



## Agenda Report 2014-11-10-02

Date: October 31, 2014

To: John Kovash, Mayor  
Members, West Linn City Council

From: Sara Javoronok, Planning Department

Through: Chris Kerr, Community Development Director  
Chris Jordan, City Manager *CJ*

Subject: PUD and Infill Code Amendments (CDC-10-02)

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### **Purpose**

The City initiated this project in 2010 to amend various aspects of the Community Development Code (CDC) related to infill development, including planned unit developments (PUDs), flag lots, and the development of land with natural resource constraints. The desire was to better coordinate regulations, remove obsolete and ineffective provisions, and clarify confusing and contradictory provisions.

### **Question(s) for Council:**

Does the Council want to adopt the proposed amendments to the City's CDC?

### **Public Hearing Required:**

Yes.

### **Background & Discussion:**

The Planning Commission recommended approval of the amendments to the CDC on August 6, 2014. The attached Ordinance reflects the Planning Commission's recommendation with a minor change regarding affordable housing raised by the City Council at the September 15, 2014 Work Session discussion. The Council also raised questions regarding height for flag lot development and staff has included supplemental information in the attached memo.

### **Budget Impact:**

None

### **Council Options:**

1. Approve the attached Ordinance 1633 amending the CDC.
2. Modify the attached Ordinance 1633, then approve amending the CDC.
3. Decline to adopt Ordinance 1633 amending the CDC.

### **Staff Recommendation:**

Staff recommends the City Council approve the Ordinance 1633.

### **Potential Motion:**

I move to approve Ordinance 1633, amending the CDC.

**Attachments:**

1. Memo to Council

## Memorandum

Date: October 31, 2014

To: John Kovash, Mayor  
Members, West Linn City Council

From: Sara Javoronok, Associate Planner

Through: Chris Kerr, Community Development Director  
Chris Jordan, City Manager

Subject: PUD and infill code amendments (CDC 10-01)

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### **Purpose**

On November 10, 2014 the City Council will hold a public hearing on the attached Community Development Code (CDC) amendments related to infill development. Staff briefed the City Council on the proposed amendments on September 15, 2014 and has made minor changes, as recommended by the Council, to the Ordinance draft. The Planning Commission reviewed and recommended approval of these amendments, with minor changes, on August 6, 2014. The Planning Commission's recommendations are reflected in the attached Ordinance. The amendments address a variety of different kinds of infill development: planned unit developments (PUDs), flag lots, cluster development, cottage housing, zero lot line housing, and moves and consolidates several chapters that relate to residential development to a new, single chapter in the CDC.

### **Background**

The City began this project in 2010. The goal was to amend the planned unit development (PUD) regulations to no longer require a PUD in order to develop sites with natural resources/constrained areas, better coordinate with other applicable regulations, remove obsolete and ineffective provisions, clarify confusing and contradictory provisions, and facilitate appropriate development. It also sought to identify and implement ways to improve the design and minimize the adverse impacts of flag lots.

Chris Kerr, then the City's Senior Planner, led the project in 2010 and 2011, working with a Task Force appointed by the City Council. The Task Force was comprised of two Planning Commission members, two Neighborhood Association officers, two members actively employed in the real estate or development industry, and one citizen at-large. The group met over 25 times in 2010 and 2011. Staff resumed work on the project in 2013, recommended additional changes, and presented these to the Planning Commission for discussion six times in 2013 and 2014. In 2013, the Planning Commission recommended reconvening the Task Force and a meeting was scheduled, but only the Planning Commission members attended.

In June 2014, the City sent a Measure 56 notice of the Planning Commission public hearing on the proposed CDC amendments to over 1,000 properties, including those that could be divided or more intensively developed. On June 19, 2014, staff held an open house, attended by about 50 property

owners. The open house allowed them to find out more about the regulations and how the changes may affect them. Nearly 100 property owners called or visited City Hall to find out more about the regulations.

## **Discussion**

### Planned Unit Developments

PUDs are an optional development type that allow greater discretion and flexibility, but with additional scrutiny. Generally, they result in superior design and provide community benefits beyond what is provided in a standard subdivision. The flexibility may include variations from the required lot sizes and yard setbacks. In exchange for this, the additional benefits provided to residents or the community may be an open space area, community center, or conservation tract.

