From: Christian Samples
To: "Wendy Carver-Herbert"
Cc: Jenah Thornborrow
Subject: RE: DSRFY2019-23
Date: Tuesday, November 12, 2019 10:30:00 AM
Attachments: image006.png
image007.png
image008.png
image001.png
image003.png

Good morning Wendy, all documents for DSRFY2019-23 received to date are uploaded to the website: Link. I checked the link in the agenda that was previously uploaded to the meeting calendar for the 11/18/2019 DRC Hearing and was able to reach the application items. A staff report is scheduled to be uploaded by 5:00 pm today.

A link to the hearing agenda can be found here: Link The agenda also contains a link to the materials noted above.

A link to the 11/18/2019 hearing calendar item can be found here, which also contains the agenda link: Link

Thanks,

Chris Samples, AICP
Associate Planner
Development Services, **Garden City**
p: 208-472-2922
a: 6015 Glenwood Street, Garden City, ID 83714
w: www.gardencityidaho.org e: csamples@gardencityidaho.org

From: Wendy Carver-Herbert <wendycarverherbert@gmail.com>
Sent: Sunday, November 10, 2019 7:54 PM
To: Jenah Thornborrow <jthorn@GARDENCITYIDAHO.ORG>; Christian Samples <csamples@GARDENCITYIDAHO.ORG>
Subject: DSRFY2019-23

Hi Jenah and Chris,
The official public notice I received indicates that written testimony must be submitted at least seven days prior to the date of the hearing. However, I'm unable to find the official application from the applicant on the GC website and have been unable to review it to provide applicable written comments. Since Monday is a holiday and I assume the application won't be available until Tuesday, I request additional time to submit my written testimony.

The following summarizes the paths I have taken to try and find the application:

Meeting calendar on home pager>Design Review Committee, Nov. 18th> clinked link from this her: **APPLICATIONS, MATERIALS, STAFF REPORTS, AND DECISIONS FOR CURRENT APPLICATIONS CAN BE FOUND ONLINE HERE>Searched "Currently pending applications" for DSRFY2019-23 and it took me to screen shot 1>clicked hyperlink for DSRFY2019-23-Multi-family Development - Pending and it took me to screen shot 2.**

I also tried this path:
Meeting calendar on home page>Design Review Committee, Nov. 18th>opened agenda and clicked on link for DSRFY2019-23 and it took me to screen shot 2.

I also used the search function on the GC website and it took me to the above locations.

I also request 15 minutes to present on Nov. 18th, as my letter will provide the detail and my presentation will go over the highlights, visual exhibits and comments that may relate to the staff report, once it's available online. If you need the names of those I will speak on behalf of, please let me know.

Thank you.

