want to live in a home with this seven-story oversized structure looming over their backyards. It will diminish the value of these homes and make them significantly harder to sell in the future.

Any existing single-story property which is immediately adjacent to a seven-story structure looming over it would obviously fall under paragraph (a) of Idaho Code 67-6508 as cited above relative to legislative intent to "ensure that land use policies...do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property.", therefore DSRFY2023-0010 is also in conflict with paragraph (a) Property rights per Idaho Code and Idaho Code should again prevail in finding DSRFY2023-0010 non-compliant. Page 8 Finding 4 should therefore be ruled non-compliant in its entirety.

**Page 8 Finding 5.** The sentence that reads: “The proposed design shall not create an adverse impact of the surrounding neighborhood” is a misapplication of law because it does not consider the mandate of Idaho Code 67-6508 at paragraph (a) which directs cities to develop comprehensive plans that: “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 ensure 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..."

Material fact omitted: A quick statistical summary must be considered with regard to attendance at the Public Hearing of August 12, 2024 and those opposed to the project and that is, with approximately 50 people in attendance, not including the Mayor, Council, and city staff, when asked during the comment period, who was in opposition to DSRFY2023-0010 by show of raise of hands, almost all present raised a hand opposed to the project. The only people who were in favor of the project were 3 council members, the Mayor, and the project representative, or a total of 5 people, Five as a percent of 50 is 10%, therefore in this statistical sampling 90% were opposed to this project. With this overwhelming percentage opposed to this project, Goal 8 Section 8.2.1. of the Garden City Comprehensive Plan should be applied as evidence of Garden City not operating in partnership with the public in a "One City-One Team approach that brings together city officials and staff in partnership with the public."

This failure to consider public interest as required by Garden City Comprehensive Plan Section 8.2.1. with 90% of the public who were present at the August 12, 2024, Public Hearing showing opposition to this project, demonstrates non-compliance with their own comprehensive plan.

As mentioned above, the traffic issues that this project would generate would adversely affect the local residents and create technical limitations on their use of their properties. Furthermore, the diminished property values of those homes next to this project were never noted or considered by the Council. An example of this type of issue was specifically brought up during public comments where another city approved a similar project that diminished the adjacent home values to the point where nothing was able to be built around it and it remains an eye sore to this day. The above oversights warrant reconsideration and Page 8 Finding 5 should therefore be ruled non-compliant in its entirety.

**Page 8 Finding 6.** The question reads: The proposed architecture and site improvements shall have facades, features, materials and building form, and other physical improvements that are compatible with or enhance the neighborhood.

Material fact omitted: While the design of the exterior of the building is comparable to other contemporary projects in Boise, the form of the building is not compatible with the neighborhood.

**Page 10 CONCLUSIONS OF LAW:** The sentence that reads “The Garden City Council reviewed the application with regard to Garden City Code Title 8, Chapter 4, and based on the

conditions required therein, concludes the application meets the standards of approval under GCC 8-6-B-3 Design Review."

Material fact omitted: This sentence does not acknowledge the fact that Section 8-41-5 of the Design Review Pending Report dated August 12, 2024, is still non-compliant because the fire department access issue has not yet been resolved, nor has the fire truck turn around issue been resolved. Page 10 item 3 under Conditions of Approval / Prior to Building Permit states: "Verification shall be provided to the city that the Fire Department approval includes the possibility of a fence at the southern property line." However the possibility of a fence raises a range of other questions such as: if a fence is installed at the southern property line, with a narrow alleyway as the only fire truck access route identified so far, will a fence impede fire truck access even more and will a fence blocking access to the Assistance League parking lot, as the Assistance League president has suggested in her letter dated August 4, 2024 to the Mayor and Council, eliminate the preferred fire truck turnaround location? With these LIFE SAFETY ISSUES of fire department access and turnaround still unresolved, the only reasonable decision is to deem the project non-compliant.

**Page 10 DECISION:** states "Based on the foregoing Findings of Fact and Conclusions of Law contained herein, the Garden City Council hereby APPROVES the application subject to the following conditions." is a misapplication of law because with the PREPONDERANCE OF EVIDENCE as presented in this Motion to Reconsider, and the City Attorney's statement at the Public Hearing of August 12, 2024 that Idaho State Code supersedes Garden City Code, only a decision of non-compliance is permitted with proper application of law.