There are many existing PUD developments in the City. More recent developments include Rosemont Crossing (near the intersection of Santa Anita and Rosemont), Douglas Park (between Salamo and Tannler), Maxfield (off of Rosemont), Rosemont Pointe (off of Rosemont), Chinook Terrace (off of Parker), and Fern Creek Place (off of Suncrest).

A major change in the proposed PUD language, per the direction of the City Council in 2010, is to restrict PUDs to residential development rather than allowing them for commercial, industrial, and residential development. Commercial and industrial PUDs have not been common in the City. One reason for this could be the difficulty these property owners faced in meeting the existing PUD criteria. The city recently adopted changes to the variance criteria (special waivers) that can be used by commercial property owners. This change provides them with some of the flexibility that can be achieved under a PUD.

Another impetus for change is that the City's current PUD language is most often applied to small infill subdivisions with natural resources/constrained areas, which was not its original intent. Some communities have separate provisions for the development of these areas, often called "cluster development". Code permitting cluster development is also recommended as part of this code amendment package and is discussed above. Examples of existing PUD developments that may have been developed under cluster provisions, had they been in place, are Chinook Terrace and Fern Creek Place.

Staff and the Planning Commission discussed at length whether to have a minimum site area for a PUD, such as three acres. Staff did not ultimately recommend a minimum site area. Based on the additional development types discussed below, it is less likely that smaller parcels will apply for a PUD. However, two of the most recent applications for a PUD are less than three acres. Staff and the Planning Commission determined that a PUD was not preferable for a small property since it was difficult to meet the criteria, but did not want to preclude a property owner from developing in that manner. Therefore, the Planning Commission's recommendation is also to allow the PUD provisions to apply to developments of any size.

### Cluster Development

Staff and the Planning Commission recommend standards for cluster development, which encourages properties with environmental constraints to concentrate development activity to the areas that are most suitable for development, while preserving the remainder of the site as undeveloped. It would be permitted on properties with natural resources or other constraints. The proposed regulations allow for up to a 30 percent reduction in lot size, yard setbacks, and dimensions. The remainder of the property would be set aside in a conservation tract or other format approved by the City.



### Cottage Housing

Staff and the Planning Commission recommend adding language to the code that would allow cottage housing, provided specific development regulations are met. This alternative housing type is becoming more common and there are a number of successful developments in the Northwest. Cottage housing is typically smaller than other new construction – the proposal is for residences not to exceed 1,200 square feet – and constructed in groups of four to 12 houses. Common open space and a courtyard are required and there is often a community building or other space available for group use. Homes typically have one to two residents and are occupied by young professionals, single parents, or those downsizing to a smaller home.

### Zero Lot Line Development

Staff and the Planning Commission recommend adding language to the code that would allow zero lot line housing, provided specific development regulations are met. This alternative housing type allows for greater use of side yards by placing a double side yard on one side of the property and the house on the side lot line on the other side. The proposed language allows eaves to extend over the property line, provides for maintenance easements on the adjacent property, and regulates building and window location to provide for privacy and that are intended to minimize any adverse impacts on existing and/or surrounding homes. .

### Move and Consolidate Chapters 34, 36, 37, 38, and 43

The proposed cluster, cottage, and zero lot line development sections will be placed in a new, Chapter 39. There are several chapters in the code that modify standards for residential development. Staff also recommends moving and consolidating these chapters to the new chapter for ease of use and review. The chapters are as follows:

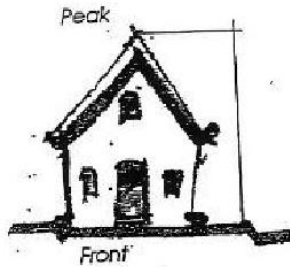
- Chapter 34: Accessory Structures, Accessory Dwelling Units, and Accessory Uses
- Chapter 36: Manufactured Homes
- Chapter 37: Home Occupations
- Chapter 38: Additional Yard Area Required; Exceptions to Yard Requirements; Storage in Yards; Projections into Yards
- Chapter 43: Single-family and Duplex Residential Side-Yard Transitions

### Flag Lots

Flag lot development is common throughout the City, typically on lots where there is an existing house and enough land to partition, or divide, the property to add one or two additional houses. There are numerous examples around the City, including on Mapleton and Kenthorpe, which are shown below. When these areas were originally platted, they were developed with large lots, many close to an acre (43,560 square feet). The area is now zoned R-10, which sets a minimum lot size of 10,000 square feet. As a result, many of them have been partitioned into smaller lots. Often, new residences are built either in front of or behind existing residences. In some cases, this has created conflict with adjacent properties because of the proximity of driveways, windows, and situations where visually the properties clash with the surrounding development due to height, style, or other aesthetic issues.

