

PLANNING COMMISSION AGENDA
COEUR D'ALENE PUBLIC LIBRARY
LOWER LEVEL, COMMUNITY ROOM
702 E. FRONT AVENUE

SEPTEMBER 13, 2022

THE PLANNING COMMISSION'S VISION OF ITS ROLE IN THE COMMUNITY

The Planning Commission sees its role as the preparation and implementation of the Comprehensive Plan through which the Commission seeks to promote orderly growth, preserve the quality of Coeur d'Alene, protect the environment, promote economic prosperity and foster the safety of its residents.

5:30 P.M. CALL TO ORDER:

ROLL CALL: Messina, Fleming, Ingalls, Luttropp, Mandel, McCracken, Ward

PLEDGE:

APPROVAL OF MINUTES: ***ITEM BELOW IS CONSIDERED TO BE AN ACTION ITEM.
August 9, 2022

PUBLIC COMMENTS:

STAFF COMMENTS:

COMMISSION COMMENTS:

PUBLIC HEARINGS: ***ITEMS BELOW ARE CONSIDERED TO BE ACTION ITEMS.

1. Applicant: Jack Riggs
Location: 801 S. 11th
Request: The applicant is requesting a variance in fence height to allow a six-foot fence in the front yard setback area rather than a maximum fence height of four feet as allowed.
QUASI-JUDICIAL, (V-1-22)

ADJOURNMENT/CONTINUATION:

Motion by _____, seconded by _____,
to continue meeting to _____, ____, at __ p.m.; motion carried unanimously.
Motion by _____, seconded by _____, to adjourn meeting; motion carried unanimously.

**The City of Coeur d'Alene will make reasonable accommodations for anyone attending this meeting who requires special assistance for hearing, physical or other impairments. Please contact Shana Stuhlmiller at (208)769-2240 at least 72 hours in advance of the meeting date and time.*

****Please note any final decision made by the Planning Commission is appealable within 15 days of the decision pursuant to sections [17.09.705](#) through [17.09.715](#) of Title 17, Zoning.***



MINUTES



**PLANNING COMMISSION
MINUTES
AUGUST 9, 2022
LOWER LEVEL – LIBRARY COMMUNITY ROOM
702 E. FRONT AVENUE**

COMMISSIONERS PRESENT:

Tom Messina, Chairman
Jon Ingalls, Vice-Chair
Lynn Fleming
Phil Ward
Peter Luttrupp
Sarah McCracken
Brinnon Mandel

STAFF MEMBERS PRESENT:

Hilary Anderson, Community Planning Director
Tami Stroud, Associate Planner
Sean Holm, Senior Planner
Shana Stuhlmiller, Public Hearing Assistant
Randy Adams, City Attorney

COMMISSIONERS ABSENT:

CALL TO ORDER:

The meeting was called to order by Chairman Messina at 5:30 p.m.

APPROVAL OF MINUTES:

Motion by Luttrupp, seconded by Ward, to approve the minutes of the Planning Commission meeting on June 13, 2022. Motion approved.

STAFF COMMENTS:

Hilary Anderson, Community Planning Director provided the following statements:

- She noted for the September Planning Commission meeting we have one hearing item and that the annexation request for Coeur Terre is tentatively scheduled for October.
- She announced the Regional Housing and Growth Issues Partnership (RHGIP) is continuing efforts and that the group has a website and Facebook page which is updated weekly with new information and a “Weekly Update.” Staff is working on scheduling a multi-jurisdictional joint workshop with all the Planning Commissions of the neighboring jurisdictions looking at dates for the workshop in September to learn about RHGIP partnership and discuss some of the tool kit ideas. She explained that this workshop will be noticed as a public meeting, but no public comments will be allowed. A Doodle Poll link was recently sent to all commissions, so please pick a date that would work for you.
- She announced that staff released a request for qualifications to update the City’s Development Impact Fees. Statements of Qualifications from qualified consultant teams are due by August 22nd. She explained once we get those back, staff will convene the selection committee and soon we will start working on updating those fees.

- She noted developments from our Community Development Block Grant funds (CDBG) that the Community Opportunity Grants are open and available to organizations and businesses that are seeking projects that would benefit low/moderate income individuals. She stated that the information about these grants is on our website and Facebook page with applications due September 23rd and stated that we also have an Emergency Minor Home and Accessibility Repair Program (EMARP) that is open to low-to-moderate income people to apply who need assistance with an reroof or ramp to their homes, leaky pipes etc.

PUBLIC HEARINGS

1. Applicant: Todd Kaufman
Location: 2810 N. 17th
Request:
 - A. A proposed +/- 2.3-acre PUD known as “Kaufman Estates” QUASI-JUDICIAL, (PUD-3-22)
 - B. A proposed 24-lot preliminary plat known as “Kaufman Estates”. QUASI-JUDICIAL, (S-2-22)

Tami Stroud, Associate Planner, provided the following statements.

The applicant is requesting approval of the following decision points that will require separate findings to be made for each item. The applicant is requesting approval of the following:

1. A residential planned unit development (PUD) that will allow for 24 lots and three tracts with the following modifications.
 - a. Lots fronting on a private street rather than a public street.
 - b. Allow for twin home type construction in the R-12 Zoning District.
 - c. Minimum Lot Area of 2,250 SF for a twin home unit rather than 3,500 SF.
 - d. Side Setback (interior) of 5' and 0' rather than 5' on one side and 10' on the other.
 - e. Street Side Setback of 5' rather than 10'.
 - f. Sidewalk on one side of street rather than sidewalks on both sides of street.
 - g. 25-foot lot frontage for each twin home lot.
2. A 24 lot, three tract preliminary plat to be known as Kaufman Estates.
 - The subject property is located at 2810 N. 17th Street, East of Stiner Avenue and south of Nettleton Gulch Road.
 - The property is approximately 2.3-acre site with an existing single-family dwelling and accessory structure that will be removed. The applicant is proposing a planned unit development (PUD) as part of this request.
 - The PUD will consist of 24 lots, two open space tracts, and one tract that will contain the private road. The applicant has indicated that the 24 lots are designed for duplex units
 - The 24 proposed buildable lots will have access to a private road within the development and the private road will have a single access connection to N. 17th Street.
 - The applicant is proposing 11% open space that will be located in two separate tracts. The open space amenities include a grassy area with a walking path, benches and a dog area in the

northeast open space tract and a lawn and picnic area with a gazebo in the southwest open space tract. The applicant has indicated that these open space areas will be maintained by the Homeowners' Association (HOA).

- The applicant has indicated that these open space areas will be maintained by the Homeowners' Association (HOA).
- The applicant has indicated that this project will be completed in one phase with construction beginning in Fall of 2022 and completed by Summer of 2023
- The City's Comprehensive Plan designates the subject property as Compact Neighborhood
- She stated if approved there are 18 conditions for consideration.

Ms. Stroud concluded her presentation

Commission Comments:

Chairman Messina inquired what will be the height of the buildings. Ms. Stroud replied the height allowed in R-12 zone is 32 Feet. Chairman Messina commented that this is the first time hearing the term "Twin houses" and asked if the term is part of the R-12 guidelines or is it R-17. Ms. Stroud explained the applicant references the R-17 code because within that code allows twin homes.

Commissioner Ingalls noted on page 8 of the staff report would like to clarify for the record that "The subject property is not within the city limits" and questioned if that was an error. Ms. Stroud commented that is an error and the property is in the city limits. Commissioner Ingalls noted that if parking isn't allowed on 17th Street and the development meets the two vehicle spots per unit with one unit physically in the garage and the second vehicle would be in the driveway. He inquired if staff could clarify if there would be room for additional parking for guests etc. Ms. Stroud commented that it is a good question for the applicant to answer. Chairman Ingalls inquired about the deviations that seem aggressive versus other previous Planned Unit Developments (PUD's) and in staff's opinion, are these deviations consistent with past PUD's. Ms. Stroud responded that these are standard requests related to setbacks and a sidewalk on one side.

Commissioner Ingalls noted the unit to the south and because of its orientation the home is turned with the setback 5 feet to the property line which is really close especially to the homeowner to the south. Ms. Stroud commented that would be a great question to ask the applicant who would be able to clarify.

Commissioner Luttrupp inquired if this request is considered "spot zoning". Ms. Stroud answered it wouldn't because this isn't a zone change.

Commissioner McCracken inquired about snow removal and if the applicant could address this when he does his presentation.

Public testimony open.

Jeramie Terzulli applicant representative provided the following statements:

- He stated that the city engineer reviewed the plan and clarified that we have adequate services and if approved, there will be improvements to 17th Street.
- He stated this location is close to a lot of services that include neighborhood businesses, and that is a great asset to be walkable/bikeable to these services.
- He noted within the area is a lot of single family plus duplexes, and some infill residential.
- He explained that these are townhomes where the buyers share a common wall and purchase them as individual units, which is good for first time homebuyers.
- He described this area close to recreation areas such as Fernan, Canfield Mountain, Tubbs Hill etc.

- He added that this is considered a transition area more urban to suburban.
- The property is vacant open grass lands with some large trees around the perimeter and would like to talk with the homeowners regarding the outcome of this meeting to discuss upgrading the fencing and incorporating new landscaping including using the existing mature trees on the property.
- He stated this property doesn't have any topographical issues with a moderate incline to the east that flattens out.
- He noted the deviations from code which aren't aggressive with to the rear side setback that was a decision based on the constraints of the property since the shape of the lot is narrow with a deviation from the rear yard to provide a more robust street section.
- He cited various quotes from the 2042 Comprehensive Plan which deals with homeownership to provide a home that people can purchase to be a solution to the workforce housing problem and that this project is consistent with the future land use map which identifies this area suitable for compact neighborhoods.
- He explained from a previous question asked why R-17 was chosen because the R-12 zoning district doesn't allow the use of Townhomes where R-17 does and also allows "party walls" that isn't allowed in the R-12 zoning district.

Chairman Messina inquired if that is allowed. Ms. Anderson explained that the PUD allows any deviations to be requested with a request of any housing types and explained that the property is already zoned R-12 and if built to that density they would be allowed to put more units on the property then what they are asking for through the PUD request, based on the 12 units per acre.

Mr. Terzulli continued his presentation:

- He explained that the biggest push back from the neighbors after reading various comments was density and noted on a map of the area comparing his property with others that are similar in the density with the various parcels surrounding this property with the average density that would be less units compared to the surrounding properties.
- He stated that we had lots of meetings with staff during the design process in order to keep in compliance and after reading the conditions from the various department is ok with the 18 conditions.
- He mentioned a letter that was sent to him that wasn't helpful to this discussion which stated this applicant doesn't care about the community with the letter stating that "the applicant doesn't care about me or neighbors only interested in one thing making as much money out of this community and leaving us behind to deal with this mess". He added this is unhelpful to the discussion and if they would have done five minutes of research, they would have found out that my client and family purchased this land, put their name on the subdivision that own a local business that employs 200 people and by providing this project would help benefit his employees by being able to provide housing that is affordable.

The applicant concluded his presentation.

Commission Comments:

Commissioner Ingalls inquired about parking on 17th Street where the city engineer made the requirement that there be no parking allowed on 17th street. Mr. Terzulli replied that is correct, because 17th is too narrow and that we will be required to repave the entire street section based on discussions about widening the street that would affect the homes to the south by pushing them to the road.

Mr. Terzulli explained that the current street design would allow parking on one side of the street within the project and in addressing a previous question regarding snow storage and explained that the street will be designed to have a "sheet drain" which isn't crowned with the intent to push the snow into the swales.

Commissioner Ward noted in the narrative references affordable housing/workforce housing and questioned is this something you will be able to provide with this project. Mr. Terzulli explained that this is hard to answer and that the applicant's intent for this project is *not* to make a huge profit margin however, there seems to be stabilization in the construction industry and hopefully try and target a price point based on using the income of Mr. Kaufman's employees and asking the question " could my employees afford this house?" Commissioner Ward inquired if these were duplexes how many could be put on the property. Mr. Terzulli answered we could put 12 units/per acre. Commissioner Ward stated if 12 units/per acre is allowed and questioned if twelve units would fit on the property. Mr. Terzulli answered we could possibly get 22-24 units on the property.

Commissioner McCracken inquired if diagonal parking would be an option on the south side of the street to provide for guest parking. Mr. Terzulli answered no.

Commissioner Luttrupp questioned if he has talked to the people in the community. Mr. Terzulli explained that he did make an attempt, but felt this community was united against this development and would offer an "olive branch" based on the outcome. Commissioner Luttrupp explained from his experience it seems like people who come to these hearings don't understand what is being proposed and that this is a platform for those people who don't understand to learn and would suggest using terms that are comforting. He stated in previous testimony that the applicant was basing the price of these homes on the salary of the people who works for Mr. Kaufman and inquired if this could be added as a condition. Mr. Terzulli explained that he would have to sit down with the applicant and discuss away to make that happen. He added that in the past, have tried to meet with the community and appreciates suggestions from this commission.

Chairman Messina inquired what is the height of the buildings. Mr. Terzulli confirmed that these homes will be two stories that would be 24 feet. Chairman Messina inquired how many units could be placed on the property without a public hearing. Mr. Terzulli answered we would have to make adjustments it would be a different looking product.

Tom Paulson explained that his mother lives near the property in a 1200 sq.ft. home surrounded by homes similar selling for \$400,000. and if the homes that are proposed anywhere near this price won't be considered affordable housing and will be changing the character of the neighborhood.

Kathy Moehling stated that she has lived in this community for 3 years and the community is friendly and is concerned about the traffic and if this will be an affordable housing project.

Kris Carey explained that she doesn't live in the area, but a friend does and as I was driving down 17th Street which is narrow and doesn't see how you can put 24 houses in this area where kids don't have a place to play and stated maybe this isn't the right place for this development.

Connor Kenna commented that he lives in the area and that there have been numerous trees removed. He explained that he has a young family and doubts these homes will be affordable or help the community.

Rick Rainbolt stated he has lived in the area for 30 years and density is a concern with surrounding properties that are 1-acre parcels with 1-2 families per acre and that he is trying to put 12 homes on 1 acre. He added traffic is a concern and if approved would have to put in a stop sign.

Joe Archbalt stated this is not going to work and will be a disaster. He added that he is also concerned about water and if there will be enough room in the schools to handle the overload of kids living in this project.

James Giraudo board member of Best Hills Association commented he has major issues with traffic on 15th and doesn't see how the fire department can service this property. He commented if approved, this project will change the character of the property. He has a problem with the number of homes in this area. He commented that he appreciates the previous testimony from the applicant representative and

questioned why isn't the applicant here to address the community concerns.