There is additional confusion by Kittleson & Associates relative to their traffic study report dated November 27, 2023, because a scoping email from Lauren Nuxoll of Kittleson & Associates to Saran Beker of ITD dated November 3, 2023, states: "This is an infill development that will be replacing the current thrift shop and the office of the Assistance League." Terry Loofbourrow, President of the Assistance League of Boise has objected to this project and an employee of the Assistance League testified at the Public Hearing on August 12, 2024, and her testimony did not indicate that any of the Assistance League buildings were to be replaced by this project. However, this sentence from the Lauren Nuxoll email to Sarah Becker dated November 3, 2023, raised a concern that Terry Loofbourrow referred to in the second page of her letter to the Mayor and Council dated August 4, 2024. This issue must also be viewed within the scope and legislative intent of Idaho Code 67-6508 which states:

(a) Property rights - An analysis of provisions which may be necessary to ensure 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..."

If Kittleson & Associates is operating with the erroneous assumption that: "This is an infill development that will be replacing the current thrift shop and the office of the Assistance League.", that erroneous assumption must be corrected to assure an accurate and valid traffic study.

During the Public Hearing of August 12, 2024, the Mayor unequivocally stated that whatever decision is made relative to DSRFY2023-0010, must be based on following the code, therefore, the only decision that can be made based on clearly stated law at Idaho Code Section 67-6508, and the application thereof as stated in this Motion to Reconsider, is a determination of noncompliance of DSRFY2023-0010.

My letter to the Mayor and Council dated August 5, 2024, in opposition to Project DSRFY2023-0010, was received on behalf of the Mayor's office on August 8, 2024, as verified by the return receipt form signed by Angel Goss dated 8-8-24, however this letter was not included with the Mayor and Council's packet for the August 12, 2024 Public Hearing even though there would have been 3 business days from August 8 to August 12 to include this letter in the packet. Therefore, the Mayor and Council did not have the benefit of critical information relative to Idaho Code Section 67-6508 as cited in the letter, which would have enabled the Mayor and City Council to make a better informed decision whether to approve or deny Project DSRFY2023-0010. Because the letter to the Mayor and Council in opposition to Project DSRFY2023-0010 was not included in the packet for the Mayor and Council review during the Public Hearing of August 12, 2024, it is included with this Motion to Reconsider to assure that this critical information is available for their review at this time.

Therefore, the only decision that can be made considering dominance by the Idaho Code, and application of the Garden City Comprehensive Plan at Goal 8 Section 8.2.1., is a determination of non-compliance of Project DSRFY2023-0010.

Thank you for working in partnership as One City-One Team in the best interest of all residents of Garden City.

# Exhibit B

<b>8-4I Landscaping and Tree Protection Provisions</b>		
<a href="#"><u>8-4I-3 General Landscaping Standards and Irrigation Provisions</u></a>	May not be compliant	<p>Not enough information to review.</p>
<a href="#"><u>8-4I-4 Landscaping Provisions for Specific Uses</u></a>	No compliance issues noted	<p><b>A minimum of five percent (5%) of the gross site area shall be landscaped areas, excluding areas for setback or perimeter landscaping.</b>          Landscape required: 7,645sqft          Landscaping provided: 23,760sqft</p> <p><b>A minimum of one class III or class II tree shall be planted in the frontage and every adjacent streetside. An additional class I tree shall be planted in the corresponding setback for every increment of fifty feet (50') of linear feet of frontage.</b>  <u>Glenwood Frontage (150LF):</u>          Trees Required: 4 Class II or III trees          Trees Provided: 4 Class II</p> <p><u>Marigold Frontage (115LF):</u>          Trees Required: 3 Class II or III trees          Trees Provided: 3 Class II</p> <p><b>A minimum of one tree per one thousand (1,000) square feet of landscaped area and one shrub per one hundred fifty (150) square feet of landscaped area shall be planted.</b>          24 trees and 158 shrubs required and provided.</p>
<a href="#"><u>8-4I-5 Perimeter Landscaping Provisions</u></a>	Not compliant	<p>Perimeter landscaping is required along the common property line between an adjacent nonresidential use and a residential use. Perimeter landscaping is required and provided along all property boundary lines except for those fronting a street.</p> <p><b>There is less than 5' perimeter landscaping along the eastern property boundary line, and it only contains grasses/shrubs. This is not code compliant.</b></p> <p><b>A perimeter landscaping area shall be at least ten feet (10') wide measured from the property line to the interior of the lot.</b></p> <p><b>A screen consisting of vegetation shall be at least six feet (6') wide and six feet (6') in height at maturity.</b></p> <p><b>At least one tree shall be planted for every fifteen (15) linear feet of perimeter length (or as appropriate to the selected species) to quickly establish continuous canopy coverage.</b></p> <p><b>Historically the city has allowed for a 5' wide perimeter landscape buffer so long as all standards are met. This is allowed when the adjacent site has the potential to redevelop in the near future.</b></p> <p><b>North Ada County Fire and Rescue has stated that the southern property boundary line is only allowed to have small bushes and shrubs due to the fire truck access via the fire land on the adjacent property. In this instance, there are two conflicting codes, the city's and the fire department's.</b></p>

