

August 30, 2017

Leslie Hamilton, AICP, Senior Planner  
Planning & Building Services Department  
City of Lake Oswego  
380 A Avenue  
P.O. Box 369  
Lake Oswego, OR 97034  
lhamilton@lakeoswego.city

Dear Ms. Hamilton:

I am submitting these comments on behalf of the Hallinan Heights Neighborhood Association board of directors regarding the August 15, 2017 Flag Lots and Private Access Lanes, Draft #2 (LU 17-0052).

First, we want to reiterate our May 18, 2017 comments we submitted previously on the issue. As I believe you are aware, the flag lots on Cedar Street have had negative effects on the character of our neighborhood, not to mention the issues with increased traffic congestion, parking, and poor emergency vehicle access. It is our opinion that the proposed changes to the Lake Oswego Community Development Code will do little to ameliorate the problems with the current code. A copy of our May 18, 2017 comments is enclosed.

The following additional comments are hereby submitted in response to the August 15, 2017 Draft #2, Background section.

1. Limit the Number of Flag Lots [LOC 50.06.003.1.d]: We object to the current code and the proposed changes. This is of utmost importance to us. The flag lot ordinance should limit the number of flag lots served by a private lane to a maximum of one additional lot/home. If the developer wants to develop more than one lot, they should be required to construct a public street that meets current requirements. Having substandard private access lanes providing access to multiple lots creates problems as evidenced by what has happened on Cedar Street.

You raise the issue of density requirements with Metro; however, it is our understanding that the City is exceeding the density requirements. If an analysis is needed to document the City's current average dwelling density, we request the City do so before these code changes are finalized. Furthermore, if the City needs to obtain an amendment to the State Metropolitan Housing Rule (OAR 660, Division 7) regarding density, then we

strongly encourage the City to do so, even if it results in increasing density elsewhere in the city.

2. Access Lane Parking [LOC 50.06.003.1.d]: We object to current code and the proposed changes. The minimum on-site parking requirement for single-family dwellings should be two, since most residents living in a single-family home in Lake Oswego have two or more cars. This is of utmost importance for single-family dwellings accessed by private lanes. Otherwise, residents park in fire lanes and create congestion on nearby public streets.
3. Open Space/Serial Partition Sites [LOC 50.06.005.1]: If the City limits the number of flag lots, this amendment would most likely not be necessary.
4. Lot Line Adjustments and Flag Lots [LOC 50.07.007.2.a.ii]: We support the proposed changes.
5. Setbacks and Orientation [LOC 50.07.007.2.e.v(1)]: Our concern with the proposed change is that it may be short sighted and create problems when the adjoining property owner tries to develop their property which may include demolition of existing structures. This wouldn't be as substantial of an issue if the number of flag lots were limited to one unless the developer is required to construct a public street.
6. Garage Appearance and Location Standards [LOC 50.07.007.2.e.ii]: No comment.
7. Flag Lot Front Setback [LOC 50.07.007.2.e.v]: We support the proposed change.
8. Setback Distribution on R-5 Flag Lots [LOC 50.07.007.2.e.v(3)]: No comment.
9. Lot Coverage and Floor Area [LOC 50.07.002.e.vii]: We support the proposed change.
10. Flag Lot Screening Along Access Lane and Potential Conflict with Utilities [LOC 50.07.007.2.f.i]: No comment.
11. Flag Lot Screening, Perimeter Fencing [LOC 50.07.002.f.iii]: No comment.
12. Flag Lot Screening, Rear Yard Landscaping [LOC 50.07.002.f.iv]: No comment.

Thank you for the opportunity to comment on the proposed Community Development, Chapter 50, code changes. If you have any questions or would like to discuss our concerns, please contact me at 503-347-4266 or [babadie@comcast.net](mailto:babadie@comcast.net).

Sincerely,

A handwritten signature in cursive script that reads "Bill Abadie".