Less frequently, there are flag lots in new subdivisions where due to site conditions there is room for an additional lot or more, but there is not room for the lot(s) to front a public street. By definition, subdivisions involve four or more lots. Recently, some new subdivisions have had lots that are flag lots. These are often due to the shape of the underlying parcel and the desire and need for additional density.

Particularly on infill sites, there can be tight access and differences in scale and style between residences and neighboring properties. The proposed amendments direct flag lot development, when possible, to mid-block lanes, which would increase connectivity, and, as possible, orient houses to the lanes. Additional provisions require screening of the flag portion of the lot when it is near adjacent residences, decreasing the front yard setback to 10 feet, and requiring a 20 foot yard setback for garages. The Planning Commission recommended a provision that the height of new flag lot development shall not be taller than the average of the dwelling units on the abutting properties. Staff did not recommend this because it could restrict the height of structures on many lots simply based on what happened to be next door. In addition, in 2010, there was a CDC amendment that changed the measurement of height to be from peak to grade rather than midpoint of the roof to grade, which lowered the permitted height of structures by approximately seven feet (see illustration below). Staff's position is that many of the concerns regarding height were alleviated with the change in measurement and 22 feet, which would only allow single story homes, is too great of a restriction, particularly in new subdivisions.



*Height of building on relatively flat lot is measured from grade at front of house to peak of roof.*

Below is an excerpt of information presented to the Planning Commission regarding the height of properties on flag lots in communities around the region. The regulations vary in detail and complexity around the region.

Summary of Height Restrictions on Flag Lots					
Portland	Lake Oswego	Milwaukie	Oregon City	Gresham	Tigard
30 ft., grade to mid-point	22 ft. or the average of the dwellings on existing properties, with exceptions	Same as underlying, the maximum height for their R-10 and R-7 districts is generally 2.5 stories or 35 ft., whichever is less, and the height is measured from grade to peak.	Same as underlying, maximum height in their R-10 and R-8 districts is 2.5 stories, not to exceed 35 ft. and is generally measured from grade along the street facing elevation to the midpoint of the highest ridge on a gabled roof.	22 ft. for roofs with less than a 1:4 pitch or with a butterfly or mansard roof; 30 for other roof types	1 ½ stories or 25 ft.; or 2 ½ stories or 35 ft. (whichever is less) with requirements including that it have a 10 ft. side yard, is more than 50 ft. from a residential structure on a neighboring lot, or that structure is more than 25 ft.

**Attachments:**

1. Ordinance 1633
2. Planning Commission Staff Reports, July 2, 2014 and August 6, 2014
3. Planning Commission Minutes, July 2, 2014 and August 6, 2014
4. Correspondence

**ORDINANCE NO. 1633**

**AN ORDINANCE TO REPEAL AND REPLACE COMMUNITY DEVELOPMENT CODE CHAPTER 24, MOVE AND CONSOLIDATE CHAPTERS 34, 36, 37, 38, AND 43 TO FORM CHAPTER 39, ADD PROVISIONS RELATING TO CLUSTER, COTTAGE, AND ZERO LOT LINE HOUSING AND AMEND CHAPTERS 2, 8, 9, 10, 11, 12, 13, 14, 15, 18, 19, 21, 22, 23, 28, 55, 59 AND 85.**

Annotated to show ~~deletions~~ and additions to the code sections being modified. Deletions are ~~**bold lined through**~~ and additions are **bold underlined**.

**WHEREAS**, Chapter II, Section 4, of the West Linn City Charter provides:

Powers of the City. The City shall have all powers which the Constitution, statutes and common law of the United States and of this State now or hereafter expressly or implied grant or allow the City, as fully as though this Charter specifically enumerated each of those powers;

**WHEREAS**, the above referenced grant of power has been broadly interpreted to allow local governments to decide upon the scope of their powers in their charter so that specific statutory authorization is not required for a city to exercise its powers, LaGrande/Astoria v. PERB, 281 Or 137, 142 (1978), aff'd on reh'g 284 Or 173 (1978); and

**WHEREAS**, the City of West Linn has developed proposed amendments to the Community Development Code (CDC) regarding infill development in the City; and

