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TO: Mayor and Council
FROM: Charles I. Wadams
DATE: December 30, 2025
SUBJECT: Design Review Application of DSRFY2025-0008 (Boise Bible College)

ACTION REQUIRED: Compliance with LLUPA and GCC.

RECOMMENDATION: Considering the application pursuant to Garden City Code § 8-6A-9 to determine if the required criteria are satisfied.

FISCAL IMPACT/BUDGET IMPLICATIONS: There is no significant financial impact to the City if the appeal is processed properly.

BACKGROUND: DSRFY2025-0008 is a Design Review application for a new multi-family housing project located at 8695 West Marigold Street on the Boise Bible College property. The applicant is Rennison Companies c/o John Rennison and Zach Turner on behalf of Pacific West Communities, Inc. The owner of the real property is Boise Bible College, Inc., and the property is in the R-3 zoning district. The adjacent uses are dwelling unit, single family attached.

The process followed by Staff was “design review, administrative with notice.” Noticing for the application was completed for December 30, 2025. In accordance with GCC 8-6B-3, a Design Review Consultation was held with the Design Consultants. The Consultants provided comments and requests. The Design Review Consultants also provided written comment in response to the November 13th, 2025, resubmittals. As of the drafting of this memo, more comments are expected.

At the December 8, 2025 Council Meeting, the City Council (CC) continued the matter to December 10, 2025 because Councilmember Jacobs recused himself, so that Councilmember Jorgensen could participate. At the December 10, 2025 Council Meeting, the matter was again continued to December 30, 2025 because the applicant had not posted the property as required by the municipal code.

Those opposed to the project generally argue that: there is inadequate parking; there is not safe ingress and egress; and the design is not compatible with the neighborhood in scale and intensity, and creates an adverse impact on the surrounding neighborhood. Additionally, some opposed to the project argue that more conditions of approval are needed to protect public health, safety, and welfare, and prevent undue adverse impacts on surrounding properties. I am providing the below analysis to assist the City Council in making its determination.

ANALYSIS: Garden City Code § 8-6A-9 controls this application. In its decision, the CC needs to determine whether the application should be granted, granted with conditions, remanded to staff for additional proceedings and findings, or denied. Staff opted to route the application for CC review because of the nature and complexities of the application. Objectors are likely to have standing under LLUPA if they are adjacent to the proposed project or would otherwise be prejudiced by the project. Historically, the city has processed this type of design review application under LLUPA.

LLUPA requires a governing authority to issue a written reasoned statement which accompanies its decision to explain why the land use application was approved or denied:

[t]he approval or denial of any application required or authorized pursuant to this chapter shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the decision based on the applicable provisions of the comprehensive plan, relevant ordinance and statutory provisions, pertinent constitutional principles and factual information contained in the record.

I.C. § 67-6535(2). A failure to address compliance or noncompliance with express approval standards or relevant decision criteria is grounds for invalidating a governing authority's decision. I.C. § 67-6535(2)(a).

The reasoned statement required by I.C. § 67-6535(2) must:

- (1) plainly state the resolution of factual disputes;
- (2) identify the evidence supporting that factual determination; and
- (3) explain the basis for legal conclusions, including identification of the pertinent laws and/or regulations upon which the legal conclusions rest.

On September 7, 2023, the Idaho Supreme Court reviewed a stated "reasoned statement" that was approved by the Boise City Council, which consisted of only one and one-half pages of text with seven additional pages of standard conditions. *N. W. Neighborhood Ass'n v. City of Boise*, 535 P.3d 583 (Idaho 2023). After the approval of the project, the North West Neighborhood Association (NWWA) submitted a request for reconsideration, which the Council denied. NWWA then filed a timely petition for review and then an appeal with the courts.

The Idaho Supreme Court held that the Boise City Council's written reason for its decision failed to satisfy the requirements of LLUPA. The Court ruled that the Council's failure to provide a reasoned statement explaining its decision necessitated that the approvals of the applications be invalidated pursuant to I.C. § 67-6535(2)(a). The failure to provide a reasoned statement, which would have enabled the Court to engage in meaningful judicial review, deprived NWWA of its substantial right to due process. Therefore, the Court remanded the matter with instructions to invalidate the Boise City Council's actions and remand to the City Council for the adoption of a reasoned statement that complies with

the requirements of I.C. § 67-6535(2). Similarly, in *Wee Boise, Inc. v. Garden City*, Ada County Case No. CR01-20-03481 (Fourth Judicial District 2022), the district judge essentially ruled that if an application meets the applicable objective standards, it should be approved.