Jennifer Price stated lives in the area where more VRBO's moving into the area and has concerns if these homes are affordable that they will get picked up by investors for VRBO's. She stated we love this area and if approved the project will change the character of the property. She explained that we also want to preserve the deer with this lot having been their home for along time. She noted that there is a lot of children in the neighborhood and understand this property will be developed and to please consider something less dense.

Pauline Jaklich stated this is a unique neighborhood. She stated on her property she has numerous fruit trees and that the stormwater coming from this property is toxic and doesn't want anything like this in the swale. She added this is too much project for this property and that she has lived here for 19 years and asked the commission to deny this property.

Tammy Rosenthal commented that she was offended that the applicant representative called her home "an aging piece of crap" and that this developer has never made an attempt to talk to this community. She added the developer wants to ruin the wildlife and has also pulled up all the trees and feels that her privacy will be violated.

Silvia Hickman commented that she drove a school bus for many years and is concerned that there isn't enough room for a bus to turn around. She commented that she enjoys the wildlife which will be affected, trees cut down and to please deny this request.

Kelly Wilderson commented this neighborhood doesn't have sidewalks and that kids are forced to ride their bikes in the street. She explained this property sits on a hill and people speed and she is concerned about safety.

Carol Flagel commented lived in this area for 62 years and was a small home which has been remodeled. She understands there needs to be progress and is concerned about traffic.

Kathy Hegemeyer is concerned about the traffic and that the street isn't wide enough.

John Thomassat is concerned about traffic and snow removal.

Tom Hungeford commented most of these homes in this area needs to be preserved. He added these homes aren't rentals with people living in them. This development won't fit this area. He understands there is a need for growth, but it should be responsible.

The commission took a 5-minute break.

Amber Hicks stated they bought their home on Gilbert 3 years ago and are first home buyers. She commented that she likes the area and has concerns for the safety of the children and parking issues.

Kyle Holmes stated that he lives on Gilbert and there are water issues and every time it rains the water comes onto this property goes into his basement that floods. He commented that he has traffic concerns especially for children that are playing in the street.

Megan Johns stated lives in this area and is concerned about the wildlife She appreciates the opportunity to testify and asked to leave the vegetation. She has concerns about light pollution and said there should be a condition to have the lighting be directed down and would love for the developer to work with the community on a project that fits with the neighborhood.

Al Hugstad stated he moved to Coeur d'Alene in 1981 and how the city has changed and is starting to look like California. He added that he isn't afraid of growth, but this area has changed and is zoned for high density, which we weren't aware of. He commented that this is the only community in the city that still

looks like what the city looked like years ago. He is concerned about running out of Aquifer water and the additional runoff from this parcel.

Rosanna Jacobson moved here 3 years ago and lives on Nettleton Gulch Road and concerned with the growth and stated if growth continues, she will have to leave her home.

Ryan Maucks commented he is third generation and dislikes this development and if approved it will take away the character of the neighborhood.

Josh Milligan commented lived in the area for less than a year and he thanked the prior home owner for picking them to buy this home. He asked the commission to please preserve this community.

Rebuttal:

Mr. Terzulli provided the following statements.

- He stated the City Engineer estimated the traffic wouldn't have an impact on traffic.
- He stated that we will be providing 28 parking stalls.
- He commented per the City Engineer we can't widen 17th Street, but they could revisit this with the engineer.
- He added the area is zoned R-12 allowing 28 units on the property.
- He noted that we could provide 3500 sq ft lot per dwelling lot for duplexes with no restrictions as a use allowed "by right" with no public hearing needed.
- He stated that this was the applicant's attempt to provide an affordable housing project.
- Stormwater will be addressed onsite with a design reviewed and approved by staff.
- Stormwater will be treated through injection wells with the city who has the highest standards.
- He noted the aquifer was analyzed 2 years ago and per Panhandle Health is in better shape.
- He commented VRBO's can be managed through the CC&R's and would discuss with the area agencies to discuss that local workforce people purchase these homes.
- He explained this housing issue is a problem and heard kids playing in the street and the reality kids grow up and want to come back to the community where they lived and by approving this request would provide a place for them to live.
- He stated this is a unique problem and maybe this doesn't work here and what we go by is the Comprehensive Plan and feel this project checks all the boxes.

Chairman Messina inquired how many parking spaces are needed for duplexes. Ms. Anderson answered two spaces per unit.

Commissioner Luttrupp questioned if staff can define the term "by right". Ms. Anderson explained there are different uses allowed in each zoning district and for R-12 by right could do duplexes. By right means they could go to building permit; however, if they were going to do a subdivision that would need to have a public hearing for the subdivision. Commissioner Luttrupp stated that he wanted clarification for the public to understand what can be built on the property.

Public testimony closed.

Discussion:

Commissioner Ingalls commented that there was lots of discussion and understands that change is difficult and if you don't want change maybe get together the neighbors and "pass the hat" to buy the property. He added that change is coming and in previous testimony heard what can be done "by right" versus a PUD and that we have recently looked at a number of PUDs that sometimes is a better development than what could be done "by right" He explained part of our process is that we have to meet findings with the applicant mentioning that this project has checked all the boxes in the Comprehensive

Plan with comments from city staff seeing no issues with this project. He explained the finding he struggles with is the compatibility issue and that finding B8b states “the design and planning of the site is/isn’t compatible with the location, setting and existing uses on adjacent properties”. He added that in the staff report it noted that there are a number of larger lots with single family homes to the North, East and West of the site and near the site is pocket housing etc. and how finding B8b will be difficult to make if the location isn’t compatible. He added that he might support this plan if it was on 15th Street or Best Avenue etc. but this plan at this location, he can’t support.

Commissioner McCracken concurs and after looking at the parcels on 18th that haven’t been vacated, Gilbert is narrow and 17th Street never widened the project isn’t compatible. She noted when looking at the site plan the twin home that is positioned sideways affects the setbacks to the adjacent neighbor and appreciates the applicant finding a way for first time homebuyers a way to own their homes, but maybe the applicant should come back with a different proposal that would allow individual ownership with less density and she asked them to please talk to the community.

Commissioner Ward stated there is two parts. First is the site plan and in his opinion the site plan is overdone with insufficient parking for the residents, garages with parking space in front isn’t enough, and no parking on the street would create a congested corridor. Everything on this site plan is “minimal”. He added that he doesn’t think the twin homes can be justified. The number of by right units is controlled by the zoning which includes setbacks roadways etc. so you have 12 units/acre “by right” won’t fit on 2.3 acres unless the minimal units meet a lot of setbacks which is a problem. He added when looking at the Comprehensive Plan it talks about grid streets which these aren’t but considered more country roads and that the Comprehensive Plan isn’t a guide to build anywhere you want and feels that this is a “leap frogging” effect which is urban sprawl and that this project isn’t compatible with the neighborhood.

Commissioner Mandel commented that she stands by the Comprehensive Plan/ Land Use Map which was a good exercise for us when this was discussed and the effort involved a lot of community engagement. She understands some people didn’t participate, which was unfortunate since there were many ways to participate and provide comments, through the city website and other media. She added that the Land Use Map does show examples of compatible housing types and agrees that this project doesn’t have the right character and isn’t compatible. She comments she hopes the sincerity from the applicant/developer to be creative about housing options for the workforce will happen for future projects.

Commissioner Fleming stated that she has been involved with Planning and Zoning commissions in Coeur d’Alene and other jurisdictions and hasn’t seen a more passionate/engaged community come speak at a public hearing. She commented that this project isn’t in conformance with the Comprehensive Plan because we have to support community, unity and involvement by maintaining high quality for the residence and to preserve the housing stock and feels this project is a “slap in the face” She added that she is offended by the institutional design of the homes that isn’t compatible and is opposed to lawns where we use the water from the aquifer every day to have a pretty green lawn that is useless and rather farm it, grow it make it work for all of us and added that we have to protect the natural environment that this project doesn’t belong here and isn’t compatible with the neighborhood.

Commissioner Ingalls added there is some elements in the Comprehensive Plan for the developer to provide housing stock and concurs with the Comprehensive Plan goals this project doesn’t support.

Motion by Fleming, seconded by McCracken, to deny without prejudice Item PUD-3-22. Motion approved.

ROLL CALL:

Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner McCracken	Voted	Aye
Commissioner Luttrupp	Voted	Aye

Commissioner Ward Voted Aye
Chairman Messina Voted Aye

Motion to deny without prejudice carried by a 6 to 0 vote.

Motion by Fleming, seconded by Luttropp , to deny without prejudice Item S-2-22. Motion approved.

2. Applicant: Coeur d’Alene Homes, Inc. dba Orchard Ridge Senior Living
 Location: 704 W. Walnut
 Request: A proposed R-34 density increase special use permit.
 QUASI-JUDICIAL, (SP-2-22)

Sean Holm, Senior Planner, **provided the following statements**, as indicated in the applicant’s narrative:

- Coeur d’Alene Homes, Inc. dba Orchard Ridge Senior Living, represented by Gordon Longwell, is requesting an R-34 Special Use Permit for increased density from R-17 to R-34 (34 units per gross acre).
- As, current independent living units contain only 1-bedroom unit types, they do not accommodate retired couples well. In addition, the restriction of "low-income housing" does not reach those who fall into the middle-income range.
- Mr. Holm continued presenting which included a recap of prior hearing(s) and the staff report for the current request.
- He explained that the Planning Commission heard a similar request back in 2015. Planning Commission heard two combined public hearings of a similar nature: PUD-3-15 and SP-4-15, on September 8, 2015. Both requests were approved at that time. There was a one-year extension request that was approved in 2016. Since there were no building permit(s) or other significant improvements to the site, the Planned Unit Development and Special Use Permit expired in 2017. The expired request was for an elderly housing residential multi-family structure consisting of fifty (50) total units over two (2) levels of parking.
- The applicant does not need alterations to setbacks or other zoning performance standards; thus, a PUD was not made in conjunction with the current request.
- He explained that there are three findings that need to be made.
 - “That the proposal is or isn’t in conformance with the Comprehensive Plan”. He explained that the property is in the city limits and known as an Urban Neighborhood Place type which is one more dense than the Compact Neighborhood. He added that the property is zoned R-17 and that an R-34 special use permit is something that could be supported assuming they meet the findings. He noted the bicycle Network map indicates that there is connectivity to the site as well of some improvements on U.S. 95 including the city transient system “Citylink” and noted where that location is located on the map. He added that the Comprehensive Plan framework staff felt they met four areas of the policy frame work that include: Community/Identity, Growth/Development, Health/Safety and Jobs/Economy.
 - “The design and planning of the site is/isn’t compatible with the location, setting and existing uses on adjacent properties”. The subject property is gently sloped (<5%) along the Northwest Boulevard exit ramp up to the proposed building site where a recently demolished structure would be replaced by the proposed building. Along the US-95 frontage the property is generally flat. The abutting properties are owned by the same non-profit and are of similar use in a “campus style” arrangement. Land uses in the area are

primarily multi-family residential and civic with some single-family residential and commercial uses located north of US Highway 95 and Walnut Avenue, and some single-family and residential duplex located east of Lincoln Way. He noted on the site plan the R-34 would increase potential of the site from 35 units to 68 units and the height would increase from 45' to 63' foot. He added if the structure reaches 50,000 sq.ft. that Design Review will be required with the applicant indicating that they will meet that standard so there will be "additional eyes" in the future of the design of the structure. He noted that the property is zoned R-17 across 95 is commercial including R-12 with a lot of commercial along Northwest boulevard with limited commercial on U.S.95 as it goes North to Ironwood shopping center. He noted that the land use for the project is largely Civic with Winton and Winton Park to the north. He noted the pictures of the property included in the staff report and indicated that the gradual slope of the property doesn't happen until you get to the Northwest Boulevard off ramp with the majority of the slope located North of U.S. 95.

- "The location, design, and size of the proposal are such that the development will/will not be adequately served by existing street, public facilities and services" He noted on page 14 and 15 of the staff report are the comments provided by staff and that indicated that there are adequate public services and facilities and any infrastructure improvements are the responsibility of the developer.
- He stated there is one additional special use condition for consideration that applies to an R-34 request. The required finding is, "The proposal is/or isn't in close proximity to an arterial, shopping, schools and park areas (if it is an adult only apartment complex proximity to schools isn't required). He described uses in near proximity to the subject property, that US-95 and Northwest Boulevard are adjacent, and reiterated that school locations do not apply to this request.
- He noted the findings and indicated that there are adequate services and any infrastructure improvements are the responsibility of the developer.

Mr. Holm concluded his presentation.

Commission Comments:

None.

Public testimony open_

Gordon Longwell applicant provided the following statements about the requested R-34 density increase to provide additional senior housing options:

- He stated they want to provide additional senior housing on the campus that is 12 acres and contains 154 one/bedroom subsidized units and 69 assisted living units in memory care units.
- He explained that all previous projects were approved with a density increase to R-34
- He explained seven years ago, the commission approved this request with approval to build the allowed units to be built to the maximum of 68 units unfortunately after this approval couldn't find the funding for the financing and that it is important for him to get this project completed.
- The reasons for the request are to:
 - Relieve some of the high demand for senior apartments we are experiencing.
 - Offer a choice for those who do not qualify for HUD subsidized apartments.
 - Increase demand for retail and healthcare services nearby.
 - Help seniors age in place.
 - Encourage couples to live together or near each other on our campus.

Ann Johnson Executive Director provided the following statements:

- She has been with the project for 13 years which has a reputation for excellent care and providing a loving home that honors older adults.
- She explained in the 13 years being with the company has seen a gap as an example currently we have a man who visits daily in his 80's who drives to the campus visits his wife who is in memory care and he has asked several times when is this project going to happen because he doesn't qualify for the low-income housing and needs a place on campus that he can walk over and visit his wife. She explained has seen this numerous times and can't supply that need especially for couples who want to age in place together and can transition when needing more assisted care.

Mr. Longwell continued his presentation:

- He stated that the impact of senior housing provides options to our campus allowing couples to live together.
- Orchard Ridge has successfully served seniors for over 100 years. Our decades-old nonprofit mission continues as we provide a faith-based, loving home that honors older adults. Our current campus consists of 154 1-bedroom apartments for low-income seniors (Section 8/202 HUD subsidized affordable housing) and 69 assisted living and memory care units (with 35% of our residents receiving charitable care). We are governed by a board of directors and employ 80 staff on our campus and impact over 1,000 seniors and their families every year with the services we provide.
- Since our current independent living contains only 1-bedroom unit types, it does not accommodate retired couples well. In addition, the restriction of "low-income housing" does not reach those who fall into the middle-income range. The tragedy of only offering low-income independent housing is that we often see those who have their spouse in our assisted living forced to live miles away because they do not qualify as low income and thus cannot live on our campus.
- Our proposed 67-unit building project will enhance our mission and diversify our campus. It will allow older adults to live among their peers in a gated community with opportunity to transition to assisted living if it becomes necessary. For those living on our campus, we give priority when it becomes time for moving to our assisted living facility.

