



CITY OF GARDEN CITY

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MEMORANDUM

Date: For October 23, 2023

To: City Council

From: Jenah Thornborrow, Development Service Director

RE: Appeal request of Design Review approval of DSRFY2023-0007 an eating establishment, limited services, and food products, small scale processing

Requested Action:

Determination if an appeal is to be heard.

Background

Opposition has been requested regarding the approval of DSRFY2023-0007. Per GCC 8-6A-5 if a person with standing objects, then a public hearing will be held.

In this instance there is question if the objection was timely to trigger the hearing. If determined that the objection was timely, the hearing will be scheduled for a later date.

1. Matter of Timeliness:

- a. On August 10, 2023, a neighborhood meeting notice was sent to the owners of neighboring properties within 300' of the application's subject property (3100 W. Chinden). This notice included information on how to testify. Specifically stating "If you provide written comments to the city seven days or more prior to the applicant's consultation with the design consultants, your comments will be reviewed as part of the application." The letter also states, "...if you wish to be an interested party or have the ability to appeal you must notify the city in writing." In its' conclusion, the letter mentions that to appeal, one must have standing as prescribed in Idaho Code and provide written comment to the city.¹
- b. On September 18, 2023, there was a Design Review Consultation.
- c. On September 19, 2023, Scott Leap emailed the Development Services Department with concerns regarding both the access issues through Osage and on-site parking.
- d. On September 20, 2023, City Associate Planner, Hanna Veal, emailed Scott Leap indicating that they were not able to access the Design Review meeting as it is not a public hearing open to the public. She further noted that the City Council would have the item on the consent agenda on September 25, 2023.
- e. On September 21, 2023, Scott Leap emailed the City Council.

¹ See linked [affidavit and noticing material](#).

GCC 8-6B-3: DESIGN REVIEW:

D. Design Review Consultant(s):

1. When design review consultant(s) consultation is required, the consultation shall be timely scheduled with the consultant(s) as established by resolution.
2. The purpose of the consultation is for expert(s) to assist the decision maker by providing direction to the applicant on the city-adopted design criteria.
3. The consultation is between the design review consultant(s) and the applicant. Timely written public comment shall be incorporated into the materials reviewed during the consultation.
4. The applicant may meet with the design review consultant(s) one (1) or multiple times before an application is ready for a recommendation.
5. Appropriate fees for design review consultation shall be established by resolution.

GCC 8-6A-5: ADMINISTRATIVE PROCESS WITH NOTICE:

- A. The purpose of this section is to outline the specific application process for actions with prior notice to adjoining property owners.
- B. Upon the city's acceptance of an application, a neighborhood meeting shall be scheduled by the applicant.
 1. A notice shall be sent to adjoining property owners within three hundred feet (300') and agencies with jurisdiction.
 2. The applicant shall post on the property in accordance with the timing, location, language, and dimensional requirements of the city found in section [8-6A-7](#) of this chapter.
 3. The notice and property posting shall identify the process for persons to be considered interested parties.
 4. The content of the notice and property posting shall be approved by the planning official.
 5. The neighborhood meeting must occur at least fifteen (15) days prior to a decision being rendered.

C. The decision maker may make the following determinations based on the applicable required findings:

1. Intent to approve as submitted;
2. Intent to approve with changes;
3. Request changes and resubmittal;
4. Recommend denial; or
5. Recommend a public hearing.

D. The decision shall be sent to all interested parties.

E. If the determination is a recommendation for a public hearing, or if person(s) with standing object to the denial, the application shall be reviewed and a decision rendered via public hearing.

F. Conditions of approval that are deemed necessary to protect the public health, safety, and welfare, and prevent undue adverse impacts on surrounding properties may be required.

G. Written findings of fact and conclusions of law in accord with Idaho Code section [67-6519](#) stating the reasons for the decision reached shall be provided to the applicant. All conditions of approval shall be attached to the written decision.