Cheers!
Wendy

GARDEN CITY IDAHO
NESTLED BY THE RIVER

search menu

Pre-Application Meeting: 9/3/2019

DSRFY2019 - 23 - Multi-Family Development - PENDING

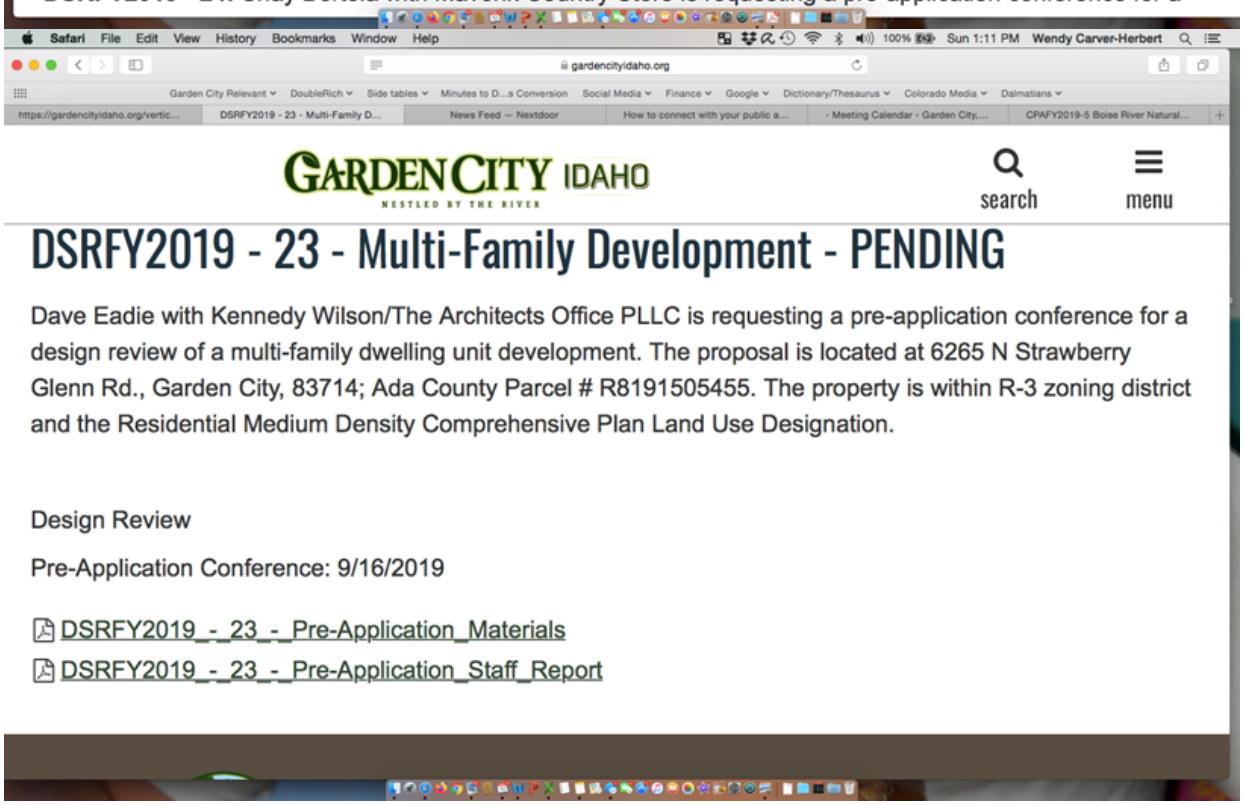
Dave Eadie with Kennedy Wilson/The Architects Office PLLC is requesting a pre-application conference for a design review of a multi-family dwelling unit development. The proposal is located at 6265 N Strawberry Glenn Rd., Garden City, 83714; Ada County Parcel # R8191505455. The property is within R-3 zoning district and the Residential Medium Density Comprehensive Plan Land Use Designation.

Design Review

Pre-Application Conference: 9/16/2019

DSRFY2019 - 24 / CUPFY2019 - 15 - New Fuel Sales Structure and Use Expansion - PENDING

DSRFY2019 - 24: Shay Bertola with Maverik Country Store is requesting a pre-application conference for a



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DSRFY2019 - 23 - Multi-Family Development - PENDING

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Design Review

Pre-Application Conference: 9/16/2019

DSRFY2019_-_23_-_Pre-Application_Materials
DSRFY2019_-_23_-_Pre-Application_Staff_Report

Total Control Panel Login

To: csamples@gardencityidaho.org Remove this sender from my allow list

From: wendycarverherbert@gmail.com

You received this message because the sender is on your allow list.

From: Wendy Carver-Herbert
To: Christian Samples
Subject: DSRFY2019-23
Date: Friday, November 8, 2019 10:57:28 AM

Hi Chris,
I'm trying to find the latest application materials for this project. I can only find the pre-application materials on the website. Where can I find the application that will be considered at the Design Review meeting on Nov. 18th?

Cheers!
Wendy Carver-Herbert
303-718-7220

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From: wendycarverherbert@gmail.com

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Wendy Carver-Herbert
8515 W. Atwater Dr.
Garden City, ID 83714

November 18, 2019

Design Review Committee
c/o Jenah Thornburrow
Director Development Services
City of Garden City
6015 Glenwood St.
Garden City, ID 83714

RE: DSRFY2019-23

Dear Design Review Committee,

I'm writing on behalf of the below listed residents who own R-3 zoned properties and did so prior to April 27, 2015, when the Garden City Council adopted Ordinance 975-15. It is our position that Ordinance 975-15 is invalid, and therefore is problematic for the proposed development under application DSRFY2019-23.

These properties are part of block of 35 parcels located in the River's Edge Subdivision along West Atwater Dr.[1], the Swallowtail Subdivision along West Canary Ct. and North Willowdale Pl., and one is the undeveloped, five-acre lot at 6265 North Strawberry Glenn Rd, which is the subject of DSRFY2019-23. All but the Strawberry Glenn property were developed in the 1990s on 6.65 acres with single-family, detached homes at an average density of five dwelling units per acre (du/acre)[2]. All other properties surrounding these developed parcels are zoned Low Density Residential R-2 and are fully developed. Additionally, all 35 properties are more than one-quarter (1/4) of a mile from a major arterial, public transportation node and public facilities.

