



DEVELOPMENT SERVICES DEPARTMENT

6015 Glenwood Street ■ Garden City, Idaho 83714
Phone 208/472-2921 ■ Fax 208/472-2996 ■
www.gardencityidaho.org

August 25, 2020

Regina Phipps and Will Calhoun
6929 W. Irving Ln
Boise, ID 83704

Re: CUPFY2020-16

Dear Ms. Phipps and Mr. Calhoun,

401 E 52nd Street does not appear to be a legally created lot. A legal lot is a lot that has been legally subdivided through Garden City's formal Subdivision Process. Please refer to [Garden City Code 8-1B-1](#) on Nonconforming Properties.

For you to add another home on the lot for 401 E 52nd Street the first step is for you to provide documentation of the legal lot status of 401 E 52nd Street for Planning Staff to review. If you were to provide documentation, such as a Warranty Deed document dated before August 9, 1988 that has a description matching what is described on the Ada County Assessor's website may be helpful in determining the lot's legal status. If documentation cannot be provided you would go through the city's formal subdivision process before developing the parcel. Please refer to Garden City Code 8-5B for requirements on legally subdividing your property.

<http://www.codepublishing.com/ID/GardenCity/#!/GardenCity08/GardenCity0805B.html>

Once the legal lot status is confirmed by Development Services is when you can apply for the appropriate permits. If you were to build a second home on the **same parcel**, it would need to meet the requirements of **Title 8 Development Code** and **Land Use Provisions for Dwelling Unit, Accessory**.

[Garden City Code 8-7A](#) defines the proposed addition as a Dwelling Unit, Accessory. While this use is permitted in zoning district R-3, certain standards must be met, including but not limited to the standard that accessory dwelling units may not be greater than 600sqft. Additional standards can be found in [GCC 8-2C-14](#).

We are aware that you have spoken with staff previously regarding your CUPFY2020-16 application. Our records do not contain the previously mentioned conversation where staff determined the use of "accessory dwelling unit" not applicable. Please provide documentation on such matters.

The proposed square footage of the accessory dwelling unit is not code compliant as it exceeds the 600sqft maximum required by Garden City Code. The Planning and Zoning Commission is obligated to make decisions based on Garden City Code and will make decisions based off what code states. The Commission cannot legally allow for a non-compliant accessory dwelling unit to be approved. However,

in an effort to help find solutions for you, the City is providing options for you to move forward:

1. Apply for a building permit for the structure you wish to build and pay all associated fees. If the application does not meet code, it will be denied, and the fees would not be refunded. You could then appeal the denial to the Planning and Zoning Commission. If you are denied by the Commission, you could appeal to the City Council.
2. Apply for a zoning ordinance amendment to change code to fit your needs. The burden would be on you to draft code language and to prove such a change was legal. The code change would go before the Design Review Committee and the Planning and Zoning Commission for recommendation hearings, then on to City Council for final approval.
3. Apply for a subdivision, with each dwelling unit located on separate lots. If you were to legally subdivide the lot into 2 separate lots through Garden City's formal Subdivision Process, the second home would not be considered an accessory structure and instead a single-family dwelling unit.

Staff recommends that you chose Option 3 since a subdivision process might be mandatory because of your lot's legal status. In order to keep your CUP as scheduled, a Condition of Approval could be the requirement of a subdivision application prior to any construction on the site.

Please contact us at planning@gardencityidaho.org or 208-472-2922 with any questions about either the Mixed Use (M) zoning district of the Neighborhood Commercial Node (NCN) designation.

