



Flag Lots and Private Access Lanes, Draft #2 (LU 17-0052)

Request for Public
Comments for Preparation of
Hearing Draft
August 15, 2017

The City is requesting public comments on this draft by **Thursday, August 31, 2017 (5:00 p.m.)**. Comments submitted by the deadline will be considered in preparing the Public Hearing Draft for the Planning Commission hearing tentatively scheduled for **Monday, October 9, 2017**. Please see the inside cover for information on how to submit comments.

HOW TO SUBMIT COMMENTS

The Planning Department is accepting written comments to assist in the preparation of a Public Hearing Draft of proposed Community Development Code amendments addressing development of flag lots and private access lanes. This is the second Public Review Draft issued for this proposal. The prior draft, published on April 21, 2017 under File No. PP 16-0003, has been updated to reflect public comment and feedback from the Planning Commission.

All written comments received by **5:00 p.m., Thursday, August 31, 2017**, will be considered in preparing the Public Hearing Draft of the proposal for the **Planning Commission hearing tentatively scheduled for October 9, 2017**.

For more information or to submit comments, please contact:

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I. INTRODUCTION

Proposal Summary

This is a request from the City of Lake Oswego for a text amendment to the Lake Oswego Community Development Code (CDC or City code), amending the standards for development of flag lots and private access lanes. The Planning Commission and City Council identified this as a 2017 Planning Commission Goal.

The purpose of the amendments is to streamline, update and clarify the code. This process is part of the City's ongoing effort to implement the Comprehensive Plan (adopted in 2014), pursuant to City Council policies on preserving the character of existing established residential neighborhoods, maintaining clear and objective standards for development, and avoiding unnecessary restrictions on property owners.

Key Terms

A Flag Lot is:

A lot that:

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

An Access Lane is:

The area on private property that extends from the public right-of-way and is permitted to provide ingress and egress to the property (or properties) by applicable surface modes of travel.

[LOC 50.10.003 Definitions]

Key Dates

- Public Comments due on this draft – **August 31, 2017**
- Planning Commission Public Hearing (tentative) – **October 9, 2017**
- City Council Public Hearing (tentative) – **November/December, 2017**

The ordinance would go into effect thirty days after City Council adopts its final decision.

II. BACKGROUND

The Planning Commission (Commission) has conducted four work sessions (January 23, February 27, April 10, and June 12) and received one update (July 10) on the proposed amendments. The purpose of this Public Review Draft is to assist staff in identifying any comments, questions, or concerns from the public prior to the Commission holding a public hearing. The amendments require Measure 56 Notice, as the proposed reduction in the number of flag lots and increase in the amount of parking required on an access lane would limit the use of residential property.

This following summarizes the proposed amendments to the Community Development Code (Chapter 50) regarding Flag Lots and Access Lanes and identifies issues raised in the Planning Commission work sessions and in public comments on the prior Public Review Draft issued in April. These items correspond to the order in which they are addressed in Attachment A. Item #1 (Limit the Number of Flag Lots in the City) is new.

1. Limit the Number of Flag Lots [LOC 50.06.003.1.d]: The proposal contains options for limiting the number of flag lots served by a private access lane to between four and six lots. The proposal also requires additional parking for flag lot developments. Both issues arose from the Cedar Street subdivision in the Hallinan Neighborhood in 2014 [LU 14-0046], where some neighbors felt that a subdivision consisting of eight flag lots on one access lane did not fit the character of the neighborhood. If the City had limited the number of flag lots in that case as considered here, a public street would have been required to serve a subdivision containing eight lots. By requiring a public street for developments of more than four or six lots, this code change could reduce allowed development and test the City's compliance with State and Metro housing rules, as discussed below. There are also actions the City could take to mitigate any reduction on housing density that might result. For example, with the City Engineer's concurrence, the Planning Commission could consider adopting a minimum local street standard for small subdivisions that reduces the standard right-of-way width, which is currently 50 ft. By comparison, the standard width of a private access lane easement is only 20-30 ft.

