



Flag Lot and Serial Partition Code Amendments (PP 16-0003)

Public Review Draft
April 21, 2017

The City is requesting public comments on this draft by **May 19, 2017 (12:00 p.m.)**. The comments will be reviewed by the Planning Commission at a work session on **June 12, 2017**, prior to finalizing the amendments for the public hearing. See inside cover for information on how to submit comments.

HOW TO SUBMIT COMMENTS

The Planning Department is accepting written comments on the Public Review Draft of proposed Community Development Code amendments addressing development of flag lots and serial partitions. All written comments received by **12:00 p.m., Friday, May 19, 2017**, will be reviewed by the Planning Commission at a work session on June 12, 2017. There will be further opportunity for public comment at the public hearing before the Planning Commission tentatively scheduled for August 14, 2017.

For more information or to submit comments, please contact:

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A copy of this report and the full text of the draft amendments can be accessed from the Planning Department web page at:

<http://www.lakeoswego.city/planning>

(See link to the Flag Lots, Access Lanes and Serial Partitions Code Amendment project page under 'Key Topics')

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I. INTRODUCTION

Proposal Summary

This is a request from the City of Lake Oswego for text amendments to the Lake Oswego Community Development Code (CDC) for the purposes of streamlining, updating and clarifying various flag lot, access lane and open space provisions in the CDC.

Key Dates

- Planning Commission Work Session #1 – **January 23, 2017**
- Planning Commission Work Session #2 – **February 27, 2017**
- Planning Commission Work Session #3 – **April 10, 2017**
- Public Review Draft of Code Amendments – **April 21 – May 19, 2017**
- Public Comments on Review Draft Due – **May 19, 2017**
- Planning Commission Work Session #4 – **June 12, 2017**
- Planning Commission Public Hearing – **August 14, 2017**
- City Council Public Hearing – **TBD** (estimated December 2017)

II. BACKGROUND

The purpose of the proposed amendments is to streamline, update and clarify certain Community Development Code regulations pertaining to flag lots and access lanes, and open space requirements for serial partitions. This process is part of the City's ongoing effort to implement updates to the Comprehensive Plan (adopted in 2014) while implementing City Council policies to preserve the character of existing established residential neighborhoods while maintaining clear and objective standards for development and avoiding unnecessary restrictions on property owners.

Section III, below, summarizes the draft amendments. The proposed code language is attached. The Commission will review all public comments on the draft amendments received by 12:00 p.m. on May 19, at its June 12 work session.

III. SUMMARY OF DRAFT AMENDMENTS

The Flag Lot Code Amendment project consists of the following components:

1. Flag Lot Code Amendments: These amendments include both policy and non-policy amendments. Significant policy amendments include the following:
 - Number of Lots Served by an Access Lane: The draft amendment includes an option to reduce the maximum number of lots that may be served by an access lane from eight to six; currently any development or combination of developments with more than eight lots must be served by a public street.
 - Access Lane Connections: Deletes requirement to connect access lanes to abutting developable property, or to existing developments where an access lane already exists or is planned.
 - Parking: Includes two options for increasing the supply of parking for flag lot developments.
 - Front Setback (all zones); and Side and Rear Setbacks in R-5, R-3 and R-0 zones: Increases the minimum front setback from 10 feet to 15 feet for flag lots, and decreases the cumulative side and rear setbacks in in the R-5, R-3, and R-0 zones to be consistent with the minimum setbacks in other residential zones.
 - Landscaping Buffers and Trees along Access Lanes: Provides flexibility in landscaping when trees may conflict with utilities.

Non-policy amendments are those that either clarify or make corrections to the code; these include:

- References to “parent parcel”: Clarifies access coordination among flag and non-flag lots.
- Lot Line Adjustments to existing developed Flag Lots: Clarifies applicability of flag lots standards.
- Location of Fencing and Landscaping Buffers: Clarifies location of these mitigation measures.
- Garage Appearance and Location Standards: Deletes these standards for flag lots because the standards are intended to address garage appearance within 60 feet of an abutting public street, and by definition flag lots are located behind a lot which abuts a street; flag lots are typically located more than 60 feet from any public street.