The impact of adding senior housing options with this proposed project will:

- Relieve some of the high demand for senior apartments we are experiencing.
- Offer a choice for those who do not qualify for HUD subsidized apartments.
- Increase demand for retail and healthcare services nearby.
- Help seniors age in place.
- Encourage couples to live together or near each other on our campus.
- Planning Commission heard two combined public hearings of a similar nature: PUD-3-15 and SP-4-15, on September 8, 2015. Both requests were approved at that time. There was a one-year extension request that was approved in 2016. Since there were no building permit(s) or other significant improvements to the site, the Planned Unit Development and Special Use Permit expired in 2017. The expired request was for an elderly housing residential multi-family structure consisting of fifty (50) total units over two (2) levels of parking.
- He stated that this is a very much needed service for this community and to please approve this project.

The applicant concluded his presentation.

Commission Comments:

Commissioner McCracken stated that she is familiar with this project and is excited that it is coming forward.

Public testimony closed.

Motion by Ingalls, seconded by Mandel, to approve Item SP-2-22. Motion approved.

ROLL CALL:


Commissioner Fleming	Voted	Aye
Commissioner Ingalls	Voted	Aye
Commissioner Mandel	Voted	Aye
Commissioner McCracken	Voted	Aye
Commissioner Luttrupp	Voted	Aye
Commissioner Ward	Voted	Aye
Chairman Messina	Voted	Aye

ADJOURNMENT:


Motion by Fleming, seconded by Luttrupp to adjourn the meeting. Motion approved.

The meeting was adjourned at 9:44 p.m.

Prepared by Shana Stuhlmiller, Public Hearing Assistant



PUBLIC HEARING



**PLANNING COMMISSION
STAFF REPORT**

FROM: MIKE BEHARY, ASSOCIATE PLANNER

DATE: SEPTEMBER 13, 2022

SUBJECT: V-1-22, REQUEST FOR A VARAINCE IN FENCE HEIGHT TO ALLOW A SIX-FOOT FENCE IN THE FRONT YARD SETBACK AREA RATHER THAN A MAXIMUM OF FOUR FEET AS ALLOWED.

LOCATION: 801 S 11th STREET

APPLICANT/OWNER:

Jack Riggs
801 S 11th Street
Coeur d'Alene, ID 83814

DECISION POINT:

The applicant is requesting approval of a variance in fence height to allow a six-foot fence in the front yard setback area rather than a maximum of four feet as allowed.

BACKGROUND INFORMATION:

The subject property's principal use is a single family residence. The subject site has split zoning with the northern portion of the property zoned R-8 and the southern portion of the property zoned R-3. The fencing regulation are the same for both of these zoning districts. The property is over an acre in size, as compared to a 5,500 square foot standard City residential lot. The City's fencing regulations are the same for all single family residences in all residential zoning districts throughout the City.

The City does not require a building permit to be obtained in order to construct a fence on one's property. However, homeowners and their contractors are required to adhere to the Zoning Code in regard to fencing requirements, and it is their responsibility to learn and verify height and setback requirements for fences (see Fencing Handout attachment). Requirements such as fencing must be installed within one's private property (not to be installed in the public right-of-way), and are limited to a maximum fence height of four feet in the front yard setback area, and a maximum height of six feet in the side and rear yards.

The applicant's contractor began construction of a six-foot fence behind the back of sidewalk along 11th Street, which is considered the front yard setback area. The zoning ordinance states that fences in the front yard are allowed a maximum height of four feet. The applicant was notified by staff that the six-foot fence was a violation of the Zoning Code regarding the maximum allowed fence height in the front yard and provided with all applicable sections of the Code, the Fencing Handout, and staff's opinion on the fencing regulations relative to the subject property. Additionally, the applicant was provided with images of the subject property showing the approximate property line in relation to the aerial photo and advised to verify property lines to

ensure that the fencing is outside of the City's road right-of-way. When asked by staff if the fencing contractor had contacted the City to find out about the fencing standards and maximum height, the applicant indicated that he did not know but that the contractor indicated to him that the maximum fence height was six feet. Staff informed the applicant that he could follow up with the contractor on the error to see if they could share the cost burden of having the build the fence per City Code. Subsequently, the applicant requested information on the Variance and Administrative Appeal procedures, which was provided.

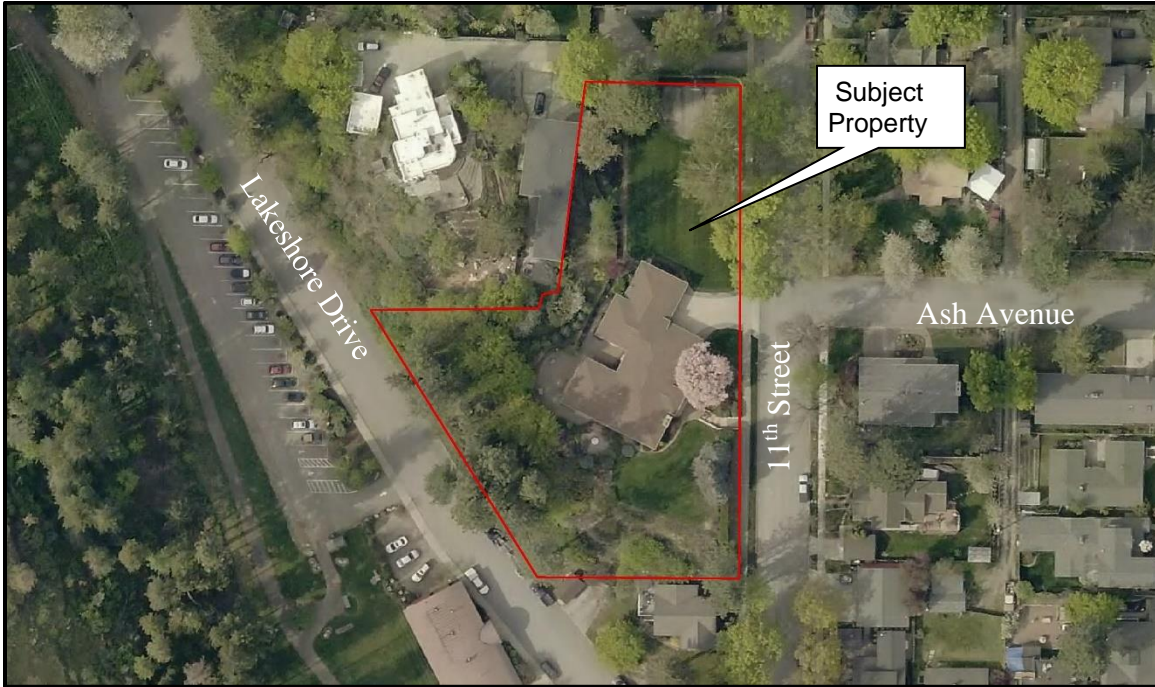
Following notification of the violation and discussions with City staff, the applicant had the fence posts cut down to four feet along 11th Street, which would comply with the maximum fence height allowed per the Zoning Code in the front setback and had a survey conducted. The surveyor placed stakes along the property line behind the sidewalk on 11th Street, slightly behind where the fence posts were placed; however, the applicant proceeded to apply for a variance request to allow a six-foot fence in the front setback area and informed staff that there was a utility easement along the front property line that would require the fence to be moved further back from the front property line to avoid conflicts with the easement. It is unclear to staff as to why the applicant would have cut down the fence posts to four feet (in compliance with the code), but subsequently requested a variance to allow a six-foot tall fence in the front yard.

The applicant has submitted a written narrative as part of this variance request (see applicant's narrative attached). Additionally, the applicant has submitted a site plan indicating the area on his property where the variance in fence height is being requested (see page 3 for applicant's site plan). The applicant's site plan indicates the six foot fence is proposed to be located in the front yard along 11th Street.

PROPERTY LOCATION MAP:

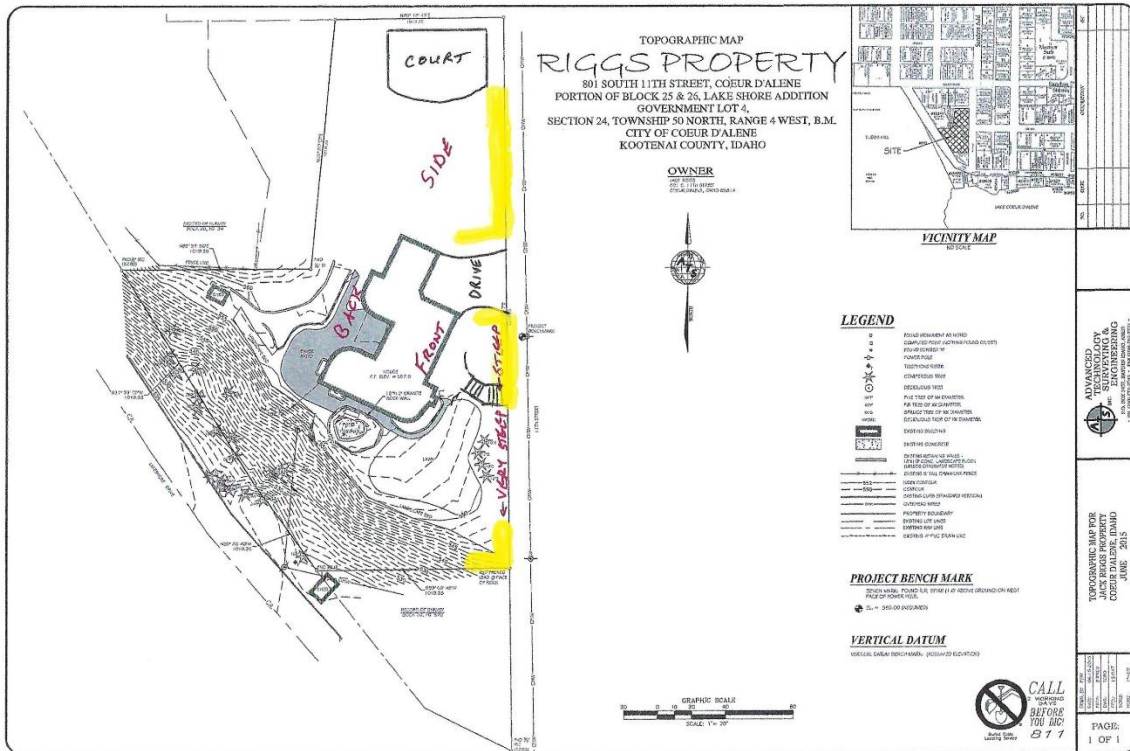


AERIAL PHOTO:



APPLICANT'S SITE PLAN: (proposed 6' fence location)

8/25/22



PROCEDURE FOR CONSIDERATION OF A VARIANCE:

Variance application requests are held before the Planning Commission. The Planning Commission will need to find that three specific conditions exist before a variance is granted. The applicant has the burden to demonstrate to the Planning Commission that **all three** conditions are met.

17.09.620: FINDINGS REQUIRED:

A variance may be granted only when the applicant has demonstrated that all of the following conditions are present:

- A. There is an undue hardship because of the physical characteristics of the site.*
- B. The variance is not in conflict with the public interest.*
- C. The granting of said variance will be in conformance with the comprehensive plan.*

17.09.615 PROCEDURE FOR CONSIDERATION:

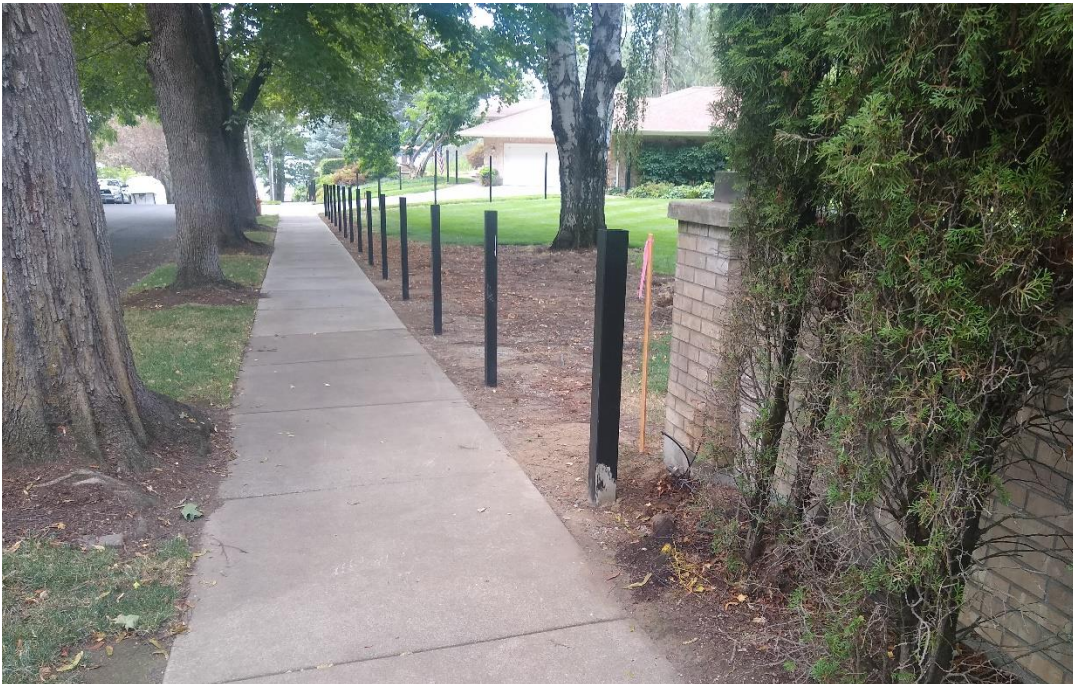
An application for a variance from a provision of this title with respect to a modification of the requirements of this title as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking provisions, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots or the size of lots, shall be considered by the Planning Commission with an appeal allowable to the City Council. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.

A variance is permitted if there are natural and physical site characteristics, such as a rock outcropping or natural spring, that make a lot unbuildable without a variance. A variance also may not be required because of a self-imposed hardship. A variance cannot be used to allow something that is against the public interest, which means that there has to be some special circumstances which justify not enforcing generally applicable City codes. Furthermore, conditions cannot be applied to a variance request (e.g., fence style).

SITE PHOTO – 1: View on 11th Street looking southwest toward subject property (showing 4-foot fence posts behind the sidewalk).



SITE PHOTO - 2: View of the subject property looking south from the sidewalk on 11th Street



SITE PHOTO - 3: View from applicant's driveway looking north along sidewalk (showing 4-foot fence posts and property line stakes).