**WHEREAS**, the City of West Linn notified the Department of Land Conservation and Development more than 35 days prior to the first evidentiary hearing on the proposed amendments to the CDC; and

**WHEREAS**, the City of West Linn provided legislative notice of its intent to undertake a review of the CDC and propose revisions pursuant to the applicable notice provisions; and

**WHEREAS**, the City of West Linn published notice of the Planning Commission public hearing regarding the proposed amendments on June 19, 2014; and

**WHEREAS**, the West Linn Planning Commission held public hearings regarding the proposed amendments to the CDC on July 2, 2014 and August 6, 2014; and

**WHEREAS**, after considering the public testimony regarding the proposed CDC amendments, the West Linn Planning Commission recommended adoption of the proposed CDC amendments with several changes; and

**WHEREAS**, the City of West Linn published notice of the City Council public hearing for the proposed CDC amendments on October 30, 2014; and

**WHEREAS**, on November 10, 2014, the City Council conducted a public hearing regarding the proposed CDC amendments; and

**WHEREAS**, the proposed CDC amendments meet the criteria for approval of legislative amendments stated in Section 98.100 of the CDC; and

**NOW, THEREFORE, THE CITY OF WEST LINN ORDAINS AS FOLLOWS:**

**SECTION 1. Amendment.** CDC 02.030 [Definitions] is amended as follows:

**Cottage. A detached, single-family dwelling unit containing 1,200 square feet or less of gross floor area.**

**Cottage housing development. Four to twelve detached dwelling units sharing a commonly owned courtyard/common area and parking area.**

~~**Flag lot. A lot complying with all other provisions of the Community Development Code which does not meet the minimum street frontage requirement of 35 feet, and which gains access to the public right-of-way via an access strip no less than 15 feet in width.**~~

**Flag Lot. A lot located partially behind another lot with street frontage less than the minimum required under this code and where access is provided to the rear lot via a narrow "flag pole" or access easement that contains a driveway. There are two distinct parts of a flag lot; the "flag" which comprises the actual building site located behind another lot, and the "pole" which provides access from the street to the flag. The existing lot is considered the "parent lot".**

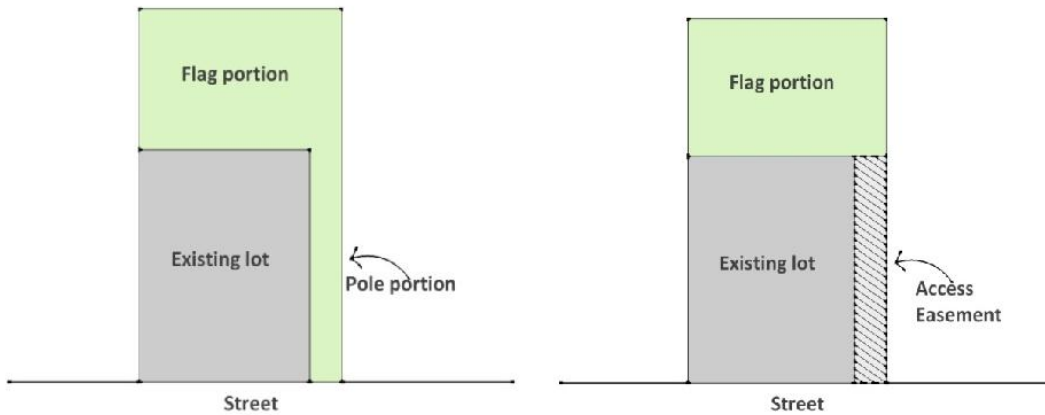


Figure 1: Flag lot that utilizes a pole attached to the flag.

Figure 2: Flag lot that utilizes an access easement. Both lots must meet the minimum requirements for lot size.

**Zero lot line development.** A zero lot line development is where houses in a development on a common street frontage are shifted to one side of their lot to provide greater usable yard space on each lot. See Figure 3.