		<p>Additionally, the alleyway being utilized as the fire lane is not on the subject property. The fire lane is on the adjacent Boise Assistance League's property to which there have been objections from the business. (See public comments).</p>
<a href="#">8-4I-6 Parking Lot Landscaping Provisions</a>	No compliance issues noted	Parking lot landscaping appears compliant.
<a href="#">8-4I-7 Tree Preservation Provisions</a>	Compliant as conditioned	Arborist report not submitted for review. Trees are proposed to be removed. Arborist report required. A condition has been drafted to ensure an arborist report is submitted for review prior to removal of trees.
<b>8-4L Open Space Provisions</b>		
<a href="#">8-4L-3 General Open Space Standards</a>	No compliance issues noted	<p>Areas of the site consist of mature landscaping, trees, and natural features.</p> <p>The common open space area provides connectivity with other open areas, and public spaces within and off the site.</p> <p>The common open space area is located and designed to serve a passive or recreational function.</p>
<a href="#">8-4L-5 Open Space Standards for Multi-family Developments</a>	No compliance issues noted	<p>A minimum of eighty (80) square feet of private, usable open space shall be provided for each unit.</p> <p><b>Each dwelling unit has at least an 80sqft private balcony.</b></p> <p>For any new multi-family development: A minimum area of outdoor common open space shall be provided as follows:</p> <ul style="list-style-type: none"> <li>- Two hundred fifty (250) square feet for each unit containing more than five hundred (500) square feet and up to one thousand two hundred (1,200) square feet of living area.</li> </ul> <p><b>Required: 229du x 250 = 57,250sqft</b>  <b>Provided: 57,440sqft</b></p> <p><i>*There are discrepancies between the provided open space exhibit and the architectural site plan sheet A100. Staff use the architectural plans for reference, both sheets meet compliance.</i></p>
<b>Title 8, Chapter 6, Article A: Administration</b>		
<a href="#">8-6A-3 General Application Process</a>	N/A	<p>The application was reviewed and considered complete within 30 days of submittal, a notice of application acceptance was issued to the applicant, and staff started processing the application.</p> <p>There have been denials of an application in substantially the same form for the same use, within one (1) year.</p>
<a href="#">8-6A-4 Required Application Information</a>	PO	<p>Application waivers requested pursuant to 8-6A-4A:</p> <ul style="list-style-type: none"> <li>- Lighting Plan</li> <li>- Ability to Serve</li> <li>- Sustainability Checklist</li> <li>- Ada County approved addresses</li> </ul>
<a href="#">8-6A-5 Administrative Process with Notice</a>	Compliant upon approval	<p>A notice of intent was sent to adjoining property owners within 300' and agencies with jurisdiction.</p> <p>If no objections are filed within 15 days, the Planning Official's decision shall be considered final.</p>

# Exhibit C

# LERMA GROVER LAW



El Dorado Business Campus  
3045 E. Copper Point Drive  
Meridian, Idaho 83642

Mailing Address:  
P.O. Box 190719  
Boise, Idaho 83719

John J. Lerma  
Kenley E. Grover

Representation Throughout Idaho

August 5, 2024

Mayor John Evans and Garden City Council  
6015 Glenwood Street  
Garden City, ID 83714

Re: Opposition to DSRFY2023-0010 Proposed Development at Marigold and Glenwood

Dear Mayor and Council members:

This letter is written on behalf of some of the residents of the Willowbrook Subdivision located off Coffey Street in Garden City. They are located just one block west of the proposed seven story 229 unit apartment complex designated by Garden City Development Services as DSRFY2023-0010. All residents of Willowbrook have “standing” with regard to opposition to this proposed development because they would be directly affected by the significant increase in traffic congestion at the corner of Marigold and Glenwood Streets if DSRFY2023-0010 were to be approved. Therefore, this letter is written on behalf of Willowbrook residents to **vehemently object to the proposed seven story 229 unit residential structure at the corner of Marigold and Glenwood Streets in Garden City.** This proposed structure is incompatible with the surrounding neighborhood and businesses. Furthermore, this project falls well outside the parameters of the Comprehensive Plan of Garden City. There are 231 single story homes in the Willowbrook subdivision, which represents a significant number of residents to be affected by the proposed seven story high rise project at the corner of Marigold and Glenwood streets

Specific reasons for objection to this proposed structure are:

- 1) It will significantly increase traffic congestion at the corner of Marigold and Glenwood Streets.
- 2) It will forever negatively alter the esthetic appearance of Glenwood Street from the primarily single story small business theme which enhances Glenwood Street at present to a seven story out of place structure that will cause future travelers to wonder: “What were they thinking when they built that monstrosity here!”
- 3) It is opposed by many adjacent residents as evidenced by the many letters already on file under the Combined Timely Public Comment section of the Proposed Development DSRFY2023-0010 11062023.