- Calculation of Floor Area on Flag Lots: Clarifies that allowable floor area is measured based on the net area of a flag lot (after deducting the access lane) similar to maximum lot coverage and minimum lot area requirements.
2. Serial Partitions/Required Open Space. This is a policy amendment identified in the 2015 Audit of the Comprehensive Plan; the amendment would require serial partition sites to provide Open Space in the same manner as subdivisions.

The following attachment contains draft text and summaries of all proposed amendments:

- **Attachment 1** – Proposed Amendments, LOC Chapters 50.06 and 50.07

The full text of the proposed amendments to the Lake Oswego Community Development Code (LOC Chapter 50) is also available for review online, or a copy can be provided upon request (see inside cover for staff contact information).

To review the full text of the proposed amendments online, please visit the following web page:

<http://www.lakeoswego.city/planning>

(See link to the Flag Lots, Access Lanes and Serial Partitions Code Amendments project page under 'Key Topics')

PROPOSED CHANGES: Shown as ~~strikeout~~ text for deletions, and underline text for new language.
(Changes begin on page 2.)

50.06.003 CIRCULATION AND CONNECTIVITY

1. ACCESS/ACCESS LANES (FLAG LOTS)

a. Definition of Access

For the purposes of this section, access shall be defined as: "area within public right-of-way directly affected by the traffic generated by the particular development and necessary to provide safe and efficient ingress and egress to the property."

b. Applicability

This section is applicable to all major developments and to the following minor developments:

- i. Construction or alteration of multi-family dwelling;
- ii. Construction or alteration of major public facilities;
- iii. Construction or alteration of commercial development;
- iv. Construction or alteration of institutional development;
- v. Construction or alteration of industrial development; and
- vi. Land divisions (partitions and subdivisions).

c. Standards for Approval

- i. Every residentially zoned lot shall abut a street for the following minimum length:

TABLE 50.06.003-1: MINIMUM STREET FRONTAGE	
Residentially Zoned Lot	Minimum Street Frontage
Rowhouse	17 ft.
Flag Lot	LOC 50.07.007.2.c
All Other	25 ft.

- ii. Access design shall be based on the following five criteria:
 - (1) Topography;
 - (2) Traffic volume to be generated by the development;
 - (3) Classification of the public street from which the access is taken (residential, collector or arterial);
 - (4) Traffic volume presently carried by such street; and
 - (5) Projected traffic volumes.
- iii. Direct permanent access from a development to an arterial street is prohibited where an alternate access is either available or is expected to be available. A temporary access may be allowed only where approved by the City Engineer under LOC Chapter 42.
- iv. Direct access from a development or a structure to a local residential street is required unless such access is not available.
- v. The City may require shared access with a neighboring site or an extension of residential streets across adjacent properties to provide access to the development if necessary to prevent adverse impacts on traffic flow.
- vi. If no satisfactory access from a public street to a development is available, the City shall require postponement of the development until such time as a satisfactory access becomes available.
- vii. Access lanes created by a partition or private streets created by a subdivision shall contemporaneously provide an option of dedication to the City.

d. Standards for Access Lanes

PARKING AND NUMBER OF LOTS SERVED BY AN ACCESS LANE: Three options for amendments to the Access Lane Standards are proposed below.

Access lanes shall [serve not more than eight dwelling units and](#) meet the following minimum standards:

- i. Twenty-ft. wide easement.
- ii. Access to two to four dwelling units – 12 ft. of pavement with a four ft. shoulder on each side.
- iii. Access to five to eight dwelling units – 16 ft. of pavement with a two ft. shoulder on each side.

- iv. When providing access for four to six dwelling units, the access lane shall be designed to provide "on-lane" or "off-lane" parking for a minimum of two standard vehicles; when providing access for seven to eight dwelling units, the access lane shall be designed to provide "on-lane" or "off-lane" parking for a minimum of four standard vehicles ~~or provide an "off-lane" parking area for a minimum of four standard vehicles.~~

PARKING OPTION 1 – STANDARDS FOR ACCESS LANES: This amendment clarifies the maximum number of dwellings served by an access lane is currently eight. It also requires two additional parking spaces when an access lane serves 4-6 dwellings (4 parking spaces were already required for lanes serving 7-8 dwellings). This will affect density in some developments as the area within the access lane/parking is deducted from density calculations.

