

My name is Jeanne Jackson-Heim, 8550 W Atwater Drive, Garden City. I have lived in Garden City for almost 11 years, and I love our city. I am also a big fan of Boise Bible College. In fact, my church was meeting in their facility until September and I count some of their staff and directors as friends. At the last neighborhood meeting, the applicant stated one of its goals is to help Boise Bible College remain viable by generating an ongoing revenue stream for the college. I'm sure that's not the only reason they are pursuing this project, but we applaud the applicant's desire to financially support the college.

A fun fact about me is that I was the mayor of Jackson, Wyoming in the early 2000's, and I also served on the Eagle City Council in 2009. I have more than a passing knowledge of the amount of work that goes into a development application, and I also know that it can be extremely difficult to balance the desires of the applicant with those of the neighbors. I am on the board of directors of the River's Edge Homeowner's Association, which sits directly across from the BBC entrance. It is one of the neighborhoods most directly impacted by the proposed project, and we have some concerns about the project as presented.

I also want to make it clear that I am submitting these comments on my own personal behalf as well as on behalf of River's Edge HOA. We are opposed to the project as currently designed.

To lay the groundwork for my comments, I want to review some relevant portions of the Garden City Development Code, comprehensive plan, and the Idaho Local Land Use Planning Act, which I will refer to as LLUPA.

LLUPA is found in Idaho Code 67-6502, which provides the first purpose of the act is to promote the health, safety and general welfare of the people of the state of Idaho by protecting property rights while making accommodations for other necessary types of development such as low-cost housing and mobile home parks. Idaho Code 67-6535 states that the approval or denial of any application shall be based on standards and criteria found in the comprehensive plan, zoning ordinance, or other appropriate ordinance or regulation of the city or county. The approval must include an explanation of how the project complies with the standards and criteria.

Section 8-4A-1(B) of the Garden City Development Code includes a statement of purpose that the code was enacted to protect the property values and rights of all residents. According to Section 8-4B-1, the purpose of design standards is to promote quality building design that enhances the visual character of the

community and to ensure that the design of structures is compatible with the intended character of the neighborhood as set forth in the comprehensive plan.

Section 8-6B-3 relates to design review. This is a very important section because the decision maker MUST find that the proposed design is compatible with the neighborhood in scale and intensity, not create an adverse impact on the surrounding neighborhood, and have facades, features, materials, building form and other physical improvements that are compatible with or enhance the neighborhood. The design review consultant is prohibited from requiring reductions in density, but the decision maker is NOT precluded from making its own findings regarding the design of the application. A design can be found to be incompatible with surrounding development where the intensity of the use exceeds the harmonious measure of surrounding uses.

Finally, the Garden City comprehensive plan includes the following goals and objectives through which the Code is to be read and understood, which have been mostly incorporated into the City Development Code:

Comp plan goal 2.3 – Promote quality design and architecturally interesting buildings

Objective 2.3.1 states that consideration should be given to harmony with neighborhoods

Comp plan goal 7.3 – Control traffic through neighborhoods

The development code states that comprehensive plan goal 7.3 is to “control traffic through neighborhoods”, but the text of the plan on the city website says 7.3 is an objective to “protect neighborhoods from through-traffic.”

With due respect, I suggest that the staff report is incorrect in its statement that the city council is obligated to approve an application merely because it meets the requirements of the existing property zoning. Garden City Code section 8-1A-4(c) specifically states that “compliance with the minimum standards does not automatically ensure acceptance of an application . . . Additional requirements may be added by the decision maker before acceptance in order to implement the purpose of this code, the objectives of the comprehensive plan, or provide for the public health, safety, and general welfare.” In other words, it is not just a question of whether an application meets the requirements of the applicable zoning designation, the council also must make findings that the design is consistent with

the standards set forth in Garden City Code and the Garden City comprehensive plan.

Please do not be swayed by fear of litigation if you choose to require changes to this design. The only litigation that is allowed under LLUPA is a judicial review of the council's decision, which is not the same as a lawsuit for damages. The court acts in an appellate capacity and will affirm a land use decision unless the city made a procedural error or prejudiced the petitioner's substantial rights. *City of Ririe v. Gilgen*, 170 Idaho 619, 515 P.3d 255 (2022). The court will not substitute its judgment for that of the council, but instead will look for procedural errors or decisions that are arbitrary and capricious, among other things. *North West Neighborhood Association, Inc. v. City of Boise*, 172 Idaho 607, 613, 535 P.3d 583, 589 (2023). If the council bases its decision on the evidence and testimony and provides reasoned findings, the court will give deference to the council's decision. There is a reason there are very few Idaho Supreme Court cases related to land use issues, and those that exist relate primarily to procedural problems or deficiencies in the findings.

Finding 4. The proposed design shall be compatible with the neighborhood in scale and intensity.

Finding 5. The proposed design shall not create an adverse impact on the surrounding neighborhood.

Finding 6. 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.

