



# CITY OF MILWAUKIE

## AGENDA

August 10, 2021

### PLANNING COMMISSION

[milwaukieoregon.gov](http://milwaukieoregon.gov)

#### Hybrid Meeting Format

In accordance with Oregon Revised Statutes governing public meetings, the Planning Commission will hold this meeting in a hybrid format featuring opportunities for public participation both in person and through Zoom video. The public is also invited to watch the meeting online through the City of Milwaukie YouTube page ([https://www.youtube.com/channel/UCRFbfae3OnDWLQKSB\\_m9cAw](https://www.youtube.com/channel/UCRFbfae3OnDWLQKSB_m9cAw)) or on Comcast Channel 30 within city limits.

If you wish to provide comments, the city encourages written comments via email at [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov). Written comments should be submitted before the Planning Commission meeting begins to ensure that they can be provided to the Planning Commissioners ahead of time.

To speak during the meeting, visit the meeting webpage (<https://www.milwaukieoregon.gov/bc-pc/planning-commission-78>) and follow the Zoom webinar login instructions.

If you would prefer to provide testimony in person, limited public seating will be available at City Hall.

**1.0 Call to Order – Procedural Matters — 6:30 PM**

**2.0 Planning Commission Minutes – Motion Needed**

2.1 June 8, 2021

**3.0 Information Items**

**4.0 Audience Participation** — This is an opportunity for the public to comment on any item not on the agenda

**5.0 Work Session Items**

5.1 Summary: Comprehensive Plan Implementation - Draft Code/Map Amendments – Batch #2

Staff: Senior Planner Vera Kolias

**6.0 Planning Department Other Business/Updates**

**7.0 Planning Commission Committee Updates and Discussion Items** — This is an opportunity for comment or discussion for items not on the agenda.

**8.0 Forecast for Future Meetings**

August 24, 2021 Work Session Item: Comprehensive Plan Implementation – Tree Code

Work Session Item: Design and Development Standards for Middle

September 14, 2021 Housing Hearing Item: VR-2021-013, Bonaventure Senior Living Walkways

September 28, 2021 Hearing Item: DR-2021-001, Coho Point redevelopment (tentative)

## Milwaukie Planning Commission Statement

The Planning Commission serves as an advisory body to, and a resource for, the City Council in land use matters. In this capacity, the mission of the Planning Commission is to articulate the Community's values and commitment to socially and environmentally responsible uses of its resources as reflected in the Comprehensive Plan

1. **PROCEDURAL MATTERS.** If you wish to register to provide spoken comment at this meeting or for background information on agenda items please send an email to [planning@milwaukieoregon.gov](mailto:planning@milwaukieoregon.gov).
2. **PLANNING COMMISSION and CITY COUNCIL MINUTES.** City Council and Planning Commission minutes can be found on the City website at [www.milwaukieoregon.gov/meetings](http://www.milwaukieoregon.gov/meetings).
3. **FORECAST FOR FUTURE MEETINGS.** These items are tentatively scheduled but may be rescheduled prior to the meeting date. Please contact staff with any questions you may have.
4. **TIME LIMIT POLICY.** The Commission intends to end each meeting by 10:00pm. The Planning Commission will pause discussion of agenda items at 9:45pm to discuss whether to continue the agenda item to a future date or finish the agenda item.

### Public Hearing Procedure

Those who wish to testify should attend the Zoom meeting posted on the city website, state their name and city of residence for the record, and remain available until the Chairperson has asked if there are any questions from the Commissioners. Speakers are asked to submit their contact information to staff via email so they may establish standing.

1. **STAFF REPORT.** Each hearing starts with a brief review of the staff report by staff. The report lists the criteria for the land use action being considered, as well as a recommended decision with reasons for that recommendation.
2. **CORRESPONDENCE.** Staff will report any verbal or written correspondence that has been received since the Commission was presented with its meeting packet.
3. **APPLICANT'S PRESENTATION.**
4. **PUBLIC TESTIMONY IN SUPPORT.** Testimony from those in favor of the application.
5. **NEUTRAL PUBLIC TESTIMONY.** Comments or questions from interested persons who are neither in favor of nor opposed to the application.
6. **PUBLIC TESTIMONY IN OPPOSITION.** Testimony from those in opposition to the application.
7. **QUESTIONS FROM COMMISSIONERS.** The commission will have the opportunity to ask for clarification from staff, the applicant, or those who have already testified.
8. **REBUTTAL TESTIMONY FROM APPLICANT.** After all public testimony, the commission will take rebuttal testimony from the applicant.
9. **CLOSING OF PUBLIC HEARING.** The Chairperson will close the public portion of the hearing. The Commission will then enter into deliberation. From this point in the hearing the Commission will not receive any additional testimony from the audience but may ask questions of anyone who has testified.
10. **COMMISSION DISCUSSION AND ACTION.** It is the Commission's intention to make a decision this evening on each issue on the agenda. Planning Commission decisions may be appealed to the City Council. If you wish to appeal a decision, please contact the Planning Department for information on the procedures and fees involved.
11. **MEETING CONTINUANCE.** Prior to the close of the first public hearing, any person may request an opportunity to present additional information at another time. If there is such a request, the Planning Commission will either continue the public hearing to a date certain or leave the record open for at least seven days for additional written evidence, argument, or testimony. The Planning Commission may ask the applicant to consider granting an extension of the 120-day time period for making a decision if a delay in making a decision could impact the ability of the City to take final action on the application, including resolution of all local appeals.

