

DEVELOPMENT CODE DECISION APPEAL

Permit info: DSRFY2020-20
Application Date: 12/15/23 Rec'd by: CW
FOR OFFICE USE ONLY

6015 Glenwood Street ▪ Garden City, ID 83714 ▪ 208.472.2921
▪ www.gardencityidaho.org ▪ building@gardencityidaho.org

APPELLANT	
Name: Chad Slichter	Company: Slichter Ugrin Architecture
Address: 415 South 13th Street	City: Boise
State: Idaho	Zip: 83702
Tel.: 208.830.1458	

E-mail: Chads@suarchitecture.com elizabeth@proletariatwines.com danielle@parelaw.com

APPEAL

Application File No., Name and location: DSRFY2020-20 Proletariat winery at 106 East 36th Street, Garden City, Idaho

Date of Decision: December 1, 2023

Whose Decision are you appealing?

- Staff
 Design Review Committee
 Planning & Zoning Commission

What specific decision(s) and or conditions are you appealing? (please attach if necessary)

See attached letter and Statement 1.

How are you adversely affected by the decision? (please attach if necessary)

See attached letter and Statement 2

Please identify any evidence or supporting information to support your position that code was misinterpreted or misapplied. (please attach if necessary)

See attached letter and Statement 3

I consent to this application and hereby certify that information contained on this application and in the accompanying materials is correct to the best of my knowledge. I agree to be responsible for all application materials, fees and application correspondence with the City. I will hold harmless and indemnify the City of Garden City from any and all claims and/or causes of action from or an outcome of the issuance of a permit from the City.

Chad Slichter

Signature of the Applicant (date)

Digitally signed by Gregory A. Ugrin
 DN: C=US,
 E=gregu@suarchitecture.com,
 O="Slichter Ugrin Architecture, Inc.", CN=Gregory A. Ugrin
 Date: 2023.12.15 11:21:36-07'00'

Gregory A. Ugrin



December 15, 2023

VIA EMAIL

building@gardencityidaho.org
Development Services Department
6015 Glenwood Street
Garden City, Idaho 83714

Re: Notice of Denial of DSRFY2020-0020- Appeal

Dear Sir or Madam:

This is an appeal from Notice for Denial of a modification request for DSRFY2020 dated December 1, 2023 (the “Denial Letter”). The Denial Letter asserts that a gate modification request has been requested and it has been denied because the modification request fails to meet applicable Garden City Code. A modification request was never made, the gate that was installed was previously deemed by the Garden City Design Review Committee (the “Committee”) to be approved and to meet the Garden City Code cited as the reason for the denial.

For the reasons stated herein, we are requesting that the Garden City Planning and Zoning Committee make the determination that the gate that was approved by the Committee and subsequently installed by the owner of the project at issue should be allowed to stand as is.

Background

On June 8, 2020 Chad Slichter, an architect with Sichter Urgan Architecture, Inc., (the “Architect”) submitted a design review application to the Garden City Design Review Committee (the “Committee”) for the approval of the construction of a building that would house the Proletariat winery at 106 East 36th Street Garden City Idaho, and was assigned File Number DSRFY2020 – 20 (the “Project”).

A hearing for approval of the Project was held on July 6, 2020. During that meeting, the Committee requested, among other things, to see service drive and gate design renderings.

The Architect provided sample service drive and gate design renderings in a revised application for the Project that was submitted on July 16, 2020.

On July 22, 2020 a second meeting was held with the Architect to review the revised application for the Project. In that meeting the Committee noted that the service gate could be a defining element rather than a screening element of the patio and had been modified to be harmonious with

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the planter/trellis at East Elevation Updated perspectives and images of proposed gate screening were provided in the revised application for the Project.

The Architect then revised the application for the project again on August 5, 2020 for issues unrelated to the service gate.

Another meeting was held on August 17, 2020.