After working with the applicant over the summer to address a number of concerns from adjacent neighbors, we recognize and thank Kennedy Wilson for making several plan amendments as outlined by Dave Eadie in the October, 23, 2019 application summary and October 22, 2019 Conceptual Site Plan. These changes provide a much-improved transition from a medium density development into a low-density neighborhood. However, we still remain concerned about the following:

- This property is located within a low-density area, as identified in the 2019 Land Use Map, and yet the density of 17.8 du/acre starkly differs from the 6 du/acre of a low-density neighborhood.

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[1] The River's Edge Subdivision is comprised of 114 properties, all but 18 are zoned R-2

[2] Based on Ada County, Idaho Property Tax Records

- The three story height of building one, and north end of building two along the river and greenbelt do not provide adequate visual transition into the low density, single-family River's Edge subdivision, and more specifically, the single story home at 8520 West Atwater Dr. We remain concerned about the economic impact of this type of development adjacent to homes that value in the range of $390,000 to $565,000[3]. The homes along West Atwater Dr., particularly those backing to the greenbelt and river, tend to garner higher market values.[4] This benefits the entire surrounding neighborhood, under the economic concept, "A rising tide, lifts all boats." The insertion of 89 rental units into a low-density neighborhood does not support the city's charter to provide for the general welfare of its residents if the market values of some of the most valuable properties in this area of the city are impacted.

- The third story viewshed from the bedroom and living area of building one toward the property at 8520 West Atwater Dr. is unknown, but without the same structural buffer as the other homes along the west property line, the two and three story viewshed is concerning.

- The parking along the southwest property line was increased since the pre-application conference with the Design Review Committee on September 16, 2019. The number of parking spaces identified on exhibit A1.0 is different from exhibits L100 and C100, so it is unclear how many spaces and what the sizes will be and whether the plan actually meets the requirements under GC code 8-4D-5. Additionally, it was discussed with the applicant following the pre-application conference that in lieu of the request for a garage buffer along the southwest corner of the property, which could not be accommodated due to the need for a ditch easement, it was requested that the number of parking spaces be reduced to provide some limited relief to the residents of 6144, 6132 and 6114 North Brook Pl.

- Traffic and congested access from Strawberry Glenn Rd. onto Marigold St. The traffic, safety and air quality impacts from emissions on the homes at 6005, 6120 and 6240 North Strawberry Glenn Rd. and 6044, 6024 and 6034 West Waterside Pl. These residents will suffer the consequences of every car passing in and out of this development on a daily basis at a density nearly twice of what would have been allowed 4-1/2 years ago. This challenges the city's charter to provide for the health and safety of its residents.

Based on the city's "Official Notice of Intent to Approve," it's our assumption the Design Review Committee will approve this application. As a result, we are prepared to seek an appeal before City Council and reserve our right to pursue judicial review. However, we believe there are benefits to reaching an amicable compromise at this juncture.

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[3] Based on recent market assessments from qualified real estate professionals and a certified market appraiser.

[4] Based on the experience of three qualified real estate professionals who have listed and sold properties in the River's Edge Subdivision.

Therefore, we are willing to forgo an appeal if the applicant is willing to fulfill all provisions currently proposed in the application dated October 25, 2019, the October 22, 2019 Conceptual Site Plan/Overall Master Plan, (exhibit A1.0) and the October 22, 2019 Landscape Plan (exhibits L100 and L150), and agree to the following:

- Reduce the height of building one, to two stories
- Reduce the height of the north end of building two, to two stories – matching the south end of building four
- Reduce the number of units to 83
- Reduce the number of parking spaces along the southwest property line

All the above was previously requested of the applicant on August 31, 2019 and during the September 16, 2019 pre-application conference.

By way of background, Ordinance 975-15 amended several sections of Garden City development code, including changes to Garden City (GC) Code 8-2B-1, which, among other things, increased the allowable density of the Medium Density Residential 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.

At the time of this ordinance change, the 2006 Garden City Comprehensive Plan and Land Use Map were the city's planning documents and they designated these 35 properties and the surrounding neighborhoods as Residential Medium Density. During the planning process for the updated 2019 Comprehensive Plan, a city memorandum dated April 1, 2019 addressed comments and questions that came up during the planning process. According to this memorandum, the above referenced area was mistakenly designated as medium density on the 2016 Land Use Map. This letter states,

> "The medium density designation on the 2006 Land Use Map was an error. The intent for the existing land uses west of Glenwood has been to reflect the existing land use pattern since this is [sic] newest developed area of the city and the area not expected to change during the 10 – 20 year planning horizon of the plan."