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d. Standards for Access Lanes

Access lanes shall serve not more than eight dwelling units and meet the following minimum standards:

- i. Twenty-ft. wide easement.
- ii. Access to two to four dwelling units – 12 ft. of pavement with a four ft. shoulder on each side.
- iii. Access to five to eight dwelling units – 16 ft. of pavement with a two ft. shoulder on each side.
- iv. When providing access for four to eight dwelling units, the access lane shall be designed to provide "on-lane" or "off-lane" parking at a ratio of one standard parking space per dwelling unit served by the access lane. ~~seven to eight dwelling units, the access lane shall be designed to provide "on-lane" parking for a minimum of four standard vehicles or provide an "off-lane" parking area for a minimum of four standard vehicles.~~

PARKING OPTION 2 – STANDARDS FOR ACCESS LANES: This option also clarifies the maximum number of dwellings served by an access lane is eight. Under this amendment, no additional parking would be required for access lanes that serve two or three lots. For access lanes serving 4-8 dwellings, one "on-lane" parking spot is required for each dwelling served. This will affect density in some developments as the area within the access lane/parking is deducted from density calculations.

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d. Standards for Access Lanes

Access lanes shall serve not more than six dwelling units and meet the following minimum standards:

- i. Twenty-ft. wide easement.
- ii. Access to two to four dwelling units – 12 ft. of pavement with a four ft. shoulder on each side.
- iii. Access to five to ~~six~~ ~~eight~~ dwelling units – 16 ft. of pavement with a two ft. shoulder on each side.
- iv. When providing access for ~~seven to eight~~ four to six dwelling units, the access lane shall be designed to provide "on-lane" parking for a minimum of four standard vehicles or provide an "off-lane" parking area for a minimum of four standard vehicles.

PARKING AND LIMITS ON LOTS: OPTION 3 – STANDARDS FOR ACCESS LANES: The amendment reduces the number of lots that may be served by a private access lane from eight to six. It also would require four "on-lane" standard parking spaces for access lanes that serve four to six dwelling units. This will affect density in some developments of four or more dwelling units, as the area within the access lane/parking is deducted from density calculations, and the number of flag lots served by an access lane is limited to six; public street frontage required for developments (or combined developments) of seven or more lots.

- v. Access lanes shall align with existing and/or planned streets or access lanes where practicable.
- vi. All new or modified driveways shall follow access spacing as shown in Table 50.06.003-2, Access Spacing, where practicable, and, as determined by the City Engineer, shall not create a traffic operational or safety conflict.

TABLE 50.06.003-2: ACCESS SPACING	
Functional Classification	Minimum Spacing
	Private Driveways (ft.)
Major Arterial	300
Minor Arterial	200
Major Collector	150
Neighborhood Collector	100
Local Residential Street	50
Local Commercial/Industrial Street	50

e. Traffic Study

Determination of the location and configuration of an access shall be based on a traffic study, unless otherwise approved by the City Manager.

f. Expenses Borne by Developer

The expense related to modification of an existing street to accommodate proposed access including all traffic control devices and lighting shall be paid for by the developer.

g. Distance between Access and Nearest Intersection

Except for partitions, access from a development to a collector or an arterial shall be not less than 100 ft. from the nearest intersection of street centerlines.

50.06.005 PARK AND OPEN SPACE CONTRIBUTIONS

1. APPLICABILITY

- a. Except as provided in LOC 50.06.005.1.b, this section is applicable to all major development, and to the following minor developments:
 - i. Construction or alteration of multi-family dwelling;
 - ii. Construction or alteration of major public facilities;

- iii. Construction or alteration of commercial development;
- iv. Construction or alteration of institutional development;
- v. Construction or alteration of private recreational development;
- vi. Construction or alteration of industrial development; and
- vii. Major partitions; and
- viii. Minor partitions in which one or more of the lots could be further divided, reaching a total of four or more potential lots; and
- ix. ~~San~~ subdivisions.