### **Meeting Accessibility Services and Americans with Disabilities Act (ADA) Notice**

The city is committed to providing equal access to public meetings. To request listening and mobility assistance services contact the Office of the City Recorder at least 48 hours before the meeting by email at [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) or phone at 503-786-7502. To request Spanish language translation services email [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) at least 48 hours before the meeting. Staff will do their best to respond in a timely manner and to accommodate requests. Most Council meetings are broadcast live on the city's YouTube channel and Comcast Channel 30 in city limits.

### **Servicios de Accesibilidad para Reuniones y Aviso de la Ley de Estadounidenses con Discapacidades (ADA)**

La ciudad se compromete a proporcionar igualdad de acceso para reuniones públicas. Para solicitar servicios de asistencia auditiva y de movilidad, favor de comunicarse a la Oficina del Registro de la Ciudad con un mínimo de 48 horas antes de la reunión por correo electrónico a [ocr@milwaukieoregon.gov](mailto:ocr@milwaukieoregon.gov) o llame al 503-786-7502. Para solicitar servicios de traducción al español, envíe un correo electrónico a [espanol@milwaukieoregon.gov](mailto:espanol@milwaukieoregon.gov) al menos 48 horas antes de la reunión. El personal hará todo lo posible para responder de manera oportuna y atender las solicitudes. La mayoría de las reuniones del Consejo de la Ciudad se transmiten en vivo en el canal de YouTube de la ciudad y el Canal 30 de Comcast dentro de los límites de la ciudad.

#### **Milwaukie Planning Commission:**

Lauren Loosveldt, Chair  
Joseph Edge, Vice Chair  
Greg Hemer  
Robert Massey  
Amy Erdt  
Adam Khosroabadi  
Jacob Sherman

#### **Planning Department Staff:**

Laura Weigel, Planning Manager  
Vera Kolias, Senior Planner  
Brett Kelter, Associate Planner  
Mary Heberling, Assistant Planner  
Janine Gates, Assistant Planner



# CITY OF MILWAUKIE

## PLANNING COMMISSION MINUTES

City Hall Council Chambers  
10722 SE Main Street  
[www.milwaukieoregon.gov](http://www.milwaukieoregon.gov)

June 08, 2021

**Present:** Lauren Loosveldt, Chair  
Joseph Edge, Vice Chair  
Amy Erdt  
Greg Hemer  
Adam Khosroabadi  
Robert Massey  
**Absent:** Jacob Sherman

**Staff:** Laura Weigel, Planning Manager  
Vera Kolas, Senior Planner  
Janine Gates, Assistant Planner  
Justin Gericke, City Attorney

(00:14:08)

### 1.0 Call to Order – Procedural Matters\*

**Chair Loosveldt** called the meeting to order at 6:30 pm and read the conduct of meeting format into the record.

**Note:** The information presented constitutes summarized minutes only. The meeting video is available by clicking the Video link at <http://www.milwaukieoregon.gov/meetings>.

(00:15:15)

### 2.0 Minutes

The April 13, 2021 minutes were approved with a 6 – 0 vote.

(00:17:29)

### 3.0 Informational Items

No information was presented for this portion of the meeting.

(00:17:38)

### 4.0 Audience Participation

No information was presented for this portion of the meeting.

(00:18:07)

### 5.0 Public Hearing Items

(00:18:11)

## 5.1 5840 SE Morris St Accessory Structure Spacing Variance

**Vera Kolias, Senior Planner** shared the staff report. The applicant and current owner of the residential property at 5840 SE Morris St, recently completed a renovation on the home consisting of a new front porch, deck, and adding living space to the ground floor. The site contained a mapped Water Quality Resource Area (WQR) and was nearly entirely covered by a mapped Habitat Conservation Area (HCA) and the 100-yr floodplain. During the project, the applicant constructed a new 192-sq ft shed designed to match the house and was underneath the deck at the rear of the home. The shed was not included on the building permit plans and was not discovered until the final inspection process. It was built to align with the edge of deck but closer than the minimum required 60 inches to the house. The shed did not increase land coverage or vegetation. The applicant knew the size of the shed was exempted from a building permit but was unaware of the minimum spacing requirement. The applicant was seeking a variance to allow the recently constructed 192-sq ft shed to remain with a 43-inch separation from the house rather than the minimum 60 inches required in MMC 19.502.2.A.1.b(3). A Type III variance was required.

