



---

**TO:** Lake Oswego Planning Commission

**FROM:** Scot Siegel, Planning and Building Services Director  
Leslie Hamilton, Senior Planner

**SUBJECT:** Flag Lots, Access Lanes, Serial Partitions, and Noise Producing Accessory Structures – Work Session #1 (PP 16-0003)

**DATE:** December 29, 2016 **MEETING DATE:** January 9, 2017

---

On January 9, 2017, the Planning Commission (Commission) will conduct a work session on potential amendments to the Community Development Code (Chapter 50) relating to certain infill development standards, specifically those for flag lots, access lanes, open space contributions in serial partitions, and accessory structure (noise-producing) setbacks.

The purpose of the January 9 work session is to verify the scope of work for these amendments, and for the Commission to identify any questions that it may have for further research before the City prepares a public review draft of the proposal(s). This report identifies specific items where the Commission's input is sought. It is anticipated more than one work session will be necessary to develop the scope of work for this package of code amendments.

The amendments summarized in this report and detailed in **Attachment A** were identified by staff through application of the Code and through the Comprehensive Plan-Community Development Code (CDC) Audit in 2015. The Commission also identified a review of Flag Lots, Access Lanes and Serial Partitions for its [2016 Work Program](#). The Commission initially discussed these items in a work session on Annual CDC Amendments (LU 16-0030), June 27, 2016. The discussion was tabled however to allow the Uplands Neighborhood Plan to take shape, with the goal of using that plan as a case study for considering issues related to flag lots and access lanes citywide. The amendments likely will require Measure 56 Notice, as they may limit the use of residential property.

This report summarizes potential code amendments and identifies scoping issues for which staff requests direction from the Commission. A working list/matrix of potential amendments is contained in Attachment A, and for the Commission meeting staff will present examples of situations where these standards apply. Because several of the items listed relate to dimensional standards, the presentation will also include graphics illustrating the concepts.

## Flag Lot (LOC Chapter 50.07)

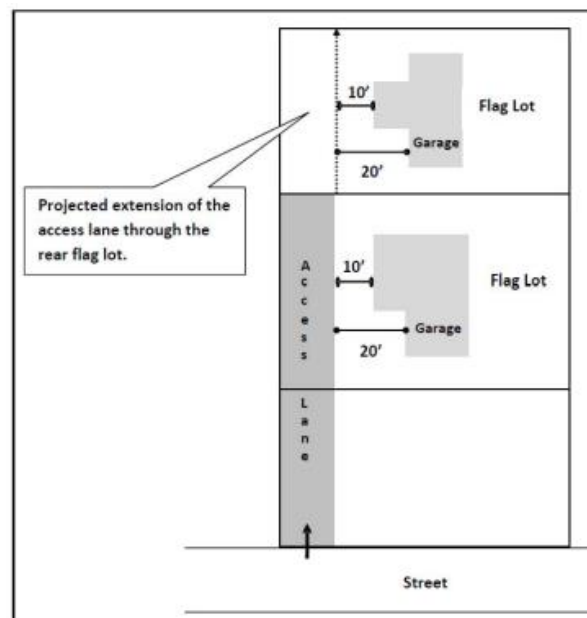
A Flag Lot is,

“A lot that:

- a. Has the actual building site located behind another lot; and
- b. Takes access from the street via:
  - i. A driveway or access lane that is part of the lot and the width narrows to less than the minimum lot width for the zone; or
  - ii. An access easement.”

[LOC 50.10.003.2 Definition of Terms]

**Figure 50.07.007-B: Access Lane**



Flag lot developments are also limited by the code provision that an “access lane shall serve no more than eight properties.” New developments with more than eight lots must be served by a public street. (50.07007.2.c.iii)

1. Number of Lots Served by Access Lane; and Planned Extensions of Access Lanes: Lake Oswego is nearly built-out. Remaining dividable properties are typically small or narrow, or both, and many have natural resources or topographic constraints. It is not uncommon for these properties to be partitioned into two or three lots with one standard-width lot fronting a street and one or two flag lots behind it. In some cases, these properties are large enough that they may be divided again in the future. (See

also, discussion of Serial Partitions, below.) In addition, it is possible, though less common, for some properties to be subdivided into developments of four or more flag lots.

The concern with this form of development is that it may be incompatible with the predominant development pattern and character of some neighborhoods. Where houses are generally oriented side-by-side along a street, partitions or subdivisions with multiple flag lots can appear crowded and out of place. The Uplands Neighborhood has identified this as a key issue in their draft neighborhood plan. Some commissioners have also expressed concern regarding a recent eight-flag lot subdivision, Freepons Village in Hallinan Heights. Although that development was constrained by sensitive lands, sloping topography, an abutting park, and it was not practical to extend a public street through it, the neighbors feel that the resulting development (eight lots on a private access lane) does not fit the character of their neighborhood, which was originally platted in the 1800s and consists of rectangular blocks with lots developed on a street grid.

The first step in approaching any planning issue is to frame the problem(s) to be addressed. While in many cases, flag lots are a more efficient use of land than would occur through the creation of conventional lots, and allowing access lanes in lieu of a standard street may reduce impacts on natural resources and storm drainage, the Commission has raised several policy issues with respect to partitions and subdivisions with multiple flag lots:

- Neighborhood character and compatibility concerns, as described above.
- Lack of adequate parking for visitors, as there is no on-street parking and access lane parking is required only for developments of seven or more flag lots. This can be a problem both during construction (construction staging) and afterwards.
- Planned extensions of private access lanes onto abutting developable properties is seen as impractical; access lanes are not part of the City's local street network and are not accessible to the public.
- In larger flag lot developments there may be a false expectation by property owners that the City will assist in maintaining access lanes (pavement, landscape buffers, associated storm drainage facilities, etc.) even though these are private facilities.

The Commission should consider whether there are other concerns with flag lot developments, particularly those with more than one flag lot.

The alternative to creating flag lots, which by definition are served by a private access lane/easement, is to create lots meeting the minimum lot width and street frontage standards of the zone. For reference, approximately twice as much land is required to develop a public street than a private access lane. The minimum easement width for an

access lane is 20 ft.; by comparison the minimum right-of-way width for a local street is 40 ft.—though actual right-of-way may be more—subject to review and approval by the City Engineer (LOC 42). Amending the code to require all land divisions of three or more lots to meet street frontage and improvement standards, for example, may reduce development potential of some properties, particularly if current street standards are maintained. Another consideration is that the City may not be willing to accept public dedication of such small streets (e.g., serving 2-8 lots) due to the difficulty in managing them, and budgetary impacts (cost to taxpayers). Therefore, staff would seek input from the City Engineer on any proposed change in policy regarding the use of private access lanes versus public streets.