OPEN SPACE APPLICABLE TO SERIAL PARTITION SITES: The 2015 Audit of the Comp Plan found policies that required residential development of four or more units to preserve “open space and natural resources.”, [Land Use Policy B-10]. Executing a serial partition allows a developer to avoid minimum density as well as open space requirements (20%). This amendment would require “serial partition” sites that are large enough to be divided into four or more lots to provide open space if (1) the parent parcel is at least 75,000 sq. ft. or (2) the parent parcel is less than 75,000 sq. ft. and has natural resources on it. This will affect density (fewer lots created).

- b. The above developments located within:
 - i. The Downtown Redevelopment Design District shall comply with LOC 50.05.004.8 rather than the provisions of this section.
 - ii. The FMU zone is not subject to this section.

2. DEVELOPMENT REVIEW

The review procedures for park and open space contributions are located in LOC 50.07.004.7, Park and Open Space Contribution.

3. STANDARDS FOR APPROVAL

a. Amount of Open Space Required

- i. All developments, except as otherwise provided by this section, shall provide open space land approved by the City in an aggregate amount equal to at least 20% of the net developable area of the development.

ii. Commercial (except commercial development in OC zone), institutional, and industrial development shall provide open space approved by the City in an aggregate amount equal to at least 15% of the net developable area of the development.

iii. On sites of greater than 75,000 sq. ft. in size, subdivisions, and major partitions, and minor partitions in which one or more of the lots could be further divided to reach four or more lots total ~~on sites of greater than 75,000 sq. ft. in size~~ shall provide open space approved by the City in an aggregate amount equal to at least 20% of the net developable area of the development.

iv. On sites of 75,000 sq. ft. or less, subdivisions, and major partitions, and minor partitions in which one or more of the lots could be further divided to reach four or more lots total ~~of 75,000 sq. ft. or less~~ shall provide open space for the following areas of the site, in order of priority:

(1) Areas identified as RP (Resource Protection) on the Sensitive Lands Map.

(2) If a pathway identified on the Transportation System Plan already exists on or abutting the site, or is to be dedicated or improved as part of the subdivision or major partition, a five-ft. buffer shall be provided along each side of the pathway, to a maximum of 20% of the ~~gross site~~ net developable area. If the buffer area would exceed 20% of the ~~gross site~~ net developable area, the buffer area shall be uniformly reduced along the pathway so that the buffer area is 20% of the net developable ~~gross site~~ area.

Exception: The buffer width may be reduced to a lesser amount, up to zero, as designated by an adopted plan for the mapped pathway.

(3) The area of the site contains resources identified as Class I or II Riparian Corridors/Wildlife Habitat that are not designated RP; provided, however, the maximum required area is 20% of the ~~gross site area~~ net developable area.

[**Cross-Reference:** Class I or II Riparian Corridors/Wildlife Habitat are identified on the Metro map of Regionally Significant Fish and Wildlife Habitat Inventory Map]. See Metro_Map at https://gis.oregonmetro.gov/metromap/?_ga=1.107051716.739631480.1447199768, and select "Riparian Habitat" for interactive map that can zoom in to the specific area.]

(4) The area of the site contains resources meeting the criteria for Habitat Benefit Areas (HBA) and the applicant elects to use the code incentives in LOC 50.05.010.7.

OPEN SPACE APPLICABLE TO SERIAL PARTITION SITES: The 2015 Audit of the Comp Plan found policies that required residential development of four or more units to preserve “open space and natural resources.”, [Land Use Policy B-10]. Executing a serial partition allows a developer to avoid minimum density as well as open space requirements (20%). This amendment provides standards for open space where “serial partition” sites are large enough to be divided into four or more lots total, and the site is either: (1) 75,000 square feet or more (provide 20% open space), or (2) less than 75,000 sq. ft. (provide Open Space only if there are resource lands present on the site). This will affect density in some developments (fewer lots created).

