



TO: Lake Oswego Planning Commission

FROM: Leslie Hamilton, Senior Planner

SUBJECT: Flag Lot/Access Lane Code Amendments – Work Session #3
(PP 16-0003)

DATE: March 31, 2017 **MEETING DATE:** April 10, 2017

On April 10, the Planning Commission (Commission) will conduct a work session for proposed amendments to the Community Development Code (Chapter 50) regarding Flag Lots and Access Lanes. The purpose of the work session is for the Commission to review the draft code amendments and to identify any questions that it may have before the City prepares a public review draft of the proposal(s). The amendments likely will require Measure 56 Notice, as they may limit the use of residential property.

This report summarizes the proposed code amendments and identifies questions for the Commission to address prior to the PRD. These items correspond to the order in which they are addressed in Attachment A.

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. The proposed amendment would require two on-lane or off-lane parking spaces along access lanes that serve four to six dwellings. This may affect allowable density in some developments as the areas provided for access and parking are excluded from Net Developable Area.

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 where one or more of the new lots could be further divided to achieve four or more lots in total. This will 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 effect of which has been an increase in density

above that which is envisioned by the Comprehensive Plan. The proposed amendments would require (1) all “serial partition” sites of 75,000 square feet or more to provide 20% open space, and (2) serial partition sites of less than 75,000 square feet to provide open space only if there are resource lands present on the site. These triggers are identical to the open space triggers for subdivisions.

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. Applying the new standards to developed flag lots often creates non-conformities to setbacks and orientation. The proposed amendment exempts applicability of the current flag lots standards to existing, developed flag lots that are reconfigured through a Lot Line Adjustment. For flag lots approved pre-2010, this would mean that any future development or remodel would have to comply with the dimensional standards of the base zone, and the orientation requirements that existed when the flag lot was created.

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 recommended 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 amendments would apply the zone’s front yard setback either to the property line that is parallel to the public street, or to the property line that is parallel to the orientation of the access lane; the setback distribution would continue to apply to the remaining setbacks.

Relatedly, 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 may be required under a separate code provision.

Garage Appearance and Location Standards [LOC 50.07.007.2.e.ii]: These standards are proposed to be removed entirely because garages on flag lots are never close enough to a public street for the standards to have any practical effect. As a 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.

Flag Lot Front Setback [LOC 50.07.007.2.e.v]: Recent flag lot developments can appear crowded as viewed from the street or access lane, and the difference in front setback requirements between flag and non-flag lots may be contributing to this problem. This is due in part to the narrower width of private access lanes compared to standard city streets. As recommended by the Commission, the front setback, measured from the access lane, is proposed to increase from 10 ft. to 15 ft.

Setback Distribution on R-5 Flag Lots [LOC 50.07.007.2.e.v(3)]: In the Medium and High Density Residential Zones of R-5, R-3 and R-0, the cumulative side and rear setbacks must add to 45 feet on flag lots, which was 15 feet more than the cumulative sides and rear 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 in these three zones is 30 feet. 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). This amendment does not affect density.

Lot Coverage and Floor Area [LOC 50.07.002.e.vii]: Consistent with the original intent of the 2010 Flag Lot Amendments, this amendment clarifies that lot coverage and floor area are calculated on the net area (i.e., the area in the access lane/flag pole is deducted from the gross lot size). Presently, the access lane/flag pole area is netted out only for determining minimum lot area and lot coverage.

Flag Lot Screening Along Access Lane and Potential Conflict with Utilities [LOC 50.07.007.2.f.i]: Engineering staff noted the potential conflict between utilities (which are often placed within the access lane/easement) and the requirement of trees in the landscape buffers required along the access lane. The proposed amendment makes an exception to the tree requirement when utilities are present and the City Engineer determines that there will be a conflict.

Flag Lot Screening, Perimeter Fencing [LOC 50.07.002.f.iii]: The current flag lot standards require fencing along the side and rear yards of flag lots. When the orientation of flag lots was rotated in 2010, this standard was not amended to reflect the new orientation and often one lot line was not fenced. The proposed amendment would require fencing at the perimeter of the new flag lots (graphic provided in text).

Flag Lot Screening, Rear Yard Landscaping [LOC 50.07.00.2.f.iv]: The Flag Lot standards require a landscaping strip 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. A “rear” yard is always opposite a “front” yard, but because of the flexible/cumulative setback standard, the “rear” yard may not be the largest yard. The largest yard, which generally provides the activity area for the occupants, should have the buffering. The proposed amendment requires the landscaping buffer to be provided along the largest side or rear yard of a flag lot.

Attachment

- A. Proposed Code Changes: Flag Lot, Access Lane and Serial Partitions, 03/31/17

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

Access lanes shall 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: Amendment 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 as the area within the access lane is deducted from density calculations.

