



STAFF REPORT
DOVER PLANNING AND ZONING COMMISSION
FILE #AM22-22,
SETBACKS, ACCESSORY STRUCTURES, STANDARDS & DEFINITIONS

PREPARED BY: Clare Marley, AICP
Contract Planner, Ruen-Yeager & Associates
219 Pine Street
Sandpoint, ID 83864

PROJECT DESCRIPTION: *FILE AM22-022 – SETBACKS, ACCESSORY STRUCTURES, & STANDARDS - The City of Dover has initiated an amendment to its zoning regulations, Title 12 of Dover City Code, to: clarify or add definitions for primary access, accessory structures, kitchen, setbacks, flanking street, and yards; clarify how setbacks are measured; allow an administrative exception to height or setback standards of up to 1 foot upon a showing of hardship; establish that residential accessory structures (garages, carports, etc.) are to be built simultaneously or after construction of the residence in the Residential and Suburban zone; allow steps or stairs to be located within the waterfront setback with certain standards; allow structures to be placed across contiguous, common property lines; reduce the required front and rear setbacks in the Residential zone from 25 feet to 20 feet; reduce side yard setbacks to 5 feet for narrow lots (50 feet or less) in the Residential zone, inclusive of eaves.*

APPLICANT: City of Dover
P.O. Box 115
Dover, ID 83825

DATE APPLICATION RECEIVED: Initiated: City of Dover, March 10, & April 7, 2022

HEARING DATES: Planning & Zoning Commission: May 5, 2022
City Council: Pending

LEGAL NOTICE PROVIDED: Newspaper notice for Planning and Zoning Commission hearing:
Published 4/19/22
Notice mailed to taxing districts, school district, and airport manager: Mailed 4/19/22

STAFF REPORT ATTACHMENTS: Draft ordinance amendment dated for 05/05/22
Legal notice

PROJECT SUMMARY:

The City of Dover has initiated amendments to its zoning regulations to address several aspects of site development that will clarify yard setbacks, allow stair or step access to the waterfront, set timing for residential accessory structures, and adjust setbacks within the Residential zoning district. The amendment proposes:

- New or revised definitions for primary access, accessory residential structures, kitchen, setback, and the “yard” definitions that determine required setbacks. The city’s current “yard” or setback definitions employ “circular reasoning” to determine the front, side, and rear yard setbacks. The current front yard definition states it is across the full length of the “front” lot line between the “side” lot lines. The side yard is defined as extending from the “front” to the “rear.” Each definition is interrelated and none independently fully defines the respective yard or setback. Because the “yard” definitions are needed to assess proper setbacks for site development, the current definitions are insufficient. In determining yards for the purpose of setbacks, the revised definitions take into account where the primary access is, orientation of the buildings, and structure addressing, in addition to the position of the structure on street frontages. The definition section (Appendix D) also adds a definition of kitchen to help determine dwelling units, and amends the accessory structure to residential accessory structure and provides examples of types of structures such as garages or carports.
- The proposed “Yards and Building Height” revisions would:
 - Explain how setbacks are measured (from the greatest architectural projection to the required setback);
 - Allow an administrative exception of up to 1 foot for setbacks and height requirements in cases where the landowner can show a hardship. This allows the planning administrator to grant a minor adjustment without the need for a variance and public hearing.
 - Require residential structures in the Residential and Suburban district to be constructed simultaneously or after completion of the home. The city expressed a desire to ensure that residential lots are developed with homesites and do not become storage lots. The proposed construction timing standard is not included in the Rural and Agriculture districts, where outbuildings may be needed to shelter farm animals and implements and other such rural needs. The draft code includes exceptions to allow for tool or storage sheds 200 square feet or smaller to be placed first on a property to accommodate construction equipment storage.
 - Allow accessory structures to be placed on separate, contiguous lots or parcels if the landowner combines the property so that it is considered one lot/parcel for development;
 - Permit structures to be placed across parcel or lot lines that are contiguous and under the same ownership. Though this has been allowed as a matter of zoning permit practices, the code does not specifically address this. Many communities call for such allowances for contiguous lots/parcels and consider them “merged” for determining setbacks or other dimensional standards. Dover proposes a requirement that the landowner record a notice stating the lots are considered combined for development when structures are to cross over lot/parcel lines and are under the same ownership.
 - Adjust waterfront setback standards to allow a single set of stairs or walkway to be constructed for access to the shoreline. The structures shall not be wider than 4 feet and nearly perpendicular to the shoreline. Constructed accesses to the water are not

permitted within the waterfront setbacks under current code. Constructed accesses could reduce potential shoreline erosion if properly constructed and maintained.