In addition to providing a reasoned statement, the following issues frequently need to be considered in a land use application:

- (1) Is there adequate parking?
- (2) Does the project as proposed negatively impact the community economically and jeopardize citizen and patron safety and welfare?
- (3) Does the number and location of the planned parking associated with this application create negative economic impacts and logistical problems for the appellant?
- (4) Is there safe ingress and egress?
- (5) Have safety concerns related to access (from Marigold in this application) been addressed?
- (6) Does the evidence presented show the application, as conditioned, does or does not meet the standards of the applicable code and whether the code was misinterpreted or misapplied by staff based on the evidence presented?

As always, all relevant issues should be addressed for potential judicial review purposes.

The city has heard from several individuals who are opposed to the project. For example, Terry Dean, the Willowbrook HOA president, has raised concerns with the mayor over the proposed Antioch Apartments. While LLUPA decisions are reviewed under the procedural standards of IDAPA, the substantive provisions of IDAPA (including Idaho Code § 67-5253) do not govern the LLUPA quasi-judicial proceedings themselves. The LLUPA substantive rules govern the actual quasi-judicial proceedings in land use decisions. Under LLUPA standards, while council members are not held to a standard of judicial disinterest and may listen to opinions or arguments from concerned citizens, if there are *ex-parte* contacts, the council members must disclose the identity of any individuals they meet with and provide a general description of the discussions.

The mayor will not vote as a tiebreaker in the Antioch Apartments application as a decision maker because Councilmember Jacobs has recused himself. Even though any meetings with the mayor were not prohibited *ex-parte* communications, they should still be disclosed in the public meeting on December 30, 2025, at 6:00 pm. Similarly, in a pending land use quasi-judicial matter, when somebody emails CC, the council is legally required to disclose this *ex-parte* communication during the public hearing. Idaho law mandates that procedural due process be upheld in quasi-judicial proceedings, which includes the disclosure of *ex-parte* communications to ensure fairness and transparency. Specifically, Idaho courts have held that when a governing body sits in a quasi-judicial capacity, it must confine its decision to the record produced at the public hearing. Any *ex-parte* communication must be disclosed at the public hearing, including a general description of the communication and the identity of the individual who made it. This

requirement is intended to provide opposing parties with an opportunity to rebut the substance of the *ex-parte* communication, thereby preserving procedural due process. Any *ex parte* communication with CC or Mayor Evans cannot influence the quasi-judicial process regarding the pending Antioch Apartments application.

On December 10, 2025, CC continued the public hearing to a special council meeting on December 30, 2025, at 6:00 pm because the applicant failed to post the on-site notice as required by Garden City Code § 8-6A-7.B. For December 30, 2025, the developer posted the property, and the City re-noticed the public hearing to ensure compliance with procedural requirements and provide a cure for the noticing defect.

Under LLUPA, public notice requirements for land use applications, including those for new residential apartments, are governed by specific statutory provisions. LLUPA mandates that notice and a hearing are required before a final decision is rendered by a planning commission or governing board. Idaho Code § 67-6519 specifies that written notice must be provided to certain entities, such as irrigation districts and pipeline companies, at least 15 days prior to the public hearing. Additionally, when notice is required for 200 or more property owners, alternate forms of notice, such as publication in an official newspaper, may be used if provided by local ordinance. In the absence of such an ordinance, sufficient notice is deemed provided if a display advertisement is published in the official newspaper of the city or county at least 15 days before the hearing date, along with site postings on all external boundaries of the site. While Garden City Code does provide for alternate forms of notice when notice is required for 200 or more property owners but here, there are less than 200 addresses within the 300-foot radius in this matter.

Additionally, Idaho law establishes specific requirements for special meetings of city council. Special meetings require “at least a twenty-four (24) hour meeting and agenda notice, unless an emergency exists.” I.C. § 74-204. This notice requirement is fundamental to ensuring transparency in government proceedings and providing interested parties with an opportunity to participate. People have been advised that if they wanted anything else in the council packet for December 30, 2025, it should be emailed to planning@gardencityidaho.org at least seven (7) calendar days prior to December 30, 2025, in compliance with Resolution 1053-18.

The Design Review Process is required for the following types of projects, as outlined in Garden City Code 8-6B-3:

1. New construction - Nonresidential buildings or residential units with two or more attached/detached homes on the same site or adjacent properties.
2. Major or minor alterations to existing structures.
3. Large-scale construction projects.
4. Development in specific areas listed under Garden City Code Title 8-4C-2.
5. Subdivisions or Planned Unit Developments (PUDs).
6. Specific Area Plans.