In addition, the development standards differ between streets and access lanes, with streets generally required to have roadway paving, on-street parking, paths, stormwater facilities, and street trees; and access lanes required to have driveway paving, gravel shoulders, stormwater facilities, and landscape buffers – access lane parking is required only for developments with seven or eight lots. As described later in this report, setback standards and building orientation requirements also differ between flag lots and regular lots, and standards for flag lots vary depending on when a lot was created.

Planning Commission Input on Scope – The Uplands Neighborhood has recommended limiting the number of flag lots in a development to one, and eliminating the requirement that access lanes in abutting developments be connected. (See the December 12 Commission work session discussion on PP 15-0005.) Based on the above background, and the January 9 staff presentation, should the same or different limitations be applied citywide? What information, if any, does the Commission need before staff develops a draft proposal for public review?

2. Flag Lots – Access Lane Parking [LOC 50.06.003.1.d]: The minimum on-site parking requirement for single family dwellings is one space per dwelling. Required parking cannot be within a front yard setback, though it is not uncommon for residential lots to have additional parking, for example in a driveway area in front of a garage. Where an access lane serves seven or eight dwelling units, additional parking for four standard vehicles must be provided either “on-lane” in small turnouts, or “off-lane” in a small parking lot [LOC 50.06.003.1.d]. Not more than eight dwelling units may be served by one access lane. Access lanes may be created through the partition (regular or serial) or subdivision process.

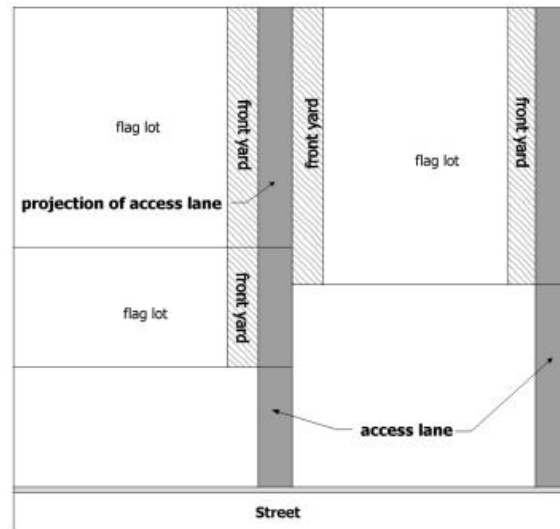
Planning Commission Input on Scope – The Commission should advise as to whether any change to the minimum parking requirements for access lanes is necessary in light of the prior discussion on the number of flag lots in a development. What information, if any, does the Commission need before staff develops a draft proposal for public review? Staff will provide examples of situations where these standards apply as part of the January 9 staff presentation.

3. Lot Line Adjustments and Flag Lots [LOC 50.07.007.2.a.ii]: The flag lot standards apply to all land divisions and lot line adjustments (LLA) that “create” a flag lot. Under the legal lot determination analysis, “creation” includes reconfiguring an existing flag lot through a Lot Line Adjustment; it also applies to an existing flag lot that is further partitioned (and thus has a new configuration).

The first flag lot standards were codified in 1998; these standards were altered considerably in 2010, including amendments to setbacks and dwelling orientation. Specifically, prior to 2010, the front lot line of a flag lot was the lot line that was most parallel to the street; under the new flag lot standards, the front of a flag lot is parallel to the access lane. Staff recommends that the new flag lot standards NOT apply to existing, developed flag lots that are configured through a LLA, or to an existing flag lot that is partitioned. The application of the current flag lot standards to these developed lots can require that setbacks and orientation are rotated 90 degrees. Staff recommends the new flag lot standards should apply to new flag lots that did not previously exist, not to existing flag lots that are modified through a LLA.

4. Flag Lots and Shared Access [LOC 50.07.007.2.c.i]: This is a code maintenance (non-policy) item. The flag lot standards require shared access between the new flag lots and the “parent parcel.” However, the “parent parcel” ceases to exist upon the partition or LLA that creates the flag lot(s). Staff recommends that the text be clarified to read that shared access should be coordinated between the flag lots and the non-flag lots created by the partition or LLA.
5. Flag Lot/Development Site [LOC 50.07.007.2.c.i]: This is a code maintenance (non-policy) item. Under the Access standards for flag lots, the reference to “partition” site should be changed to “development” site because flag lots can also be created through a Lot Line Adjustment or Subdivision.
6. Setbacks and Orientation [LOC 50.07.007.2.e.v(1)]: In 2010, the flag lot standards were amended to require the development sites to provide the opportunity for access lanes (existing or potential) to be extended onto an abutting property. In addition, whether or not there is development potential on the abutting lot, the front yard setback on the flag lot is measured from the access lane or a projection of the access lane (see Figure 50.07.007-A: Flag Lot Front Yard). In situations where there is no opportunity to extend the access lane to abutting lots (e.g., railroad, existing development), or if the City were to amend the code and remove the requirement that access lanes in abutting developments be connected, staff recommends greater flexibility in setbacks and dwelling orientation on these flag lots, with a preference toward greater setbacks where living spaces on abutting lots are next to one another. The proposed Uplands overlay would change flag lot setbacks to be consistent with setbacks for non-flag lots, and would not require orientation to the access lane.