- Revise the required front and rear setbacks in the Residential district from 25 feet to 20 feet. The city comprehensive plan addressed the challenges that older, historic lots have in meeting current setbacks. The Planning and Zoning Commission reviewed various similar-sized Idaho city setback standards for comparison. The proposed reduction in setbacks provides an additional structure footprint of 5 feet to the front and rear yards. The proposed adjustment is limited to the Residential district, which has a minimum lot size of 12,000 square feet.
- Allow an interior side line setback of 5 feet for lots or parcels 50 feet or narrower, inclusive of all architectural projections (eaves, etc.) within the Residential district, provided snow melt and stormwater run-off are contained on site.

Any ordinance amendment must be in accord with the city's adopted Plan goals and policies, pursuant to state and city codes. A summary of the goals, policies, and implementation sections of the adopted comp plan are provided with this report.

AUTHORITY:

- The authority for cities and counties to enact and amend land use codes is established at Title 67, Chapter 65, of the Idaho Local Land Use Planning Acts.
- The process for considering land use codes and amendments is set forth at §67-6511.
- Idaho Municipal Corporations Title 50, Chapters 3, 9, and 13 provide authority for the City of Dover to adopt ordinances, establish standards, and set procedures.
- Idaho Code §67-6518 establishes the authority to set standards for private and public development.
- Section 12-9-2 of Dover City Code authorizes the Planning and Zoning Commission and City Council to initiate amendments to zoning regulations.

AGENCY COMMENTS:

Notice of the proposed land use amendment has been provided to all political subdivisions within the City of Dover, the school district, the Sandpoint airport manager, and the media. At the time this report was issued, no agencies had provided comment on the proposed amendment.

PUBLIC COMMENTS:

To date, there have been no written public comments submitted to the record.

STANDARDS REVIEW:

Idaho Code §67-6511 (1) (c) requires the governing board analyze the proposed zoning amendment and ensure it is not in conflict with the policies of the adopted comprehensive plan.

Idaho Code §67-6518: Standards. Each governing board may adopt standards for such things as: building design; blocks, lots, and tracts of land; yards, courts, greenbelts, planting strips, parks, and other open spaces; trees; signs; parking spaces; roadways, streets, lanes, bicycleways, pedestrian walkways, rights-of-way, grades, alignments, and intersections; lighting; easements for public utilities; access to streams, lakes, and viewpoints; water systems; sewer systems; storm drainage systems; street numbers and names; house numbers; schools, hospitals, and other public and private development. Standards may be provided as part of zoning, subdivision, planned unit development, or separate ordinance adopted, amended, or repealed in accordance with the notice

and hearing procedures provided in section 67-6509, Idaho Code. Whenever the ordinances made under this chapter impose higher standards than are required by any other statute or local ordinance, the provisions of ordinances made pursuant to this chapter shall govern.

Dover City Code (DCC) 12-9-4 requires amendments to the zoning regulations be in accord with the general and specific goals and objectives of the adopted comprehensive plan.

Comprehensive Plan goals and objectives: Idaho’s Local Land Use Planning Act and local zoning codes require the decision makers to find the amendment is not in conflict with the adopted Plan. While the governing bodies must consider all elements of the Plan to ensure the proposed code is in accord with the adopted Plan, the portions of the Dover Plan that are particularly pertinent to the standards, setbacks, and definitions include the following: (“P” stands for adopted policy and “G” stands for goal. “I” stands for Implementation. Italicized text provides analysis of how the proposed amendment meets the adopted goals and policies.)