Clean-Up: Three references changed from “gross site area” to “net developable area”, consistent with 2016 Code Amendments. See LOC 50.10.003, Definitions:

Net Developable Acre:

Gross area (at 43,560 sq. ft. per acre), including density transfer area on residentially designated land, less:

- a. The area in street right-of-way or access easements, except that the area of a vehicular access easement created by a minor partition shall not be deducted. For public streets, use the actual area if known or 20% of the gross area. For private streets use actual area if known or 40 ft. right-of-way. For vehicular access easements use actual area of easement; and
- b. Public open space easement or dedication, if accepted by the City.

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50.07.007 LAND DIVISIONS

1. REQUIREMENTS FOR LAND DIVISIONS

All land divisions shall meet the requirements of this Code including all zone district standards and dimensions except as modified in this section.

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.

Exception: These provisions do not apply to existing developed flag lots that are reconfigured through a Lot Line Adjustment.

- ii. 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.

Exception: Specific residential design criteria contained within an applicable adopted neighborhood plan do not apply to existing ~~developed~~ flag lots developed with a single-family dwelling that are reconfigured through a Lot Line Adjustment.

CREATION OF FLAG LOT: Under the legal lot determination analysis, “creation” of a lot includes reconfiguration through a Lot Line Adjustment (LLA). Because orientation and setbacks of flag lots changed considerably in 2010, a LLA that “creates” a new flag lot could create non-conformities with setbacks and orientation. This amendment exempts applicability of current flag lot standards to existing, developed flag lots.

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

CONNECTED ACCESS LANES/ORIENTATION: Two options for amendments to the flag lot Access Standard are proposed below. Both include clarifying amendments. The first option also maintains the requirement that access lanes be planned to extend through a development site and connect to any abutting developable property. The second eliminates this requirement.

- 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 non-flag lots ~~parent parcel~~ or off site, wherever practicable. If not practicable, then new lots may have individual access ~~an additional access may be allowed on-site or off site~~. Access lanes shall extend through the ~~partition~~ development site and be extended to abutting developable property to provide a continuous connecting access lane where practicable.

MAINTENANCE 1: The “parent parcel” ceases to existing after the LLA or land division that creates a flag lot; reference is changed from “parent parcel” to “non-flag lot”.

MAINTENANCE 2: “Partition” site changed to “development” site because flag lots can be created through lot line adjustments, partitions and subdivisions.

OPTION 1: No change to the requirement to connect access lanes on abutting flag lot developments.



- 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 non-flag lots ~~parent parcel~~ or off site, wherever practicable. If not practicable, then new lots may have individual access ~~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.~~

MAINTENANCE 1: The “parent parcel” ceases to existing after the LLA or land division that creates a flag lot; reference is changed from “parent parcel” to “non-flag lot”.

MAINTENANCE 2: “Partition” site changed to “development” site because flag lots can be created through lot line adjustments, partitions and subdivisions.

OPTION 2: In addition to the maintenance amendments described immediately above, this option removes the requirement to extend the access lane to make potential connections to abutting developable property (i.e., remove last sentence of subsection c(i) above). This would not preclude connected access lanes if developers/property owners agreed to the connection, and all other standards (i.e., paving width, on-lane parking, limits on the number of lots served by an access lane) could be met by the connection.

- 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

SETBACK ORIENTATION: Two options are presented below for setback orientation on the “last” flag lot, or the flag lot furthest from the public street connecting to the access lane.

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).

Exception 1: This provision does not apply to a lot that fronts on a public street.

Exception 2: This provision does not apply to a flag lot where the access lane is not extended to connect to abutting developable property due to the presence of natural resources, slope or other constraints. In such case, the front yard shall be the zone setback measured from either the property line parallel to the public street or the property line parallel to the orientation of the access lane.

OPTION 1: FLEXIBILITY WHEN ACCESS LANE CAN'T CONNECT: The Planning Commission requested an option be presented that would maintain flexibility on flag lots where the access lane cannot extend/connect to abutting developable properties due to sensitive lands, topographic constraints, development pattern, etc. On properties with such constraints, this amendment would apply the zone front setback (25 feet in R-15, R-10, R-7.5; 20 feet in R-5, R-3 and R-0), measured from either the property line parallel to the public street (similar to the Uplands proposal) or to the property line parallel to the orientation of the access lane. As presented below, the Planning Commission is also seeking public input on whether access lanes should be required to connect to and through abutting developable properties where these impediments do not exist, as private access lanes do not provide public access. Where connectivity for public access is needed, a public street dedication and future street plan would be required under a separate code provision.