SITE PHOTO - 4: View from the intersection of Ash Street and 11th Street looking northwest at the subject property and 4-foot fence posts within the front setback area.



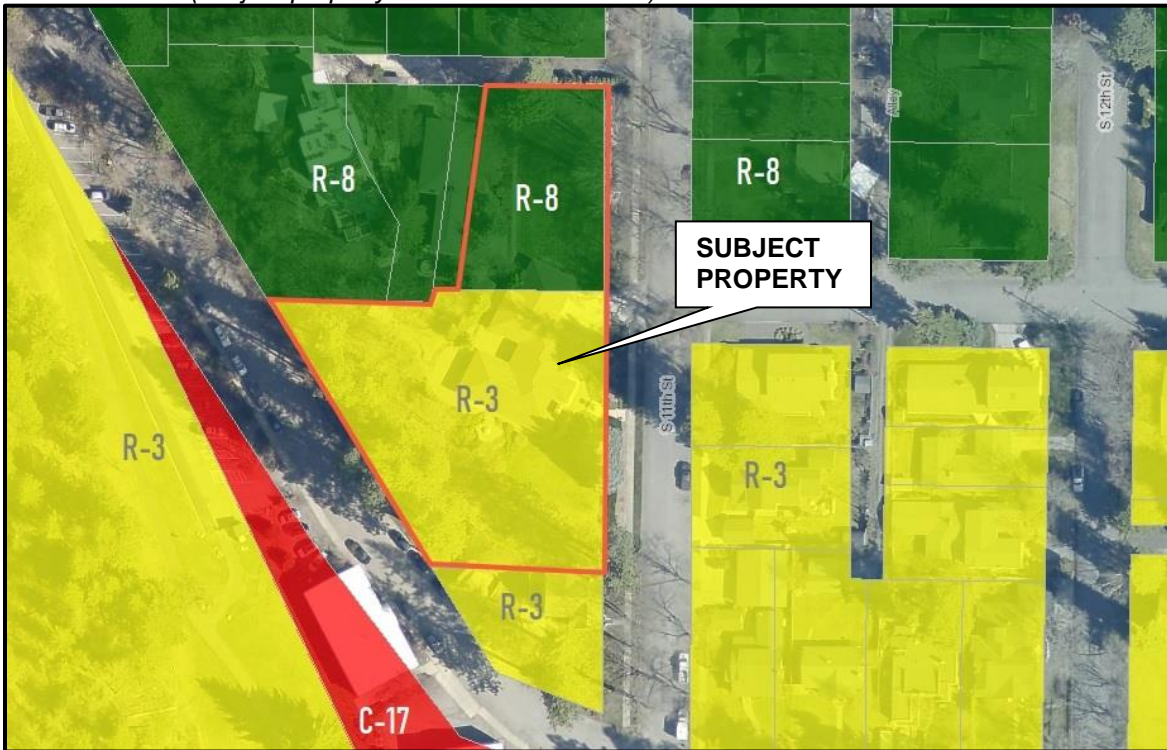
SITE PHOTO - 5: View from the 11th Street looking at main entrance to house.



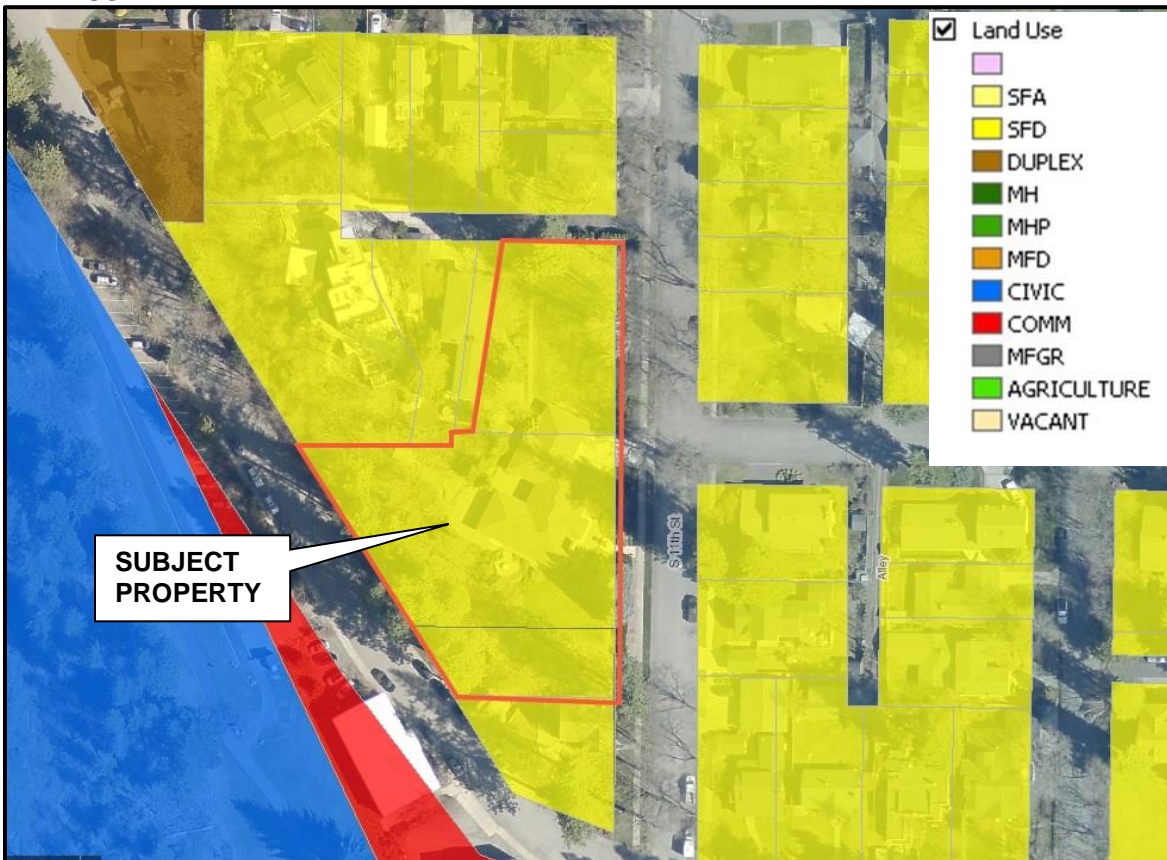
SITE PHOTO - 6: View from 11th Street looking west at southeast corner of property with 6-foot fence posts within front yard setback.



ZONING MAP: (subject property is zoned R-3 and R-8)



LAND USE MAP:



SURROUNDING LAND USE:

- The subject property has an existing single-family home on it, which is located in the Sander’s Beach neighborhood.
- The residence is surrounded on all sides by single-family homes, an alley and public streets.
- Land uses in the area are predominately residential single-family.
- There is one duplex housing unit located within the vicinity of the subject site to the northwest off of Lakeshore Drive and Mountain Avenue.
- There is a commercial development and marina located to the southwest of the subject site.
- There is a public beach located within the vicinity of the subject site to the south.
- There is public parking and trailhead access to Tubbs Hill to the west.

VARIANCE REQUEST HISTORY: (last 15 years)

There have been a total of six variance requests over the past 15 years. Below is a list of the variance applications and their outcomes over the past fifteen years.

Item	Request	Applicant	Result
V-1-07	Building Height	Verizon Wireless	Withdrawn
V-2-07	Building Height	John Brewster	Withdrawn
V-1-13	Front & Side Yard Setback	CDA School Dist. #271	Approved
V-1-19	Building Height	Ian & Julie Mahuron	Denied
V-2-19	20’ Garage Setback	Tracie A. Mantia	Denied
V-1-21	Side Yard Setback	City of CDA-Water Dept	Approved

PERFORMANCE ANALYSIS OF REQUEST:

The Zoning Code requires fences that are located in the front yard to be a maximum of four feet in height (Municipal Code § 17.06.815(A)(2)). The fencing code was drafted in order to provide an adequate protection and security to one’s property while providing public safety to pedestrians walking and riding their bikes along the sidewalk and street, and to protect residential character in neighborhoods. Staff did an analysis of fencing codes and found that other communities also restrict fences in the front yard setback for residential uses to three or four feet. There is no support within the planning profession for allowing taller fences within front yard setbacks of residential properties.

The American Planning Association (APA) explains the primary reasons for lower fence heights in the front yards adjacent to streets as;

“In front yards — The heights permitted in front yards are usually lower because of the safety aspect, as well as in the interest of preserving an unobstructed view of open, green lawns. There is little difference between restriction of vision by a wall or by a high, thick hedge. Both

are hazards to cars coming into and out of driveways because they block the view of the driver”.

For this variance request, the Commission must consider only the fence height request and not the style of the fence or the credentials of the applicant.

Tall fencing in the front yard setback area can be hazardous to pedestrians and bicycle riders traveling along the sidewalk adjacent to the fence, especially in relation to driveways, alleys and intersections. It could also become hazardous to vehicular traffic as it limits visibility. Maintaining a maximum of four feet height for a fence in the front setback area is imperative to allowing for the public to safely travel along rights-of-way. Fences taller than four feet in the front yard also impact the character of residential neighborhoods.

The commission will also need to determine if there is actually a hardship and if the request would meet all three required conditions. Staff has not found a hardship that would support allowing a taller fence in this location. The applicant is requesting the six-foot fence in the front yard in part to keep out deer. The yard has been a fully functioning without any fence, and would be equally usable with a four-foot fence within the front yard setback as it would with a six-foot fence. The applicant's property is over one acre in size and has plenty of property to fence with a six-foot fence within the allowable side and rear yards, as determined by City Code definitions.

The applicable sections of the Zoning Code are provided below with pertinent standards and definitions highlighted in yellow.

17.06.815: FENCING REGULATIONS:

Fences, walls, and hedges shall be permitted in required yards in accordance with the following regulations:

- A. For residential uses in all zoning districts, the following shall apply:
 - 1. Fences, walls, and hedges not greater than six feet (6') in height shall be permitted on or within all rear and side yard property lines and on or within all front yard setback lines, and will be subject to section [12.36.425](#), vision triangle regulations, of this code. Provided, however, that fences, walls and hedges may be constructed not greater than ten feet (10') in height pursuant to the special use permit procedures set forth in section [17.09.205](#) of this title where the abutting property is used for a commercial or manufacturing activity or where the residential property abuts an interstate freeway. All fences and walls greater than six feet (6') in height shall conform to the currently adopted building code and other applicable provisions of this code.
 - 2. Fences, walls, and hedges not greater than four feet (4') in height shall be permitted in any required front yard.
 - 3. Fences over six feet (6') in height used to enclose tennis courts or other game areas outside the buildable area may be permitted pursuant to the special use permit procedure set forth in section [17.09.205](#) of this title. Such fences shall be composed of wire mesh capable of admitting at least ninety percent (90%) of light as measured on a reputable light meter.
- B. For nonresidential uses in residential zoning districts, the following shall apply:
 - 1. Fences, walls, and hedges not greater than six feet (6') in height shall be permitted on or within all rear and side yard property lines and on or within all front yard setback lines and on or within any street side yard setback line, and shall be subject to section [12.36.425](#),

vision triangle regulations, of this code. Provided, however, that fences, walls and hedges may be constructed not greater than ten feet (10') in height pursuant to the special use permit procedures set forth in section 17.09.205 of this title where the abutting property is used for residential uses. All fences and walls greater than six feet (6') in height shall conform to the currently adopted building code and other applicable provisions of this code.

2. Fences, walls, and hedges not greater than four feet (4') in height shall be permitted in any required front yard.
3. Fences over six feet (6') in height used to enclose tennis courts or other game areas outside the buildable area may be permitted pursuant to special use permit procedure set forth in section 17.09.205 of this title. Such fences shall be composed of wire mesh capable of admitting at least ninety percent (90%) of light as measured on a reputable light meter.

17.02.135: DEFINITIONS XXIV:

- A. "Yard" means an area between a structure and some lot line, measured for a specific distance, in a horizontal plane, perpendicularly from the lot line to the nearest point of the structure; located on the same lot as the structure; and open and unobstructed except for the facilities allowed therein as specified in section 17.06.495 of this title.
- B. Yard, Front: "Front yard" means a yard measured into a lot perpendicularly from the front lot line or lines. A required front yard shall extend the full width of the lot between its side lot lines and shall remain open and unobstructed except for the facilities allowed therein as specified at subsection 17.06.495A of this title.
- C. Yard, Interior Side: "Interior side yard" means the same as "yard, side", except that an interior side yard may not be along the street side of a corner lot or of a reversed corner lot.
- D. Yard, Rear: "Rear yard" means a yard measured into a lot perpendicularly from its rear lot line; provided, that in cases where there is no rear lot line the rear yard shall be measured into the lot from the rearmost point of the lot depth, parallel to the lot depth. A required rear yard shall extend the full width of the lot between its side lot lines and shall remain open and unobstructed except for the facilities allowed therein as specified at subsection 17.06.495C of this title.
- E. Yard, Side: "Side yard" means a yard measured into a lot perpendicularly from one or more of its side lot lines. A required side yard shall extend between the required front yard and rear yard, and shall remain open and unobstructed except for the facilities allowed therein as specified at subsection 17.06.495B of this title.