The design review application for the Project was then formally approved by the Committee in a Design Review Decision dated September 8, 2020 (the “Decision”). The Decision notes that the gate can be a defining element rather than a screening element of the patio. The Decision also notes that the Design Review Committee reviewed the application with regard to Garden City Code, Title 8 Chapter 4 and had concluded that the application meets the standards of approval under GCC 8-6B-3, which would include meeting the requirements for fences and walls under the Garden City Code.

The owner of the Project then proceeded to commence construction of the Project in accordance with the requirements of the Decision including the selection of a service gate that was in line with the aesthetics of the building and that complied with the service gate that was approved by the Committee.

As a courtesy, on September 5, 2023, Derek Flynn, the project manager of the General Contractor, submitted a picture of the final service gate along with a list of items that have not been approved and needed to be worked through. This was not a modification request as it was understood by the Architect and the owner of the Project that the gate selected was in line with the Decision.

In response to Mr. Flynn’s email, one of the members of the Committee Derek Hurd stated in an email dated September 7, 2023 “The gate changing from a “defining element” and “harmonious with the east elevation” to what looks like a residential subdivision gated community gate does not meet the intent of the approved design for such a street front prominent element. If a more utilitarian gate is proposed, a possible solution would be to push it off the street front to beyond the stair element.”

As a result of this comment by Derek Hurd, as well as the owner of the Project’s desire to work cooperatively with the Committee, a Zoom Meeting was scheduled on December 1, 2023 to review the Committee’s concerns regarding the design of the service gate.

In that meeting the Committee recognized that the service gate installed did not have to be exactly what was presented but felt that the installed gate looked too much like a security gate and was not a defining element or a screening element.

The Architect and the owner of the project than received the Denial Letter on December 1, 2023 stating that the “gate modification request” failed to meet applicable Garden City Code.

Design Requirements for the Service Gate

The Committee was aware that the owner of the Project intended to have the service gate custom designed by a metal fabricator but had not selected a specific design at the time the application for

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the Project was approved. Accordingly, there was no specific design that was approved for the service gate, but rather a general concept. Several sample service drive and gate design renderings were supplied to the Committee at its request. These are attached hereto as **Exhibit A**.

At all times it was understood by both the owner of the Project and the Committee that what was being installed and approved was a operable service gate not a screen or a mural. The purpose of the gate was to provide access to the wineries service drive to allow bottling trucks and suppliers to easily access the winery. The Committee approved a service gate, presumably this is because they understood the practical element of the gate being incorporated into the design of the Project.

The Committee further understood that a specific design had not yet been selected and the samples provided were not depictions of the actual gate that the Project owner would install, bur rather examples of what the look and feel of the service gate would be. It was understood that the design would be customized by the owner of the Project to integrate with the building. The only guidance provided by the Committee regarding the ultimate design of the service gate was that that it could be a defining element rather than a screening element of the patio and had been modified to be harmonious with the planter/trellis at East Elevation. There were no requirements imposed by the Committee regarding the height of the service gate or any other specific limitations or requirements.

The gate design that the owner of the Project ultimately selected and installed is wrought iron and has an integrate design which incorporates the winery's logo, including the name of a winery and a grape leaf. Pictures of the installed gate are attached hereto as **Exhibit B**.

Admittedly, the service gate installed looks different than the sample designs that were approved by the Decision. What was approved was a custom gate that would be designed in the future to match the aesthetics of the Project. The Committee seems to imply that the service gate selected by the owner of the Project has more of a "security" feel to it than an "artistic element." We respectfully disagree. The sample gates proposed were wrought iron and had sample integrate designs of grape leaves and trees. The gate selected and installed by the owner is wrought iron and has an integrate design which incorporates the winery's logo, including its name and a leaf. The main different between the gates presented and the one installed appear to be the shape – the photos of proposed gates were straight, while the one selected by the owner is curved, and that in the gates proposed the design becomes the enclosure whereas the gate selected has more traditional gate rails. The gate selected also has finials The Committee's main issue with the gate selected by the owner of the Project seems to be that it looks too much like a gate and they want it to look more like a screen.