The Planning Commission discussed the zoning standards for accessory structures. **Chair Loosveldt** asked, if the deck would have received approval with the structure below it and was that a safety concern? **Kolias** responded, based on their conversations with the Building Department the shed was not a safety hazard. **Commissioner Khosroabadi** asked, how would an owner know there was a 60 inch requirement since they did not need a building permit? **Kolias** responded, the Building Department would share their requirements and encourage the applicant to check with the Planning Department. Also, there was a document sharing the standards and approval criteria for sheds. The applicant needed to contact the Planning Department to learn that information.

**The applicant** shared, he was unaware of the setback requirement. They used the accessory structure worksheet and was unsure how the spacing requirement was missed.

The Planning Commission discussed the approval criteria for the applicant's accessory structure. **Commissioner Edge** shared, this was a reasonable request because the accessory structure did not further impact the Habitat Conservation Area and this was a technicality issue.

The proposal was approved with a 6-0 vote.

(00:41:56)

## 5.2 11503 SE Wood Ave Accessory Structure Size Variance

**Janine Gates, Assistant Planner** shared the staff report. The applicant and current owners of the residential property at 11503 SE Wood Ave, submitted a variance for an accessory structure to exceed the MMC Table 19.502.2.A.1. Residential Accessory Structure Height and Footprint Standards maximum requirement. The lot was developed with a single-family home, one car garage, and three accessory structures. The applicant wanted to use the older accessory structure as a garden accessory structure.

and artist's studio. In addition, they wanted to demolish two accessory structures and build the proposed accessory structure. The applicant proposed a 42' x 40' accessory structure that will be built on the western edge approximately 60' from the west boundary of the property, 296' from the street frontage, and 5' from the southern boundary. The applicant was aware that the proposed accessory structure exceeded the maximum size requirement and was requesting that the structure be similar in size to other accessory structures in their neighborhood.

The Planning Commissioners wanted to ensure the applicant did not go over maximum lot coverage. **The applicant** shared, based on the design and where the owners would like the new structure, the two sheds must be demolished. They would demolish the structures prior to constructing the new proposed structure.

The proposal was approved with a 6-0 vote.

(01:03:39)

## **6.0 Work Session**

(01:03:48)

## **6.1 Comprehensive Plan Implementation - Draft Code / Map Amendments**

**Kolias** shared an update about the Comprehensive Plan Implementation. The policy mandates were to increase the supply of middle housing, tree canopy and preserve existing trees, and manage parking to enable middle housing. Draft code and maps were under development. The Comprehensive Plan includes a policy to create an equitable distribution of housing choices throughout the city. Some of the key amendments were to:

- Consolidate the eight residential zones to two
- Allow lot size to determine permitted housing types
- Allow middle housing to be permitted as attached or detached units
- Require one parking space per unit and allow the space to be located in the driveway or setback
- Require tree preservation, protection, and replacement of removed trees on new development and private property

The code will still have development standards, such as maximum lot coverage, building height, minimum landscaping, and setbacks. There was a discussion to allow alternatives to parking locations, such as a car park or other creative solutions.

Staff met with the Neighborhood District Associations in June to provide an overview of the concepts going into the draft code and to outline the adoption process. Next steps included draft code and maps, meetings with the Comprehensive Plan Implementation Committee, Planning Commission, City Council, and continuing to engage with the public.

The Planning Commission discussed the opportunity for public meetings during the adoption process. **Commissioner Hemer** shared, there were probably members from the public without internet or access to cable who were interested in participating.

They would like to see meetings held in person. **Kolias** responded, the goal was to host public testimony in October and hoped it was safe enough to do in person activities.

The Planning Commission discussed a residential plan proposed by **Commissioner Hemer** who thought the Planning Department needed to create a residential plan to ensure the housing being built was the housing that was needed. He also thought housing types could be promoted based on an incentive program. **Chair Loosveldt** asked, if there was a plan that existed? **Vice Chair Edge** responded, the housing need analysis. **Kolias** added, the housing need analysis explained what type of housing was needed and how much of it was needed. **Commissioner Hemer** responded, there needed to be a multilayered City plan that included wastewater and other plans. **Laura Weigel, Planning Manager** shared, there was a wastewater management plan, sewer master plan, and transportation management plan. Those plans identified potential projects for 20, 30, and 50 years. While they did not address police and fire those departments will be triggered as more population comes.

The Planning Commission discussed the schedule of the adoption process. **Chair Loosveldt** shared, members of the plan believed it was fast paced. They asked, why the Planning Department was attempting to complete the plan by December 2021 instead of the State of Oregon's 2022 deadline. This would allow the community to engage in a post pandemic environment. **Kolias** responded, housing was a goal of City Council and they requested the Planning Commission to move forward with implementing a new code for middle housing. To respond to those inquiries, the Planning Department planned to engage with the community for the next six months. Those events will take place during several worksessions, community conversations, and written testimonies. The State of Oregon required the code to be in place and adopted by June 30, 2020. The City's code could be in place and adopted six months early. City Council wanted to move forward in hope of having new housing opportunities built sooner. By December 2021, the City would have worked on this project for almost 18 months.