SCALE AND INTENSITY

The staff makes a conclusory statement that because the development code allows a certain density or height, it is automatically compatible with the surrounding neighborhood. This is incorrect because the zoning only designates the allowed uses and the maximum allowable density. Garden City Code does not guarantee that the applicant must be allowed to build to the maximum. In fact, the Code compels that the proposed development comport to the character of the surroundings. Accordingly, a maximalist interpretation of density would, and does here, throw these provisions of the Code and comprehensive plan into conflict.

It is true that this application must be considered under the current zoning for the property. However, the council has recently enacted a new R-M zoning designation with a maximum of 15 dwelling units per acre to promote transitional land use and mitigate potential impacts. The city has started the process of rezoning the subject property to R-M/DA (the new zoning designation with a development agreement). Thus, the city has already recognized that the current R-3 zoning is incompatible with the surrounding neighborhood. In conjunction with the new zoning designation, the council also recently adopted a buffer ordinance to require transitions between new development and existing neighborhoods. Thus, the council can, and in fact must, consider whether the applicant should modify the design and density of this application to make it compatible with the surrounding neighborhood in density and scale. Approval of this proposal would be arbitrary and capricious in light of the aforementioned changes.

Here are photos of the new River Pointe apartments, one at the end of my street and the other taken from Waterside Drive. These are 2 to 3 story buildings, with the 2-story buildings closest to the existing neighborhoods but still separated by parking, green space, and one-story garages. Please note the design elements on the River Pointe buildings. They truly fit in with the design of the existing neighborhoods.



River Pointe Apartments and 8515 W. Atwater Drive



River Pointe Apartments from Waterside Drive

This picture was taken from the corner of Waterside and Marigold, and the visible portion of the apartment building is only 2 stories high. Imagine how impactful a 4-story building would have been. The neighborhoods surrounding the Antioch Apartments project also consist primarily of one-story homes, and 4 stories is too tall to fit into the neighborhood. Compare these photos of a moderate transition to the example in this picture.



Example of a 4-story apartment building next to a 1-story garage

COMPATIBILITY OF DESIGN WITH SURROUNDING NEIGHBORHOODS

Also, although I am not a design professional, it is easy to see that the applicant's proposed design is very different from the surrounding neighborhoods. While the applicant's project might be appropriate for other areas of Garden City that are undeveloped or have been developed in a more urban style, the design of this project does not harmonize with our existing neighborhoods. It is much taller and the building design is inconsistent with the existing architecture. Contrast this design with the River Pointe Apartments, which blend and harmonize with the surrounding neighborhoods.



Rendering of proposed project

IMPACTS ON ADJACENT NEIGHBORS

Privacy and Security

Further, even a 152-foot setback from adjacent single-family homes does not mitigate or negate the impact on the neighbors. This photo illustrates the impacts on privacy resulting from a 4-story apartment building adjacent to a single-story home. While this is not an actual representation of the subject property, it is the only way we have to illustrate the effect of the project on the neighbors. The views from higher vantage points into the private homes and yards of neighboring property will rob the neighbors of their sense of security, safety, and wellbeing.



Photo showing view from 4th floor onto neighboring property

Parking

The purpose of the Garden City parking code is to minimize adverse impacts on the surrounding neighborhood.



River Pointe Apartments street parking (mid-day, 12/23/25).

The River Pointe apartment project meets the parking requirements, yet there are an awful lot of cars parked on the street adjacent to the project. Also, if the applicant decides to charge the tenants for parking, this will further drive cars into the adjacent streets.

There is no street parking available on Marigold. Pintail and Ringbill Court in the River's Edge subdivision provide the closest street parking. The first few blocks of Pintail are not designed for street parking.



View of River's Edge entrance at Pintail Drive

Cars parked along this section of Pintail will create a safety hazard and impede the flow of traffic, which adversely impacts our neighborhood. Neighbors will be forced to monitor and enforce parking. Similarly, Ringbill Court consists of two very short cul de sacs with many driveways. Street parking on Ringbill would also negatively impact the residents of that street. The applicant's original proposal included entering into a shared parking agreement with BBC for overflow parking, and that shared parking was mentioned by ACHD in support of its approval of the project. However, the applicant states that shared parking with BBC is now off the table. The council must consider whether a shared parking agreement is appropriate to ensure that the project's parking is contained on site.

In the case of *Lusk, LLC v. City of Boise* (158 Idaho 12, 343 P.3d 41 (2015)), the court reversed the city's grant of a conditional use permit for a multi-family project because it found the city failed to consider potential adverse parking impacts

caused by development that was allowed by right under the city's zoning ordinance. A city must also consider whether this project can interfere with the neighbors' enjoyment of their land and their property values. *Hawkins v. Bonneville County Bd. of Com'rs*, 151 Idaho 228, 254 P.3d 1224 (2011). *See also, Price v. Payette County Bd. of County Com'rs*, 131 Idaho 426, 431, 958 P. 2d 583, 588 (1998) (court overturned a rezone because it diminished the neighbor's property values and hampered his use and enjoyment of his land).