The front yard shall be determined as follows:

- (1) ~~Except for a lot that fronts on a public street, t~~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).

Exception 1: This provision does not apply to a lot that fronts on a public street.

Exception 2: This provision does not apply to the flag lot(s) at the furthest end of the access lane. In such case, the front yard shall be the zone setback measured from either the property line parallel to the public street or the property line parallel to the orientation of the access lane.

OPTION 2: DELETE REQUIREMENT TO CONNECT ACCESS LANES, ADD SETBACK FLEXIBILITY FOR "LAST" FLAG LOT: The Planning Commission requested an option be presented that would eliminate the requirement that private access lanes be planned to connect abutting development This option deletes the requirement that access lanes have to connect (now or in the future) to abutting developable properties. It also provides flexibility on setbacks for the "last" flag lot: the amendment would apply the zone front setback (25 feet in R-15, R-10, R-7.5; 20 feet in R-5, R-3 and R-0), measured from either the property line parallel to the public street (similar to the Uplands proposal) or to the property line parallel to the orientation of the access lane. Where connectivity for public access is needed, a public street dedication and future street plan would be required under a separate code provision.

- (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.

e. Building and Site Design Standards

i. Building Orientation

ORIENTATION OPTIONS: Two options are presented below for Orientation, dependent upon whether the requirement to connect access lanes is retained or removed.

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.

Exception: This provision does not apply to dwellings on flag lots where the access lane is not extended to abutting developable property due to the presence of natural resources, slope or other constraints.

OPTION 1: FLEXIBILITY WHEN ACCESS LANE CAN'T EXTEND: The Planning Commission requested an option be presented that would maintain flexibility on flag lots where the access lane cannot extend/connect to abutting developable properties due to sensitive lands, topographic constraints, development pattern, etc. If an access lane cannot be extended to abutting property, there is little reason to require the front of the house to orient toward an access lane extension that will never be used. [The stated reason for this 2010 orientation amendment was to create a "streetscape" along the access lane.] This amendment adds flexibility to the location of the front of the house (Note: the "front of the house" does not have to coincide with the front setback).

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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.

Exception: This provision does not apply to flag lot(s) at the furthest end of the access lane.

OPTION 2: FLEXIBILITY ON "LAST" FLAG LOT, NO CONNECTION REQUIRED: The Planning Commission requested an option be presented that would eliminate the requirement that private access lanes be planned to connect abutting development. If the requirement to connect access lanes is removed, this amendment deletes the orientation standard for the "last" flag lot(s) along an access lane. With no connection, there is no reason to provide orientation to the lane for improved "streetscape".

(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.~~

GARAGE APPEARANCE AND LOCATION STANDARDS: Deleted in entirety because garages on flag lots are never close enough to a public street for these standards to have any practical effect. The Garage Appearance and Location standards are meant to minimize the appearance of a garage from the street. The garage design standards that apply to Non-Flag lots are not applicable to garages that are at least 60 feet from a public right-of-way, regardless of whether the garage doors face the street. In flag lot developments in all zones, the garage face on a flag lot could be no closer to the street than 75 feet. For example, using minimum dimensional standards of the R-5 zone (20-foot front setback and 20-foot rear setback on non-flag lot), and assuming only a 25 foot deep building envelope, plus a 10 foot side setback on the abutting flag lot, the flag lot dwelling is 75 feet from the street.

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

Setback Options: Two options are presented below for the front yard setback, dependent upon whether the requirement to connect access lanes is retained or removed.

- (1)** The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ~~15~~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.

Exception: This provision does not apply to dwellings on flag lot(s) at the furthest end of the access lane where the access lane is not extended to abutting developable property. In such case, the front yard shall be the zone setback measured either from the property line parallel to the public street or the property line parallel to the orientation of the access lane.

