



## CITY OF GARDEN CITY

6015 Glenwood Street ■ Garden City, Idaho 83714  
Phone 208/472-2900 ■ Fax 208/472-2996

### MEMORANDUM

Date: For October 12, 2020

To: City Council

From: Jenah Thornborrow, Development Service Director

RE: Appeal of denial of DSRFY2020-18, a request of an 8' fence located at 240 E. 32<sup>nd</sup> Street

#### **Requested Action:**

Earl Sullivan is appealing a Design Review Committee denial of application DSRFY2020-18, a request for an 8' fence.

#### **Background**

In the past staff has provided a draft opinion based on the decision of the City. It has been determined that a better process would be to adopt an opinion at the subsequent the appeal hearing without a draft opinion being provided ahead of time.

Only the applicant or someone who has standing, via written or oral testimony, or the Development Services Director, Chief of Police, or Public Works Director have standing to appeal. An appeal is not a public hearing and only the appellant(s) and respondent(s) or their representatives should address the Council.

Garden City Code 8-6A-9 notes that appeals are to be on the record of the decision maker, meaning that appeals are not *de novo*. New concerns, information, or documentation should not be considered. The appellant, and or applicant have been advised that they should be able to indicate page numbers of the packet for reference if requested. If there is new material that is determined should be reviewed, the application should be remanded to the decision body.

#### **GCC 8-6A-9 Appeals:**

The decision of an appeal is governed by 8-6A-9 E:

1. After the hearing on the appeal, the review authority shall make its decision and adopt findings of fact and conclusions.
2. In its decision, the review authority shall determine whether the application or petition should be granted, granted with conditions, remanded to the decision maker for additional proceedings and findings, or denied.
3. The city shall transmit a copy of the decision by the review authority together with a copy of its findings and conclusions to the decision maker; and shall transmit a copy of its decision, findings and conclusions of law to the appellant.

4. The decision on an appeal made by the commission or design review committee may be further appealed to the council.

The decision of the council shall be final.

### **Record Materials (all materials)**

Individual links:

1. [Appeals procedures](#)
2. [Appeal and Appeal Materials](#)
3. [Design Review Committee Decision, September 8, 2020](#)
4. Application Materials
  - a) [DSRFY2020-18 pre-application and materials](#)
  - b) [DSRFY2020-18 formal application and materials](#)
  - c) [DSRFY2020-18 supplemental](#) documentation
  - d) [Application clarification correspondence](#)
5. Reference Documents
  - a) [DSR2015-0003 Recommendation](#)
  - b) [DSR2015-0003 Modification](#)
  - c) [DSR2015-0003 Approval](#)
  - d) [Fence Correspondence Lowe and Sullivan 2016](#)
6. Staff Reports
  - a) [Pre-application staff report](#)
  - b) [Formal application staff report](#)
7. Noticing Documents
  - a) [Application Noticing Documents](#)
  - b) [Appeal Noticing Documents](#)
8. Minutes
  - a) [September 8, 2020](#)
  - b) [June 15, 2020](#)
9. [Transcript of hearing: September 8, 2020](#)