17.02.110: DEFINITIONS XIX:

- A. "Separate ownership" means ownership of a parcel of land by a person who does not own any of the land abutting such parcel.
- B. Setback Line, Front Yard: "Front yard setback line" means the line which defines the depth of the required front yard. The setback shall be parallel with the right-of-way line or highway setback line when one has been established.
- C. Setback Line, Rear Yard Or Side Yard: "Rear yard or side yard setback line" means the line which defines the width or depth of the required rear or side yard. The setback line shall be parallel with the property line, removed therefrom

7.02.030: DEFINITIONS III:

- A. "Abut" means two (2) adjoining parcels of property, with a common property line, are herein considered as one parcel abutting the other, except where two (2) or more lots adjoin only at a corner or corners; they shall not be considered as abutting unless the common property line between the two (2) parcels measures more than eight feet (8') in a single direction.
- B. "Access" or "accessway" means the place, means or way by which pedestrians and vehicles shall have safe, adequate and usable ingress and egress to a property or use as required by this title.
- C. "Accessory activity" means an activity which is incidental to, and customarily associated with, a specified principal activity, and which meets the applicable conditions set forth in section 17.06.610, "Accessory Uses Related To Principal Uses", of this title.
- D. Accessory Building: For "accessory building", see definition of accessory facility.
- E. "Accessory dwelling unit" means a dwelling unit that is associated with and is a subordinate use to a principal dwelling unit on one lot that meets the requirements of sections 17.06.650 through 17.06.670 of this title.
- F. "Accessory facility" means a facility which is incidental to, and customarily associated with, a specified principal facility and which meets the applicable conditions set forth in section 17.06.630, "Accessory Structure Criteria", of this title.
- G. "Accessory storage facility" is:
 - 1. A building originally constructed for use as an accessory building for the storage of materials and equipment accessory to a primary use located on the property.
 - 2. For the purposes of this chapter, cargo containers, railroad cars, truck vans, mobile homes, manufactured homes, trailers, recreational vehicles, buses, bus bodies, shipping containers, vehicles and similar prefabricated structures and other items, originally built for purposes other than the storage of goods and materials are not accessory storage buildings.
- H. "Accessory use" includes accessory activity and accessory facility.
- I. "Acre" means a full acre containing forty three thousand five hundred sixty (43,560) square feet of area within the property lines of a lot or parcel.
- J. "Activity" means the performance of a function or operation.
- K. "Activity group" means a type of activity which is specifically described in chapter 17.03 of this title on the basis of common functional characteristics and similar effects on other uses, and which is designated throughout this title by a special name including all residential, civic, commercial, service, wholesale and industrial types.
- L. "Adjacent" means near, close or abutting; for example, a commercial zoning district across the street or highway from a residential zoning district shall be considered as "adjacent".
- M. "Adjoin" means the same as "abut".
- N. "Affected person" or "aggrieved party" means any resident of the City of Coeur d'Alene; or any person having interest in real property in the City of Coeur d'Alene; or any person with an interest in real property located within three hundred feet (300') of the external boundaries of the land being considered.
- O. "Alley" means a passage or way, open to public travel and dedicated to public use, affording generally a secondary means of vehicular access to abutting lots and not intended for the

general traffic circulation. Buildings facing an alley shall not be construed as satisfying the requirements of this title related to frontage on a dedicated street.

- P. "Alteration" means any enlargement; addition; relocation; repair; remodeling; change in number of living units; or other change in a facility, but excluding ordinary maintenance for which no building permit is required, and demolition or removal.
- Q. Applicant: For "applicant", see definition of owner.
- R. "Apartment" means a room or suite of rooms in a multiple-family facility designed or used as a single living unit and provided with living, sleeping, kitchen, and bathroom facilities. (Ord. 3600, 2018)

17.02.080: DEFINITIONS XIII:

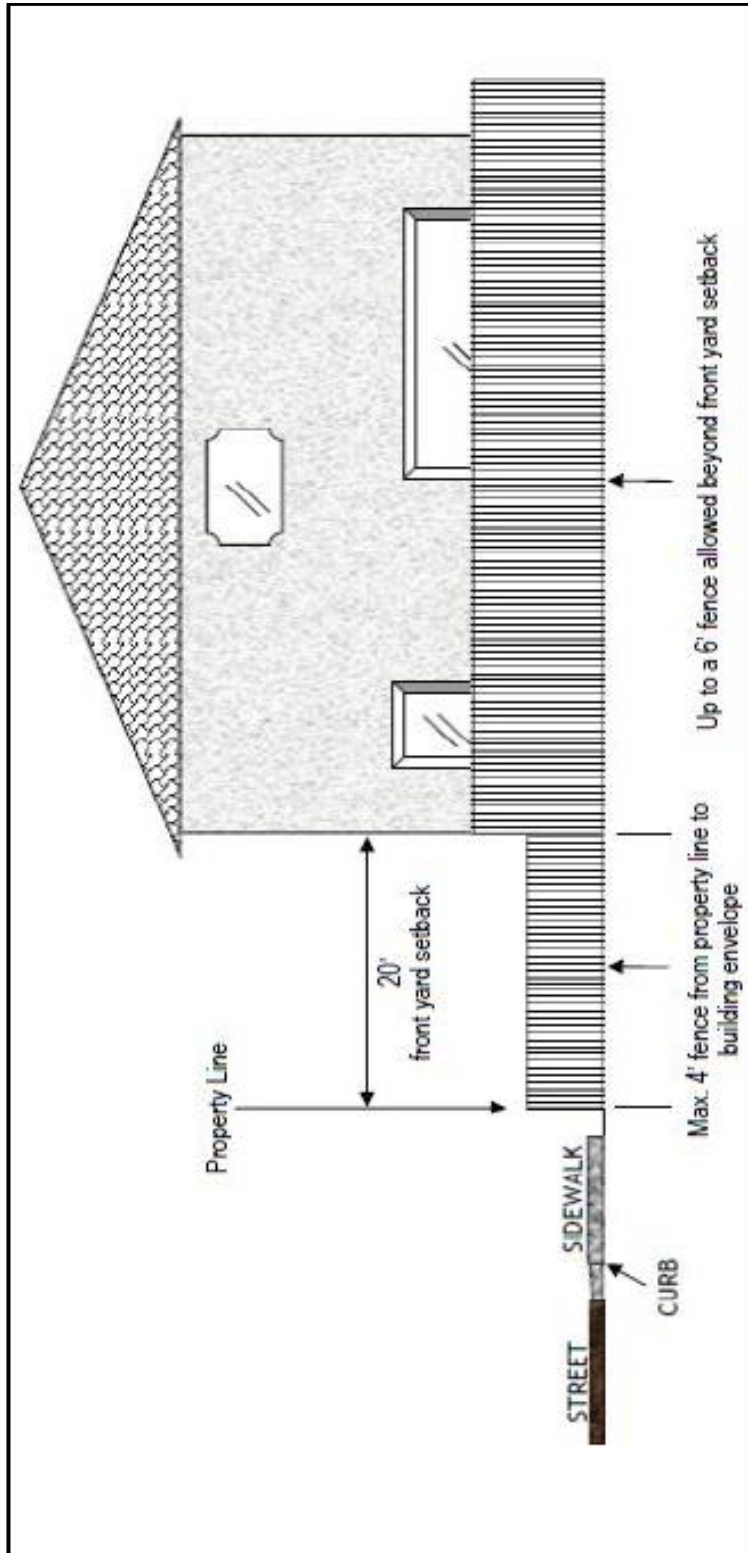
- A. "Landscaping" means the planting and maintenance of some combination of trees, shrubs, vegetation, turf, vines, annuals, perennials or bulbs.
- B. "Living room" means the principal room designed for general living purposes in a dwelling unit.
- C. "Loading space" means an off street space or berth on the same lot with a main facility, or contiguous to a group of facilities, for the temporary parking of commercial vehicles while loading or unloading and where required by chapter 17.44 of this title. A loading space in use shall not block traffic or cause other hazards or inconveniences.
- D. "Lot" means the lot is a parcel of land used, or set aside and available for use, as the site of one or more buildings, and any buildings accessory thereto or for any other purpose, in one ownership and not divided by a street. A lot for the purpose of this title will coincide with the lot of record.
- E. Lot, Buildable: "Buildable lot" means the minimum lot area performance standard as specified by appropriate zoning district; may or may not coincide with the lot of record.
- F. Lot, Corner: "Corner lot" means a lot located at the intersection or interception of two (2) or more streets at an angle of not more than one hundred thirty five degrees (135°). If the angle is greater than one hundred thirty five degrees (135°), the lot shall be considered an "interior curve lot".
- G. Lot, Cul-De-Sac: "Cul-de-sac lot" means a lot fronting on, or with more than one-half (1/2) of its frontage on the turnaround end of a cul-de-sac street.
- H. Lot, Flag: "Flag lot" means an odd shaped lot that, in appearance, generally resembles a flag on a standard with the end of the narrowest portion representing the required street frontage, which, at a minimum, shall be twenty feet (20').
- I. Lot, Interior: "Interior lot" means a lot other than a corner lot (i.e., bounded on both sides by lots).
- J. Lot, Nonconforming: For "nonconforming lot", see subsection 17.02.090C3 of this chapter.
- K. Lot, Curve: "Curve lot" means the following:
 - 1. "Inside curve lot" means a lot fronting on the inside curve of the right of way, or a lot at the intersection of two (2) rights of way where the angle created is greater than one hundred thirty five degrees (135°).
 - 2. "Outside curve lot" means a lot fronting on the outside curve of the right of way which right of way centerline has a radius of two hundred fifty feet (250') or less.

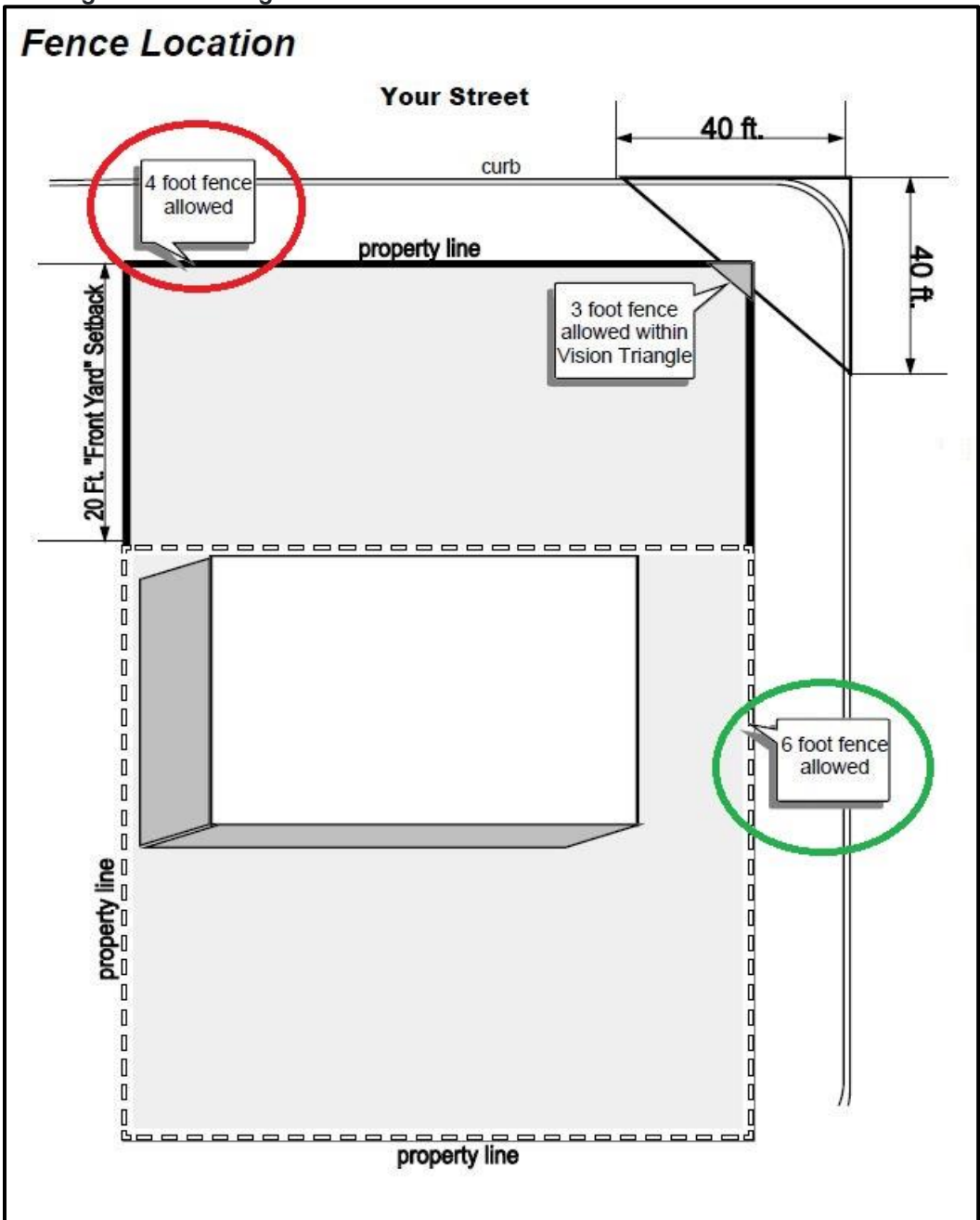
- L. Lot, Reversed Corner: "Reversed corner lot" means a corner lot, the side line of which is substantially a continuation of the front lot lines of the lots to its rear, whether across an alley or not.
- M. Lot, Through: "Through lot" means a lot having frontage on two (2) dedicated streets, not including a corner or reversed corner lot.
- N. "Lot area" means the area contained within the property lines of the individual parcels of land shown on a subdivision plan or required by this title, or any area required as open space under this title, and including the area of any easements.
- O. "Lot coverage" means the portion of a lot or building site which is occupied by any building, structure, or facility, excepting paved areas, walks, and swimming pools, regardless of whether the building, structure, or facility is intended for human occupancy.
- P. "Lot depth" means the horizontal distance between the midpoint of the rear lot line or the intersection of side lot lines and the midpoint of the front lot line.
- Q. "Lot line" means any legal boundary of a lot.
- R. Lot Line, Front: "Front lot line" means the following:
 - 1. On an interior lot: any street line which actually abuts the lot;
 - 2. On a corner lot: The owner or developer of the lot may select either abutting street line as the front lot line. (See reversed corner lot, subsection L of this section.) If adjacent street lines of a corner lot intersect at an angle greater than one hundred thirty five degrees (135°), both such street lines shall be deemed front lot lines.
- S. Lot Line, Interior Side: "Interior side lot line" means any side lot line which is not a street line.
- T. Lot Line, Rear: "Rear lot line" means the lot line which is opposite and most distant from the front lot line, and which is parallel to the front lot line or, if extended, would intersect with it at an angle of less than forty five degrees (45°).
- U. Lot Line, Side: "Side lot line" means any lot line which is not a front lot line or a rear lot line.
- V. "Lot of record" means a lot shown on the records of the county recorder at the time of the passage of an ordinance or regulation establishing the zoning district in which the lot is located.
- W. "Lot width" means the distance measured between midpoints of the side lot lines. (Ord. 3089 §1, 2002; Ord. 2109 §2, 1988; Ord. 1691 §1(part), 1982)

CITY'S FENCING HANDOUT:

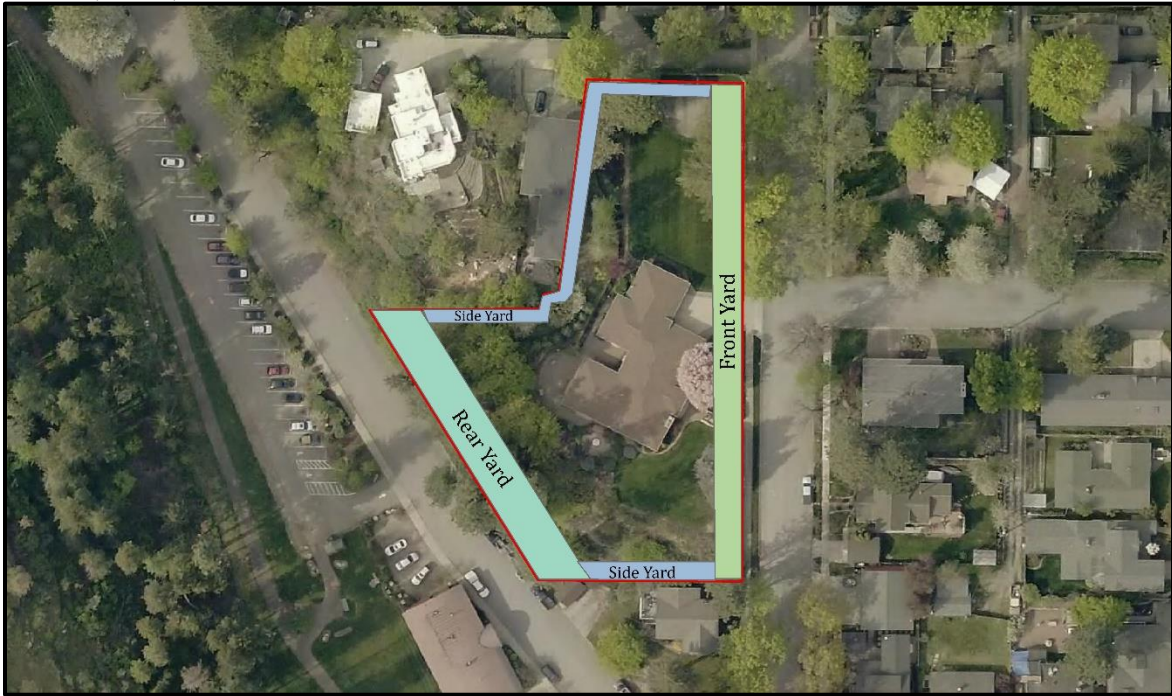
On the following pages are two images from the City's pamphlet for fencing for homeowners to review and help better understand the fencing code requirements visually with graphics. See the complete "Fencing Pamphlet Handout" that is an attachment to the end of this staff report.