Diane Kushlan, the consultant who wrote the 2006 plan and led the 2019 Comprehensive Plan revision process, reiterated this point on May 9, 2019, during the City Council Comprehensive Plan work session. More recently, on July 22, 2019, the Garden City Council adopted the city's updated Comprehensive Plan. The amendments to the 2019 Comprehensive Plan now designate these 35 properties and the surrounding neighborhoods as Residential Low Density. However, in stark contrast to the Comprehensive Plan's low-density designation, these properties are still zoned R-3, or medium density residential.

Our primary argument is the city did not follow legally required public notice procedures prior to the adoption of Ordinance of 975-15. The notice requirements for this action were set forth at GC Code 8-6A-7, which at that time, required legal and agency

notice, and a public service announcement. We have learned the city did not meet those requirements as follows:

- It does not appear that a public service announcement (PSA) was made to all forms of media as required by GC code 8-6A-7. The e-mail including the PSA dated January 8, 2015, was sent to three recipients, including Garden City News, Katy Moeller from the Idaho Statesman and Elizabeth Connor, assistant to the mayor. Distribution to other forms of media, including radio and television, are not listed. Garden City is served by four network and one public television stations as well as several radio stations, including KBOI, a major local talk/news radio station; however none of these news outlets were listed as recipients.

- Also, although required by GC code 8-6A-7, the PSA notice was not distributed at least 15 days prior to the first public hearing on January 21, 2015.

The failure to fully follow Garden City's public notice code does not meet the spirit of intent because Idaho statute does not provide for a "failure to notify" clause. Idaho Code §§ 67-6509 (a) states,

> "…At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the plan to be discussed shall be published in the official newspaper or paper of general circulation within the jurisdiction. <u>The commission shall also make available a notice to other papers, radio and television stations serving the jurisdiction for use as a public service announcement."</u> [Underline emphasis added]

The Findings of Fact and Conclusion of Law for Ordinance 975-15 state that a mailed notice was sent to mobile home park owners of record, even though it was not required by City code at that time. However, there is no indication that notice was sent to any other property owners impacted by any of the ordinance changes. More specifically, none of the owners of the R-3 zoned properties referenced below received notice. This selective noticing prevented property owners in these low-density neighborhoods from participating in the public process and providing feedback that could have averted the invalid zoning amendment.

Our secondary argument focuses on Idaho Code §§ 67-6511(1), which states, "zoning districts shall be in accordance with the policies set forth in the adopted comprehensive plan." When the city increased the allowable density in the R-3 base zoning district to 35 du/acre from the previous density of 10 du/acre, this dramatic increase in medium density zoning was not in accordance with the 2006 Comprehensive Plan because the number of units far exceeded the 22 du/acre that was described in the plan as "high density residential." *Garden City Comprehensive Plan, Adopted July 24, 2006*, at p. 20.

The R-3 base zoning district amendment also removed maximum height restrictions for that zone under R-3 Base Zoning Form Standards GC Code 8-2B-3. To apply this zone to low- and medium-density neighborhoods was not in accordance with the 2006 Comprehensive Plan, as the plan stated, "no more than two stories closer to the river" for

structures in Transit Oriented Development zones, which by their nature, are intended to support higher density residential development around public transportation nodes. *Garden City Comprehensive Plan, Adopted July 24, 2006*, at p. 19.

Additionally, The April 27, 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." It is impossible to achieve a density of 35 du/acre without building some sort of attached housing such as condominiums or apartments. Therefore, this amendment does not comport with the Residential Low OR Medium Density definitions in the 2006 Comprehensive Plan. This ordinance amendment was not in accordance with the comprehensive plan because it makes no mention of apartments in these definitions and still does not in the 2019 Comprehensive Plan. *Garden City Comprehensive Plan, Adopted July 24, 2006*, at p. 35.

Because the R-3 base zoning district was amended to allow for much higher density than is appropriate in what is supposed to be a low-density area, R-3 zoning in our neighborhood was not then and is not now in accordance with the 2006 Garden City Comprehensive Plan, and is even more strikingly at odds with the 2019 Comprehensive Plan and Land Use Map that now clearly state this area is designated as low-density residential.