The Decision and the Committee both recognize that the photographs supplied to the Committee did not represent the actual service gate that would be installed. Yet the only notation about the service gate is that it can be a defining element rather than a screening element of the patio. Certainly a gate that incorporates the logo of the Project and which is displayed prominently and proudly throughout the Project represents a defining element.

The gate design ultimately selected and installed by the owner of the Project is wrought iron and incorporates an integrate custom design, just like the gate design renderings supplied to the

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Committee. The installed gate is harmonious with the East Elevation, is a defining element of the patio and incorporates beautifully with the building design. The installed gate checks all of the boxes of what was reviewed and approved by the Committee.

Garden City Code

What is particularly confusing about the Notice for Denial that is being appealed is that the Committee is now for the first time claiming that the gate design is being denied because it does not meet Garden City Code for fences.

The Denial Letter states that the gate modification request was denied because the proposed gate did not meet Garden City Code 8-4A-3.D.1 Fences and Walls.

This section of the Garden City Code states that fences greater than three and a half feet shall be set back to be flush or behind the building frontage.¹

The position of the service gate was clear to the Committee and is depicted in the Architect's supplied and approved plans which are attached as **Exhibit C**. The plans in Exhibit C clearly show that the service gate was not flush or set back from the building frontage and instead abutted the posts of the deck above and lined up with the outer end of the patio.

At no point where there ever any discussions with the Committee about the placement of the service gate or any concerns voiced that it did not meet Garden City Code. At all points in the design review process it was understood and acknowledged that the gate at issue was designed to be an operational service gate with a practical purpose and would most likely exceed three and a half feet.

In stark contradiction to the Committee's new allegation that the service gate does not meet Garden City Code, the Staff Report for the Project prepared for the Committee by Hanna Veal (the "Report") explicitly states that the Project complies with Garden City Code requirements pertaining to fences and there are no compliance issues.

Moreover, the Decision itself affirmatively states that the Design Review Committee reviewed the application with regard to Garden City Code, Title 8 Chapter 4 and has concluded that the application meets the standards of approval under GCC 8-6B-3, including meeting the requirements for fences and walls under the Garden City Code.

The Committee cannot now go back to the section of the Garden City Code pertaining to fences and use it to force the owners of the Project to remove the gate simply because they do not personally like it.

If there was an issue with the setbacks for the service gate they should have been brought up in the design review process. They were not brought up and the Committee deemed the Project to be in

¹ We also note that this section of the Garden City Code also states that when there is no building frontage, fences greater than three and one-half feet shall be set back minimally ten feet from the back of the sidewalk so as to allow for street trees and landscaping between the fence and the sidewalk. The installed fence is approximately 12 feet from the sidewalk. Presumptively, the service gate was considered to have no building frontage, as it starts at the end of the patio, and thus was deemed to be meet this section of Garden City Code.

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full compliance with Garden City Code. Accordingly the Project, including the service gate, is in full compliance with Garden City Code.

Undue Hardship

The Committee seems to be implying that the owner's of the Project can simply just move the gate back to be flush with the building frontage. The design review process was incredibly thorough and the owner of the Project and the Architect made several changes to the design of the Project in order to meet the approval of the Committee. Throughout this process, the position of the gate was never at issue. The Committee was at all times fully aware that this was a service gate with a functional purpose and that the area behind the service gate would be used for the business operations of the owners of the Project. Not only would it be incredibly expensive to try to move the service gate but it would also greatly interfere with the business operations of the owners of the Project. It is also patently unfair to go through a complex, lengthy and detailed design review approval process, approve a Project and then force the owners to modify elements that had been approved after the fact.

Conclusion

The service gate installed by the owners of the Project complies in all respects to what was approved throughout the design review process and ultimately approved by the Committee in the Design Review Decision dated September 8, 2020. Forcing the owners of the Project to remove an expensive design element that was explicitly approved by the Committee is not only unfair but undermines the entire purpose of the design review application and approval process.