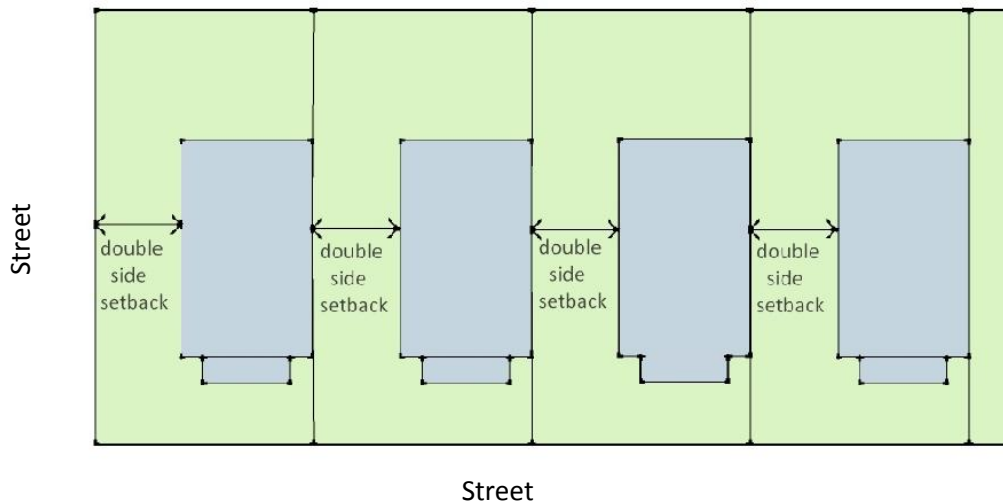


Figure 3: Zero lot line development

**SECTION 2. Amendment.** CDC 08.050 is amended to read as follows:

**08.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary use subject to the provisions of Chapter 35 CDC.

4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

**5. Single-family attached residential units, duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 3: Amendment.** CDC 09.050 is amended to read as follows:

**09.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary use, subject to the provisions of Chapter 35 CDC.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

5. Manufactured home, subject to the provisions of CDC 36.020, Manufactured Homes Standards.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

**7. Single-family attached residential units, duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 4: Amendment.** CDC 10.050 is amended to read as follows:

**10.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary use, subject to the provisions of Chapter 35 CDC.
4. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

5. Manufactured home, subject to the provisions of CDC 36.020, Manufactured Homes Standards.

6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

**7. Single-family attached residential units, duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 5: Amendment.** CDC 11.050 is amended to read as follows:

**11.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Sign, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

6. Manufactured homes subject to the provision of CDC 36.020, Manufactured Home Standards.

7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

**8. Cottage housing, subject to the provisions of Chapter 39, Article IV.**

**9. Single-family attached residential units, duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 6: Amendment.** CDC 12.050 is amended to read as follows:

**12.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Signs, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.

6. Manufactured home subject to the provisions of CDC 36.020, Manufactured Homes Standards.

7. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.

**8. Cottage housing, subject to the provisions of Chapter 39, Article IV.**

**9. Duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 7: Amendment.** CDC 13.050 is amended to read as follows:

**13.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Manufactured home park, subject to the provisions of Chapters 36 and 55 CDC.
2. Home occupations, subject to the provisions of Chapter 37 CDC.



3. Sign, subject to the provisions of Chapter 52 CDC.
4. Temporary uses, subject to the provisions of Chapter 35 CDC.
5. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
6. Manufactured homes subject to the provisions of CDC 36.020.
7. Agricultural or horticultural use; provided, that no retail or wholesale business sales office is maintained on the premises; and provided, that poultry or livestock shall not be permitted within 100 feet of any residence other than a dwelling on the same lot, nor on a lot of less than one acre, or which has less than 20,000 feet per head of livestock. These uses are subject to the nuisance provisions found in Section 5.400 et seq. of the West Linn Municipal Code.
8. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
- 9. Cottage housing, subject to the provisions of Chapter 39, Article IV.**
- 10. Multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 8: Amendment.** CDC 14.050 is amended to read as follows:

**14.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Manufactured home park, subject to the provisions of Chapters 36 and 55 CDC.
2. Home occupations, subject to the provisions of Chapter 37 CDC.
3. Signs, subject to the provisions of Chapter 52 CDC.
4. Temporary uses, subject to the provisions of Chapter 35 CDC.
5. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
6. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
- 7. Cottage housing, subject to the provisions of Chapter 39, Article IV.**
- 8. Multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24.**

**SECTION 9: Amendment.** CDC 15.050 is amended to read as follows:

**15.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions.

1. Home occupations, subject to the provisions of Chapter 37 CDC.
2. Signs, subject to the provisions of Chapter 52 CDC.
3. Temporary uses, subject to the provisions of Chapter 35 CDC.
4. Water-dependent uses, subject to the provisions of Chapters 28 and 34 CDC.
5. Wireless communication facilities, subject to the provisions of Chapter 57 CDC.
- 6. Cottage housing, subject to the provisions of CDC Chapter 39, Article IV.**