The State Metropolitan Housing Rule ([OAR 660, Division 7](#)), adopted by the Land Conservation and Development Commission in 1981, is intended to "ensure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metropolitan Portland (Metro) urban growth boundary, to provide greater certainty in the development process and so to reduce housing costs." It requires local jurisdictions in the Portland Metro area to maintain zoning for residential

densities averaging six, eight, or 10 dwelling units per net acre, and to provide buildable lands for a housing mix consisting of at least 50 percent attached and multifamily dwellings. The standard for Lake Oswego is 10 dwelling units per acre. “Multnomah County and the cities of Portland, Gresham, Beaverton, Hillsboro, Lake Oswego and Tigard must provide for an overall density of ten or more dwelling units per net buildable acre. These are larger urbanized jurisdictions with regionally coordinated population projections of 50,000 or more for their active planning areas, which encompass or are near major employment centers, and which are situated along regional transportation corridors.” (OAR 660-07-0035)

The Planning Commission has asked whether Lake Oswego could request a lesser density requirement, as the cities of Tualatin, West Linn and Wilsonville, for example, are required to plan for a density of only eight units per net acre. Further, the Lake Oswego Comprehensive Plan, updated in 2013, forecasts a population of only 45,693 within the Urban Services Boundary by 2035. However, it is not clear that the proposed amendment would take the City out of compliance with the Metropolitan Housing Rule. Staff is analyzing this as part of the current proposal. In its most recent analysis of planned density, the City demonstrated that it had land zoned for an average density of 10.2 dwelling units per net acre. (Lake Oswego Comprehensive Plan, 1994) If an updated analysis were to show the proposed amendments would take the City out of compliance with the State rule, it would either have to abandon the proposal or request an amendment to the rule, which could be difficult to achieve as it would affect other jurisdictions. However, even if successful in amending the State rule, the City would still have to comply with the Metro Urban Growth Management Functional Plan. Metro Code ([Chapter 3.07, Title 1](#)) prevents cities from reducing planned/zoned densities without commensurately increasing density elsewhere in the city. For these reasons, the City is seeking public input but has not yet committed to a preferred alternative for limiting the number of flag lots on a private access lane.

2. 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 proposal contains options for providing additional on-lane or off-lane parking for flag lot developments as small as two lots. This may affect allowable density in some

developments as the areas provided for access and parking are excluded from Net Developable Area. Staff is analyzing this as part of the current proposal.

3. 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. *Note: This amendment may no longer be necessary if the City Council limits the number of flag lots allowed on an access lane.*

4. 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, any future development or remodel would have to comply with the dimensional standards (setbacks, lot coverage, building height, etc.) of the base zone, and the dwelling orientation requirements that existed when the flag lot was created.

5. 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 where such property may be further divided. The proposal would remove this requirement; access lanes would no longer have to be planned to connect to and through abutting developable properties (where impediments do not exist), as private access lanes do not provide

public access. Where connectivity for public access is needed, a future street plan may be required under a separate code provision.

Relatedly, whether or not there is development potential on the abutting lot, under current code 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 Code is amended to remove the requirement that access lanes in abutting developments be connected, the proposal would provide greater flexibility in setbacks and dwelling orientation on flag lots. This change will allow the City to prioritize setbacks where it makes the most sense. For example, dwellings would be placed so that the greater setback is where living spaces on abutting lots are next to one another, or where setbacks it facilitates protection of significant trees. 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, based on this analysis; the setback distribution would continue to apply to the remaining setbacks.

6. 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.
7. 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.
8. 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.