Bill Abadie  
Vice-Chair  
Hallinan Heights Neighborhood Association

Cc:  
Planning Commission  
Hallinan Heights Neighborhood Association Board Members

## Comments on the Public Review Draft of April 21, 2017 for Flag Lot and Serial Partition Code Amendments

From the Hallinan Heights Neighborhood Association (Flag Lot Study Group)

May 18, 2017

### Summary

- Flag lot *developments* (as opposed to individual flag lots) should not be allowed. Or, put another way, flag lot developments should be limited to a maximum of one new/additional home.
- The dimensional standards of a flag lot should be the same as for a regular lot and comply with all standard code provisions and current zoning.
- The practice of allowing developers to bypass normal code requirements for minor and major developments, by designating them as flag lots and following an alternative, less demanding set of rules, has led to a series of substandard developments, not in keeping with our code, and the practice should be discontinued.
- The amendments to the flag lot code proposed in the public review draft of April 21, 2017, go in the opposite direction. They codify these abuses. Therefore we object to the proposed amendments.

Flag lot *developments* (with more than one new home) should not be allowed. Historically, homes were built on larger lots, often with large back yards, to allow for septic systems. Today, most homes are connected to the public sewer. In less densely developed neighborhoods, such as Glenmorrie, the large backyards remain, unused as septic fields, and we can understand the desire of landowners to partition some or most of this space and to sell it as a separate buildable lot, *behind* their own home, and with

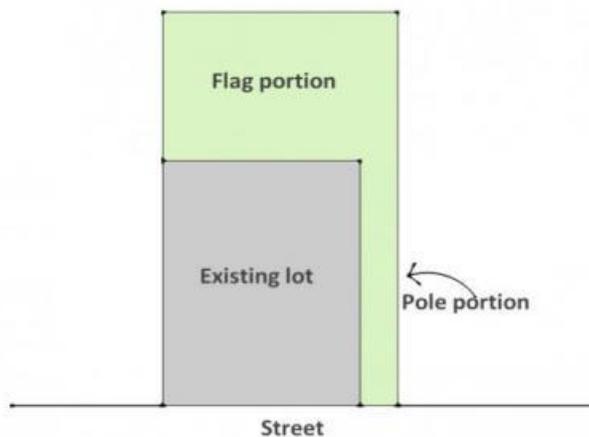
access to the street by an access lane or easement. Flag lots were conceived and initially approved for this purpose.

According to the Lake Oswego Code (LOC 50.10.003) a *flag lot* is defined as:

“A lot that:

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

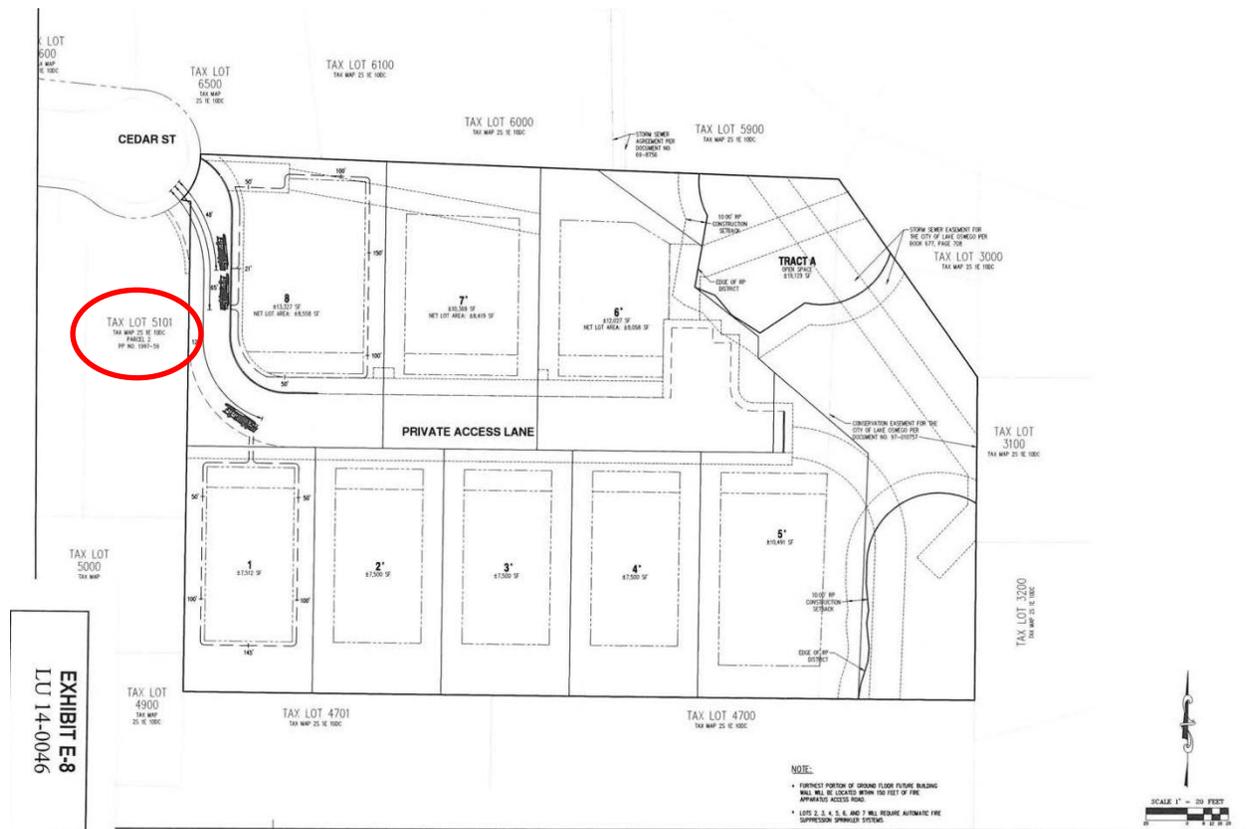
That is the full text of the definition. There is no additional definition in our code. A single home flag lot would be as illustrated below.