- 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; 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 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, ~~sS~~ 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 ~~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, ~~sS~~ 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 ~~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 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 MetroMap 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 would require (1) all “serial partition” sites of 75,000 square feet or more to provide 20% open space, and (2) serial partition sites of less than 75,000 sq. ft. to provide Open Space only if there are resource lands present on the site. This will affect density (fewer lots created).

Clean-Up: Three references changed from “gross site area” to “net developable area”, consistent with intent of 2016 Code Amendments.

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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 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

- 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 exist 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.

Alternative: The requirement to extend the access lane to make potential connections to abutting developable property could be removed (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. Staff requests direction from the Commission on this item.

- 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).

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

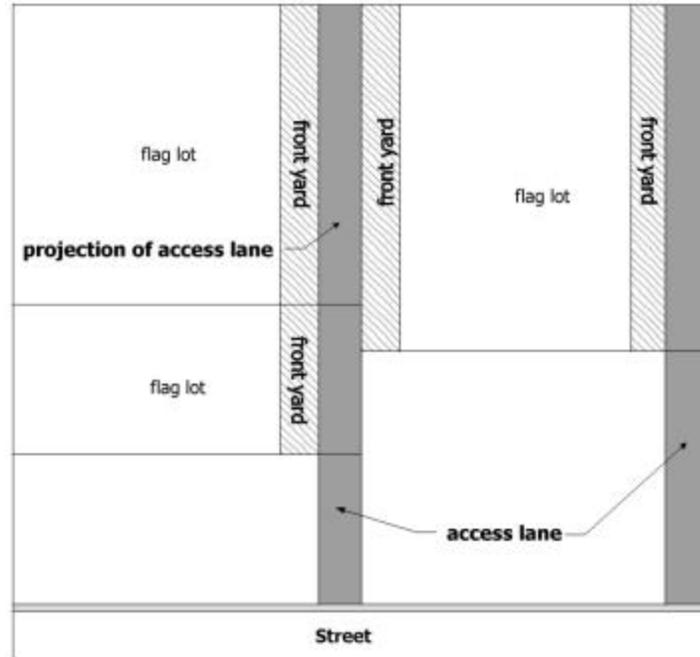
Exception 2: This provision does not apply to a flag lot where the access lane is not extended to connect to abutting developable property due to the presence of natural resources, slope or other constraints. In such case, the front yard shall be the zone setback measured from either the property line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

FLEXIBILITY WHEN ACCESS LANE CAN'T EXTEND: The PC was supportive of flexibility on flag lots where the access lane cannot extend/connect to abutting developable properties due to sensitive lands, topographic constraints, development pattern, etc. 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. 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. *Graphic to be developed.*

As an alternative, the requirement to extend the access lane to make potential connections to abutting developable property could be removed. This would not preclude connected access lanes if developers/property owners agreed to the connection. Staff requests direction from the Commission on this item.

- (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

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.

FLEXIBILITY WHEN ACCESS LANE CAN'T EXTEND: The PC was supportive of 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).

As an alternative, the requirement to extend the access lane to make potential connections to abutting developable property could be removed. This would not preclude connected access lanes if developers/property owners agreed to the connection. Staff requests direction from the Commission on this item.

(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 (R-5 zone: 20-foot front setback, 25-foot deep building envelope, and 20-foot rear setback on non-flag lot; 10 foot side setback on flag lot = 75 feet).

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 ~~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.

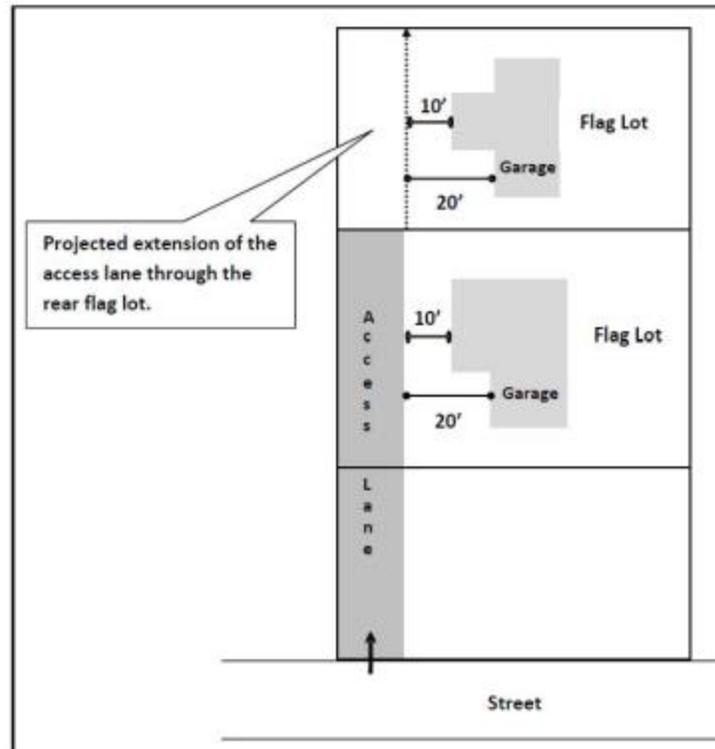
Exception: This provision does not apply to dwellings on flag lots where the access lane is not extended to abutting developable property due to the presence of natural resources, slope or other constraints. In such case, the front yard shall be the zone setback measured either from the property line 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.