9. Lot Coverage and Floor Area [LOC 50.07.002.e.vii]: 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. On the Public Review Draft, the City received comments recommending that the dimensional standards for flag lots should be the same as for regular lots and comply with all standard code provisions and current zoning. The proposed amendments clarify that lot size, lot coverage and floor area are calculated based on the net lot area of the flag lot (i.e., the area in the flag pole or access lane is deducted from the flag lot area before lot size, lot coverage and floor area is calculated). This ensures that perceived lot size and dwelling size are the same on a flag lot as on a non-flag lot.

10. 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.

11. 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).

12. 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.

III. CONCLUSION

The City is seeking public input on this proposal. Staff will consider all input received by August 31, in preparing the public hearing draft of the proposal for the Planning Commission hearing, which is scheduled for October 9, 2017.

IV. ATTACHMENT

Attachment 1 – Proposed Code Amendments: Flag Lots and Access Lanes

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 primary dwelling units and 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 primary 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 primary 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.~~

<u>Table 50.06.003-1: On- or Off-Lane Parking Requirements</u>	
<u>Primary Dwelling Units Served by Access Lane</u>	<u>Standard Parking Spaces Required</u>
<u>4-6</u>	<u>2</u>
<u>7-8</u>	<u>4</u>

PARKING OPTION 1 (ABOVE) – 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.

May 2017: "Primary" added to clarify that SDUs are not counted. Table added for better readability; table will be provided for any adopted parking standard that includes a similar range.

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d. Standards for Access Lanes

Access lanes shall serve not more than eight primary dwelling units and 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 eight primary 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 (ABOVE) – 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.

May 2017: “Primary” added to clarify that SDUs are not counted.

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d. Standards for Access Lanes

Access lanes shall serve not more than six primary dwelling units and 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 ~~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 primary 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 AND LIMITS ON LOTS: OPTION 3 (ABOVE) – 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 will be required for developments (or combined developments) of seven or more lots, which will likely reduce density due to right-of-way dedication and additional area needed for a wider street and required turnaround compared to access lanes. This option would also potentially increase the number of short public street segments that the City would need to maintain; Engineering has reviewed.

May 2017: “Primary” added to clarify that SDUs are not counted.

- v. Access lanes shall align with existing and/or planned streets or access lanes where practicable.
- vi. All new or modified ~~driveways~~ access lanes 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 Access Lanes (ft.)
Major Arterial	300
Minor Arterial	200
Major Collector	150
Neighborhood Collector	100
Local Residential Street	50
Local Commercial/Industrial Street	50

ACCESS LANES: These amendments clarify that these design standards apply to access lanes (which currently serve 2-8 dwelling units), and do not apply to driveways, which only serve one dwelling unit. Note title of the subsection: "Standards for Access Lanes."

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 and minor partitions in which the net developable area of the parent parcel is four or more times greater than the minimum lot size of the zone; and
 - viii. ~~subdivisions~~Subdivisions.

OPEN SPACE APPLICABLE TO SERIAL PARTITION SITES: The 2015 Audit of the Comp Plan identified policies that required residential development of four or more units to preserve “open space and natural resources.” [Land Use Policy B-10]. Executing a series of partitions allows a developer to avoid the minimum density as well as open space requirements (20%) that are required for subdivisions (the creation of 4 lots or more). In combination with the edits under Standards for Approval, below, this amendment would require sites where a lot created through the partition is 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).

May 2017: Cleaned up the text to include a numerical standard, and to ensure it applies to both minor and major partitions. Net Developable Area includes density transfer acreage from sensitive lands overlays. By using NDA of parent parcel, it averts a potential loophole where 4+ lots could eventually be made from three oversized lots through a series of Lot Line Adjustments and a partition.

- 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 residential sites greater than 75,000 sq. ft. in size: Subdivisions, and major and minor partitions in which the net developable area of the parent parcel is more than four times greater than the minimum lot size of the zone, ~~Land divisions listed in LOC 50.06.005.1.a.vi on sites 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 residential sites of 75,000 sq. ft. or less: Subdivisions, and major and minor partitions in which the net developable area of the parent parcel is more than four times greater than the minimum lot size of the zone, 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 identified policies that required residential development of four or more units to preserve “open space and natural resources.” [Land Use Policy B-10]. Executing a series of partitions allows a developer to avoid minimum density as well as open space requirements (20%) that are required for subdivisions (the creation of 4 lots or more). 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 flag lots that are reconfigured through a Lot Line Adjustment; the standards in effect at the time of the existing flag lot's creation remain applicable.