Figure 50.07.007-A: Flag Lot Front Yard

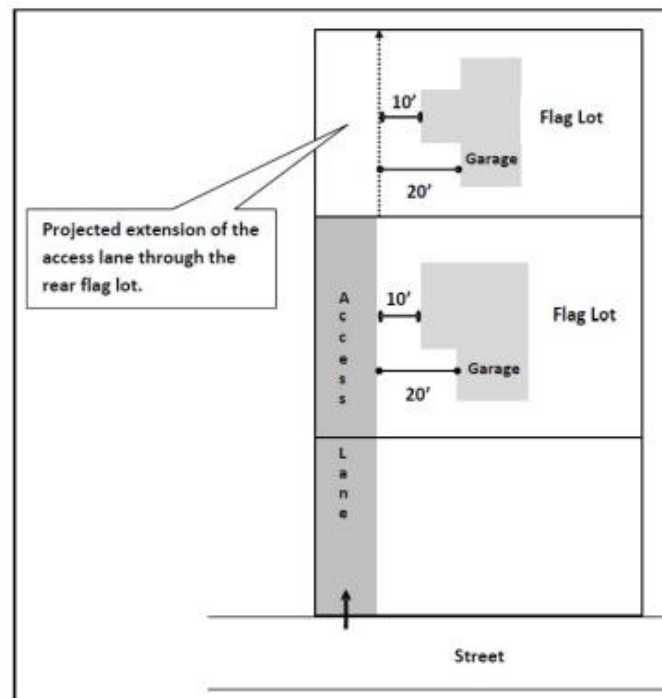


7. Garage Placement Standards [LOC 50.07.007.2.e.ii]: Prior to 2010, the front yard of a flag lot was the lot line that was parallel to the public street. Because of this orientation, the garage walls or doors on the flag lot could be visible from the public street if not obstructed by development in front of the flag lot; the flag lot standards included garage appearance and location standards to reduce the impact of the flag lot garage. In 2010, the flag lot standards were amended to require that front setbacks be measured from the access lane or the projection of the access lane. Dwellings must be set back at least 10 ft. from the access lane, and garages that face the access lane must be set back at least 20 ft. from the access lane. This resulted in garages being set back from the access lane and generally being less visible from the public street. However, the garage placement standards for flag lots (minimize visibility of the garage from the street) were not amended at that time to reflect these new setbacks; staff recommends deleting these standards. As an additional point of comparison, the Garage Appearance and Location standards for non-flag lots do not apply to garages that are located more than 60 ft. from a public street; garages on flag lots are generally located more than 60 ft. from the public street.
8. Flag Lot Front Setbacks [LOC 50.07.007.2.e.v]: As described above, flag lot developments can appear crowded as viewed from the street or the access lane. The difference in front setback requirements between flag and non-flag lots may be contributing to this problem:
  - v. **Setback Requirements [for Flag Lots]**
    - (1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ten-ft. front yard setback is required from the access lane,

(1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ten-ft. front yard setback is required from the access lane,

except that a 20 ft. setback is required from the access lane to the front of a garage or carport when the garage or carport opening faces the access lane. For flag lot partitions that receive a minor variance to the determination of the front yard, per LOC [50.08.002.2.m](#), the setbacks from the access lane described above shall apply. For purposes of this standard, the access lane shall include the projected extension of the access lane through the property as illustrated in Figure [50.07.007-B](#): Access Lane.

**Figure 50.07.007-B: Access Lane**



- (2) Where a flag lot abuts a lot in a residential district of lower density, the greater setback requirements of the more restrictive district shall apply for those yards which have abutting property lines.
- (3) The side and rear yard setbacks shall be established at the time of flag lot creation, subject to the following requirements:
- (a) The sum of the side and rear yard setbacks on flag lots shall be not less than:
    - (i) Fifty ft. in R-10 and R-15 zones; and
    - (ii) Forty-five ft. in residential zones other than R-10 and R-15.
  - (b) In applying the flexible standard, provide yard dimensions that are similar to the yard dimensions of primary structures on abutting properties that are not part of the

partition site and that abut the rear or side yards of the flag lots, but in no event shall the rear or side yard established under this section be less than ten ft.

By comparison, the setbacks for non-flag lots in the Low Density Residential zones are:

TABLE 50.04.001-1: RESIDENTIAL LOW DENSITY ZONES DIMENSIONS					
		R-7.5	R-10	R-15	Comments/Additional Standards
<b>YARD SETBACKS</b>					
<a href="#">50.04.001.1.e<sup>1</sup></a>					
<b>Primary Structure</b>					
Front (ft.)		25	25	25	
Side Adjacent to Street (ft.)					
Arterial/Collector		20	20	20	
Local		15	15	15	
Interior Side (ft.)		Total 15, 5 min.	10	10	
Rear (ft.)		30	30	30	

In summary, the minimum front setback for flag lots (measured from the access lane) is 10 ft., except 20 ft. is required for garages. This compares to 25 ft. for non-flag lots in the low density residential zones. The minimum sum of side and rear setbacks for flag lots is 50 ft. in R-10 and R-15, and 45 ft. in R-7.5. By comparison, the minimum sum of side and rear setbacks for non-flag lots is 45 ft. (or up to 55 ft. where a side lot line abuts a street).

Planning Commission Input on Scope – In light of other changes to the flag lot standards that might be proposed, the Planning Commission should consider whether any adjustment to the minimum front setback for flag lots is needed. What information if any does the Commission need before staff develops a draft proposal for public review? Staff will discuss examples in its January 9 presentation.

9. Setback Distribution on R-5 Flag Lots [LOC 50.07.007.2.e.v(3)]: On flag lots, the front setback is measured from the edge of the access lane or projection of the access lane. The remaining setbacks are not individually prescribed, but their sum must equal 50 ft.

<sup>1</sup> The additional standards in 50.04.001.1.e relate to zero lot line houses, corner lots, planned developments, steeply sloping lots, and method of measurement for side yard setbacks.



in the R-10 and R-15 zones, and 45 ft. in all other residential zones, with no setback less than 10 ft. The intent behind this standard is to provide setbacks that are similar to the setbacks on the abutting lots. For the R-7.5, R-10 and R-15 zones, the sum of the sides and rear setbacks on flag lots is the same as the sum of the side and rear setbacks on non-flag lots, i.e., 45 ft. For other zones (R-5, R-3 and R-0), the sum of the sides and rear setback on flag lots (45 ft. cumulative) is much greater than for non-flag lots (30 ft. cumulative). The chart below compares cumulative setbacks on flag and non-flag lots in the R-5 and R-7.5 zones.

	R-5 Flag	R-5 Non-Flag	R-7.5 Flag	R-7.5 Non-Flag
Side Setback	10 ft. (each)	5 ft. (each)	10 ft. (each)	15 ft. (total)
Rear Setback	25 ft.	20 ft.	25 ft.	30 ft.
<b>TOTAL</b>	45 ft.	30 ft.	45 ft.	45 ft.

As identified above, the setback distribution on low-density flag lots is similar to flag lots; flag lots have a slightly smaller overall cumulative setback because the minimum front setback is only 10 ft. In the R-5, R-3 and R-0 zones, flag lots have a greater overall cumulative setback.

Planning Commission Input on Scope – Staff requests input on whether the current R-5, R-3 and R-0 flag lot standards provide sufficient, insufficient or excessive separation between dwellings. What information if any does the Commission need before staff develops a draft proposal for public review? Illustrative examples of flag lots will be provided at the January 9 Commission meeting.