Fencing Handout: Image – 1

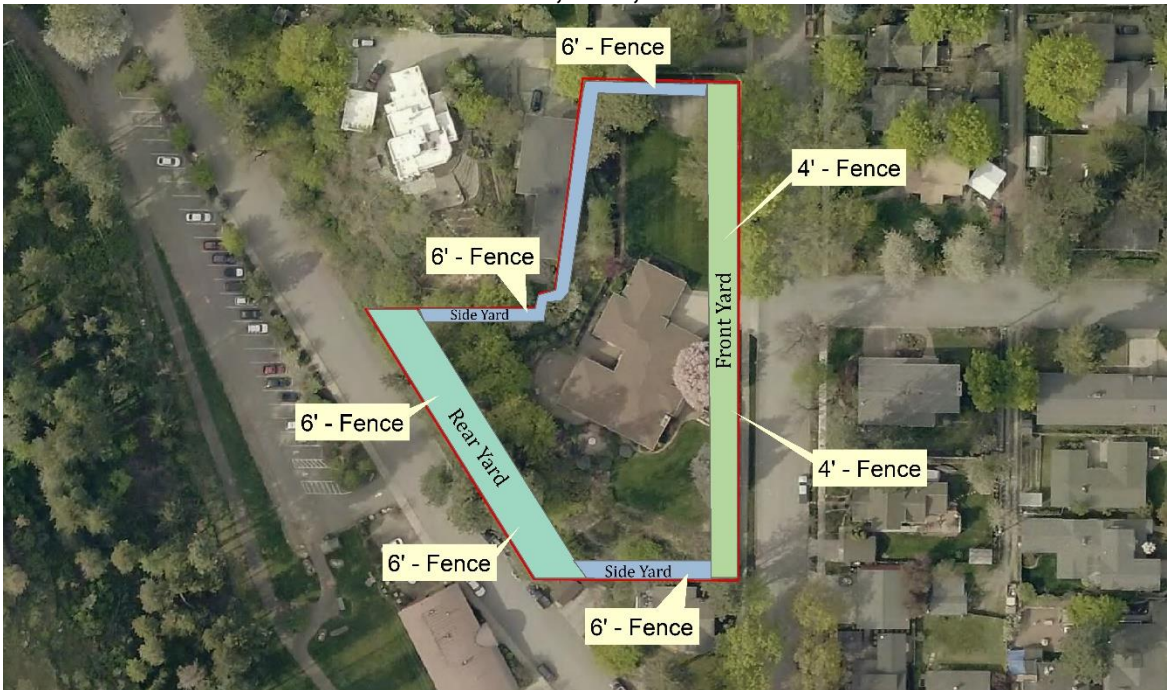




FRONT, SIDE, AND REAR YARD LOCATIONS FOR APPLICANT'S PROPERTY:



FENCE HEIGHTS ALLOWED IN THE FRONT, SIDE, AND REAR YARD MAP:



Administrative Determination of Fence Height/Setbacks at 801 S. 11th Street

The Community Planning Director and City Attorney have reviewed the property at 801 S. 11th Street (comprised of two parcels) to determine if there is any legal avenue for allowing a 6-foot fence along 11th Street for the full length of the two parcels, and if there was an opportunity to interpret the northern portion of the property (south of the alley and north of the driveway) as a “side yard” due to the unusual shape of the two parcels. The parcels are zoned R-3, which has a front setback of 20 feet from the property line.

After closely reviewing the aerial photo, historic and current plat maps, photos of the property from Google Street View, photos of the 6-foot fence posts of the fence in question, conducting a windshield survey, and reviewing all applicable sections of Title 17 (Zoning) of the Municipal Code, staff has determined that the full length of both parcels along 11th Street can only be viewed as the front of the lots. This means that the fence can only be 4 feet in height along 11th Street for both parcels unless it is setback 20 feet from the property line, in which case it could be 6 feet in height. The City’s GIS map shows the property line to be approximately 17 feet behind the back of the sidewalk. It is possible the property line is closer to the sidewalk. However, that would need to be verified by property pins or a survey.

For both parcels, the side yards would start 20 feet back from the front property line along 11th Street. The area in front of that 20-foot setback line is considered the front yard, regardless of the home’s orientation on the parcels. Beyond the 20-foot setback, the areas could be considered side yards that qualify for a 6-foot fence. The northern parcel has a platted alley along its northern boundary. The alley is not a street and cannot be determined to be a street for purposes of considering this a “corner lot” or determining the front of the lots. The Zoning Code is very clear regarding definitions of alleys versus streets, corner lots, front yard versus side yard, front and side setbacks, and maximum fence heights in relation to these setbacks.

Staff also reviewed the subject property and is of the opinion that there is no hardship due to the physical characteristics of the site related to the placement of the 6-foot fence. Staff acknowledges that there is some grade change on the property, but that fact alone does not justify a 6-foot fence within the front setback.

REQUIRED FINDINGS FOR A VARIANCE:

Pursuant to Section 17.09.620, Variance Criteria, a variance may be granted only when the applicant has demonstrated that all the conditions are satisfied.

17.09.620: FINDINGS REQUIRED:

A variance may be granted only when the applicant has demonstrated that all of the following conditions are present:

- A. There is an undue hardship because of the physical characteristics of the site.
- B. The variance is not in conflict with the public interest.
- C. The granting of said variance will be in conformance with the comprehensive plan.

Finding B8A: There is an undue hardship because of the physical characteristics of the site.

Idaho code section 67-6516 establishes the authority to grant a variance subject to the following:

“Each governing board shall provide, as part of the zoning ordinance, for the processing of applications for variance permits. A variance is a modification of the bulk and placement requirements of the ordinance as to lot size, lot coverage, width, depth, front yard, side yard, rear yard, setbacks, parking space, height of buildings, or other ordinance provision affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon a showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest.”

There is slight elevation change on the southern portion of the property along 11th Street of the subject property. However, the area of the lot where the applicant is proposing the variance to place the six foot fence is relatively flat. See photo below on page 20 illustrating the flat topography of the property.

The applicant currently has a four-foot brick wall on the northern portion of the property in the front yard of his property along 11th Street that he intends to keep. Tying in a four-foot fence to this existing four-foot brick wall in the front yard would comply with the requirements of the fencing regulations and would be compatible with all the other fences on single family properties in the area. A six-foot fence is not permitted in the location desired by the applicant.

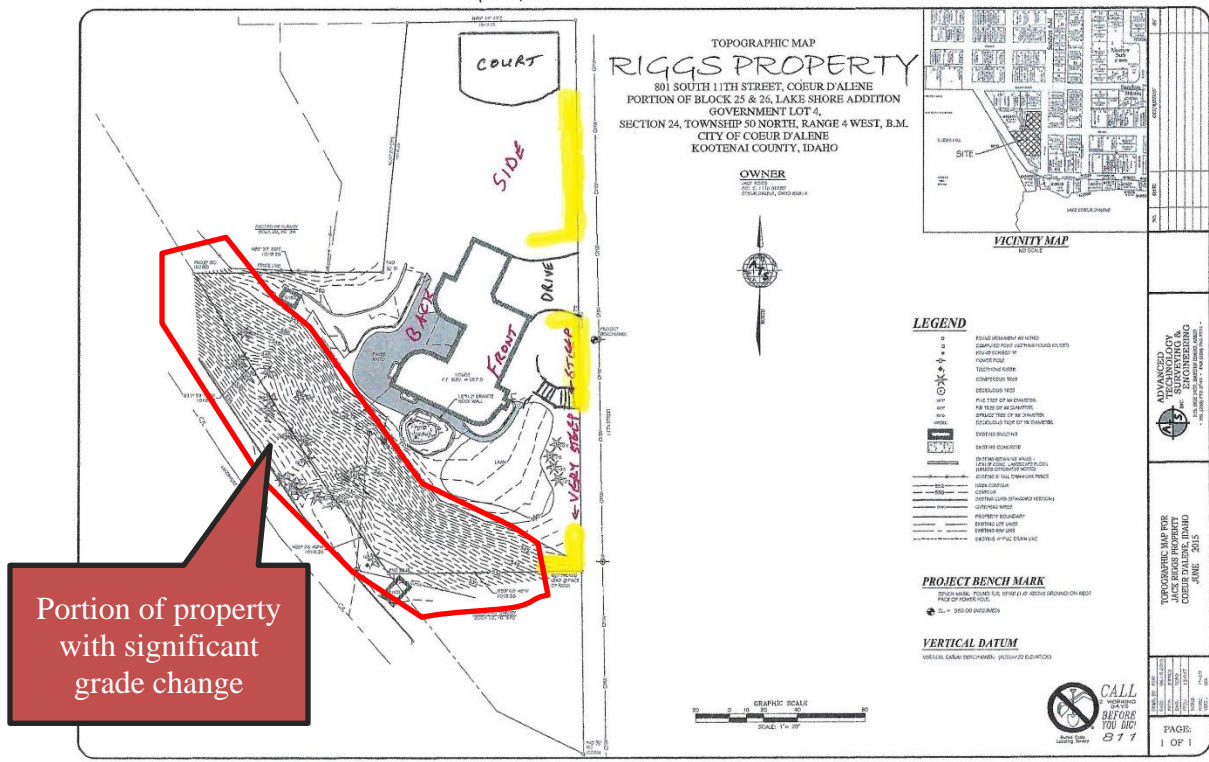
While there is a portion of the property that has significant grade changes, the area with the sloping topography is in the rear of the lot and is not near the area that is part of this variance request, with the exception of the southeast corner of the lot, where the applicant is requesting increased fence height on top of the grade within the front yard setback area. The yard has been fully functioning as a yard without a fence since the home was constructed. See topographic map below illustrating where the significant grade change is located in regards to where the fence height variance is being requested. There are no hardships based upon the physical characteristic of the site. There are many examples of four-foot fences that have been built in front yards throughout the City of Coeur d’Alene with similar topography changes, and on much smaller lots. No variances have been granted to allow a six-foot fence in a front yard.

SITE PHOTO - 7: No topographic issues in front yard area of property.



TOPOGRAPHY MAP: (Topography of Property)

8/25/22



The physical characteristics of the property are similar to many other properties in the vicinity, and the property is significantly larger than most properties in the neighborhood.

The property does not have any physical characteristics or topographic issues that would prohibit the applicant from building a four-foot fence in the front yard of his property. Staff does not believe the topographical change on the rear of the subject property is a physical hardship

warranting a variance, which is further supported by the fact that staff believes there are two viable options for the fence height: 1) construct with a four-foot fence within the front setback area to tie into the existing four-foot wall and increase the fence height to six feet within the allowable side and rear yards, or 2) moving the fence line back to the front yard setback and install a six-foot fence that meets all Code requirements.

Staff has concluded that there is not an undue hardship because of the physical characteristics of the site.

In staff's opinion, this condition has not been satisfied. The applicant will need to demonstrate to the Planning Commission how this condition is satisfied.

Evaluation: *The Planning Commission must determine, based on the information before them, whether or not there is an undue hardship because of the physical characteristics of the site.*

Finding B8B: The variance is not in conflict with the public interest.

Within the area surrounding the subject property, there are primarily single-family homes, and a duplex, a marina, a public beach and Tubbs Hill are nearby. The subject property is zoned R-8 and R-3, within a neighborhood of predominately R-8 zoning, with a small area zoned C-17 commercial to the south and southwest.

The intent/reasoning for the requirement for allowing a maximum fence height of four feet is threefold. First is public safety, for pedestrians traveling along the sidewalk and vehicles traveling along 11th Street. The danger of having a car backing out of the driveway into pedestrians and oncoming traffic is in conflict with the public's interest.

Second is aesthetics and compatibility with the other residential properties in the area, and residential neighborhoods throughout the City. The proposed variance to allow a six-foot fence in the Front Yard setback area is in conflict with the public's interest because all other fencing along 11th Street conforms with the zoning ordinance and is aesthetically uniform along 11th Street and throughout the community.