7. Code or Comprehensive Plan amendments that affect physical features.

Under *Veterans Park Neighborhood Ass'n, Inc. v. City of Boise*, 564 P.3d 350, a city's reasoned statement must do more than merely incorporate reasoning from a staff report by reference. The Idaho Supreme Court emphasized that a reasoned statement must provide a clear explanation of how the evidence and conditions of approval relate to the applicable criteria. In that case, the Court found the reasoned statement inadequate because it failed to specify or explain which conditions addressed which determinations under the applicable criteria, leaving the reviewing court and parties unable to discern the reasoning behind the decision. Idaho Code § 67-6535 further supports this requirement by mandating that a reasoned statement must explain the criteria and standards considered relevant, state the contested facts relied upon, and provide the rationale for the decision based on the applicable provisions of the comprehensive plan, ordinances, and factual record.

Failure to explicitly identify the evidence in the record and the analysis agreed upon, without explicitly including the reasoning from the staff report, would likely be deemed insufficient. The reasoning must be explicitly articulated in the reasoned statement itself to comply with the requirements of Idaho law and the principles outlined in *Veterans Park Neighborhood Ass'n, Inc. v. City of Boise*.

Therefore, my recommendation is to include in the written decision the reasoning that CC agrees on in deliberations after the public hearing. Otherwise, in any judicial review, the written decision could be interpreted as asking a court to "dive into a sea of documents in search of hidden pearls that might bolster a governing body's unsupported [or supported] decision" knowing the court is not inclined to "sift through an administrative record" that is voluminous.

Here are some other recommendations I've been making for land use applications:

1. The reasoned statement requirement is a product of LLUPA and Idaho Code § 67-6535. That standard is higher than the applicable standard in many other administrative contexts. So, try rereading Idaho Code § 67-6535 in the shoes of a reviewing judge that rarely gets a LLUPA appeal and gives the words their ordinary judicial meaning.
2. Some jurisdictions are considering whether to invite or require applicants to draft a draft written statement consistent with the jurisdiction's criteria and decision for review, modification and potential adoption (when desired). This could be required at the application stage or thereafter. This process has been generally followed in this application.
3. Reasoned statements should be written primarily for its intended audience, which is the reviewing body, which ultimately could be the judiciary. Although it is prudent to draft and adopt decisions that also speak to the applicant, or neighbors or the public audience, the reasoned statement should be primarily written for the court.
4. Land use ordinances, and decisions should not give objectors any basis to argue for a reversal and/or remand of a jurisdiction's decision in a court. Typically, that means having the ordinance reflect the reality of the jurisdiction's operations, and

not having “aspirational” language in code or a decision, which a jurisdiction may find difficult to define, meet and/or establish. While it can be legal to have some goals that are aspirational, there must also be applicable objective standards that are practical and achievable.

In this case, the residential apartments would likely be considered a commercial use unless they are directly related to the religious or educational purposes of Boise Bible College. If the apartments are leased to a developer for profit, they would not qualify for the tax exemption under Idaho Code § 63-602B or Idaho Code § 63-602C. Therefore, the assessor would likely determine the value of the leased portion, and it would be taxed accordingly.

CONCLUSION: The applicants are Rennison Companies c/o John Rennison and Zach Turner on behalf of Pacific West Communities, Inc. Within the R-3 zoning district, “dwelling unit, multiple family is permitted. In order to approve a design review application, the CC needs to make a determination with written reasoned statements on the findings required in code. Conversely, in order to deny a design review application, CC does not need to find that all criteria are unmet because a single unmet criterion is sufficient for denial. If CC decides to deny the application, it must specify the ordinance and standards used in evaluating the application, the reasons for any denial, and any actions the applicant could take to obtain approval.

There are several disputes that need to be resolved. First, as usual, parking is an issue. The parking demand study indicates that, based on the ITE Parking Generation Manual, 5th Edition, the projected peak parking demand for the development is approximately 298 spaces using a dwelling-unit-based analysis, or 270 spaces using a per-bedroom analysis. The proposed provision of 392 parking spaces appears sufficient to meet the anticipated parking demand for the development. If this is accurate, it would appear that the project is overparked. This should be discussed in CC deliberations.

Based on the documentation provided, it has been argued that the proposal does not exceed the level of service criteria required by ACHD on surrounding transportation agencies. According to the applicant’s traffic analysis, there will not be more vehicle trips onto Glenwood Street than the current use of the site. If there is evidence in the record that to the contrary, it should be presented to CC.