For the reasons stated herein, we request that the Planning and Zoning Committee make the determination that the installed service gate complies with the Decision, that no modifications to the service gate are required and that the service gate shall be deemed approved as is.

Sincerely,



Danielle T. Paré

Enclosures
CC: Client

Statement 1

This is an appeal from Notice for Denial of a modification request for DSRFY2020 dated December 1, 2023 (the “Denial Letter”).

The specific decision being appealed is that the Garden City Design Review Committee has determined that the installed service gate does not meet what was approved in the Garden City Design Review Committee’s Findings of Fact, Conclusions of Law and Decision for File Number DSRFY2020 – 20 dated September 8, 2020 (the “Decision”). The installed service gate conforms in all respects to what was approved in the Decision.

Also being appealed is the contention in the Denial Letter that the “gate modification request” fails to meet Garden City Code 8-4A-3.D.1 Fences and Walls. The Decision is clear that the approved service gate meets all provisions of Garden City Code, including, but not limited to the requirements for fences and walls.

Statement 2

The owner of the Project relied on the Committees conclusion that the placement and design of the service gate meet applicable Garden City Code. The owner and the architect reasonably concluded from the Decision and the numerous meetings and discussions that occurred with the Committee prior to the Decision that the service gate that was approved was a wrought iron service gate with a harmonious custom design that would be selected by the owner of the Project. The owner of the Project selected a gate that was wrought iron and that had a custom design incorporated the logo of the winery, a logo that was used throughout the Project and which harmoniously tied the service gate in with the building. Now after the approved service gate has been selected, paid for and installed the Committee is trying to retroactively claim that the service gate does not meet Garden City Code. A substantial amount of time, money and energy has been spent on installing the approved service gate. Moving the gate would be an undue hardship to the owner of the Project and would encroach upon the area that the owners of the Project need for their operations.

Statement 3

The Denial Letter states that this is a denial of a modification request based on a failure to meet Garden City Code 8-4A-3.D.1 Fences and Walls. There was no modification request. The service gate as installed was approved in the Decision. The Decision was also clear that the service gate meet the requirements of Garden City Code 8-4A-3.D.1 Fences and Walls. The physical position of the service gate remains as it did in the renderings provided to and approved by the Committee. The only thing that seems to have changed is that one of the members of the Committee believes that the service gate design selected by the owner of the Project looks too much like a residential subdivision gate. The Committee’s personal opinions of the design of the service gate are completely irrelevant. What is relevant is that the service gate as installed meets all of the requirements that were outlined in the approval of the Project.

Exhibit A

*Mural Fabrication Examples (Stairway and Service Gate):



*Mural Fabrication Examples (Service Gate):



Exhibit B



Exhibit C



NORTHEAST PERSPECTIVE

SCALE: 1:1.82

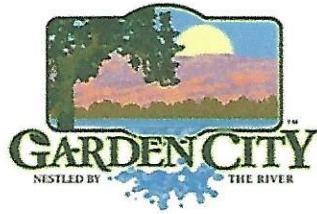
2



NORTHEAST PERSPECTIVE

SCALE: 1:1.82

2



DATE	INVOICE NO
12/13/2023	0006160

BILL TO
SLICHTER UGRIN ARCHITECTURE 415 S. 13TH ST. BOISE, ID 83702

DUE DATE
12/13/2023

DESCRIPTION	QUANTITY	EFFECTIVE RATE	AMOUNT	DISCOUNT	CREDIT	BALANCE
PREVIOUS OUTSTANDING BALANCE						298.72
2863 - Citation Number DSRFY2020-20:						
APPEAL	1.00	210.00	210.00	0.00	0.00	210.00
INVOICE TOTAL:			210.00	0.00	0.00	210.00

PLEASE DETACH BOTTOM PORTION & REMIT WITH YOUR PAYMENT

For you

Customer Name: SLICHTER UGRIN ARCHITECTL
 Customer No: 022197
 Account No: 0004344 - CM Account