FLEXIBILITY WHEN ACCESS LANE CAN'T EXTEND: The PC was supportive of flexibility on flag lots where the access lane cannot extend/connect to abutting developable properties due to sensitive lands, topographic constraints, development pattern, etc. 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.*

As an alternative, the requirement to extend the access lane to make potential connections to abutting developable property could be removed. This would not preclude connected access lanes if developers/property owners agreed to the connection. Staff requests direction from the Commission on this item.

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) 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.

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.

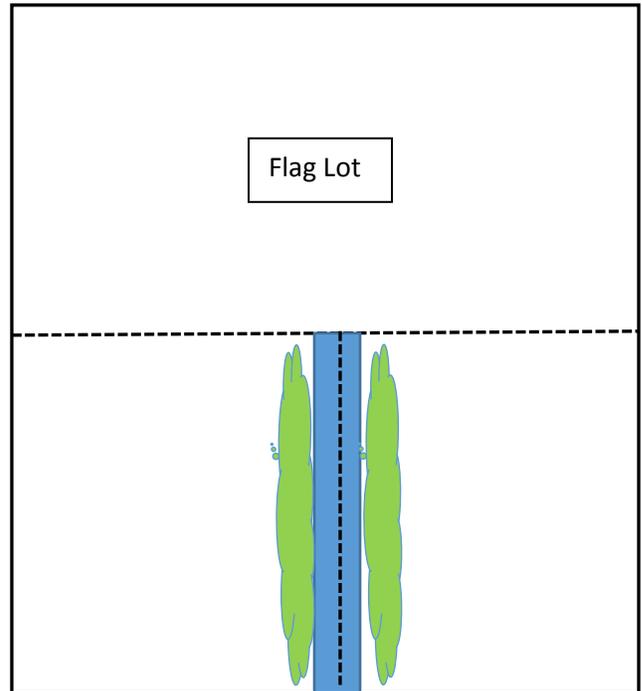
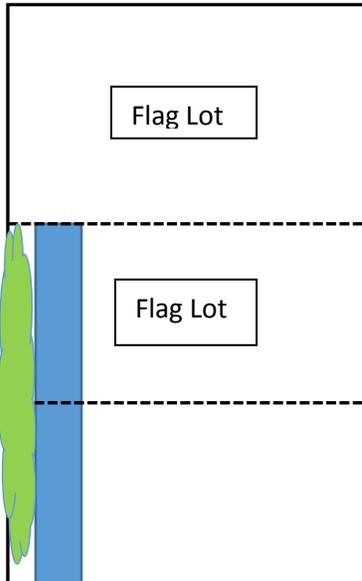
LOT COVERAGE AND FLOOR AREA BASED ON NET SITE AREA: Consistent with the original intent of 2010 Flag Lot Amendments, this section clarifies that lot coverage and floor area on a flag lot are calculated on the net area (i.e., the area in the access lane/flag pole is deducted from the gross lot size). 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 of the development site when shared access is provided along the perimeter of the development 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.

LANDSCAPING/BUFFER ALONG ACCESS LANE: Removes requirement that buffer must be provided along the interior (house-side) of access lane, unless the access lane is punched through the middle of a site. Input requested from Commission: When the access lane is provided in the middle of the parent parcel (see graphic below) should landscaping be required along one or both sides. *Graphic to be developed – see rough outlines below.*



On Left: For access lanes that are provided along the edge of the partition site, screening required only on the exterior side of the access lane.

On Right: When an access lane is provided in the middle of the access lane, should landscaping be provided along one or both sides? Since the flag lot landscaping standards are meant to mitigate impacts to the lots outside of the partition/subdivision site, staff does recommend these interior buffers.

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.

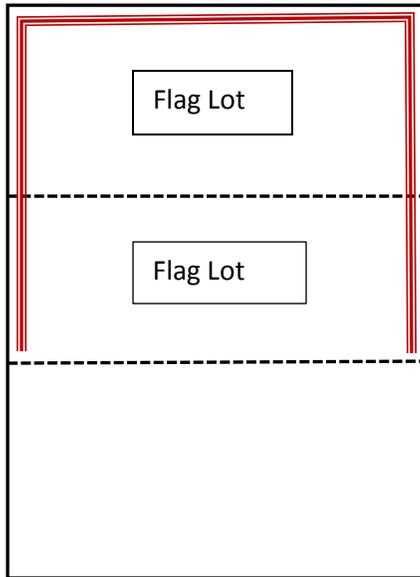
Exception: Trees are not required when sanitary sewer or water lines are provided within the access lane and the City Engineer finds that trees would conflict with these utilities.

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; their 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-largest~~ 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 largest 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.

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