10. Hierarchy of Standards [Various]: The flag lot setback standards supersede certain zone standards, as stated in LOC 50.07.007.2.e.v(i), above. The Code needs to be clarified that the flag lot standards are zone standards. Where an overlay exists, the overlay standards supersede the base zone. Exceptions to zone standards can be granted under the Planned Development (PD) Overlay standards, per LOC 50.07.007.4.d.ii(1). Staff recommends a clarification that flag lot standards can be subject to an exception under the PD provisions; this analysis was made in a recent land use case (LU 14-0034, Mathiot) involving an eight-lot subdivision with flag lots and non-flag lots.
11. Flag Lot Screening [LOC 50.07.007.2.f.i and f.iii]: The Flag Lot standards require a 5 ft. landscaped buffer abutting both sides of an access lane, planted with “trees and shrubs to provide a visual buffer between the access lane” and the abutting properties. The reality is that utilities usually run up the access lane, and trees planted in the buffers may impact the utilities. Staff recommends that the applicant have an option to provide one of the following in the buffer between the access lane and abutting lots, i.e. to address any utilities: (1) shrubs from an approved plant list (compatible with utilities), plus a fence that is at least 5 ft. tall, or (2) in locations where utility impacts are not a concern, approved shrubs plus trees that are at least 2 in. caliper (deciduous) or 6 ft. tall (evergreen). Staff also recommends that the required 5 ft. landscape buffer not be

required between the access lane and the lots that are part of the development. Buffering would continue to be required between the access lane and other abutting properties. For reference, on non-flag lots, no structure can be located within 5 ft. of the edge of the access lane (note: fences are not considered “structures”). On flag lots, structures must be setback 10-20 ft. from the edge of the access lane. Staff has found that requiring an additional 5 ft. buffer is unnecessary and its removal would not affect any setback.

In addition, the Flag Lot standards require a landscaping strip and a 6 ft. fence to be provided along the rear property lines of flag lots. As the flag lot orientation changed in 2010, the screening requirement was rotated to what was previously a side yard. Additionally, the prescribed landscaping materials must “grow to a height of 6 ft. within two years and shall be maintained at a minimum of that height.” Because both the fencing and landscaping must be 6 ft. in height, there may be an opportunity for flexibility in the buffering requirements. [Note: fences are prohibited in wetlands].

Planning Commission Input on Scope – Staff requests input on where screening is needed on new flag lots, and what screening is appropriate. Illustrative examples of how the current standard applies will be provided at the January 9 Commission meeting.

12. Lot Coverage and Floor Area [Various]: For determining lot size of a flag lot, the area of the access easement or “flag pole” is deducted from the gross area of the lot. This net area is used to calculate floor area, per the definitions of “Floor Area” and “Lot Size” in LOC 50.20.003.2. However, the gross site area is used to calculate lot coverage, per the definition of “Lot Coverage” in LOC 50.10.003.2. For consistency, staff recommends that the net area also be used to calculate lot coverage. This change may reduce the potential size of new or remodeled houses, and may also create non-conforming situations, on some flag lots.

Planning Commission Input on Scope – Staff requests input on whether this change should be part of the proposed flag lot amendments, and what information if any does the Commission need before staff develops a draft proposal for public review? Illustrative examples will be provided for the January 9 meeting.

### Other

The following items were moved from the 2016 Annual Code Amendment Package because they will require Measure 56 Noticing, and it is assumed that the above Flag Lot Amendments would also require Measure 56 Noticing.

13. Standardization of Accessory Structure Setbacks [LOC 50.03.004.2.b and various]: The setbacks for accessory structures such as AC units and heat pumps vary widely by zone and overlay as shown in Attachment B and below:

- For Planned Developments approved *before* August 2003, the setbacks for all accessory structures are the same as for the primary structure.
- For Planned Developments approved *after* August 2003, the setbacks for accessory structures are the same as the accessory structure setbacks of the underlying zone.
- For all residential zones except R-6, including all PDs, the side setback can be reduced to 5 ft. and the rear setback can be reduced to 3 ft. under certain conditions, including having the abutting neighbor agree to the setback reduction.

The amendment proposed in 2016 would standardize the setbacks for residential noise-producing accessory structures as follows:

Front:	Zone setback
Interior Side:	5 ft.
Street Side, Local Street:	10 ft.
Street Side, Arterial or Collector Street:	15 ft.
Rear:	10 ft.

As a result of the proposed standardization, some setbacks are increased, some are decreased, and some are not changed. The changes are limited to 2.5 – 5 ft. only. [Note: the amendment would apply only to mechanical units, not to all accessory structures, which includes sheds, detached garages, etc.]

While noise complaints related to this type of equipment are few and far between, when a noise issue arises it poses a concern for neighbors. A policy issue is whether the development code should contain noise rating standards for new noise-producing accessory structures (mechanical equipment), which would supplement the special setback standards. A noise rating would apply when a unit is placed within a certain distance of another residential lot (<45 decibels at 5 ft.). This would be a standard for the equipment itself, not an addition to the nuisance code. It would not require additional inspections beyond checking that it meets setbacks. Manufacturers publish noise ratings for air conditioning units and other mechanical equipment. When properly installed and maintained, the equipment can be expected to generate noise at these levels (measured at the source). Adding this type of code requirement would add cost and delay to the permit process, because the applicant would be required to submit the manufacturer's specifications for staff review and approval of mechanical permits in compliance with the noise standard. There is also the issue of placement; a noise-producing structure placed adjacent to a neighbor's garage may have less impact than one placed next to a living space or patio, and noise may vary based on topography, vegetation, ambient (e.g., road) noise, and the presence of other structures such as

fences. These variables exist today, as the City does not have site design standards or require development review for air conditioning units.

Planning Commission Input on Scope – Staff requests input on whether noise from this type of mechanical equipment is a community-wide problem that requires a code change, as the City is establishing uniform setback requirements for accessory structures. (This is not a proposal to establish other types of noise regulations.) Please advise as to any information staff can provide to support a well-informed discussion of the issue, as appropriate.

14. Open Space/Serial Partition Sites [LOC 50.06.005.1]: As identified by the 2015 Audit of the Comprehensive Plan and CDC, the applicability statement for Open Space should be amended to apply to serial partition sites, i.e., minor partitions where one or more of the new lots could be further divided. This may result in reduced development potential of some properties, but is intended to remove a loophole where developments of four or more lots have not been required to provide open space. The Comprehensive Plan, Land Use Policy B-10, requires the City to: “Maintain land use regulations and development standards that require new residential subdivisions and developments of four or more units to address all of the following design criteria:
- a. Preservation of required open space and natural resources...”

Planning Commission Input on Scope – Staff requests input on whether the lack of open space in serial partitions is a problem that warrants a code change. Examples of situations where this arises will be presented on January 9.