Traffic

It is also very likely this project will increase the amount of traffic passing through our neighborhood. We already have a lot of people who drive down Atwater, thinking they can get out of the subdivision that way, even though our block ends in a cul de sac and is posted with a "dead end" street sign. Sometimes the drivers become annoyed that they have to turn around, and they gun their engines and speed back down the street. There are small children living on our street, and these drivers create a safety hazard for our neighborhood.

The staff report dismisses anecdotal reports of traffic on Marigold. However, anecdotal evidence is indeed appropriate to consider the impacts of this development on the surrounding properties. Contrary to the staff's proposed reasoned statement for finding 5, this evidence does not have to be the type of evidence allowed under legal rules of evidence, nor does it have to be statistical evidence. The Council's findings must be supported by substantial and competent evidence, defined as 'relevant evidence which a reasonable mind might accept to support a conclusion.' (*Wohrle v. Kootenai County*, 147 Idaho 267, 207 P.3d 998 (2009). In *Klamath Siskiyou Wildlands Center v. Grantham*, 642 Fed.Appx. 742 (9th Cir., 2016), the court found that in the absence of quantitative evidence of an environmental impact, anecdotal evidence should have been considered. The court reversed the lower court's decision and remanded the case so that the anecdotal evidence could be considered. Anecdotal evidence and public comment from the surrounding neighborhoods must be considered by the council in making its decision and must be incorporated into the council's findings.

I have observed multiple times when eastbound traffic is backed up along Marigold to the west of the BBC entrance. Many, many people use Marigold as a cut-through from Chinden to Glenwood, and there is a lot of speeding and blowing through the stop signs without even slowing down. Further, it is virtually impossible to make a right hand turn out of Jackson's or a left hand turn out of the library and city offices at some times of day, unless a kind driver lets you out.

There is no designated right turn lane onto Glenwood, and at busier times of the day the traffic is stacked on Glenwood such that it is not possible to turn onto Glenwood even if the light is green on Marigold.

The council has the authority and the obligation to consider whether the traffic arising from this new development is appropriate for Marigold and the especially problematic Glenwood/Marigold intersection. ACHD stated it has no money or definite plans to address that intersection, yet it is at level of service F during rush hour. Real problems are happening now, and that is before the 2026 expansion of the Western Idaho State Fair to three weekends and the commencement of professional soccer games at the Expo Idaho site. The council is not required to approve new development that exacerbates existing, unsolved traffic issues and it can in fact make a finding that our existing infrastructure is insufficient to accommodate the current design.

The most recent ACHD traffic count on its website for Marigold was completed in June 2024. The applicant's traffic study relies on presumed traffic generation tables and ACHD policy manuals, as well as 2-year old actual traffic counts. On September 2, 2025, I personally observed a traffic counter set up across Marigold between Coffey Street and the property's eastern border. It was there at least for several days and possibly one week. Since ACHD does not have that traffic count listed on its website and apparently did not conduct it, then who would have commissioned it? This is a question that deserves an answer because the information elicited from that traffic count would be very helpful.

ACCESS TO PROPERTY FROM MARIGOLD

We further believe the proposed new access from the property onto Marigold is unnecessary and unsafe, and we agree that it should not be allowed. It is too close to the existing controlled intersection that can easily provide access to the property. Many more vehicle trips can be anticipated on Marigold from Garrett as a result of the new development. Using the existing access is safer, more logical, and cheaper than building a new turn lane on Marigold, which would be too close to the existing intersection, creating conflicts as cars pass through the 4-way stop and immediately go to the right to turn into the project. An additional access would also impede the free flow of traffic. Since the stated purpose of the development is to financially benefit BBC, the developer and BBC should formalize access onto the property through the existing 4-way stop intersection.

WORKING WITH THE NEIGHBORS

Finally, the River Pointe apartment project on Strawberry Glen is an example of what can be accomplished when the developer is willing to listen and negotiate to address neighborhood concerns. That project was initially proposed to be 4 stories, but the developer agreed to sit down with the neighbors and revise his design. River Pointe was redesigned to 3 stories with other elements added to ease the transition between the apartments and existing single-story neighborhoods. These changes helped mitigate many of the neighbors' concerns. That process could and should be followed here.

In conclusion, we request that the council reject the staff's proposed reasoned statements for Findings 4, 5, and 6. Specifically, in accordance with the testimony above, we request that the council find that proposed design is not compatible with the neighborhood in scale and intensity; it creates an adverse impact on the surrounding neighborhood; and its proposed architecture and site improvements are not compatible with and do not enhance the neighborhood. The council should direct the applicant to submit a redesign to address the neighborhood concerns. We would be happy to arrange a meeting with the applicant and representatives from other neighborhoods to negotiate design changes.

We would also request that the council deny the request for a new access drive from Marigold to the subject property and place a condition of approval that the existing controlled intersection be used to access the property. There should be a further condition of approval that, if the density is not reduced, the applicant must enter into a shared parking agreement with Boise Bible College to accommodate overflow parking.

I believe this application can be improved to alleviate the neighborhood concerns and still give the applicant a project that meets its goals. A postponement of the council decision would allow for discussion and submittal of a revised design. We would be happy to assist in crafting revised reasoned statements at that time.