The Planning Commission discussed how the new code would impact land division. **Commissioner Edge** asked, how would land division be impacted by the code updates? Would there be an opportunity for the commissioners to review that information before it was implemented? **Kolias** responded, a land division would still be possible with the updated code. There will probably be some additions to Milwaukie Municipal Code (MMC) Title 17: Land Division. The goal for this milestone was compliance with House Bill 2001 and that included ensuring Title 17 and the updated code were communicating.

(01:37:46)

## **7.0 Planning Department Other Business/Updates**

No information was presented for this portion of the meeting.

(01:38:00)

## **8.0 Planning Commission Committee Updates and Discussion Items**

No information was presented for this portion of the meeting.

(01:40:25)

**9.0 Forecast for Future Meetings**

June 22, 2021: No Business is Currently Scheduled for this Meeting  
July 13, 2021: Work Session Item: Comprehensive Plan Implementation – Draft  
Code/Map Amendments  
July 27, 2021: Work Session Item: Comprehensive Plan Implementation – Draft  
Code/Map Amendments

**Meeting adjourned at approximately 8:30 PM.**

Respectfully submitted,

N. Janine Gates  
Assistant Planner



# CITY OF MILWAUKIE

**To:** Planning Commission

**Through:** Laura Weigel, Planning Manager

**From:** Vera Kolias, Senior Planner

**Date:** August 3, 2021, for August 10, 2021, Worksession

**Subject:** Comp Plan Implementation Project Update – Draft map and code review #2

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## **ACTION REQUESTED**

No action. Review the proposed draft plan, map, and code amendments related to housing, trees, and parking in residential areas and provide direction about implementing the changes under consideration. This is a briefing for discussion only and is the second of three scheduled discussions.

## **ANALYSIS**

### **Proposed Review Process**

All of the proposed code amendments were included in the packet for the first review worksession. As a reminder, due to the complexity of the code amendment package, staff proposes to divide the review and discussion topics between a total of three worksessions as follows:

- August 5: Comprehensive plan and land use map; zoning map; permitted uses; definitions; parking; ADU review and design and development standards
- August 10: Flag lots and back lots; NR code; Title 17 – land division
- August 24: Tree Code; Design and development standards for middle housing

The revised draft code at the conclusion of this series of worksessions will be posted in early September for the October 12 and October 26 public hearings.

### **Project Background**

Creating and supporting housing opportunities, primarily middle housing options in all neighborhoods, has been a key goal for Council and the community. The adopted Comprehensive Plan (Plan) policies call for expanded housing opportunities throughout the city and House Bill 2001 (HB 2001), passed by the state legislature in July 2019, requires the expansion of middle housing options throughout the state. In November 2019, Council discussed how to proceed with code amendments after the updated plan was adopted, setting the stage for the recently initiated implementation project.



The focus of this phase of plan implementation is housing, but it also includes related changes to parking requirements in residential areas and tree protection and preservation related to residential land. The outcome will be code amendments that balance the city's goal for a 40% tree canopy and implementation of the housing policies outlined in the plan in compliance with HB 2001.

The scope of work for this project includes the following tasks:

1. Public Engagement
2. Map and Code Audit and Analysis
3. Detailed Concept Development
4. Community Review and Testing
5. Draft Code Changes and Map Amendments
6. **Code and Map Review and Reconciliation – We're here.**
7. Final Code and Map Changes and Adoption

### Project Schedule

Project overview and timeline – Part 1			
September 2020	January – April 2021	March – May 2021	May - June 2021
<b>Code Audit</b> Identified existing policies and regulations that prevent implementation of the Comprehensive Plan.	<b>Code Concepts</b> Based on the code audit findings, described six multi-faceted approaches for amending Milwaukie's implementing ordinances.	<b>Selected Proposed Code Amendments – community testing</b> Specifically identifies which code sections will be amended to remove barriers associated with building middle housing, and residential parking. Open House #2	<b>Milestone: Adoption-ready draft amendments</b> Presentations to NDAs Open House #3
Code Adoption Process			
July – Aug 2021	September 2021	Oct - Nov 2021	December 2021
<b>Planning Commission worksessions</b> Engage Milwaukie Written comments–tracked in spreadsheet	<b>Revised draft code and maps</b> 35-day public notice Code posted Social media; postcards; Engage Milwaukie	<b>Planning Commission public hearings</b> Public testimony Spreadsheet tracking written comments <b>Final Draft Code and Maps</b>	<b>City Council public hearings</b> Public testimony Spreadsheet tracking written comments <b>Adopted Code and Maps</b>

Please refer to Attachments 1 – 3 from the July 27 staff report for the draft proposed code amendments in underline/strikeout format and the existing and proposed maps. These attachments

will be the ones referenced in all of the worksession discussions, although the discussions will be focused on specific sections during each worksession, as noted above.