Sincerely,

Development Services Department

Kegan Garcia

From: Owen Nason
Sent: Thursday, November 10, 2016 1:57 PM
To: Reggie Phipps; Jenah Thornborrow; building; Stephanie Russell
Subject: RE: code/ordinance change
Attachments: image001.jpg; image002.png; image003.gif; image004.png

Hello Regina,

401 E 52nd Street does not appear to be a legally created lot. A legal lot is a lot that has been legally subdivided through Garden City's formal Subdivision Process. Please refer to Garden City Code 8-1B-1 on Nonconforming Properties <http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0801B.html>

For you to add another home on the lot for 401 E 52nd Street the first step is for you to provide documentation of the legal lot status of 401 E 52nd Street for Planning Staff to review. If you were to provide documentation, such as a Warranty Deed document dated before August 9, 1988 that has a description matching what is described on the Ada County Assessor's website may be helpful in determining the lot's legal status. If documentation cannot be provided you would must go through the city's formal subdivision process before developing the parcel.

Please refer to Garden City Code 8-5B for requirements on legally subdividing your property. <http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0805B.html>

Also, 5124 Alworth Street is not a legal address on file with Ada County Assessor's office.

Once the legal lot status is confirmed by Development Services is when you can apply for the appropriate permits. If you were to build a second home on the **same parcel**, it would need to meet the requirements of Title 8 Development Code **and Land Use Provisions for Dwelling Unit, Accessory**.

Your property is zoned R-3, please refer to Garden City Code 8-2B for Base Zoning District Provisions <http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0802B.html>

Also, please refer to Garden City Code if you intend to build an accessory dwelling unit:
8-2C-14 Dwelling Unit Accessory
<http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0802C.html#8-2C-14>

And refer to 8-4B Design Provisions for Residential Structures
<http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0804B.html>

If instead you were to legally subdivide the lot into 2 separate lots through Garden City's formal Subdivision Process, the second home would not be considered an accessory structure and instead a single family dwelling unit.

I believe the last home you had removed on the lot was a manufactured home and would be considered an accessory dwelling unit since the lot was not subdivided legally into 2 lots. If you pay careful attention to Garden City Code 8-2C-14 you will find that manufactured and mobile homes shall not be permitted as an accessory dwelling unit. If you look at 8-2C-14 you will see that not more than one accessory dwelling unit shall be allowed per property. <http://www.codepublishing.com/ID/GardenCity#!/GardenCity08/GardenCity0802C.html#8-2C-14>

Please do not hesitate to contact Development Services with further questions,



Owen Nason
Development Services Specialist / Planner
(208) 472-2929
Window Hours: Monday - Friday 9AM to 12PM and 1PM to 3:30PM.



From: Reggie Phipps [mailto:Reggie.Phipps@itd.idaho.gov]
Sent: Wednesday, November 09, 2016 11:57 AM
To: Jenah Thornborrow; building; Owen Nason; Stephanie Russell
Subject: code/ordinance change

My parents live at 401 e 52 st.

The property in question did have two separate houses on it previously but one was removed and we now want to replace it with another house. The one we want to replace had the address of 5124 Alworth st. We are being told that a code/ordinance change was made and that we cannot replace the removed house with another house because only 1 structure per property is now allowed.

I have tried looking for this ordinance/code on line that states this change but have been unable to find it. Could you please provide me a copy of this code/ordinance.

Sincerely,

Regina Phipps (Reggie)

Driver Services Records Program Specialist
Phone – 208-334-4465
Email - reggie.phipps@itd.idaho.gov



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To: planning@gardencityidaho.org
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Message Score: 1
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From: [Christian Samples](#)
To: [building](#)
Subject: RE: scheduling an appointment
Date: Wednesday, May 30, 2018 10:46:38 AM
Attachments: [image008.png](#)
[image009.png](#)
[image010.png](#)

I corresponded with her back on January 3rd on this matter. She can have an accessory dwelling of 600 sq. ft. However, she will need to demonstrate that the property is a legal parcel. That said, I think she may be looking at meeting with someone from building rather than me (although I can meet with her). Would you give her a call and see what her needs are? I am available if she wants to meet with a planner.