- iii. Compliance with Zone Standards. Flag lots shall comply with the requirements of the underlying zone except where noted in this article. A land division or lot line adjustment creating a flag lot shall also comply with any specific residential design criteria contained within an applicable adopted neighborhood plan.

Exception: Specific residential design criteria contained within an applicable adopted neighborhood plan do not apply to existing 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 flag lots (developed or undeveloped) that have their boundaries adjusted through a LLA.

May 2017: Previous proposed amendment would exempt only developed flag lots that are reconfigured by LLA. But even applying new standards/orientation to vacant flag lots will create non-conformities, particularly with fence and landscaping locations. Clarified that the standards in effect at the time of the existing flag lot's creation – and recorded on the property – remain applicable.

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 [illustrating the maximum potential density](#), 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.

May 2017: Clarifies that the parcelization plan should show maximum potential density.

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 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 lot(s) parent parcel~~ or off site, wherever practicable. If not practicable, then new lots may have individual access points~~an additional access may be allowed on site or off site.~~

i.ii. 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(s)”.

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.

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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 lot(s) parent parcel~~ or off site, wherever practicable. If not practicable, then new lots may have individual access points~~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 ~~dwelling~~~~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~~~~dwelling~~.

Note: Subsection c(iii) will have to be amended if the number of lots served by an access lane is reduced.

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,~~ as provided below, 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: For flag lots that are accessed by a “pole” that is part of the flag lot, and for flag lots where the access lane cannot be extended to connect to abutting developable property due to the presence of natural resources, slope or other constraints, the front yard setback shall apply and is measured from either the property line most parallel to the public street or the property line most parallel to the orientation of the access lane or “pole.”

OPTION 1 (ABOVE): 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 or pedestrian access easement and future street plan would be required under a separate code provision (Street Connectivity).

May 2017: The current flag lot standards treat a single flag lot that accesses via a pole (i.e., it “fronts” on a public street) differently from a single flag lot that accesses through an easement (no frontage). In the former case, the 25-foot front yard is measured from the property line abutting the street. This discrepancy is identified in Exception 1 (moved from introduction). The flexibility proposed for the “last” flag lot should apply to the flag lot in two-parcel partitions: front either measured from property line parallel to the public street, or along property line parallel to access easement. [Prior to 2010, “front” always measured from property line most parallel to public street; the Flag Lot Amendments in 2010 which created the streetscape/orientation to the access lane created this discrepancy]. The option allows flexibility – the remaining setbacks would be distributed according to formula and abutting development pattern; the applicant’s burden is to show how the setback distribution responds to existing development on abutting properties. *Note to staff: check Uplands language and be consistent, if possible.*

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The front yard shall be determined as follows:

- (1) Except ~~for a lot that fronts on a public street,~~ as provided below, 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: For flag lots that are accessed by a “pole” that is part of the flag lot, and for flag lot(s) at the farthest end of the access lane, the zone front yard setback shall apply and is measured from either the property line most parallel to the public street or the property line most parallel to the orientation of the access lane.