### **Key Changes – Batch #2**

Per the proposed review process noted above, the key changes in this second batch of amendments are summarized in this section.

#### Flag Lots

As discussed at the [April 27 meeting](#), flag lots represent some development potential in the city. Code amendments easing the flag lot standards would provide the opportunity for more infill development that could be described as “hidden density,” allowing these properties to meet minimum density requirements (see Attachment 1 for proposed code language).

Staff proposes code language to incentivize middle housing by:

- Reducing the front and rear yard setbacks on flag lots to 20 ft for middle housing (currently the setbacks are 30ft)
- Allowing the pole portion of a flag lot to count toward minimum lot size for middle housing
- Allowing “back lots” only for middle housing – essentially a flag lot with an easement instead of a pole

Currently, the code prohibits flag lots in new subdivisions, presumably to discourage flag lots. In order to promote additional middle housing, back lots could be permitted in subdivisions. Staff has included a key question about whether or not this should be included in the proposed code amendments.

There are also a few proposed revisions to Title 17 to incorporate back lots into the flag lot section, in addition to the code amendments in 19.504.

#### Natural Resources Code (MMC 19.402)

No significant amendments are proposed in 19.402. The proposed amendments include references to the new tree code and revising the Habitat Conservation Area disturbance calculation to include middle housing.

A more substantial review of this code section is scheduled for 2023-2024. Staff will continue to work on reviewing potential amendments related to the Needed Housing Statute (ORS 197.307) and the required clear and objective standards when reviewing development in a mapped natural resources area. The goal is to have a 2-track process: a clear and objective track and an alternative, discretionary track.

#### Title 17 – Land Division and SB 458

The majority of the proposed revisions to the land division code relate to Oregon Senate Bill 458 (SB 458) (see Attachment 2).

Senate Bill 458 was adopted by the Oregon Legislature in 2021 and signed by the Governor on May 26, 2021. It becomes effective on January 1, 2022 and it only applies to middle housing land divisions permitted on or after June 30, 2022.

SB 458 is a follow-up to HB 2001 and allows lot divisions for middle housing that enable them to be sold or owned individually. The intent of House Bill 2001 was to create new housing types and homeownership opportunities for first-time homebuyers. The measure allowed local governments to regulate the siting and design of middle housing, but it did not address regulatory barriers to selling, such as both units of a duplex when the property was not subdivided into two separate lots. SB 458 makes this possible.

SB 458 sets forth a series of parameters on how a city must process middle housing lot division applications. The city must apply an “expedited land division” process defined in ORS 197.360 through 197.380. The expedited land division process is an alternative procedure application intended to streamline the review of land divisions under state law. While typical land use applications must be completed within 120 days, an expedited land division must be processed within 63 days or extended by the governing body of a local jurisdiction (not to exceed 120 days). Additionally, an application for a middle housing land division would be processed as a Type II application (with adjusted timeframes) rather than a Type III subdivision, as the code currently requires for an application creating more than 3 lots.

Under SB 458, applicants must submit a tentative plan (preliminary plat) for the division and it must include specific information, including:

- Separate utilities for each dwelling unit,
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area,
- One dwelling unit per each resulting lot or parcel (except common areas), and
- Demonstration that the buildings will meet the Oregon residential specialty code.

Additionally, cities retain the ability to require or condition certain things, including further division limitations, street frontage improvements, and right-of-way dedication if the original parcel did not make such dedications. They may not subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or minimum/maximum street frontage, or requirements inconsistent with House Bill 2001.

Jurisdictions are still permitted to require off-street parking and all other land use regulations in accordance with the parameters set forth in administrative rule, OAR Chapter 660, Division 046, but they may not require that each resultant lot or parcel have off-street parking. Such a lot or parcel would be provided access to off-street parking via easement. Similarly, a city cannot require street frontage for the lots created and cannot limit how many lots within the land division that do not have street frontage. For example, cities will not be able to apply minimum street frontage requirements for individual units for plexes and cottage clusters. However, for lots that do have street frontage, the city is allowed to require street frontage improvements.

Since the adoption of SB 458, the Department of Land Conservation and Development (DLCD) has been working through many questions from planners regarding the implementation of these provisions. Staff will continue to work through the details required for the code amendments, but we wanted to introduce this topic to the Planning Commission in advance of the public hearings. Staff's goal is to incorporate the necessary amendments during this amendment process, but if DLCD's guidance is not able to match the current timeframe, staff will return in the spring with a separate amendment package to address SB 458.

### Key Questions for Discussion

1. Does the Commission concur with the proposed flag lot and back lot standards?
  - a. Would the Commission consider a smaller front yard setback for the rear lot, but maintain the standard rear yard setback?
  - b. Does the Commission recommend allowing back lots in subdivisions?
2. Does the Commission concur with the proposed amendments in MMC 19.402?

### ATTACHMENTS

Attachments are provided as indicated by the checked boxes. All material is available for viewing upon request.