FRONT SETBACK INCREASE: Front Setback, as measured from the access lane, is increased from 10 feet to 15 feet. Where the zone setback is required, the front yard would be 25 feet in R-15, R-10, R-7.5; or 20 feet in R-5, R-3 and R-0.

OPTION 1 - FLEXIBILITY WHEN ACCESS LANE CAN'T EXTEND: Where an access lane is not extended, this amendment would apply the zone front setback (25 feet in R-15, R-10, R-7.5; 20 feet in R-5, R-3 and R-0), measured from the property line (not access lane extension). *Graphic to be developed.*



v. Setback Requirements

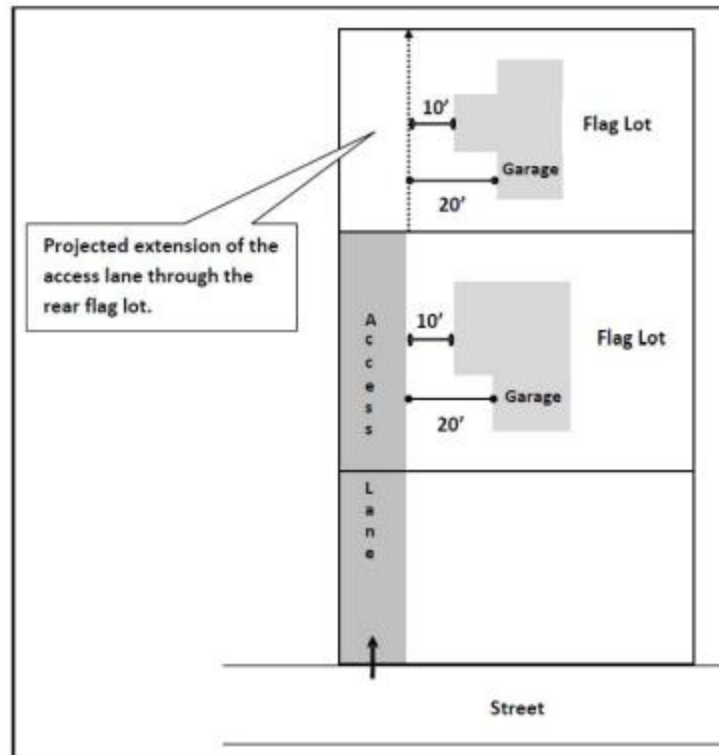
- (1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ~~15~~ten-ft. front yard setback is required from the access lane, except that a 20-ft. setback is required from the access lane to the front of a garage or carport when the garage 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.

Exception: This provision does not apply to the flag lot(s) at the furthest end of the access lane. In such case, the front yard shall be the zone setback measured from either the property line parallel to the public street or the property line parallel to the orientation of the access lane.

FRONT SETBACK INCREASE: Front Setback, as measured from the access lane, is increased from 10 feet to 15 feet. Where the zone setback is required on a rear lot, the front yard would be 25 feet in R-15, R-10, R-7.5; or 20 feet in R-5, R-3 and R-0.

OPTION 2 – FRONT SETBACK FLEXIBILITY IF ACCESS LANE CONNECTION REQUIREMENT DELETED: If the requirement to connect access lanes is removed entirely, this amendment provides flexibility to the flag lot at the furthest end of the access lane. This amendment would apply the zone front setback (25 feet in R-15, R-10, R-7.5; 20 feet in R-5, R-3 and R-0), measured from either the property line most parallel to the public street or the property line parallel to the orientation of the 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 the R-7.5 zone~~residential zones other than R-10 and R-15;~~ and
 - (iii) Thirty-five ft. in the R-5, R-3 and R-0 zones.
 - (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:
 - (i) 10~~15~~ Ten ft. in the R-15, R-10 and R-7.5 zones, and

(ii) 7.5 ft. in the R-5, R-3 and R-0 zones.

LANDSCAPING/BUFFER ALONG ACCESS LANE: Removes requirement that buffer must be provided along the interior (house-side) of access lane. As illustrated in the graphic below, landscaping would only be required between the access lane and the exterior property line of the parent parcel. If access is provided in the middle of the site, no landscaping on either side of the access lane would be required.