### **Attachments**

- A. Matrices of Proposed Flag Lot Amendments, 12/22/16
- B. Accessory Structure Handout, 10/17/16
- C. Flag Lot Standards (LOC 50.07.007.2), 12/2016

TOPIC	SUMMARY	NOTES	NOTES
1 FLAG LOTS and LOT LINE ADJUSTMENTS	<p>The flag lot standards apply to all land divisions and LLAs that "create" a flag lot; under the legal lot determination analysis, "creation" includes reconfiguring an existing flag lot through a LLA; it also applies to an existing flag lot that is further partitioned (and thus now has a new configuration). Staff recommends that the new flag lot standards NOT apply to existing developed flag lots that are reconfigured through LLA, or to an existing flag lot that is partitioned.</p>	<p>Flag Lot Standards 1998-2010 had different orientation and setbacks than current. If LLA triggers new standards on a developed flag lot, it could create non-conformities. The new flag lot standards should apply to NEW flag lots that did not previously exist.</p>	
2 FLAG LOTS - SHARED ACCESS	<p>The flag lot standards require shared access between the new flag lots and the "parent parcel," however, the "parent parcel" ceases to exist upon partitioning or LLA. The text should be amended to say that access should be coordinated between the flag lots and the "non-flag lots" created by the partition/LLA.</p>		
3 FLAG LOT - DEVELOPMENT SITE	<p>Change reference in flag lot standards from "partition site" to "development site", since flag lots can be created through LLAs</p>		
4 FLAG LOTS - setbacks and orientation	<p>For back lots where there is no possibility of projecting the access lane to serve additional properties, setbacks and orientation should be more flexible.</p>		

2016 Code Amendments -Flag Lots

TOPIC	SUMMARY	NOTES	NOTES
5	<p>FLAG LOTS - garage appearance standards</p> <p>Flag lot standards for garages are outdated because Flag Lot standards now require them to be oriented to the access easement, not the street.</p>	<p>As a comparison, the Garage Appearance and Location standards on non-flag lots do not apply if the garage is located at least 60 feet from the front property line. Most structures on flag lots will be at least 60 feet from the street.</p>	
6	<p>FLAG LOTS - setback distribution in R-5</p> <p>In the R-5 zone, the sum of the sides and rear yard setbacks for a detached dwelling is 30 feet (5-foot sides and 20-foot rear). For a flag lot, the sum total is 45 feet. Is the 15-foot difference necessary?</p>	<p>Also applies to R-0 and R-3 zone</p>	
7	<p>FLAG LOTS - ZONE AND OVERLAY STANDARDS</p> <p>Clarify that flag lot standards supersede both Zone and Overlay standards (including PD)</p>		
8	<p>FLAG LOTS - Screening</p> <p>Screening: the requirement to screen both sides of the access lane with 5' of landscaping uses too much land. Is the inside strip necessary?</p>	<p>Removal of the buffer would not affect setbacks</p>	
9	<p>FLAG LOTS - Screening</p> <p>Screening: requiring both 6' fence and 6' landscaping may be too much. Have an option.</p>		
10	<p>FLAG LOTS - LOT COVERAGE, FAR &amp; LOT SIZE</p> <p>These should all be calculated either using the net lot size; currently, lot size and FAR are based on net, while lot coverage is based on gross.</p>		

2016 Code Amendments -Flag Lots

TOPIC	SUMMARY	NOTES	NOTES
FLAG LOTS - Screening	The reality is that the access lane is used for utilities (sewer, water), and trees planted in 5-foot buffer may impact the utilities. Require fencing OR shrubs, but not full-sized trees (coordinate with Engineering)		
12 FLAG LOTS - on-lane parking	Review regulations on access lanes and when additional parking is required "on lane" or elsewhere.		
13 FLAG LOTS - Maximum number on access lane	Review regulations on access lanes and the maximum of eight flag lots on a lane		
6A Accessory Structure Setbacks	Standardize Accessory Structure (Noise Producing) Setbacks - Residential. Including PDs.	Moved from LU 16-0030 due to M56 Notice requirements	
32A Open Space	Apply Open Space standards to serial partition sites (Comp Plan Audit)	Moved from LU 16-0030 due to M56 Notice requirements	

**THIS PAGE INTENTIONALLY LEFT BLANK**





Department of Planning and Building Services  
380 A Avenue  
Post Office Box 369  
Lake Oswego, OR 97034  
503-635-0290  
www.ci.oswego.or.us

## ACCESSORY STRUCTURES (RESIDENTIAL)

### WHAT IS AN ACCESSORY STRUCTURE?

An accessory structure is any detached structure which is subordinate to the main building and which is consistent with the buildings and uses allowed in the zone in which it is located. Examples include (but are not limited to) detached garages, carports and workshops; detached guesthouses and secondary dwelling units; play structures, play houses, trellis structures, gazebos, outdoor fireplaces, above-ground pools and spas, heat pumps, AC units and pool equipment. Noise producing accessory structures such as AC units, heat pumps and pool equipment are subject to additional restrictions (see Exceptions to Required Setbacks, below).

### WHAT PERMITS ARE REQUIRED FOR AN ACCESSORY STRUCTURE?

A building permit is not required for certain accessory structures that are less than 200 square feet in size; not on a concrete slab AND less than 10 feet in height (for building permit purposes, height is measured from finished floor area to average roof height); however, such structures do need to meet all applicable setbacks, and may require electrical, plumbing or mechanical permits depending on their amenities [Please check with the Building Division regarding permits].

### DO ACCESSORY STRUCTURES COUNT TOWARD LOT COVERAGE?

Yes, all structures greater than 30" above grade, whether enclosed or not, count toward lot coverage, unless the code specifically exempts all or a portion of the structure from lot coverage calculations (i.e., boathouses, detached garages). In the residential zoning districts, maximum lot coverage ranges from 25% to 100% of the lot. Please contact the Planning Division for help in determining applicable lot coverage standards.

### DO ACCESSORY STRUCTURES COUNT TOWARD MAXIMUM FLOOR AREA?

Yes, with some exceptions. In the R-0, R-2, and R-3 zones, detached garages and carports are exempt from the floor area calculation. Additionally, habitable areas of detached accessory structures in all residential zones, including garages, are exempt from the floor area calculations as follows:

- 200 square foot exemption for lot sizes up to 10,000 square feet
- 400 square foot exemption for lot sizes greater than 10,000 square feet.