Thanks,

Chris

From: building
Sent: Wednesday, May 30, 2018 8:21 AM
To: Christian Samples
Subject: FW: scheduling an appointment

Hello,

Please see the message below. I know that they would need to follow setbacks and get all the required building and trade permits, but do you know of anything else that they would need to be aware of before submitting for this project? Would they be allowed to have a second dwelling unit on the property?

Thank you,

Mary Manogue



Garden City Development Services

Building

City of Garden City

p: 208-472-2921

f: 208-472-2926

a: 6015 Glenwood Street, Garden City, ID 83714

w: www.gardencityidaho.org e: building@gardencityidaho.org

Window Hours: 9a.m. - 12p.m. and 1p.m. - 3:30p.m.



THE DEVELOPMENT SERVICES DEPARTMENT WILL BE CLOSED:

WEDNESDAY, MAY 30TH FROM 11:45 AM TO 1:15 PM

From: Reggie Phipps [mailto:Reggie.Phipps@itd.idaho.gov]
Sent: Tuesday, May 29, 2018 11:49 AM
To: building
Subject: scheduling an appointment

We need to find out who we need to talk to and work with about putting a 600 sq ft house on my parents property where they already have a house at 401 east 52 nd st. I have looked at the building codes and know this is allowed but need to talk to someone on all the requirements and how to go about getting approval to move forward and can we put it where they want it located on the property etc.

Since we will have to take time off of work we would like to meet with someone Friday afternoon June 1st around 2 pm or later if possible to start the process. I can be reached at 208-459-4969 or reggie777777@gmail.com.

If this is not the department I need to be working with please let me know whom to contact or please forward my email request to the correct ddepartment.

Your assistance is greatly appreciated.
thanks

Regina Phipps (Reggie)

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From: [Christian Samples](#)
To: [Hanna Yeal](#)
Subject: FW: [EXTERNAL] RE: dwellings
Date: Tuesday, August 25, 2020 11:01:01 AM
Attachments: [image002.png](#)
[image004.png](#)
[image005.png](#)
[image007.png](#)
[image009.png](#)
[image010.png](#)
[image006.png](#)
[image008.png](#)



Chris Samples, AICP

Associate Planner

Development Services, **Garden City**

p: 208-472-2922

a: 6015 Glenwood Street, Garden City, ID 83714

w: www.gardencityidaho.org e: csamples@gardencityidaho.org



From: Reggie Phipps <Reggie.Phipps@itd.idaho.gov>
Sent: Wednesday, November 14, 2018 11:08 AM
To: Christian Samples <csamples@GARDENCITYIDAHO.ORG>
Subject: RE: [EXTERNAL] RE: dwellings

Thank you so much for all your help

Regina Phipps (Reggie)

PO BOX 7129

Boise Idaho 83707-1129

DMV Program Specialist

Skills Test Examiners & Defensive Driving Courses

Phone – 208-334-8162

Email - reggie.phipps@itd.idaho.gov



YOUR Safety ••• YOUR Mobility ••• YOUR Economic Opportunity

From: Christian Samples [<mailto:csamples@GARDENCITYIDAHO.ORG>]
Sent: Wednesday, November 14, 2018 10:38 AM
To: Reggie Phipps
Subject: RE: [EXTERNAL] RE: dwellings

Hi Reggie, I will detail the requirements below. Please note I will be going on leave between November 16 – December 7, 2018. Please call 208-472-2921 for assistance.