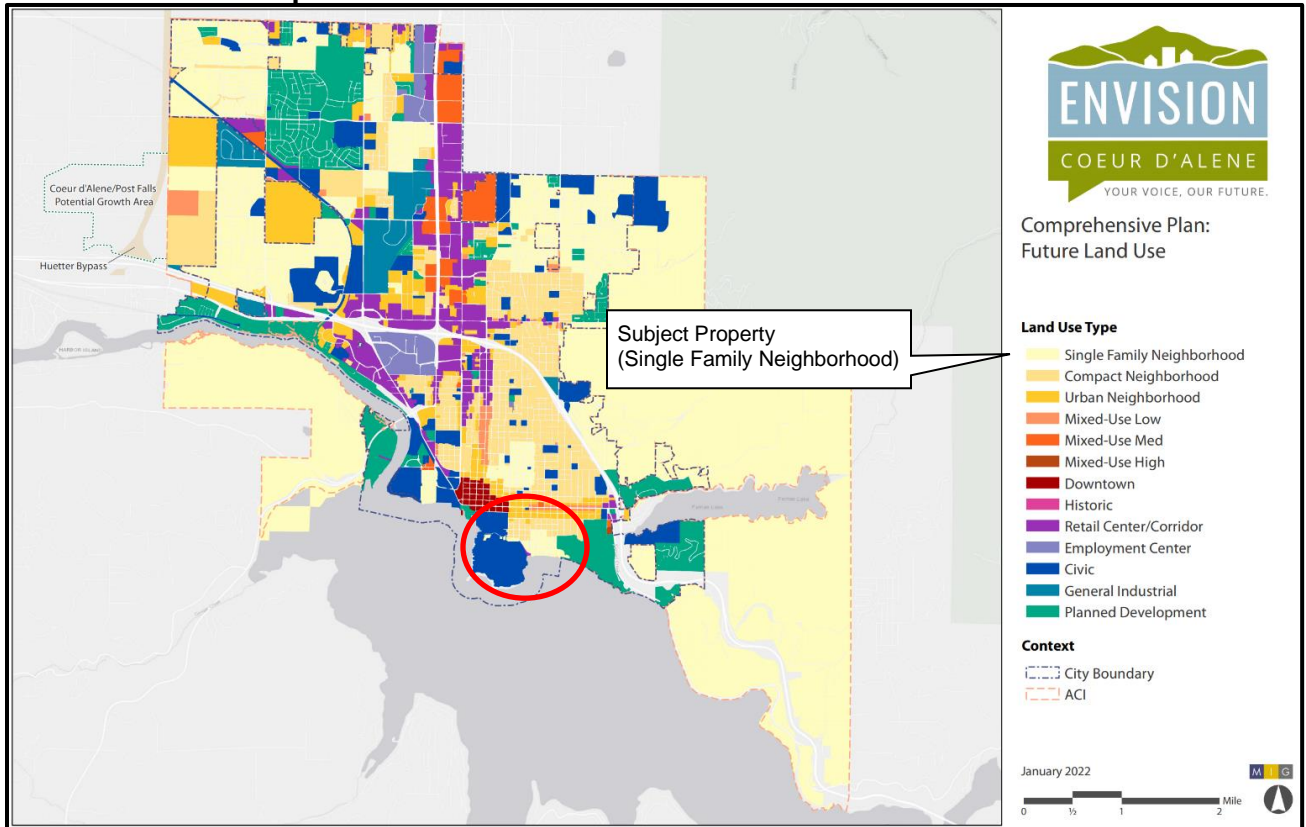
Third and final is the integrity of the zoning ordinance in that this proposed variance would undermine that ordinance. This presents a major conflict with the public interest. Requiring all similarly situated properties to be subject to the same rules is in the best interest of the public. To allow one homeowner to have a fence in excess of the height limitation, but require everyone else who lives in the City (and particularly those who have significantly smaller lots) to follow the laws and regulations is not in the public's interest. The proposed variance would undermine the zoning ordinance and staff's ability to enforce the Code. The proposed variance is in conflict with the public interest.

In staff's opinion, this condition has not been satisfied. The applicant will need to demonstrate to the Planning Commission how this condition is satisfied.

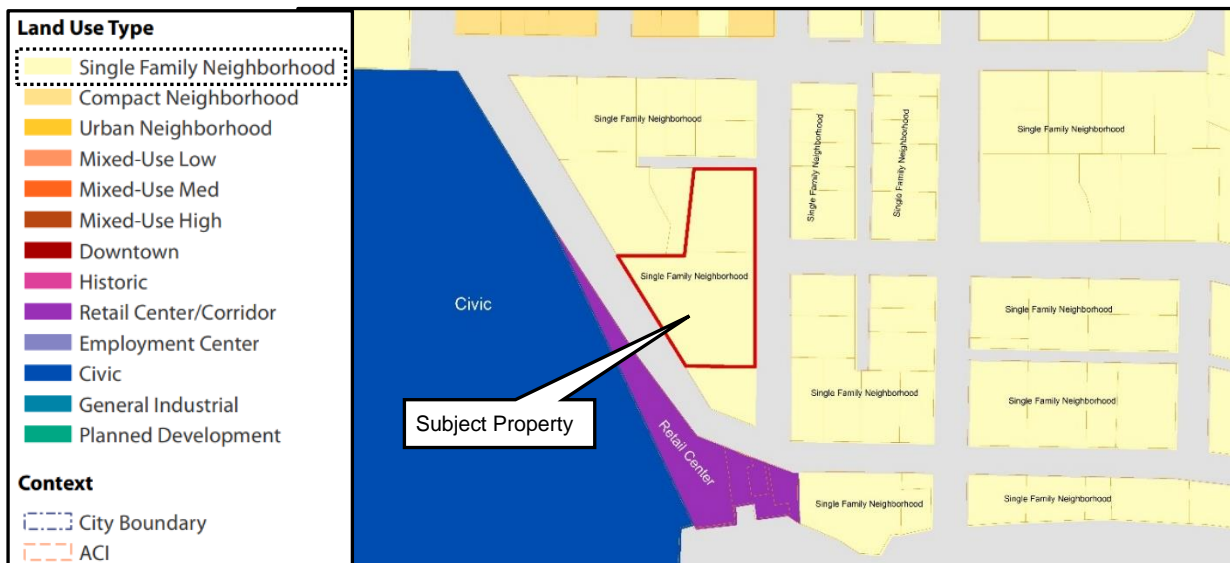
Evaluation: *The Planning Commission must determine, based on the information before them, whether or not the variance is in conflict with the public interest.*

Finding B8C: The granting of said variance will be in conformance with the Comprehensive Plan.

Future Land Use Map:



Future Land Use Map – Single Family Neighborhood:



Single-Family Neighborhood places are the lower density housing areas across Coeur d'Alene where most of the city's residents live, primarily in single-family homes on larger lots. Supporting uses typically include neighborhood parks and recreation facilities.

Compatible Zoning: R-1, R-3, R-5, and R-8; MH-8



Single-Family Neighborhood



Key Characteristics

Single-Family Neighborhood places are the lower density housing areas across Coeur d'Alene where most of the city's residents live, primarily in single-family homes on larger lots. Supporting uses typically include neighborhood parks and recreation facilities connected by trails.

Transportation

- Neighborhood streets for local access connected by collectors

Typical Uses

- Primary: Single-family residential
- Secondary: Civic uses, neighborhood parks and recreation facilities

Building Types

- 1-2 story detached houses

Compatible Zoning

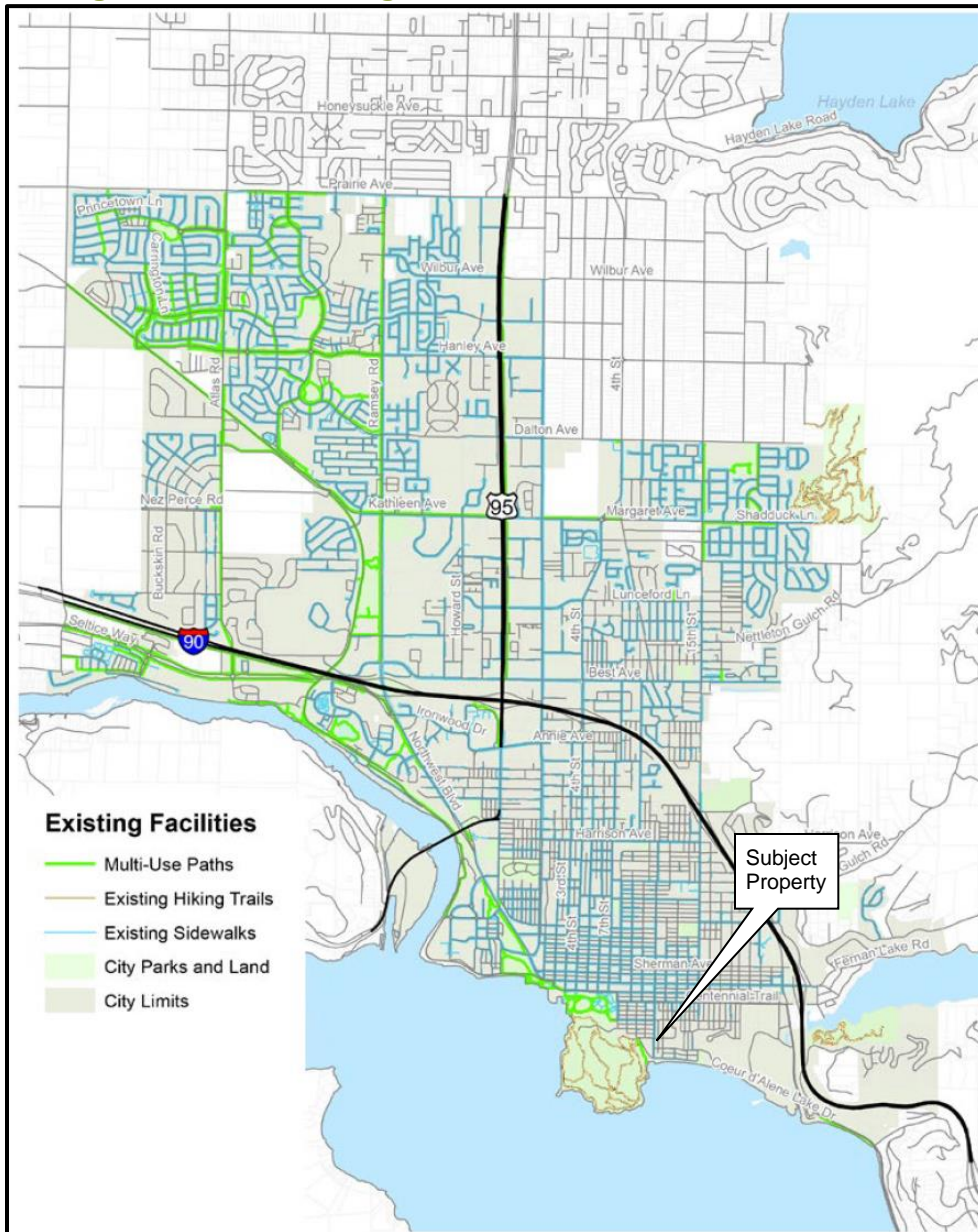
- R-1, R-3, R-5, and R-8; MH-8



Bicycles and Pedestrians

“Coeur d’Alene has both on-street and off-street bicycle amenities, with a number future connections planned in the area”.

Existing and Planned Walking Network:



2024 Comprehensive Plan.

Property Rights:

“All private property within the Coeur d’Alene City Limits has land use zoning assigned to it. The zoning associated with the parcel has “uses by right”, which are allowed to be constructed according to the City’s Development Ordinance”.

2024 Comprehensive Plan GOALS and OBJECTIVES:

Community & Identity

Goal CI 1: Coeur d’Alene citizens are well informed, responsive, and involved in community discussions.

Objective CI 1.1: Foster broad-based and inclusive community involvement for actions affecting businesses and residents to promote community unity and involvement.

Goal CI 2: Maintain a high quality of life for residents and businesses that make Coeur d’Alene a great place to live and visit.

Objective CI 2.1: Maintain the community’s friendly, welcoming atmosphere and its small-town feel.

Environment & Recreation

Goal ER 1: Preserve and enhance the beauty and health of Coeur d’Alene’s natural environment.

Growth & Development

Goal GD 1: Develop a mix of land uses throughout the city that balance housing and employment while preserving the qualities that make Coeur d’Alene a great place to live.

Objective GD 1.5: Recognize neighborhood and district identities.

Objective GD 1.7: Increase physical and visual access to the lakes and rivers.

Goal GD 3: Support the development of a multimodal transportation system for all users.

Objective GD 3.1: Provide accessible, safe, and efficient traffic circulation for motorized, bicycle and pedestrian modes of transportation.

Objective GD 3.2: Provide an accessible, safe, efficient multimodal public transportation system including bus stop amenities designed to maximize the user experience.

Goal GD 4: Protect the visual and historic qualities of Coeur d'Alene.

Objective GD 4.1: Encourage the protection of historic buildings and sites.

Goal GD 5: Implement principles of environmental design in planning projects.

Objective GD 5.1: Minimize glare, light trespass, and skyglow from outdoor lighting.

The proposed variance is in conflict with the Comprehensive Plan. There is no support within the Comprehensive Plan to allow for this special treatment for one property owner in a single-family residential area, when other property owners are held to the City Code standards.

*In staff's opinion, this condition has **not** been satisfied. The applicant will need to demonstrate to the Planning Commission how this condition is satisfied.*

Evaluation: *The Planning Commission must determine, based on the information before them, whether or not the granting of said variance will be in conformance with the Comprehensive Plan.*

Staff's Analysis and Recommendation:

After thoroughly analyzing the proposed variance request, City Code, and State Statutes related to variances, staff has determined that the application does not satisfy all three of the required conditions that are needed in order to approve a variance.

The applicant has not adequately demonstrated to staff how he has met all of the required conditions. Staff's opinion is that the topography change along 11th Street is not significant enough to justify an increase in fence height from four feet to six feet within the front yard setback area of the applicant's property and that the yard would function the same with a four-foot fence as it would with a six-foot fence, and the applicant has plenty of property to create a functional side yard if a six-foot fence was placed at the required setbacks.

Additionally, as noted above, the applicant's property is over an acre in size, whereas a typical residential lot in the City is 5,500 square feet. If the fence was pushed back to the 20-foot setback and a six-foot fence was constructed around the perimeter, the fenced area north of the driveway would be approximately 11,609 square feet (more than double the size of a typical residential lot) and an additional approximately 10,000 square feet for the remainder of the rear and side yards (not including the steep slope at the rear of the yard. This is a combined total of 21,609 square feet (~0.5 acre) that could be fenced with a six-foot fence and meet City Code. This is an ample area to be fenced with a six-foot fence without granting a variance. Standard residential lots that are only

5,500 square feet in size are required and able to meet their fencing standards. So, it is unclear why this property should enjoy a different standard. From staff's perspective, the desire for a taller fence is not due to the physical characteristics of the property.

The slight topographical change on the subject property is not an undue hardship warranting a variance. The proposed variance is in conflict with the public interest and will undermine the City's ability to enforce the fencing code regulations in the future.

Staff's recommendation is to deny the requested variance.

ACTION ALTERNATIVES:

The Planning Commission must consider this request and make appropriate findings to approve, deny, or deny without prejudice. The findings worksheet is attached.