## WHAT ARE THE SETBACKS FOR ACCESSORY STRUCTURES?

Setbacks typically depend on (1) the zone, and (2) the height of the accessory structure (for setback purposes, height is measured from grade to peak of roof). **In general**, setbacks are as follows:

ZONE	FRONT	SIDE (INTERIOR)	SIDE (STREET)	REAR
R-DD (Old Town)	10'	10'	10'	10'
R-0	10'	10'	10'	10'
R-2	10'	10'	10'	10'
R-3	10'	10'	10'	10'
R-5	10'	10'	10'	10'
R-6, < 600 sf with walls ≤ 10 feet below eaves	20'	5'	7.5'/20' (1)	5'
R-6, additions to accessory structures ≤ 18 feet in height and built before July 1, 2010	20'	5'	7.5'/20' (1)	5' or 10' (3)
R-6, additions to accessory structures > 18 feet in height and built before July 1, 2010	20'	5' minimum, total combined 15' (2)	7.5'/20' (1)	5' or 10' (3)
R-6, other	20'	7.5'	7.5'/20' (1)	10'
R-7.5, ≤ 18' in height	25'	5'	15/20 (4)	10'
R-7.5, > 18' in height	25'	5'	15/20 (4)	15'
R-10	25'	10'	15/20 (4)	15'
R-15	25'	10'	15/20 (4)	15'
PDs approved <b>before</b> Aug 2003	Same as primary structure setbacks.			
PDs approved <b>after</b> Aug 2003	Same as above setbacks			

- (1) 7.5 feet on local streets provided there is at least 20 feet between the road surface (i.e., edge of pavement) and the structure; 20 feet on arterial and collector streets.
- (2) A multi-story structure may have a smaller side yard setback than required where the ground floor is set back a minimum of 5 feet and the remainder of the structure is stepped back from the building line by at least 4 feet on each side.
- (3) 5 foot rear setback if accessory structure is less than 600 square feet in size and walls are < 10 feet below eaves; otherwise, 10 feet.
- (4) The smaller street side setback applies adjacent to a local street; the larger setback applies adjacent to an arterial or collector.

## EXCEPTIONS TO THE REQUIRED SETBACK (LOC 50.03.004.2.b)

Except in the R-6 zone, the side setback may be reduced to 5 feet and the rear setback may be reduced to 3 feet (6 feet for flag lots) for accessory structures in all residential zones, including PDs, provided the following conditions are met:

1. The accessory structure is located more than 40 feet from any street (for the purposes of this exception, an alley is not considered a street). The side and rear setbacks for a detached garage obtaining access from an alley may be reduced to three feet or to the degree the garage maintains access that provides an outside front wheel turning radius of at least 25 feet, whichever is greater.
2. For an accessory structure greater than four feet in height, the accessory structure is detached from other buildings by three feet or more;
3. The accessory structure does not exceed a height of 10 feet nor an area of 600 square feet.
4. If the accessory structure is **noise producing** (i.e., AC unit, heat pump, generator, pool equipment, etc.), the abutting property owner(s) must agree in writing that the placement of the accessory structure may be located within this accessory structure setback exception.

## WHAT ARE THE DESIGN STANDARDS FOR ACCESSORY STRUCTURES?

In all residential zones listed above except for R-DD (Old Town), the Street Front Setback Plane and the Side Yard Setback Plane standards apply to all accessory structures (see LOC 50.06.001.2).

In the Evergreen Overlay District, the roof pitch on new accessory structures exceeding 100 square feet in size must match the roof pitch of the primary structure (see LOC 50.05.002).

## WHAT ARE THE SIZE LIMITATIONS FOR ACCESSORY STRUCTURES?

HEIGHT: In the R-0, R-2, R-3, R-5, R-6, R-7.5, R-10 and R-15 zones, accessory structure height is limited to the lesser of 24 feet or the height of the primary structure. In the R-DD zone, maximum height is 28 feet.

FLOOR AREA: In the R-6, R-7.5, R-10 and R-15 zones, accessory structures that are  $\leq$  18 feet in height have a maximum floor area of 800 square feet, while accessory structures  $>$  18 feet in height are limited to 600 square feet in floor area; however, the floor area of the accessory structure cannot exceed that of the primary structure.

*This publication summarizes portions of the Lake Oswego Community Development Code and is intended to be used solely as an informal discussion document. As such, it should not be relied on as a guarantee that a particular development request could be approved or denied. Please contact the Community Development Department of the City of Lake Oswego for more information.*

**THIS PAGE INTENTIONALLY LEFT BLANK**

**2. FLAG LOTS**

---

**a. Purpose; Applicability**

- i. The purpose of the flag lot section is to:
  - (1) Enable the efficient use of residential land and public facilities and services,
  - (2) Provide standards for site, building, and design compatibility of the new development with the existing neighborhood character,
  - (3) Reduce the area of impervious surface resulting from redundant access paving, and improve the appearance where pavement is necessary, and
  - (4) Minimize the disturbance of natural resources.
- ii. The provisions of this section shall apply to all land divisions and lot line adjustments creating flag lots in residential zones, and to any development occurring on a flag lot in a residential zone created after September 6, 1998.
- iii. Compliance with Zone Standards. Flag lots shall comply with the requirements of the underlying zone except where noted in this article. A land division or lot line adjustment creating a flag lot shall also comply with any specific residential design criteria contained within an applicable adopted neighborhood plan.

**iv. Parcelization Plan**

In addition to the general application requirements for land divisions or lot line adjustments, an application to create a flag lot shall include a conceptual plan of complete parcelization of the subject property, and shall include a site plan illustrating the location of existing structures on adjacent parcels. The reviewing authority may impose conditions in order to ensure that parcelization of the subject property will not preclude the development of surrounding properties. Such conditions may be related (but not limited) to access, circulation, building location, utility availability, and natural resource protection.

**b. Exceptions**

The reviewing authority may allow exceptions to this section without the need to obtain a formal variance pursuant to LOC Article [50.08](#), Variances, in one or more of the following circumstances:

- i. Landscaping required by LOC [50.07.007.2.f.i](#) as separation between driveways, which would not result in screening or buffering as intended due to topography, lot configuration, or existing natural resources which would be preserved, may be modified or may not be required;
- ii. Setback adjustments of up to two ft. which are necessary to site a dwelling in compliance with this article, or will result in additional separation from existing dwellings on surrounding lots, may be permitted;

- iii. If an existing structure(s) would be located on a proposed flag lot created by partition and the structure(s) would become noncomplying with any regulation of this Code, the proposed partition may be approved if the standard causing the noncompliance can be adjusted under LOC [50.04.003.2](#), General Exception to Lot Area and Dimension Requirements.
- iv. Minimum driveway widths of 12 ft. required by LOC [50.07.007.2.c.iii](#) may be reduced, when approved by the City of Lake Oswego Fire Marshal.