**SECTION 10: Amendment.** CDC 19.070 [Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions] is amended to read as follows:

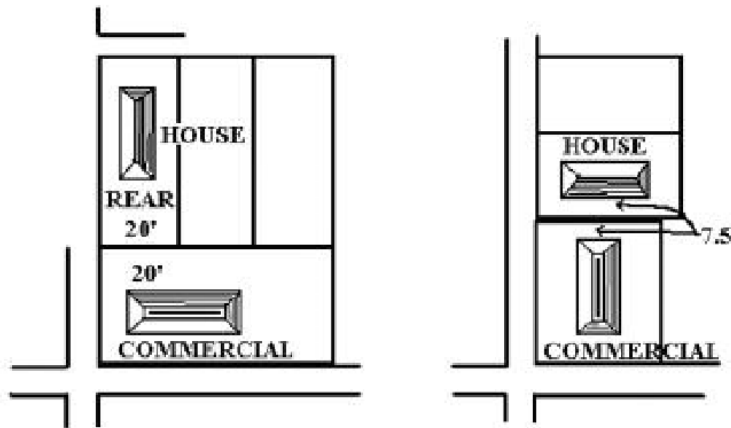
A- Except as may be otherwise provided by the provisions of this code, the following are the requirements for uses within this zone:

~~A1-~~ The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.

~~B2-~~ The average minimum lot width shall be 50 feet.

~~C3-~~ The average minimum lot depth shall not be less than 90 feet.

~~D4-~~ Where the use abuts a residential district, except as provided in CDC 58.090(C)(1), the setback distance of the residential zone shall apply. **Where the use abuts a residential district, the setback distance of the residential zone shall apply. For example, when the rear of a residential property abuts the side of a commercial property, the residential 20-foot setback shall apply to the commercial property. When the side of a residential property abuts the rear of a commercial property, the residential five- to seven-and-one-half-foot setback shall apply to the commercial property. In addition, a buffer of up to 50 feet may be required.**



**SETBACK OF ABUTTING HOUSE  
DICTATES COMMERCIAL SETBACK**

~~E5-~~ The maximum lot coverage shall be 50 percent.

~~F6-~~ The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone, and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential zone.

~~G7-~~ For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas, with at least 25 percent of the front setback area consisting of landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.

~~B-~~ The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.

**SECTION 11: Amendment.** CDC 21.070 [Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions] is amended to read as follows:

A.— Except as may be otherwise provided by the provisions of this code, the following are requirements for uses within this zone:

~~A1.~~ The minimum front lot line length or the minimum lot width at the front lot line shall be 35 feet.

~~B2.~~ The average minimum lot width shall be 35 feet.

~~C3.~~ The average minimum lot depth shall not be less than 90 feet.

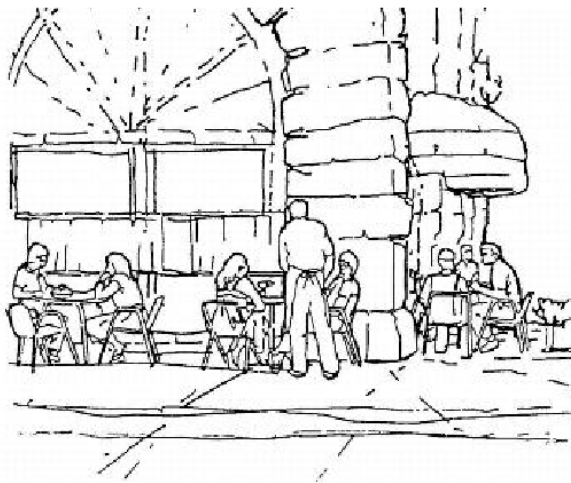
~~D4.~~ The minimum yard dimensions or minimum building setback area from the lot line shall be:

~~1a.~~ For an interior side yard, seven and one-half feet.

~~2b.~~ For a side yard abutting a street, 15 feet.

~~3c.~~ For a rear yard, 25 feet; however, where the use abuts a residential district, the setback distance of the residential zone shall apply and, in addition, a buffer of up to 50 feet may be required.