1. Complete the application found here: [Link](#) and [Link](#)
2. A neighborhood meeting with property owners within 300' of the property is required. You must send out a meeting notice 10 days prior to holding the meeting. You may get a list of property owners from the Ada County Assessor.
3. After sending the notice, hold the meeting. The meeting can be held on site or a location of your choosing. It must be held for at least 30 minutes between 5:30 – 7:30 Monday through Friday. If no one shows up, that's ok. We need a copy of the notice, a sign up sheet, and the list of property owners you sent a notice to.
4. Upon completing the meeting, you may apply.
5. You will be given a meeting date and an acceptance letter.
6. 10 days prior to the meeting, you will need to post a double sided sign along the road. The signs contents can be found in Garden City Code 8-6A-7B-3A [Link](#)
7. An affidavit of sign posting must be provided 7 days prior to the meeting date. Here is a link to the affidavit: [Link](#)
8. The meetings are held on the 3rd Wednesday of every month at 6:30 pm at Garden City Hall. You or a representative will need to be there.
9. Once the meeting is held, you will be given a signed decision within a week of the hearing. There is a 10 day appeal period to the Garden City Council. Once this period ends, the decision is final. If you choose to appeal, a hearing before the Council will be scheduled.

Thanks,

Chris

From: Reggie Phipps [<mailto:Reggie.Phipps@itd.idaho.gov>]
Sent: Thursday, November 08, 2018 8:00 AM
To: Christian Samples
Subject: RE: [EXTERNAL] RE: dwellings

Thanks for all your help and information.

What are our next steps to get/apply for the conditional use permit.

Your assistance is greatly appreciated.

thanks

Regina Phipps (Reggie)

PO BOX 7129

Boise Idaho 83707-1129

DMV Program Specialist

Skills Test Examiners & Defensive Driving Courses

Phone – 208-334-8162
Email - reggie.phipps@itd.idaho.gov



From: Christian Samples [<mailto:csamples@GARDENCITYIDAHO.ORG>]
Sent: Wednesday, November 07, 2018 2:28 PM
To: Reggie Phipps
Subject: [EXTERNAL] RE: dwellings

--- This email is from an external sender. Be cautious and DO NOT open links or attachments if the sender is unknown. ---
Hi Reggie, I'll answer your questions below in red. Please note my e-mail was not able to display the pictures your provided.

Thanks,

Chris

From: Reggie Phipps [<mailto:Reggie.Phipps@itd.idaho.gov>]
Sent: Tuesday, October 30, 2018 10:57 AM
To: Christian Samples
Subject: dwellings

Chris,

Thanks for the additional research that is greatly appreciated.

Sorry to be such a bother but I just want to make sure I understand all the options available and I am clear before we hire someone to build a house or houses and then to only find out later that it will not be approved.

So if we do the conditional permit option you brought up could we put 2 more houses on the lot for a total of 3 houses on the lot if approved?
Without a site plan to evaluate, it is difficult to answer this question. A conditional use permit is needed due to not meeting the minimum 14 units per acre since the property is located within the TOD node designation of the comprehensive plan. The previously mentioned definition of single or two family detached dwelling unit limits this to two units. A third unit would trigger multi-family dwelling unit requirements.

Could the additional houses be manufactured homes since they would not be accessory dwellings? Yes, but they must be placed on a permanent foundation as required by Garden City Code 8-4J.

I am still a little confused on not allowing the garage on the bottom to exceed the 600 sq ft since the garage does not meet the definition of an accessory dwelling (thus no 600 ft requirement for garages) and the accessory dwelling on the top would not exceed the 600 ft requirement. As mentioned previously, the accessory dwelling definition would not apply. The 600 sq. ft. requirement would no longer apply.

When we had our meeting with you we asked about the garage and were told that we could put a 1 or 2 car garage along with the 600 sq ft house and garage either attached or detached and were not given any limitations on the size of the garage just the dwelling/house. Please see above answer concerning the 600 sq. ft. limit.

Thus the confusion on why the option we submitted with the 2 story unit (garage on bottom 720 sq ft and dwelling on top 600 sq ft) would not be allowed since I could not find a restriction on the size of a garage if built with or without a house unless I missed it in my reading of the code? You are required to have 2 parking spaces (1 within an enclosed garage for a one bedroom) for a single family home pursuant to Garden City Code 8-4D.