<p>1. History, Historic and Archaeological Sites: 1.P.1-4: Stresses education, “sense of place,” accommodation of historic structures, and celebration of Dover’s historic assets.</p>
<p>2. Population, Demographics and Housing: 2.P.1: Strive to maintain and expand a variety of housing types and sizes with new development. 2.P.2: Provide opportunity to develop affordable workforce housing in proportion to the need in the Greater Sandpoint Region. 2.P.3: Develop services and amenities that support visitors and provide a high quality of life for residents. 2.P.4: Ensure that providing housing for visitors through the sharing economy does not impede the health and safety of residents. <i>Reduction of setbacks for smaller, historic lots provides opportunities for a variety of housing types and sizes. Setting a standard for accessory residential structures can ensure sufficient land is available for home development.</i></p>
<p>Section 3: Community Design, Land Use, Economic Development: 3.P.2: Encourage the continued development of Dover neighborhoods. Includes a call for suitable infill and renovation of Historic Dover. 3.P.11: Ensure new development does not negatively impact the safety, health and environmental quality of Dover. 3.I.3: Develop/adopt zoning classifications and ordinances that allow well-regulated compact suburban and small lot single-family and small scale residential development. <i>This section of the comprehensive plan addresses the need to recognize and accommodate the “historic lot sizes.” Reduced setbacks in the Residential zone will allow smaller lots/parcels to be developed that are currently not able to meet setback standards. Allowance for access to the waterfront via developed stairs or steps could reduce shoreline erosion potential, provided best management practices are followed during construction and maintenance of the access features.</i></p>
<p>4. Transportation – Airports <i>Generally, policies and action plans address pathways, bus stops, and public rights-of-way.</i></p>
<p>5. Utilities – Transmission Corridors <i>Generally, addresses sewer, water, and utility provisions, high-speed internet, and recycling.</i></p>
<p>6. Recreation <i>Addresses public spaces, recreational amenities, trails, signage, and waterfront usage.</i></p>
<p>7. Public Services <i>Covers fire and police services, neighborhood watch, and post office relocation.</i></p>
<p>8. Education, Schools, & School Transportation <i>Addresses need to communicate with school district, provide notice of development applications and changes, and development of safe routes to school.</i></p>
<p>9. Natural Resources, Special Areas or Sites – Agriculture 9.G.1: Maintain the natural environmental and resources in a condition which will produce the greatest long-term benefit for present and future residents of the community. 9.G.2: Manage impacts of stormwater run-off.</p>

- 9.P.1:** Minimize and mitigate adverse impacts of development to shorelines.
9.P.2: Minimize new development impacts to natural landscape by regulating grading, fill and other site modifications.
9.I.1: Review development procedures and ordinances to align with this sections goals and policies.

10. Hazardous Areas

10.P.3: Regulate new development to not impede floodplains.
The draft includes an allowance for waterfront access. Any development within the floodplain would require a floodplain development permit and would be reviewed to ensure structures are built to be properly anchored to withstand the effects of buoyancy during a flood event.

11. Private Property Rights

11.G.1: Ensure land use policies, restrictions, conditions, and fees do not violate private property rights, or create unnecessary technical limitation of the use of the property.
11.G.2: Consider fundamental property rights of all parties and the effects of decisions when adopting and applying planning policies and zoning standards.

ATTORNEY REVIEW:

The draft ordinance has been submitted to the city attorney for review.

STAFF ANALYSIS:

The proposed amendments to the zoning codes have been under review by the Planning and Zoning Commission for at least the past year, in response to stated goals and policies of the adopted comprehensive plan and in response to development issues that have arisen over time. The proposed relief to the front and rear setbacks in the Residential zoning district are a result of community discussions during the development of the 2017 comprehensive plan regarding the small, historic lots in "Historic Dover." The proposed setback reductions are limited to the Residential district, where the minimum lot size is 12,000 square feet and where the majority of smaller, challenging homesites are located. The Commission weighed the setback reductions against public safety concerns (fire, proximity to street traffic), community designs, and other community standards.

Loss of potential homesites to accessory structures has also been a point of discussion within the community. The Dover City Council requested the Planning and Zoning Commission and staff consider some provisions to ensure residential properties are developed with homes and do not become garage or storage lots. The draft proposes these accessory structures be built at the same time or after a home is established.

The proposed updates to setback, yard, and various definitions are essential to ensure consistent and correct application of zoning codes.

Many waterfront communities offer some type of reasonable access to the water via constructed steps, stairs, or tram. Earthen pathways or pavers can actually cause greater threats to surface water siltation and shoreline erosion than a developed stairway. However, through the permitting process, the City can ensure that sensitive areas such as wetlands are avoided, proper erosion/sedimentation controls are in place, vegetation is quickly restored and slopes are stabilized.

The proposed amendments to the zoning regulations have been reviewed for consistency with the adopted comprehensive plan. A summary of the goals and policies of the plan are included in this report.

DRAFT MOTIONS FOR GOVERNING BODY:

MOTION TO RECOMMEND APPROVAL: I move to recommend to City Council approval of this file #AM22-22, amending Title 12 of Dover City Code, regarding definitions and development standards, finding that it **IS** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, as enumerated in the findings and standards, as presented (or as amended).

MOTION TO CONTINUE: I move to continue this file AM22-22 to [date, time and place] to allow for additional time for [public comment, additional information, etc.].

MOTION TO RECOMMEND DENIAL: I move to recommend denial of this file #AM22-22, amending Title 12 of Dover City Code, regarding definitions and development standards, finding that it **IS NOT** in accord with the adopted policies of the City of Dover comprehensive plan and Dover City Code, because [STATE WHAT STANDARDS THE AMENDMENT FAILS TO MEET AND WHY].