	PC Packet	Public Copies	Packet
1. Draft code amendments related to flag lots (underline/strikeout format)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Key:

PC Packet = paper materials provided to Planning Commission 7 days prior to the meeting.

Public Copies = paper copies of the packet available for review at City facilities and at the Planning Commission meeting.

E-Packet = packet materials available online at <https://www.milwaukieoregon.gov/bc-pc/planning-commission-78>.

## CHAPTER 19.200 DEFINITIONS AND MEASUREMENTS

### 19.201 DEFINITIONS

Refer to individual chapters of this title for chapter-specific definitions.

As used in this title:

~~“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.~~

“Lot” means a legally defined unit of land other than a tract that is a result of a subdivision or partition. For general purposes of this title, lot also means legal lots or lots of record under the lawful control, and in the lawful possession, of 1 distinct ownership. When 1 owner controls an area defined by multiple adjacent legal lots or lots of record, the owner may define a lot boundary coterminous with 1 or more legal lots or lots of record within the distinct ownership.

Figure 19.201-1 illustrates some of the lot types defined below.

“Back lot” means a lot that does not have frontage on a public street, typically accessed via an easement over another property.

“Flag lot” means a lot that has a narrow frontage on a public street with access provided via a narrow accessway or “pole” to the main part of the lot used for building, which is located behind another lot that has street frontage. There are 2 distinct parts to the flag lot; the development area or “flag” which comprises the actual building site, and the access strip or “pole” which provides access from the street to the flag.

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## CHAPTER 19.500 SUPPLEMENTARY DEVELOPMENT REGULATIONS

### 19.504 SITE DESIGN STANDARDS

#### 19.504.8 Flag Lot and Back Lot Design and Development Standards

##### A. Applicability

Flag lots and back lots in all zones are subject to the development standards of this subsection, where applicable.

##### B. Development Standards – Flag Lots

###### 1. Lot Area Calculation

The areas contained within the accessway or pole portion of the lot shall not be counted toward meeting the minimum lot area requirement, except for the development of middle housing in which case the areas contained within the accessway or pole portion can be counted toward meeting the minimum lot area requirement.

Proposed Flag lot and back lot code language – DRAFT for August 10, 2021 Worksession discussion

## 2. Yard Setbacks for Flag Lots

a. Front and rear yard: The minimum front and rear yard requirement for flag lots is 30 ft. This requirement is reduced to 20 ft for the development of middle housing.

b. Side yard. The minimum side yard for principal and accessory structures in flag lots is 10 ft.

## ~~C.~~ 3. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for flag lots.

## ~~D.~~ 4. Frontage, Accessway, and Driveway Design

~~1.~~ a. Flag lots shall have frontage and access on a public street. The minimum width of the accessway and street frontage is 25 ft. The accessway is the pole portion of the lot that provides access to the flag portion of the lot.

~~2.~~ b. Abutting flag lots shall have a combined frontage and accessway of 35 ft. For abutting accessways of 2 or more flag lots, the accessway of any individual lot shall not be less than 15 ft.

### ~~3.~~ c. Driveway Design and Emergency Vehicle Access

(1) ~~a.~~ Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

(2) ~~b.~~ Driveways serving single flag lots shall have a minimum paved width of 12 ft.

(3) ~~c.~~ Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

~~d.~~ A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

~~e.~~ Driveways serving 2 flag lots shall be consolidated and have a minimum shared driveway width of 16 ft.

~~f.~~ The flag lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

~~g.~~ Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

~~h.~~ Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

## C. Development Standards – Back Lots

A back lot may be created by partition or within a new subdivision and only to serve middle housing. The allowance to create a back lot within a new subdivision only applies to back lots created after January 1, 2022.

### 1. Yard Setbacks for Back Lots

a. Front and rear yard: the minimum front and rear yard requirement for back lots is 20 ft.

b. Side yard. The minimum side yard for principal and accessory structures in back lots is 10 ft.

### 2. Variances Prohibited

Variances of lot area, lot width, and lot depth standards are prohibited for back lots.

### 3. Frontage, Accessway, and Driveway Design

1. The driveway serving a back lot must have a minimum pavement width of 14 ft and maximum pavement width of 20 ft.

2. The easement for access to a back lot must have a minimum width of 6 ft wider than the driveway throughout its entire length.

#### 3. Driveway Design and Emergency Vehicle Access

a. Driveways shall be designed and constructed in accordance with Chapters 12.16 and 12.24 and the Public Works Standards.

b. Driveways shall be centered within the accessway to minimize impacts on adjoining lots except when otherwise warranted to preserve existing vegetation or meet the intent of this subsection.

c. A paved turnaround area, or other provisions intended to provide emergency vehicle access and adequate maneuvering area, may be required.

d. Driveways serving 2 back lots, shall be consolidated and have a minimum shared driveway width of 16 ft.

e. The back lot driveway shall be consolidated with the driveway on the parent lot to the greatest extent practicable.

f. Design standards for shared driveways serving more than 3 lots shall be specified by the Engineering Director after consultation with the Fire Marshal.

g. ~~Parking~~ Parking along any portion of the driveway within the accessway is prohibited unless the driveway is suitably sized to meet the combined needs of parking and emergency access requirements.