- 4) It will reflect poorly upon the Garden City Development Services staff and the Mayor and Council's decision making abilities to assure compliance with their own Comprehensive Plan and Section 67-6508, Idaho Code.
- 5) It will require a major zoning change on Glenwood Street from primarily business/commercial at present to high density residential if the project is approved which will degrade the continuity of land use on Glenwood Street, a major arterial street for Garden City.
- 6) The introduction of a high-rise building could negatively impact property values, as potential buyers might be deterred by the increased density and the change in the neighborhood's ambiance. This is a concern that deserves consideration, as the financial well-being of current residents should not be compromised.

Garden City Comprehensive Plan and the Idaho Code prohibit this kind of drastic and extreme deviation from the existing area because has Glennwood has been traditionally characterized by its low-rise, residential and commercial atmosphere, which contributes to a sense of community and tranquility. A seven-story building, which significantly exceeds the current height of surrounding structures, would fundamentally alter the neighborhood's character. Such a structure would overshadow our homes, disrupt the existing aesthetic, appearance, and detract from the quality of life that residents currently enjoy. In particular, the Garden City Comprehensive Plan clearly states:

- 1) **Goal 2. Improve the City Image** “2.1.1 Amend the Land Use Code to adopt new neighborhood provisions for development including: Context and connectivity with the surrounding neighborhood.”
- 2) **Goal 2. Improve the City Image** “2.4.1 Pro-actively develop new streetscape standards that are distinctive to the Garden City built environment. The standards should reflect the unique characteristics of the street, the neighborhood and adjacent land uses.”
- 3) **Goal 5. Focus on the River** “5.7.3 Protect the greenbelt from private development, enforce codes for private property maintenance and control of runoff, litter and debris.”
- 4) **Goal 8. Maintain a Safe City** “8.2.1 Continue to support the “One City-One Team” approach that brings together City Officials, and staff in partnership with the public.”
- 5) **Goal 12. Evolve as a Destination** “12.3.5 Market the city to smaller businesses and support a positive environment for entrepreneurial businesses.”

Idaho Code Section 67-6508 mandates that cities will develop comprehensive plans that “shall consider compatibility of land uses” ... and do not violate private property rights, adversely impact property values or create unnecessary technical limitations on the use of property...” To build a seven story residential complex immediately adjacent to primarily single story commercial structures and neighborhoods is clearly in conflict with the provisions of Idaho Code 67-6508.

The expertise of architect Don W. Caskey, FAIA in his letter of October 24, 2023 to the City Council of Garden City deserves to be acknowledged and emphasized when he wrote: “The

scale and massing of this proposed project is totally incompatible with the surrounding community.”

We are supportive of responsible growth and development, and believe that the proposed seven-story building is not in alignment with the community’s needs and values. We respectfully request that the City Council review these concerns and consider alternative solutions that better fit the character and infrastructure of our subdivision and surrounding neighborhood, therefore, we request the denial of the proposed seven story structure project at the corner of Marigold and Glenwood Streets. That way you can maintain compliance with the Garden City Comprehensive Plan and Idaho Code as specified above, as well as reinforce the cooperative City and Staff partnership with the public which is so important to a responsive local government operation.

It is crucial that any development project involves meaningful community engagement and transparency. Many residents feel that their voices have not been adequately heard or considered in this process. I urge the City Council to facilitate more open forums and discussions to ensure that the perspectives of those directly affected by the development are thoroughly considered.

Thank you for acting in a responsible manner in the best interests of all residents of Garden City.

Respectfully,



Kenley E. Grover

KEG:

cc: Willowbrook Subdivision HOA, Garden City  
Westminster Estates Subdivision HOA, Garden City  
Don W. Caskey FAIA, Member of the City Council City of Laguna Hills, CA

Christine Ochoa, River Place Resident Garden City  
Mary Meg Gorham, River Place Resident Garden City  
Paul Cooperrider, Garden City  
Rick Jones, Garden City  
Carole Schroeder, River Place Resident, Garden City