**c. Access**

- i. When creating flag lots, the reviewing authority shall require that access to the flag lots is consolidated into a single shared access lane with access to the parent parcel or off site, wherever practicable. If not practicable, then an additional access may be allowed on site or off site. Access lanes shall extend through the partition site and be extended to abutting developable property to provide a continuous connecting access lane where practicable.
- ii. Flag lots shall have access to a public or private street; however, actual street frontage shall not be required.
- iii. A driveway shall be used to serve a single property. An access lane shall serve no more than eight properties.
  - (1) Driveway widths shall be a minimum of 12 ft. Driveway length, construction standards, and turnaround requirements shall be determined by LOC [50.06.003.2](#), On-Site Circulation – Driveways and Fire Access Roads.
  - (2) See LOC [50.06.003.1.d](#), Standards for Access Lanes, for width of access lanes.
- iv. No more than two driveways or access lanes shall be permitted within a distance equal to the minimum lot width of the underlying zone, or within 50 ft. of each other if no minimum exists, as measured from the closest edge of each driveway or access lane.
- v. All buildings on flag lots must post an address at the beginning of the driveway or access lane. The address shall be no less than six in. tall, must be on contrasting background, plainly visible, and must indicate the direction to the building.

**d. Lot Configuration Requirements**

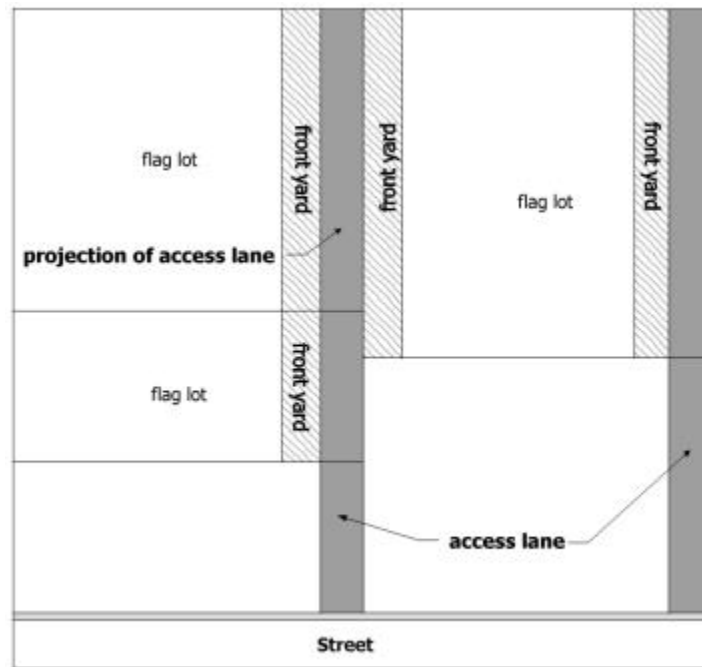
**i. Determination of Front Yard**

The front yard shall be determined as follows:

- (1) Except for a lot that fronts on a public street, the front yard(s) of a flag lot shall be measured from the access lane or from a projected extension of the access lane through the property (see LOC [50.07.007.2.e.v](#) for setback requirements).

- (2) A front yard occurs on either side of the access lane of the flag lot. See Figure [50.07.007-A: Flag Lot Front Yard](#).

**Figure 50.07.007-A: Flag Lot Front Yard**



**ii. Lot Width**

Lot width shall be measured by a line connecting two points on opposite side yard property lines that will result in a line parallel to the front yard.

**iii. Lot Size**

Area of access easement or flagpole shall be deducted from the gross acreage of the flag lot. The "flag" portion of the lot shall be equal to or exceed the square footage of the underlying zone.

[Cross-Reference: See LOC [50.04.003.6.c](#) – Determination of Front Yard for Flag Lots Created Prior to September 6, 1998, and Lots Accessing by Easement.]

**e. Building and Site Design Standards**

**i. Building Orientation**

The reviewing authority shall require the following:

- (1) New dwellings on flag lots shall have the front of the house oriented towards the access lane or from a projected extension of the access lane through the property.

(2) Buildings shall be oriented to provide the maximum separation and privacy from existing dwellings on abutting lots outside of the partition site. The reviewing authority may require conditions of approval to include measures such as specific building locations, increased setbacks, additional height restrictions, location and orientation of windows and other openings.

ii. Garage placement shall be reviewed at the time of building permit application to ensure minimum visibility of the garage from the street. Garage placement shall meet the following requirements:

(1) Be side-loading where a turning radius can be provided that allows for a minimum of 24 ft. separation from the garage door and any obstructions or property lines, or

(2) Be placed such that no more than 40% of garage wall area is visible from the intersection of the flag lot driveway and street.

(3) Garage Wall Facing Street. When a garage has wall(s) facing a street, these wall(s) shall have more than one plane or shall include fenestration equal to at least 10% of the garage wall. When the lot is a corner lot (abutting two or more streets), this subsection is applied to each wall that faces a street.

(a) To demonstrate compliance with this standard, building elevations shall be submitted which depict the facade area facing the street at a width equal to the access easement.

(b) The area of a specific facade of a building is determined by adding the square footage of surface area of each section of wall facing the street. For buildings with more than one wall (plane) along one facade (for example, rooms jutting out from the main building or a building where each floor is set back from the floor below), all of the walls are included in the total area. The total area does not include any roof area.

**iii. Maximum Structure Height**

The height of a single-family residential structure and any accessory structures on a flag lot shall not exceed:

(1) For flag lots created after August 14, 2003, the taller of:

(a) Twenty-two ft., or

(b) The average height of all dwellings on properties abutting the development site, as determined prior to the time of creation of the flag lot. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site:



(i) The maximum height permitted in the underlying zone shall be used for calculating the average, except:

1. In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average.

(2) For flag lots created before August 14, 2003, the taller of:

- (a) The maximum building height limitation established at the time of creation of the flag lot. The methodology used to calculate the maximum building height permitted by this subsection shall be the same methodology used at the time of lot creation to establish the maximum building height, or
- (b) Twenty-two ft. (see LOC [50.10.003.2](#), Height of Building, for methodology).

The City Manager may execute and record amendments to previously recorded development restrictions, upon the owner's or adjacent property owner's request, or at the City's discretion, if necessary to reflect a taller building height limitation than previously approved.

### **(3) Modification of Approved Building Height**

The maximum building height of single-family residential structures and accessory structures on a flag lot (whether created prior to or after August 14, 2003) may be modified from that previously determined at the time of creation of the flag lot to the average height of all dwellings on properties abutting the development site. Where there is no dwelling on the abutting property or where a dwelling is located more than 100 ft. away from the development site, then the maximum height permitted in the underlying zone shall be used for calculating the average. In cases where the abutting property is zoned to permit a height greater than that allowed on the subject site, then the maximum height for the zone in which the subject site is located shall be substituted and used to calculate the average. Where an existing structure on an abutting lot exceeds the maximum height allowed by the underlying zone, then the maximum height permitted by the underlying zone shall be used for purposes of calculating the average.

An application for modification of maximum building height for a flag lot shall be processed pursuant to LOC [50.07.003.11](#), Modification of Development Permits, as a new application. The City Manager may execute and record amendments to previously recorded development restrictions.

