



DEVELOPMENT CODE DECISION APPEAL

Permit info: CUPFY2020-14

Application Date: _____ Rec'd by: _____

FOR OFFICE USE ONLY

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

APPELLANT

Name: Regina Phipps Company: _____

Address: 813 S. Gardenaire Pl City: Boise

State: ID Zip: 83709

Tel.: 208.459.4969

E-mail: Reggie77777@gmail.com

APPEAL

Application File No., Name and location: CUPFY2020-16 Regina Phipps & Will Calhoun 401 E. 52nd St, Garden City ID 83714

Date of Decision: 16 SEP 2020

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)

we are appealing the condition of having to subdivide the property before building the single family detached home.

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

The inability of a home owner to easily build on their property and forcing them to go through a very lengthy & costly subdivision process when it is clearly not required under the zoning codes

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

see attached

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.

Regina Phipps 9-21-2020
Signature of the Applicant (date)

1. What specific decision(s) and or conditions are you appealing?

We are appealing the condition of being required to subdivide the property before building the home, rather than being allowed to build the home on the existing property as permitted by the R3 zoning codes.

We are also appealing the requirement to put in sidewalks along the property on 52nd St. for the following reasons:

- The house will be facing and accessed from Alworth St. not 52nd St.
- The previous home accessed from the same location had the address of 5124 Alworth.
- Sidewalks and a driveway are already in place and in good condition along Alworth.

2. How are you adversely affected by the decision?

The inability of a homeowner to easily build on their property and forcing them to go through a very lengthy and costly subdivision process, when it is clearly not required under the zoning codes.

The additional cost and burden of putting in sidewalks on the side of the property that will not be used as the access to the new home.

3. Identify any evidence or supporting info to support your position that code was misinterpreted or misapplied.

Our CUP request was for a reduction in density, since we were building to less than the current zoning requirements for R3, which is 14 units per acre. This equates to approximately 10 units for the 2/3 acre property.

Staffs interpretation of a dwelling unit single family detached, is that it can be the only home on the property. Staff also stated that due to the above interpretation, the only way to build the dwelling unit single family detached, would be to subdivide the property and be on its own property. This appears to be an inaccurate interpretation of the zoning codes in regards to a single family dwelling unit detached. A dwelling unit single family detached cannot be detached from another home with open space between them if there is no other home on the property.

Based on the zoning codes below a dwelling unit single family detached is permitted and allowed to be placed on the existing property without subdividing, therefore subdividing the property should not have been a condition for approval of our CUP for reduction in density.

The following are permitted for zoning in R3 as follows:

Under 8-2b-1 – dwelling unit single family detached is permitted.

Under 8-2b-2 there are no restrictions or size limitations listed in regards to a single family detached dwelling being added to the existing property.

Under 8-7a DWELLING UNIT, A structure consisting of one (1) or two (2)
SINGLE-FAMILY OR TWO-FAMILY dwelling units and separated from other dwelling
DETACHED: units by open space.

This states that a structure containing a single family unit or a two family unit can be added to the property with an existing home on the property without the requirement to subdivide. The structure cannot be a detached structure if there is not an existing home on the property for it to be detached from.

8-2c Land Use Provisions – No specific requirements or limitations to the size or use of a dwelling unit single family detached is listed.

Under 8-4b-3 two single family dwellings (detached) are permitted.

Staff stated that we would be allowed to put 2 single family homes attached (no size limitations) on the property without subdividing, but not 2 single family homes detached (no size limitations). However as previously stated above under the zoning codes, 2 single family homes detached are clearly permitted on one piece of property. Two dwelling units single family attached with no size limitations and no subdividing required are allowed, but two dwelling units single family detached with no size limitations are not being allowed unless the property is subdivided? This determination does not seem reasonable or prudent based on what is written in the zoning requirements stated above.

The zoning codes even allow 3 principal dwelling units on a property without the requirement to subdivide.

DWELLING UNIT, A structure **or property** containing three (3) or more principal
MULTI-FAMILY: dwelling units. The term "multi-family dwelling unit" includes
apartments and condominiums with varying arrangements of
entrances and party walls.

This clearly states that 3 or more principal dwelling units can be placed on a property with no requirement to subdivide the property to have only one home per property.

So why is it that 2 dwelling unit's single family detached, are being denied to be built on the existing property and are being required to subdivide the property? This clearly goes against the zoning codes as written and permitted.

