



**DEPARTMENT OF
COMMUNITY DEVELOPMENT**

Development Services

MEMORANDUM

From: Bryan Mattson, Project Planner
Date: May 19, 2021
RE: 109th Street Cottages / PLD-2021-00073

County Land Use Staff response to applicant's issues expressed in Exhibit 36.

1. *"On Land Use Finding 3, Conditions D-1(b), and E-1(c) It says that Garages count against the 1200 sf Maximum SF on the ground level. That must be an interpretation, because the Cottage code 40.260.073 (D)(1) doesn't say that. Garage square footage is not included in the code language. I know from working on that code through DEAB that it was not the intent to include garages. The intent was to limit usable living space in cottages. In fact, many Cottage style developments have detached and clustered garages that wouldn't count towards the building square footage. The ground floor threshold will not likely impact this project because the units will likely be 2-story units. But, it could be more restrictive on one story units. It is also unclear if garages count against the 1600 sf total building SF. It sounds like it doesn't but it isn't clear. It shouldn't count. This would be an issue because we have a 1500 SF units we are proposing and the garage is not included. We request that the findings and conditions be revised to match code and remove the sentence, "Please note that garages on the first floor count against the maximum allowed gross floor area limited to 1,200 sf."*

Staff Response: Per 40.260.073.D.1, Cottages shall have a minimum of one hundred fifty (150) and a maximum of sixteen hundred (1,600) square feet gross floor area. The maximum floor area allowed on the ground or main floor shall be twelve hundred (1,200) square feet.

Per 40.100.070 Definitions, Floor area, gross is defined as "the total enclosed area of all floors of a building measured to the outside face of

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Exhibit 37

the structural members in exterior walls and including halls, stairways, and elevator shafts at each floor level.”

Staff’s interpretation of code is based on the code as written. In neither the cottage standards nor the definition of gross floor area does the code specifically exclude attached garages.

It is staff’s position that Cottages are intended to be smaller housing units and the limitations of both maximum gross floor area and ground floor square footage demonstrate this intent. Attached garages are part of the footprint of the cottage which is intended to be smaller in size. If the garages were detached, staff would not include them in the gross floor area or 1st floor sf limitations for the cottage.

Staff acknowledges that there at least 2 previous cottage development reviews where attached garages were exempted from the 1st floor sf limitation and the total gross floor area. However, staff’s position is that these previous reviews did not use the correct interpretation of the code. While consistency in applying the code is important and by contrast, inconsistency is certainly frustrating for the applicant, just because something was construed in error in the past does not obligate staff to continue this error moving forward. The interest of consistency does not override correctly applying the code.

2. *“Condition D-1 (h) is a little unclear and seems to blend 2 separate issues. The first issue is a portion of the North 20’ that is encumbered by an old, non-clearly defined easement that was never used. It was never dedicated to anyone. But an old deed included an encumbrance or exception. This area has been part of the property through several sales and transfers of title. It has also been used and maintained by past and current owners of the property without any questions or challenges. But, the encumbrance could affect the construction of any structures in that area. So, to resolve the issue, the applicant has included this area in open space. This should resolve the issue. The second part of the condition discusses the standard practices to resolve fence encroachments this is applicable and should remain. However we recommend separating the two items to make it more clear. Those resolutions for fence encroachments would not apply to the 20’ easement encumbrance.”*

Staff Response: Staff has no issue with separating the two items. However, staff does not agree that North 20’ can be considered required open space for this development if it is not under common ownership. If the area in question is not part of this development then it can’t be counted to meet a requirement for approval. If the parcel is owned by a different party, how would it be maintained? What if a different or future owner wanted to erect a structure or fence along the property line? In either case the development would no longer comply with the cottage

housing open space requirements and specifically 40.260.073.C.9 & 40.260.073.C.10.

3. *“Impact Fee Finding 2 shows the impact fees for single family detached homes. This is currently correct. But, there has been some discussion about modifying the TIF rates for cottage housing to match multifamily rates. This is being considered to be consistent with other jurisdictions policies, to reflect the character/density, as well as promote this product type to meet comprehensive plan goals. But, impact fees are calculated at building permit and the rates shown are for reference. So, I don’t believe anything needs to be changed. But, it is worth noting in the record that the multifamily rates, if adopted prior to building permit could apply.”*

Staff Response: Staff has no issues with modifying the condition to say that impact fees shall be assessed at building permit issuance at the rates in effect at that time.