SETBACK DISTRIBUTION: In the R-5, R-3 and R-0 zones, the cumulative rear and side setbacks had to add to 45 feet on flag lots, which was 15 feet more than the cumulative rear and side setbacks on non-flag lots. Staff could find no legislative history that this discrepancy was intentional, and the stated reason for the setback distribution was to “provide flexibility while maintaining the same overall combined setback total.” The cumulative side and rear setbacks on non-flag lots is 30 feet (20 ft. rear and 5 ft. on each side). The proposed cumulative of 35 feet, with nothing less than 7.5 feet, is closer to the non-flag distribution and will generally ensure that one yard is bigger (i.e., a rear yard). [Flag lot opportunities in R-5, R-3 and R-0 zones are fewer than in the other zones. This amendment does not affect density.]

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.

vii. Lot Coverage and Floor Area

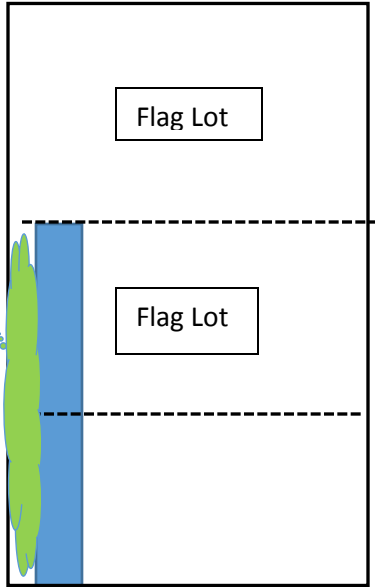
For the purposes of calculating lot coverage and floor area on flag lots, the area of access easement or flagpole shall be deducted from the gross acreage of the flag lot.

LOT COVERAGE AND FLOOR AREA BASED ON NET SITE AREA: Consistent with the intent of 2010 Flag Lot Amendments, this section clarifies that lot coverage and floor area on a flag lot are calculated on the net area (i.e., the area in the access lane/flag pole is deducted from the gross lot size). Currently, lot coverage is based on net lot area on flag lots but floor area is based on gross lot area. Staff recommends stating this specifically in the Flag Lot section rather than amending numerous definitions in LOC 50.10.003.

f. Screening, Buffering and Landscape Installation

- i. A minimum five-ft. landscape strip shall be provided between the access lane and the exterior lot line perimeter of the development site when shared access is provided along the perimeter of the development site-site, and along both sides of the access lane when the shared access is provided at the interior of the development site, 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.

[Exception: Trees are not required when the City Engineer finds that trees would conflict with utilities.](#)

CONFLICT BETWEEN UTILITIES AND FLAG LOT LANDSCAPING: Engineering noted the potential conflict between utilities (which are often placed within the access lane/easement) and the requirement of trees in close proximity; current policy is to prohibit trees within public easements. This amendment makes an exception to the tree requirement when utilities are present. [Note: the revisions to the flag lot fencing requirement should effectively buffer the access lane from the views of immediately abutting properties.]

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

FLAG LOT FENCING: The “sides and rear” of flag lots must be fenced, but with the change in orientation in 2010, the “sides and rear” were rotated 45-degrees. This amendment would require fencing at the perimeter of any new flag lot. *Graphic to be developed – see rough outline below.*

- (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.~~

- iv. A landscaped buffer within the ~~rear-deepest~~ yard provided in compliance with the flexible setback standard of LOC 50.07.007.2.v(3), ~~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. ~~This above requirements pertaining to the "rear yard" is are~~ not applicable where the ~~rear~~ yard abuts Oswego Lake or railroad rights-of-way.

FLAG LOT LANDSCAPING: The “rear” of a flag lots must provide a landscaping buffer, but with the change in orientation in 2010, the “rear” was rotated 45-degrees. This amendment would require landscaping in the deepest side or rear yard provided on a flag lot [Note: A “rear” is always opposite a “front”, but because of the flexible/cumulative setback standard, the “rear” may not be the largest yard; the largest yard, which provides the activity area, should have the buffering. *Graphic to be developed if necessary.*]

iv. 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.