Certain conditions should apply. There must be an existing home in front, one that the owners do not want to demolish. Secondly, the new lot must be *behind* the old lot, with reference to the street, not beside or in front of it. In short, flag lots must look like a flag.

We believe that the concise definition of a flag lot in our code adequately expresses these concepts, and should be strictly interpreted. We object to the liberal practice of allowing multiple homes to be built on a parcel under the auspices of a flag lot. This practice has led to substandard setback, access, parking, stormwater and a myriad of other issues. We believe that the Flag Lot and Serial Partition Code Amendments as proposed in the April 21, 2017 Public Review Draft have the effect of codifying these abuses, which instead should be prohibited.

Exhibit A in our argument is the flag lot development, which was approved over the objections of neighbors at 850 Cedar Street in early 2015:



In this formulation, all eight newly created lots shared one, sinuous driveway. These were flag lots because, according to the developer, lots 1 through 7 were “behind” lot 8. Furthermore, the city

considered that all eight lots were “behind” the property next door to the west (labelled as Tax Lot 5101 on this drawing).

In our opinion, this was an incorrect application of the code. First, since Lot 8 did not yet exist, it was a fictitious analysis. A developer shouldn't be allowed to plan things so that one lot is in front, blocking access to the street, just for the expedience of calling it a flag lot.

Secondly, Tax Lot 5101 faced Cedar Street, and the new lots were *beside*, not behind it.

Thirdly, Lake Oswego owned a right-of-way easement extending across almost half of the property, which shows up on the drawing as a dotted line coming in diagonally from the cul-de-sac. The easement was acquired in anticipation of a future extension of Cedar Street, which would have been the proper course and is what should have happened. For the flag lot plans of the builder to be approved, the city had to *vacate* that easement, which it did.

We do not see how our existing codes were upheld in this instance. Neighbors and citizens felt let down by the manner in which the application was examined and approved in the City.

More importantly, future amendments to our flag lot code should be designed to prevent misuse of the code, not to codify it. If developers would like to develop a lot, they should be allowed to do so. But they should follow the rules which were designed over many years to yield acceptable results for Lake Oswego, and not use flag lot rules to a purpose for which they were not designed, in order to circumvent the rules and to cut corners. For these reasons, we object to the amendments as proposed.

Addendum A.

Below are before and after photographs of the Freepons development at 850 Cedar Street. The top photograph shows the original home on 1.2 acres. The bottom photograph shows the development with 5 of the 8 homes constructed. This development was approved as a flag lot.