If we decide to just put the accessory dwelling on the property are you saying that we can only build a 2 story unit with a garage on the bottom and the dwelling/house on the top or a two story house with a garage attached or detached as long as the footprint of the house or the garage sitting on the ground does not exceed 600 ft? Please see my answer above concerning the 600 sq. ft. limit.

Garage on bottom dwelling on top with 600 sq ft house house on Does not exceed 600 sq ft footprint On the ground	2 story 600 sq ft dwelling and 600 sq ft garage attached	720 sq ft garage top
--	--	----------------------

Is the 600 sq feet living space or just a footprint on the land? Please see my answer above concerning the 600 sq. ft. limit:

I do appreciate you helping me understand what we can and cant do with this so we can get something started soon.

thanks

Regina Phipps (Reggie)

PO BOX 7129
Boise Idaho 83707-1129
DMV Program Specialist
Skills Test Examiners & Defensive Driving Courses
Phone - 208-334-8162
Email - reggie.phipps@itd.idaho.gov



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You received this message because the sender is on your allow list.

From: [Christian Samples](#)
To: [Hanna Veal](#)
Subject: FW: conditionla use permit app
Date: Tuesday, August 25, 2020 11:01:16 AM
Attachments: [image003.png](#)
[image004.png](#)
[image005.png](#)



Chris Samples, AICP

Associate Planner

Development Services, **Garden City**

p: 208-472-2922

a: 6015 Glenwood Street, Garden City, ID 83714

w: www.gardencityidaho.org e: csamples@gardencityidaho.org



From: Christian Samples
Sent: Wednesday, December 12, 2018 2:16 PM
To: Reggie Phipps <Reggie.Phipps@itd.idaho.gov>
Subject: RE: conditionla use permit app

Hi Reggie, thank you for your e-mail. Garden City Code 8-6B-3B requires a design review for developments with more than two residences on separate or the same property. If your proposal will exceed two residences as noted, then a Design Review is required. Otherwise, please disregard.

Thanks,

Chris

From: Reggie Phipps [<mailto:Reggie.Phipps@itd.idaho.gov>]
Sent: Thursday, December 6, 2018 8:22 AM
To: Christian Samples
Subject: conditionla use permit app

Hello Christian hope you had a great vacation.

I have a question on the conditional use permit app.

As I am filling it out it says if you check any box on the right side you must also submit a design review application. Do I really have to submit a design review

app before the conditional use permit app? I don't want to miss any steps or required paperwork.

It just seems odd to have to provide all the information on exactly what type of houses and foundations etc. we are putting on the property before we even get permission to put them on their.

Your assistance is greatly appreciated as always.

thanks

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From: reggie.phipps@itd.idaho.gov

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From: [William Calhoun](#)
To: [building](#); [Hanna Veal](#)
Subject: Fwd: Garden City approval letter property boundary adjustment
Date: Friday, August 28, 2020 2:17:06 PM
Attachments: [ATT00001.htm](#)
[Nesbitt ROS approval Garden City 5-6-97.pdf](#)

Sent from my iPad

Begin forwarded message:

From: David Crawford <dacrawford@baengineers.com>
Date: August 28, 2020 at 2:09:23 PM MDT
To: William Calhoun <wacalhoun1963@gmail.com>
Subject: Garden City approval letter property boundary adjustment

Mr. Calhoun,

We were able to locate the file and found that Garden City approved a property boundary adjustment for these parcels on 5-6-1997.

Please find attached a scanned copy for your use.

Sincerely,

David Crawford

B&A Engineers, Inc.

208.343.3381

dacrawford@baengineers.com

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From: [Regina Phipps](#)
To: [Hanna Veal](#)
Subject: Reggie Phipps
Date: Tuesday, August 25, 2020 7:38:31 AM

did want to mention that there was a trailer house on the property several years ago on that same location and it was given the address of 5124 alworth Street not sure if that makes any difference but thought I would let you know thanks very much

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reggie777777@gmail.com

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