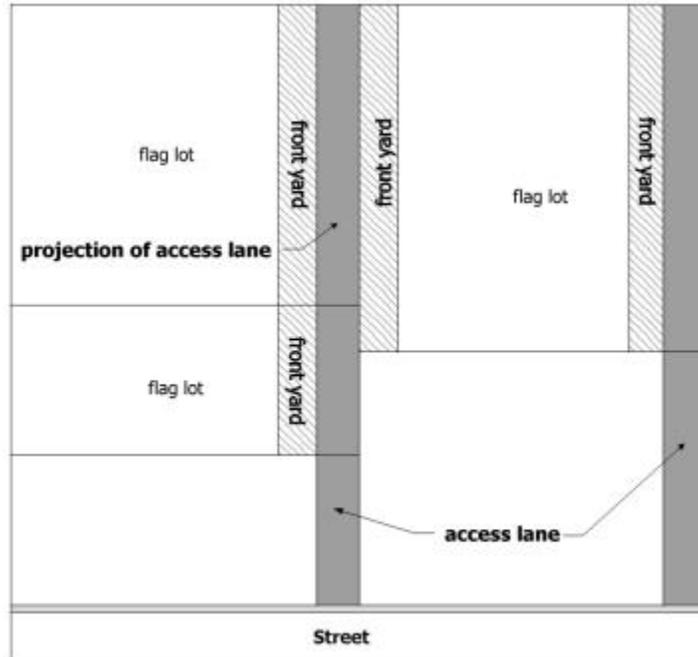
OPTION 2 (ABOVE): DELETE REQUIREMENT TO CONNECT ACCESS LANES, ADD SETBACK FLEXIBILITY FOR “LAST” FLAG LOT:

The Planning Commission requested an option be presented that would eliminate the requirement that private access lanes be planned to connect to abutting developable property. 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 or pedestrian access easement and future street plan would be required under a separate code provision (Street Connectivity).

May 2017: See previous note about setbacks applied to flag lots that access via pole v. easement. Add flexibility to option recommended by PC.

~~(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



DOUBLE FRONT YARD ON FLAG LOTS: May 2017: The situation described in the graphic – i.e., that access lanes are located on two sides of a flag lot – has never occurred in the 8 years that this has been effective. This requirement sets up the impossibility of requiring a dwelling to “orient” in two opposite directions – see e(i)(1), Building Orientation, below. Staff recommends deleting this subsection and graphic.

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 cannot be extended to abutting developable property due to the presence of natural resources, slope or other constraints.

OPTION 1 (ABOVE): 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).



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 (ABOVE): 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 farthest end of the access lane where the access lane cannot be extended to abutting developable property due to the presence of natural resources, slope or other constraints. In such case, the zone front yard setback shall apply and be measured either from the property line most parallel to the public street or the property line most 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; Planning Commission felt that 10 foot setback creates crowded feeling along access lane. 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 (ABOVE) - 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).



v. Setback Requirements

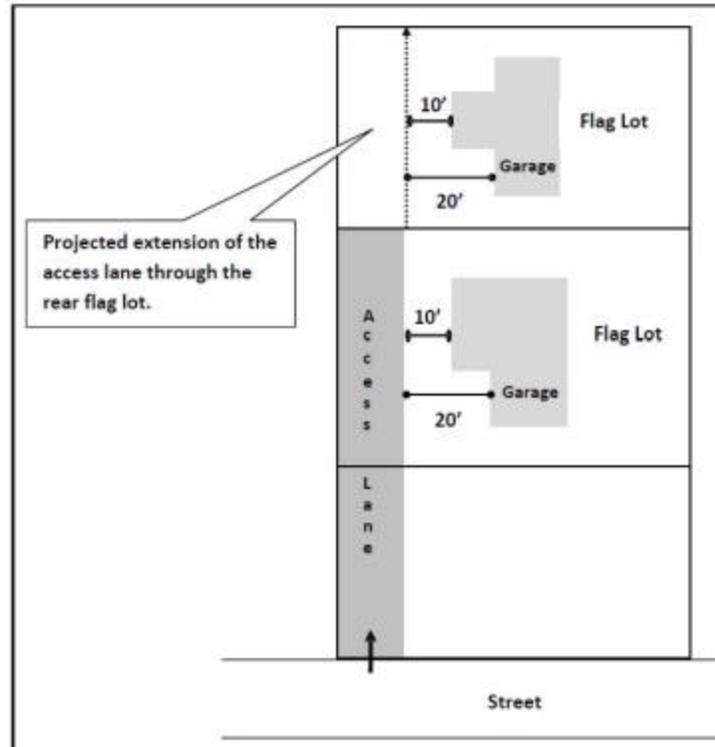
(1) The standard front yard setback of the zone shall be superseded by the following front yard requirement: A minimum ~~15~~ten-ft. front yard setback is required from the access lane, except that a 20-ft. setback is required from the access lane to the front of a garage or carport when the garage or 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 farthest end of the access lane. In such case, the zone front yard shall apply and be measured from either the property line most parallel to the public street or the property line most 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 (ABOVE) – 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 farthest 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 that~~ 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) ~~50~~Fifty ft. in R-10 and R-15 zones; and
 - (ii) ~~45~~Forty five ft. in ~~the R-7.5 zone~~residential zones other than R-10 and R-15.; ~~and~~
 - (iii) ~~35~~ 35 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~~Ten ft. in the R-15, R-10 and R-7.5 zones, and
 - (ii) ~~7.5~~ 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.]