CITY OF GARDEN CITY
 6015 N GLENWOOD ST
 GARDEN CITY, ID. 83714-1347
 208 472-2900

DUE DATE	INVOICE NO
12/13/2023	0006160

Phone Order

Please remit payment by the due date to:

City of Garden City
 6015 Glenwood
 Garden City, ID 83714

xxxxxxxxxxxx1268
 MASTERCARD

Entry Method: Manual

Total: \$ 508.72

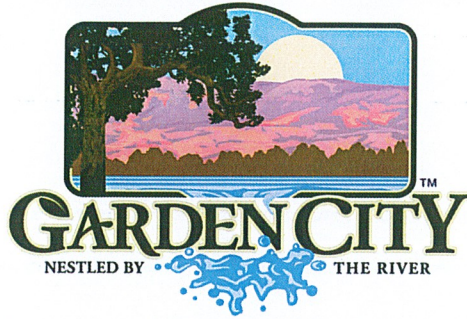
12/15/23 16:00:02
 Inv #: 000000001 Appr Code: 523207
 Apprvd: Online
 AVS Code:
 CVV2 Code: MATCH M

Invoice Total: 210.00
 Discounts: 0.00
 Credit Applied: 0.00
 Ending Balance: 508.72

OICE BALANCE: \$210.00
 AMOUNT PAID: \$508.72

Customer Copy
 THANK YOU!

PAID



6015 N. Glenwood Street ▪ Garden City, Idaho 83714
Phone 208/472-2900 ▪ Fax 208/472-2998

**APPEAL PURSUANT TO THE
Garden City Code Title 8**

BEFORE THE PLANNING AND ZONING COMMISSION OF THE CITY OF GARDEN CITY.

APPEAL OF THE ADMINISTRATIVE DESIGN REVIEW DECISION TO DENY A PLAN MODIFICATION OF DSRFY2020-0020 LOCATED AT 106 E. 36th ST, GARDEN CITY, IDAHO, 83714.

YOU ARE HEREBY NOTIFIED that an appeal hearing will be held before the Planning and Zoning Commission at the Garden City, City Hall, Council Chambers, on the **21st day of February 2024, at 6:30 pm.**

The hearing is to be held pursuant to **Section 8-6A-9 of the Garden City Code.** The decision and determination made by staff relative to the application and interpretation of the Garden City Code Title 8 has been appealed.

This appeal will be on the record of the decision maker.

Dated this 8th day of January 2024.

Mariia Antonova
Development Services Department

Name	Interested Parties	Certified	USPS
Chad Slichter	Appellant/Applicant	x	
Danielle T. Paré	Appellant Attorney	x	
Elizabeth Baggerly	Property Owner	x	

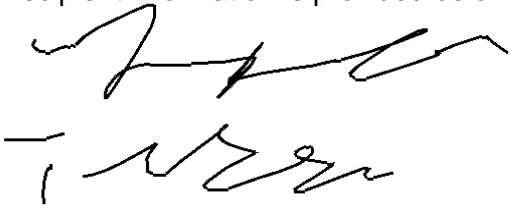


Mailer: City of Garden City

Date Produced: 01/12/2024

ConnectSuite Inc.:

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Address of Recipient : 

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United States Postal Service

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CHAD SLICHTER
415 S 13TH STREET
BOISE, ID 83702

Customer Reference Number: C4712431.28282714
Return Reference Number Development Services



Mailer: City of Garden City

Date Produced: 01/12/2024

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United States Postal Service

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DANIELLE T. PARE
913 W RIVER STREET
SUITE #420
BOISE, ID 83702

Customer Reference Number: C4712431.28282712

Return Reference Number Development Services



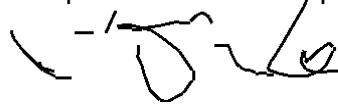
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Jennitar Olmedo

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EAGLE, ID 83616**

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United States Postal Service

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ELIZABETH BAGGERLY
664 S RIVERSHORE LANE
EAGLE, ID 83616

Customer Reference Number: C4712431.28282713

Return Reference Number Development Services