



CITY OF GARDEN CITY

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MEMORANDUM

Date: For February 15, 2023

To: Planning and Zoning Commission

From: Hanna Veal, Associate Planner

RE: Appeal of Staff Level denial decision of SGNFY2022-0038 a sign permit located at 3725 W. Chinden Boulevard

Requested Action:

Mr. Dan Conlin of Idaho Electric Signs has appealed a denial decision by the Garden City Development Staff on November 3, 2022, of sign permit file SGNFY2022-0038 located at 3725 W. Chinden. His request is to keep the existing non-conforming sign in its current location.

Denial Summary:

Garden City staff has determined that the sign application is not in compliance with Garden City code 8-4F-12 Regulations for Specific Sign Categories in that it is a wall sign located on a wall without a clear public entrance. To be compliant with code, the wall sign shall be placed on a wall with a clear public entrance.

Appeal Summary:

The appeal submitted by Dan Colin notes the following issues as summarized below:

1. Sign does not currently face public right of way;
2. There is no street parking; as such, the sign would help customers find the parking entrance to the business.

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 appeal hearing without a draft opinion being provided ahead of time.

Any person aggrieved by a decision on a sign permit may appeal the planning official's decision to the Garden City Planning and Zoning Commission pursuant to provisions in section 8-6A-9 of this title. An appeal is not a public hearing and only the appellant(s) and respondent(s) or their representatives should address the Commission.

Garden City Code 8-6A-9 notes that appeals from the Planning Official's decision to the Planning and Zoning Commission shall not be de novo but the record may be supplemented by such new evidence as may be presented.

Deference is to be given to the decision body, and the burden of proof is on the appellant. 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, in this case, the Planning Official or designee thereof.

Per Garden City Code 8-6A-9, the appeal body shall determine whether the appeal should be: granted, granted with conditions, remanded to the decision body for additional review and findings, or be denied. In conjunction with code, the Garden City administrative rules indicate the appeal body may: affirm, vacate, remand, and/or reverse the deciding body's decision.

Grounds for affirming the decision, and denying the appeal, are summarized below:

1. The findings, inferences, conclusions, or decisions are not in violation of constitutional or statutory provisions;
2. The findings, inferences, conclusions, or decisions are not in excess of statutory authority;
3. The findings, inferences, conclusions, or decisions are not made upon unlawful procedure;
4. The findings, inferences, conclusions, or decisions are supported by substantial evidence on the record;
5. The findings, inferences, conclusions, or decisions are not arbitrary, capricious, or an abuse of discretion.

Grounds for vacating, remanding, or reversing (granting the appeal) the decision are summarized below:

1. The true intent of codes has not been correctly interpreted;
2. The provisions of codes do not apply, or a better form should have been applied;
3. The findings, inferences, conclusions, or decisions are not supported by weight of evidence;
4. There is significant error in the application of the code provisions;
5. There is significant violation of the notice provisions;
6. If there are significant errors that were committed by the decision body or in the materials provided to the decision body;
7. There is significant error in the application of approved policies that are important to sustaining the action taken.

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.

Links:

- [Appeals procedures](#) (Planning and Zoning Commission)

- [Appeal application](#)
- [Staff level review Denied](#)