May 2017: Updated number conventions to match rest of Chapter 50: Only numbers below eleven are written out.

vi. Lot Width Requirements

The lot width dimension of a flag lot shall ~~be not~~ be 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.

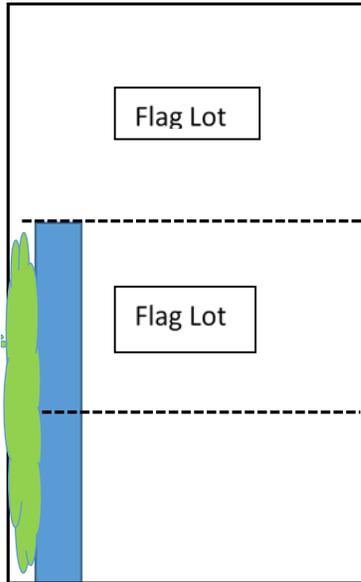
f. Screening, Buffering and Landscape Installation

- 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 the shared access lane is ~~provided~~ located 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 ~~the~~ 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.

LANDSCAPING BUFFER ON INTERIOR SIDE OF ACCESS LANE: The requirement to provide landscaping on the interior side of the access lane has been deleted; it is often removed by the homeowner and does nothing to buffer existing development from flag lot development impacts. Landscaping only required along exterior, as shown below:

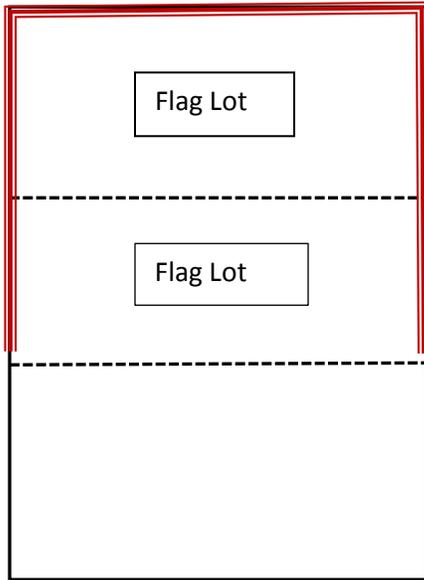


CONFLICT BETWEEN UTILITIES AND FLAG LOT LANDSCAPING: The Engineering staff noted the potential conflict between utilities (which are often placed within the access lane/easement) and the requirement of trees in close proximity; current policy is to prohibit trees within public easements. This amendment 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.

ii.iii. The perimeter of the rear and side yards of the flag lot(s) shall be screened from abutting lots outside of the development 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 side or rear 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 requirement s pertaining to the "rear yard" is are~~ not applicable where the deepest~~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.*

May 2017: Clarified that the landscape buffer applies along a rear or side property line (in some cases, the front setback could be the largest).

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.