### ED. Protection of Adjoining Properties – Flag Lots and Back Lots

Flag lots and back lots must be screened in accordance with this subsection to minimize potential adverse impacts to abutting properties. Fencing and screening must conform to the clear vision standards of Chapter 12.24. Fencing shall conform to the standards of Subsection 19.502.2.B.

1. Planting and screening must be provided at the time of development. Installation of required screening and planting is required prior to final inspections and occupancy of the site unless a bond or other surety acceptable to the City Attorney is provided. Screening and landscaping shall be installed within 6 months thereafter or the bond will be foreclosed. The property owner shall maintain required screening and planting

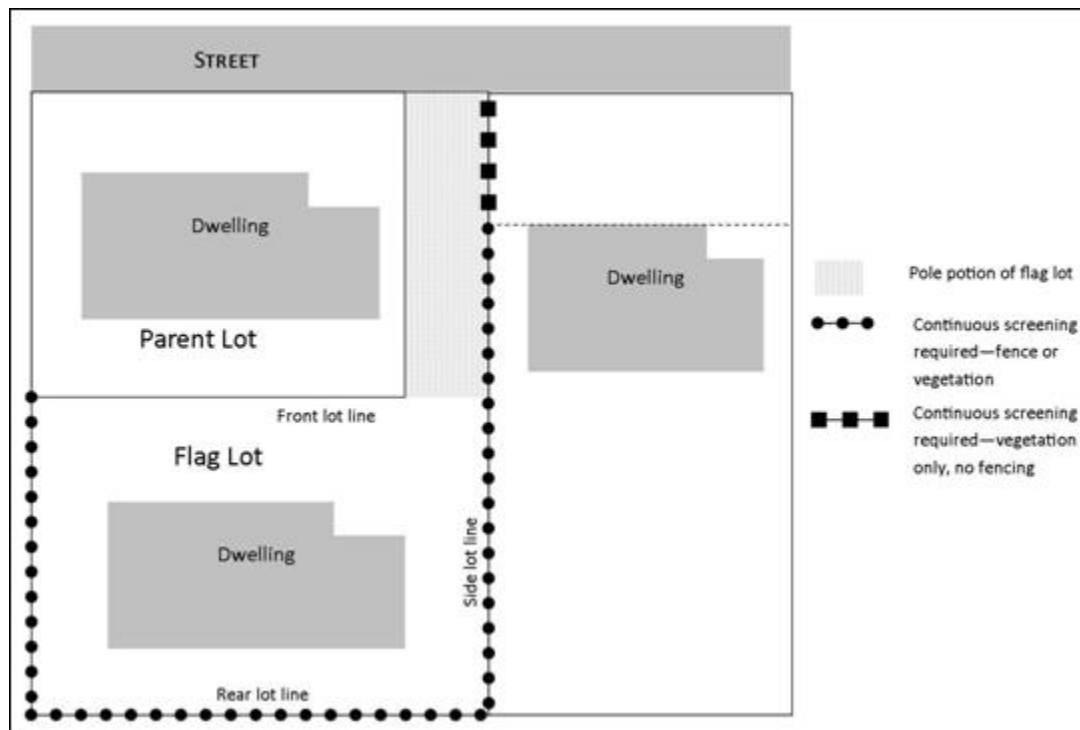
in good and healthy condition. The requirement to maintain required screening and planting is continuous.

2. Impacts to neighboring lots due to use of the flag lot, or back lot, driveway shall be mitigated to the greatest extent practicable through screening and planting. Continuous screening along lot lines of the flag lot, or back lot, abutting any neighboring lot that is not part of the parent lot from which the flag lot, or back lot, was created is required as described below. See Figure 19.504.8.E.

- a. Any combination of dense plantings of trees and shrubs and fencing that will provide continuous sight obstruction for the benefit of adjoining properties within 3 years of planting is allowed.
- b. Fencing along an accessway may not be located nearer to the street than the front building line of the house located on lots that abut the flag lot, or back lot, accessway. Dense planting shall be used to provide screening along the accessway in areas where fencing is not permitted.
- c. All required screening and planting shall be maintained and preserved to ensure continuous protection against potential adverse impacts to adjoining property owners.