Some of the neighbors’ have asserted that there was somehow an illegal spot zone at some point in time. The applicant has not requested a rezone of the property so the current application cannot be characterized as spot zoning. If the rezone years ago has caused some current prejudice, I have not found it in the record and the argument is moot. The property has been zoned R-3 for years, and multi-family residential uses have been expressly permitted within the R-3 zoning district since 2015. Properties to the west and south are similar zone R-3 properties to the north and east are zoned R-2. If there is a legal authority of some sort of illegal spot zoning that prejudices the neighborhood in this context, it has not been provided.

Neighboring property owners to the east have expressed concerns regarding the proximity of the parking area. The CC should determine if the combination of solid fencing and enhanced, including 69 trees more than required by code on the eastern boundary, serves to mitigate potential impacts associated with the new parking lot. While there is public concern that the design is urban in character, the proposal apparently meets code standards and incorporates articulation, material variation, landscaping, and open space, which will assist in reducing perceived mass and improve visual quality.

Several individuals raised concerns about parking spilling over to surrounding streets. However, on-site parking exceeds code requirements. It has been argued that given the City's required parking ratios and the Applicant's Parking Analysis, that adequate parking will be provided and there is nothing about this project that would require parking beyond that proposed by Applicant, which exceeds the City's approved parking ratios. The CC should determine if there are adequate enforcement mechanisms to ensure that no parking occurs on the streets.

On-site parking appears to meet code requirements. This enhancement will assist in minimizing spillover impacts on surrounding streets. Further, the Applicant has agreed to pay ACHD impact fees so that existing residents are not burdened with the cost of transportation infrastructure improvements so that the transportation system hopefully keeps pace with increased demand.

A condition of approval requires the applicant is required to provide an acceptable solution to the sewer constraints to ensure that levels of service are not exceeded. The applicant will also pay all required fees for sewer and water connections. A potential sewer license agreement will be a potential solution in the future if applicable criteria are met.

Due to neighbor concerns about noise and order, trash enclosures were moved to the west side of the property. The applicant will also be required to pay impact fees to the North Ada County Fire and Rescue District (NACFR) to offset the costs of development. Site improvements include perimeter landscaping and evergreen buffer zones as a transition to adjacent single-family homes. Street-facing improvements feature a detached sidewalk along a portion of the frontage with an eight-foot landscape buffer and Class II or III trees, as conditioned, to improve the public realm. The CC should determine if these actions are sufficient to address the neighbors' concerns.

Neighbors have stated that the development fails to comply with the Garden City Comprehensive Plan, which is always on everybody's mind. While not a direct finding required by City Code, it has been argued that the design of the development is consistent with numerous objective of Comprehensive Plan regarding alternative housing options for different needs in the market. It is no secret that it is likely less expensive to rent an apartment than buy a house in the current market.

The development also provides for pedestrian and bicycle-friendly connections throughout. Questions were raised regarding the absence of a hydraulic study for the proposed canal tiling. Prior to commencing any tiling work, the applicant will be required to comply with all applicable standards and requirements of the Drainage District. This

will ensure that the identified concerns are adequately addressed and that the tiling fully conforms to Drainage District Standards.

It would appear that the applicant is amenable to all of staff's suggestions except the number of driveways. The applicant requests the project have three driveways including one for the Boise Bible College, or two designated for the project. However, staff prefers the project only have two driveways.

A city could require a new development to have one traffic access point or driveway dedicated to the project when the application is to have two access points or driveways, provided it is not arbitrary or unreasonable and is supported by applicable laws, ordinances, or considerations of public safety. Conditions imposed on development applications, such as limiting access points, can be recommended or required as long as they align with the broader goals of traffic circulation and safety.

Fire safety regulations may influence this determination. For instance, fire codes often require adequate access for emergency vehicles, which could necessitate multiple access points depending on the size and layout of the development. The International Fire Code, as adopted in Idaho, includes provisions for fire apparatus access roads and driveways, which may indirectly require multiple access points for larger developments. Recommendations from the fire department and highway district could influence the number of access points required for a development. This should be decided by CC.

At the December 30, 2025 Council Meeting, the City Council should reach a decision pursuant G.C.C. § 8-6A-9, and examine the issues from the record and testimony provided. The CC is tasked with determining whether the application should be granted, granted with conditions, remanded to staff for additional proceedings and findings, or denied. Regardless of whether the application is granted or denied, CC should also determine what is to be in the reasoned statement.