A comprehensive plan is designed to provide some level of predictability in how a city will develop. When a city deviates from this plan with zoning ordinance changes that are far from what was envisioned and supported by its citizens, and is done so in a way that prevents the people whose properties are up zoned a fair opportunity to participate in the decision making process, citizens are left feeling undermined and betrayed. It would be easy to take the position of fighting to the bitter end in an attempt to retie a broken expectation, but we believe compromise with the applicant at this juncture is the best path forward if the applicant is amenable. If not, we are prepared to pursue our arguments through the appropriate process.

We request that this letter be entered in its entirety into the public record and be made available online as a part of the public comment for this application.

Regards,

Wendy Carver-Herbert

Wendy Carver-Herbert

We the undersigned own R-3 zoned property that is within 300 feet of 6265 North Strawberry Glenn Rd. and we owned this property prior to April 27, 2015.

William Howell Martha Howell

William and Martha Howell, 8520 W. Atwater Dr., Garden City, ID 83714

Carrie Witt, 8525 W. Atwater Dr. Garden City, ID 83714

Susan Mahoney, 8530 W. Atwater Dr., Garden City, ID 83714

Terry and Kay Stoll, 8540 W. Atwater Dr. Garden City, ID 83714

John Grigsby, 8515 W. Canary Ct., Garden City, ID 83714

Cindy Wyatt, 8520 W. Canary Ct. and 8540 W. Canary Ct., Garden City, ID 83714

From:	Wendy Carver-Herbert
To:	Christian Samples
Cc:	Jenah Thornborrow; Martha & Flip Howell; wittcarrie@gmail.com; Susan Mahoney; Kay Stoll; John; Cindy Wyatt; Jeanne Jackson-Heim; David Arkoosh
Subject:	DSRFY2019-23 Public Comment
Date:	Monday, November 18, 2019 8:24:45 AM
Attachments:	DSRFY2019-23 Letter to DRC From Neighbors.pdf

Hi Chris,
Attached is public comment representing the following property owners. We request that it be entered in its entirety into the public record and be made available online today as a part of the public comment for this application.

William and Martha Howell
Carrie Witt
Susan Mahoney
Terry and Kay Stoll
John Grigsby
Cindy Wyatt

Also, I believe you prepare a meeting packet for the DRC members, and I assume you provided that last week. If I'm correct, would you be willing to email this to them, since the detail is extensive? I apologize for getting it to you so late. Since the applicant's plans weren't available on the city website until last Tuesday, neighbors needed the time to review them.

As previously requested, I'd like to present for the full 15 minutes at today's DRC public hearing, as I will introduce additional facts. I'm working on the presentation, which I plan to bring on a USB drive.

Let me know if I have the a-okay to present as requested. Thanks!

Cheers!
Wendy Carver-Herbert
8515 W. Atwater Dr.
Garden City, ID 83714
303-718-7220

Total Control Panel Login

To: csamples@gardencityidaho.org

Remove this sender from my allow list

From: wendycarverherbert@gmail.com

You received this message because the sender is on your allow list.

From: Cindy Wyatt
To: Christian Samples
Subject: Apts Strawberry Glen
Date: Sunday, November 17, 2019 1:01:27 PM

I can't make the meeting but please consider me an interested party.

Cindy Wyatt

Property owned -- 8520 & 8540 Canary Court

208-861-6181
8286 W Wilowdate Dr
Garden City, ID 83714

Total Control Panel Login

To: csamples@gardencityidaho.org
From: cwyattxx@cableone.net

Message Score: 1
My Spam Blocking Level: High

Block this sender
Block cableone.net

High (60): Pass
Medium (75): Pass
Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.

From:	Cindy Wyatt
To:	Christian Samples
Subject:	FW: Apts Strawberry Glen-correction
Date:	Sunday, November 17, 2019 1:04:38 PM

I can't make the meeting but please consider me an interested party against approval as it is currently submitted to design.

Cindy Wyatt

Property owned -- 8520 & 8540 Canary Court

208-861-6181
8286 W Wilowdate Dr
Garden City, ID 83714

Total Control Panel Login

To: csamples@gardencityidaho.org
From: cwyattxx@cableone.net

Message Score: 1
My Spam Blocking Level: High

Block this sender
Block cableone.net

High (60): Pass
Medium (75): Pass
Low (90): Pass

This message was delivered because the content filter score did not exceed your filter level.