Attachments: Fencing Pamphlet Handout
Applicant's Narrative



**APPLICANT'S
NARRATIVE**

Jack T. Riggs
Variance Request

JUSTIFICATION:

A. Description of Request

Current residential zoning allows 6' fences in "side yards" and "back yards" but requires a 20' setback from the sidewalk for "front yards". My request is:

- A. That you would define the lawn area to the north of my side entrance driveway to be a "side yard" and allow a 6' non-sight-obstructing metal fence.
- B. That due to the steep slope of my lot on the south side of my driveway you would allow a 6' non-sight-obstructing metal fence.

B. Hardship

My house sits on a rock outcropping in the Sanders area across from Tubbs Hill. Due to the very steep slope on both sides of the property, the house was built at an angle in about 1950 (facing southeast and not directly facing 11th Street). Functionally, it is similar to a corner lot, with the garages on the end/side of the house facing the street at an angle. The entire flat lawn to the north of the house has always functioned as a side yard, which if defined as a side or back yard would allow a 6' fence with no set back.

C. Compatible with Public Interest

As stated, 6' fences are currently allowed for residential side and back yard privacy. These fences can be solid and completely sight obstructing. This is a good option for families. My request is for a non-sight-obstructing metal fence which is quite compatible with the Sanders neighborhood. Additionally, I have a large basketball court upon which I have allowed neighborhood kids to play for many years. This would continue.

D. Conformance with Comprehensive Plan

I have read the Comp Plan and can find no conflict with my request. The Comp Plan positively references views & vistas (p 68), high quality of life (p 34), crime prevention & public safety (p 33), private property rights (p 5), and historic areas (p 65).

E. Any other justifications

I have lived in my house for over 36 years. In the last 10 years there has been a truly significant increase in the deer population, every year doing serious damage to the nice things that my wife plants. We have tried many strategies to keep the deer from eating her plants without success. If not for the deer, I wouldn't be putting in a fence. My request for a 6' rather than 4' non-sight-obstructing metal fence is a simple request to try help protect my property.

Citizen's Guide for: FENCING

City of
Coeur d'Alene
Planning Department
769-2274

• **Why do we regulate fences in city limits?**

The City of Coeur d'Alene regulates the construction of fences to preserve the appearance of the City and to avoid traffic and safety hazards.

It is important to check the code requirements before building a fence to avoid having to alter or remove the structure in which you have already invested time and money.

The City of Coeur d'Alene does not review or enforce CC&R's. It is the applicant's responsibility to ensure compliance with HOA requirements.



4.15.2010

F.A.Q. About Residential Fences:

Do I need a Building Permit?

No, the City of Coeur d'Alene does not currently require a building permit for a fence **as long as it is no taller than six feet high.**

How tall can my fence be?

In general, residential fences can be **no taller than six feet high in the rear and side yards and four feet high in the front yard.**

If the fence is located at the corner of two streets, it must meet vision triangle standards.

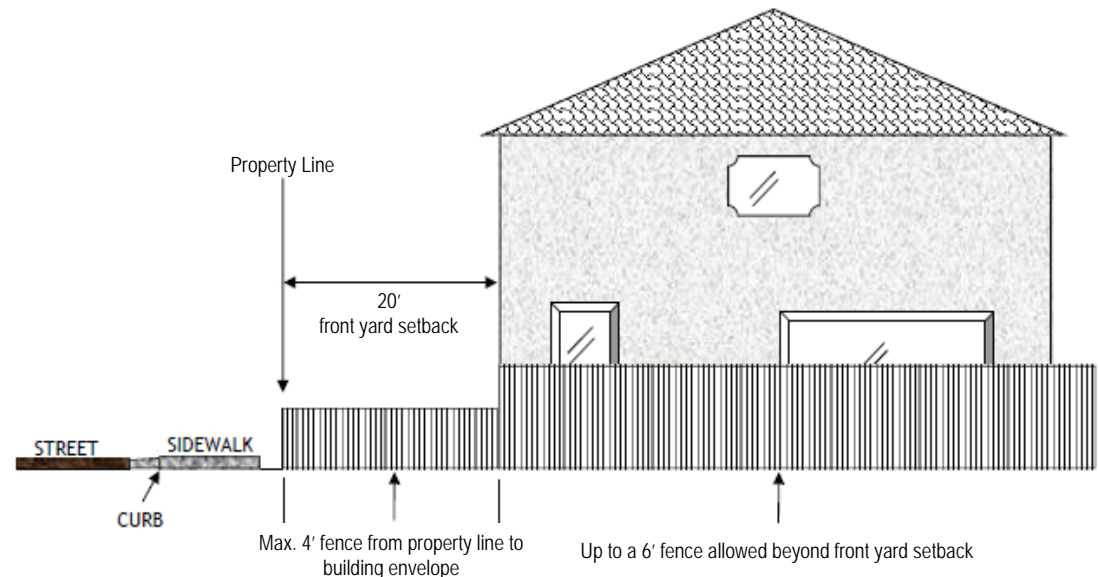
Can I have barbed or electrified fencing?

Yes. However, the use of barbed or electrified wire for fencing or gates along any street, alley, highway or road is prohibited, except where the use of these materials will not constitute a hazard to public safety, and is approved by the city council.

Please click the link below to application.
[Electric and / or barbed wire fence](#)

What is a vision triangle and is it applicable to me?

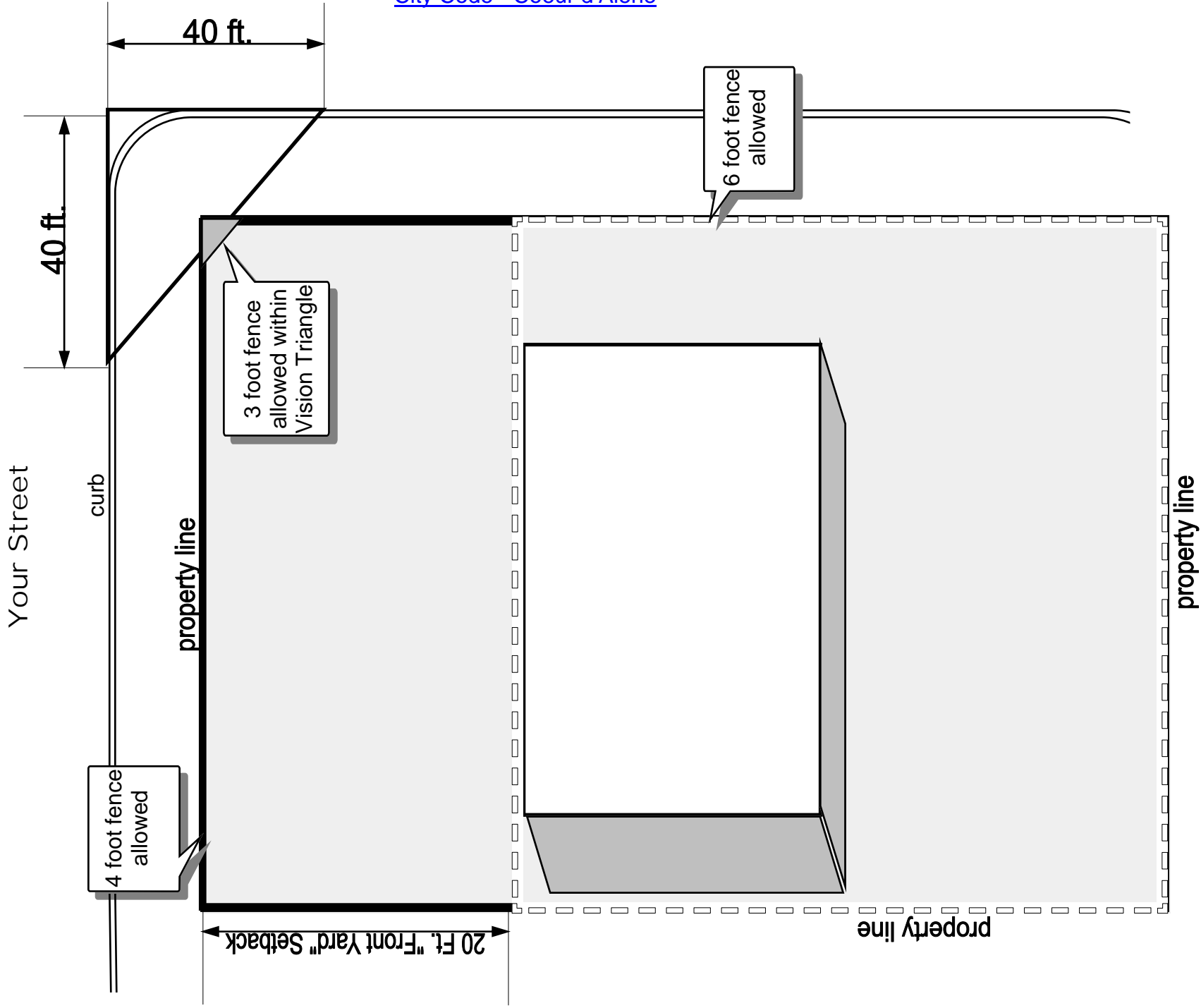
Applicable to corner lots; the vision triangle is defined by measuring from the intersection of the edges of two (2) adjacent roadways forty feet (40') along each roadway and connecting the two (2) points with a straight line.



Please see an additional lot illustration and city code web link on the back of this page.

Fence Location

[City Code - Coeur d'Alene](#)





PUBLIC COMMENTS



STUHMILLER, SHANA

From: Shanna McBurney <smcburney@hangart.com>
Sent: Sunday, September 04, 2022 7:31 PM
To: STUHMILLER, SHANA
Subject: Jack Riggs requested fence variance

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

We are in full support of the requested fence variance by neighbor Jack Riggs.

Thanks so much,
Shanna McBurney
David Stanton
1301 E Lakeshore Dr

STUHMILLER, SHANA

From: jan nieffenegger <janniefenegger@gmail.com>
Sent: Thursday, September 01, 2022 7:15 AM
To: STUHMILLER, SHANA
Subject: riggs' fence

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

i am curious as to what constitutes a "front" yard. the yard in question has no door access and is north of the garage. their front door faces east and separates the property by the driveway. i'm in favor of the 6ft fence the riggs' would like to build.

thank you
jan nieffenegger
720 south 11th

STUHMILLER, SHANA

From: George Ives <glives4567@gmail.com>
Sent: Thursday, September 01, 2022 6:02 PM
To: STUHMILLER, SHANA
Subject: V-1-22

Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

As an adjacent property owner, we write to fully support Jack Riggs' request to raise his fence height (item: V-1-22). Over the past decades Jack and Sandy have been willing supporters of neighbors of all ages honing their basketball chops & soccer skills on what might justifiably be private spaces and off limits!

Deer, sadly enough, have become so destructive in our area that continuing present landscape practices is an impossible task. In fact, we are facing a major redesign of our own front area since our lovely Hosta plantings have become green twigs (reminiscent of our efforts to brighten the neighborhood with tulips in years past).

Times change, of course, and we all need to adapt. Please expedite this request for the entire neighborhood's benefit.

George & Juli Ives
713 South 11th
208-416-1154

We can't live without water; the challenge is learning how to live with it.

**COEUR D'ALENE PLANNING COMMISSION
FINDINGS AND ORDER**

V-1-22

A. INTRODUCTION

This matter having come before the Planning Commission on September 13, 2022 and there being present a person requesting approval of ITEM V-1-22 a request for a variance in fence height to allow a six-foot fence in the front yard setback area rather than a maximum of four feet as allowed.

APPLICANT: JACK RIGGS

LOCATION: 801 S. 11TH STREET

B. FINDINGS: JUSTIFICATION FOR THE DECISION/CRITERIA, STANDARDS AND FACTS RELIED UPON

(The Planning Commission may adopt Items B1 to B7.)

- B1. That the existing land uses are Residential and Commercial.
- B2. That the Comprehensive Plan Map designation is Single Family Neighborhood.
- B3. That the zoning is R-3.
- B4. That the notice of public hearing was published on, August 27, 2022, which fulfills the proper legal requirement.
- B5. That the notice of public hearing was posted on the property on, September 1, 2022, which fulfills the proper legal requirement.
- B6. That notices of public hearing were mailed to all property owners of record within three-hundred feet of the subject property.
- B7. That public testimony was heard on September 13,2022.

B8. Pursuant to Section 17.09.620, Variance Criteria, a variance may be granted only when the applicant has demonstrated that all the variance criteria conditions are present in the affirmative:

B8A. That there **(is) (is not)** an undue hardship because of the physical characteristics of the site. This is based on

Criteria to consider B8A:

1. **Is there a topographic or other physical site problem that would justify a variance? e.g. steep slopes or rock outcrops**

B8B. That the variance **(is) (is not)** in conflict with the public interest. This is based on

Criteria to consider B8B:

1. **Does the request allow the applicant to have a special right or privilege (reduced setbacks) that would not be given to other property owners in the area with similar circumstances?**
2. **Does it provide for orderly growth and development that is compatible with uses in the surrounding area?**
3. **Does it protect property rights and enhance property values?**

B8C. That the granting of said variance **(will) (will not)** be in conformance with the Comprehensive Plan. This is based on

Community & Identity

Goal CI 1: Coeur d’Alene citizens are well informed, responsive, and involved in community discussions.

Objective CI 1.1: Foster broad-based and inclusive community involvement for actions affecting businesses and residents to promote community unity and involvement.

Goal CI 2: Maintain a high quality of life for residents and businesses that make Coeur d’Alene a great place to live and visit.

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Goal ER 1: Preserve and enhance the beauty and health of Coeur d’Alene’s natural environment.

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Goal GD 1: Develop a mix of land uses throughout the city that balance housing and employment while preserving the qualities that make Coeur d’Alene a great place to live.

Objective GD 1.5: Recognize neighborhood and district identities.

Objective GD 1.7: Increase physical and visual access to the lakes and rivers.

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Goal GD 4: Protect the visual and historic qualities of Coeur d’Alene.

Objective GD 4.1: Encourage the protection of historic buildings and sites.

Goal GD 5: Implement principles of environmental design in planning projects.

Objective GD 5.1: Minimize glare, light trespass, and skyglow from outdoor lighting.

C. ORDER: CONCLUSION AND DECISION

The Planning Commission, pursuant to the aforementioned, finds that the request of JACK RIGGS for a variance, as described in the application should be **(approved)(denied)(denied without prejudice)**.

Special conditions applied are as follows:

Motion by _____, seconded by _____, to adopt the foregoing Findings and Order.

ROLL CALL:

Commissioner Fleming	Voted _____
Commissioner Ingalls	Voted _____
Commissioner Luttrupp	Voted _____
Commissioner Mandel	Voted _____
Commissioner McCracken	Voted _____
Commissioner Ward	Voted _____
Chairman Messina	Voted _____

Commissioners _____ were absent.

Motion to _____ carried by a ____ to ____ vote.

CHAIRMAN TOM MESSINA