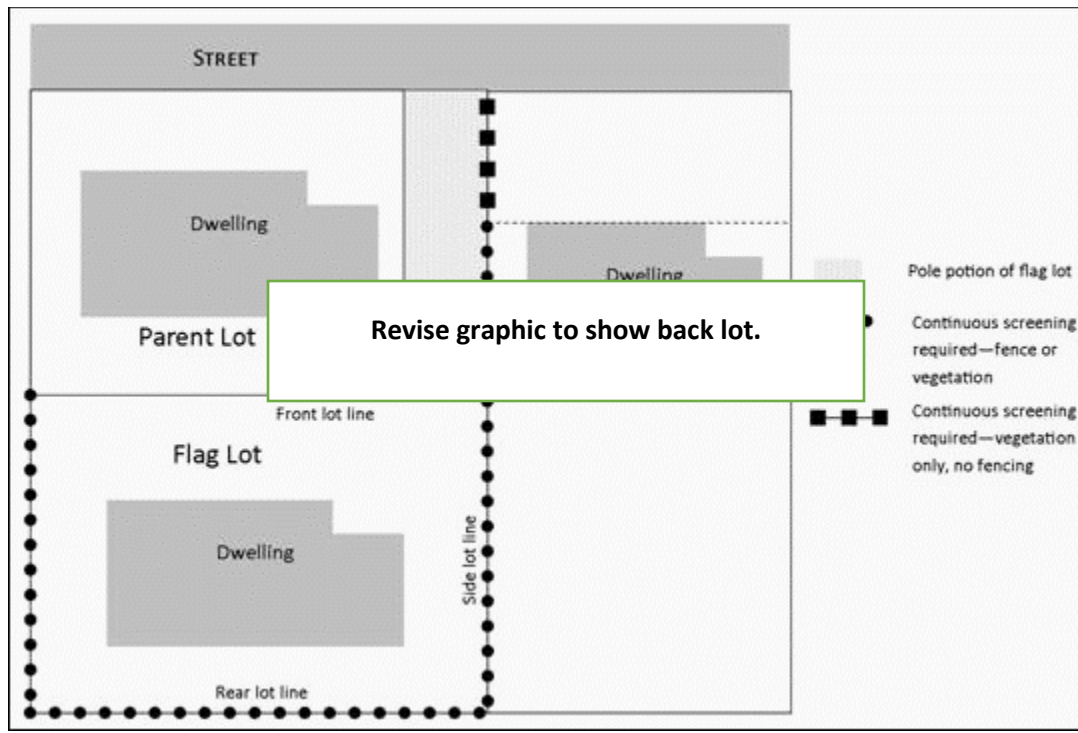
**Figure 19.504.8.D**

**Flag Lot Screening**





**Figure 19.504.8.D.1**  
**Back Lot Screening**



**FE. Landscaping Plan Required – Flag Lots and Back Lots**

A landscaping plan shall be submitted to the Planning Manager prior to issuance of a building permit for new construction. The plan shall be drawn to scale and shall accompany development permit applications. The plan shall show the following information:

1. A list of existing vegetation by type, including number, size, and species of trees.
2. Details for protections of existing trees.
3. List of existing natural features.
4. Location and space of existing and proposed plant materials.
5. List of plant material types by botanical and common names.
6. Notation of trees to be removed.
7. Size and quantity of plant materials.
8. Location of structures on adjoining lots, and location of windows, doors, and outdoor use areas on lots that adjoin the flag lot driveway.

~~F. Tree Mitigation~~

~~All trees 6 in or greater in diameter, as measured at the lowest limb or 4 ft above the ground, whichever is less, shall be preserved. Where trees are required to be removed for site development, at least 1 evergreen or deciduous tree, of a species known to grow in the region, shall be replanted for each tree removed. At planting, deciduous trees shall be a minimum of 2 in caliper and evergreen trees shall be a minimum of 5 ft tall.~~

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## CHAPTER 17.28 DESIGN STANDARDS

### 17.28.050 FLAG LOT AND BACK LOT DEVELOPMENT AND FUTURE ACCESS

Applicants for flag lot and back lot partitioning must show that access by means of a dedicated public street is not possible. Consideration shall be given to other inaccessible adjacent or nearby properties for which a jointly dedicated public right-of-way could provide suitable access and avoid other flag lots or back lots. The creation of flag lots or back lots shall not preclude the development of street access to surrounding properties. Where there is the potential for future development on adjacent lots with new roadway development, flag lots or back lots may be allowed as an interim measure. In this case, Planning Commission review shall be required and the flag lot(s) or back lots must be designed to allow for future street development. Dedication of the future street right-of-way shall be required as part of final plat approval. (Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### 17.28.060 FLAG LOT AND BACK LOT DESIGN STANDARDS

A. Consistency with the Zoning Ordinance

Flag lot and back lot design shall be consistent with Subsection 19.504.8.

B. More than 2 Flag Lots or Back Lots Prohibited

The division of any unit of land shall not result in the creation of more than 2 flag lots or back lots within the boundaries of the original parent lot. Successive land divisions that result in more than 2 flag lots or back lots are prohibited. (Ord. 2051 § 2, 2012; Ord. 2025 § 3, 2011; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)

### 17.28.070 FLAG LOT AND BACK LOT LIMITATIONS

Flag lots and back lots are prohibited in new subdivisions and subdivisions platted after August 20, 2002, the effective date of Ordinance #1907. (Ord. 2051 § 2, 2012; Ord. 2003 § 2, 2009; Ord. 1907 (Attach. 1), 2002)