**(4) Exceptions to Maximum Structure Height**

A greater height than otherwise permitted for roof forms or architectural features, such as cupolas or dormers, may be allowed pursuant to LOC [50.04.001.1.g.ii](#), [50.04.001.2.g.ii](#), or [50.04.001.3.f.v\(2\)](#).

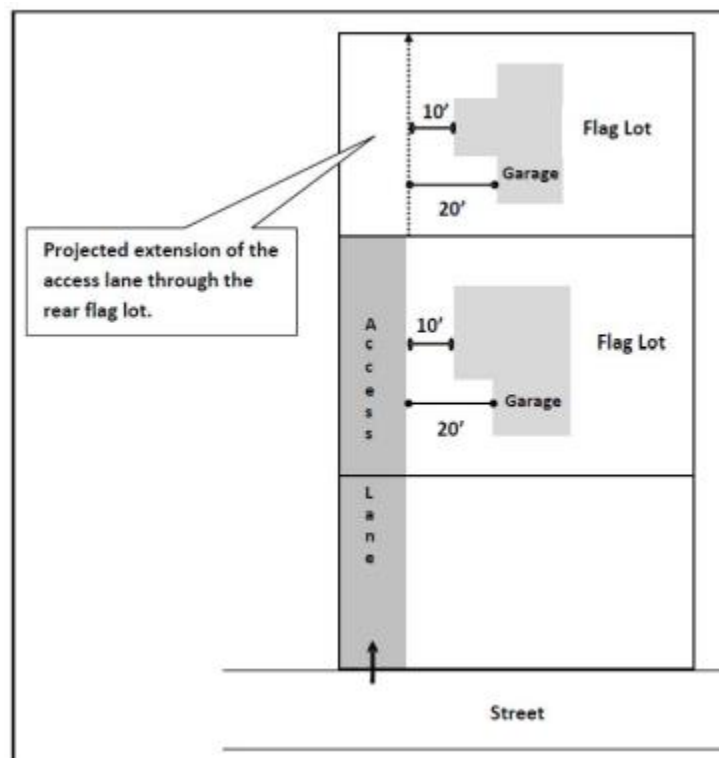
**iv. Access Lane Siting**

The access lane shall be located no closer than five ft. to any existing dwellings.

**v. Setback Requirements**

(1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ten-ft. front yard setback is required from the access lane, except that a 20-ft. setback is required from the access lane to the front of a garage or carport when the garage or carport opening faces the access lane. For flag lot partitions that receive a minor variance to the determination of the front yard, per LOC [50.08.002.2.m](#), the setbacks from the access lane described above shall apply. For purposes of this standard, the access lane shall include the projected extension of the access lane through the property as illustrated in Figure [50.07.007-B: Access Lane](#).

**Figure 50.07.007-B: Access Lane**



- (2) Where a flag lot abuts a lot in a residential district of lower density, the greater setback requirements of the more restrictive district shall apply for those yards which have abutting property lines.
- (3) The side and rear yard setbacks shall be established at the time of flag lot creation, subject to the following requirements:
  - (a) The sum of the side and rear yard setbacks on flag lots shall be not less than:
    - (i) Fifty ft. in R-10 and R-15 zones; and
    - (ii) Forty-five ft. in residential zones other than R-10 and R-15.
  - (b) In applying the flexible standard, provide yard dimensions that are similar to the yard dimensions of primary structures on abutting properties that are not part of the partition site and that abut the rear or side yards of the flag lots, but in no event shall the rear or side yard established under this section be less than ten ft.

**vi. Lot Width Requirements**

The lot width dimension of a flag lot shall be not less than the minimum lot width requirements of the underlying zone.

**f. Screening, Buffering and Landscape Installation**

- i. A minimum five-ft. landscape strip shall be provided abutting both sides of the access lane serving flag lots except for pedestrian and vehicle access to the flag lot(s) served by the access lane. Where land area is not sufficient to accommodate a five-ft. wide landscape strip on either side of the new access lane, the reviewing authority may impose conditions of approval to include measures that will provide effective buffering and screening. These measures may include landscaped islands, fencing, and meandering access lane.

The reviewing authority shall require the landscape strip to be planted with trees and shrubs in order to mitigate the visual impact of wide expanses of pavement, and to provide a visual buffer between the access lane and the affected dwelling(s) located on abutting parcels. Plant materials used for screening and buffering shall be of a size to provide an effective screen within two years of planting. Trees shall be a minimum two-in. caliper, and shrubs shall be a minimum of five-gallon at time of planting. Maintenance of the buffer is an ongoing obligation of the property owner.

- ii. Existing mature vegetation and trees shall be integrated as screening where practicable. The reviewing authority may require dwelling and garage placement or orientation in a manner that will minimize the removal of specific trees, hedges, or other vegetation that would serve to screen the proposed structures from existing and potential surrounding homes.

iii. The rear and side yards of the flag lot shall be screened from abutting lots outside of the partition site with a six-ft. tall fence, except:

- (1) Where a four-ft. fence is required by LOC [50.06.004.2.b.i](#), Fences, or where such screening would conflict with standards for Sensitive Lands Overlay Districts; or
- (2) Where the fence would be located within a wetland or stream channel; or
- (3) Where the abutting owner agrees in writing that a fence is not necessary along the common property line.

In addition, a landscaped buffer within the rear yard setback a minimum of six ft. in width shall be created along the rear property line and planted with a deciduous or evergreen hedge, a minimum four ft. in height at planting, which shall grow to a height of six ft. within two years and shall be maintained at a minimum of that height, except where the abutting owner agrees in writing that a landscaped buffer is not necessary. The above requirements pertaining to the "rear yard" are not applicable where the rear yard abuts Oswego Lake or railroad rights-of-way.

**v. Tree Removal Mitigation**

A minimum of one evergreen or deciduous tree shall be planted at a 1:1 ratio where practicable in order to mitigate the removal of existing trees necessary for site development as a part of the creation of the lot or for the first dwelling constructed on the lot. The mitigation trees shall be of a species which will attain a minimum of 30 ft. in height. Deciduous trees at planting shall be a minimum of two-in. caliper and evergreen trees shall be a minimum of eight ft. tall.

(Ord. 2687, Amended, 12/15/2015; Ord. 2644, Amended, 04/07/2015; Ord. 2643, Amended, 11/04/2014; Ord. 2612-A, Amended, 05/21/2013; Ord. 2526, Amended, 12/18/2012; Ord. 2579, Repealed and Replaced, 03/20/2012)

**NOTE: These are the standards as of December 2016. Proposed amendments (LU 16-0030) would amend some. Update as necessary.**