~~E5.~~ For lot lines that abut an arterial, there shall be no minimum yard dimensions or minimum building setback area, and the maximum building setback shall be 20 feet. The front setback area between the street and the building line shall consist of landscaping or a combination of non-vehicular hardscape areas (covered with impervious surfaces) and landscaped areas, with at least 25 percent of the front setback area consisting of landscaped areas. If there are not street trees within the public right-of-way, the front setback area shall include such trees per the requirements of the City Arborist.



~~F6.~~ The maximum lot coverage shall be 50 percent.

~~G7.~~ The maximum building height shall be two and one-half stories or 35 feet for any structure located within 50 feet of a low or medium density residential zone and three and one-half stories or 45 feet for any structure located 50 feet or more from a low or medium density residential area.

~~B.— The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.~~

**SECTION 12: Amendment.** CDC 22.080 [Development Standards] is amended to read as follows:

All development within this district is subject to the review procedures and application requirements under Chapter 55 CDC. In addition, the following specific standards, requirements, and objectives shall apply to all development in this district:

...

~~H.—The requirements of subsections A through G of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.~~

**SECTION 13: Amendment.** CDC 23.070 [Dimensional Requirements, Uses Permitted Outright and Uses Permitted Under Prescribed Conditions] is amended to read as follows:

A.—Except as may be otherwise provided by the provisions of this code, the following are requirements for uses within this zone:

~~A1.~~ The minimum front lot line length of the minimum lot width at the front lot line shall be 50 feet.

~~B2.~~ The average minimum lot width shall be 50 feet.

~~C3.~~ The average minimum lot depth shall not be less than 90 feet.

~~D4.~~ Where the use abuts a residential district, the setback distance of the residential zone shall apply, and, in addition, a buffer of up to 50 feet may be required.

~~E5.~~ The maximum lot coverage shall be 50 percent.

~~F6.~~ The maximum building height shall be two and one-half stories or 35 feet for any structure located within 100 feet of a residential zone and three and one-half stories or 45 feet for any structure located 100 feet or more from a residential zone.

~~B.—The requirements of subsections (A)(1) through (5) of this section may be modified for developments under the planned unit development provisions of Chapter 24 CDC.~~

**SECTION 14: Repeal and Replace.** Chapter 24 of the City of West Linn Community Development Code is repealed in its entirety and replaced to read as follows:

**Sections:**

**24.010 PURPOSES**

**24.020 APPLICABILITY AND APPROVAL PROCESS**

**24.030 EXPIRATION OF APPROVAL**

**24.040 SUBMITTAL REQUIREMENTS**

**24.050 PERMITTED USES**

**24.060 APPROVAL CRITERIA**

**24.070 DEVELOPMENT STANDARDS**

**24.010 PURPOSES**

**The purposes of the Planned Unit Development (PUD) overlay are to:**

A. Provide a regulatory framework that can be applied voluntarily to encourage superior, cohesive planned developments by allowing greater creativity in site design than afforded by the zoning and subdivision standards of the CDC;

B. Utilize flexibility in site design, placement of buildings, and use of open spaces to optimize the potential of the site while preserving, to the greatest extent possible and consistent with the applicable regulations, the existing natural and topographic features and amenities.

C. Produce development that is compatible and consistent with neighboring development in terms of architecture, massing, and scale.

D. Allow a mixture of housing types within the established density range for the zoning district; and

E. Promote sustainable development through the use of green building technologies, pedestrian friendly streets, low impact development practices and, as appropriate, measures that reduce vehicle miles traveled.

#### **24.020 APPLICABILITY AND APPROVAL PROCESS**

A. A PUD may be requested in one or more residential zoning districts (R-40 – R-2.1) and the Willamette Neighborhood Mixed Use Transitional Zone.

B. The application shall be processed as provided by CDC Chapter 99, Procedures for Decision-Making: Quasi-judicial.

#### **24.030 EXPIRATION OF APPROVAL**

If the final plat has not been recorded with the County within three years from the date of approval of the development plan, or within five years in the case of a phased development (see CDC 99.125), the application shall be null and void.

#### **24.040 SUBMITTAL REQUIREMENTS**

In addition to the submittal requirements and responses to the approval criteria for all other concurrent land use applications under review, the submittal for a PUD shall include the following:

A. Narrative describing the proposed development and specifying how it satisfies each of the approval criteria in CDC 24.060;

B. Narrative, table, and map showing how the proposed uses and densities will be distributed within the project site;

C. If applicable, tables and maps indicating location, acreage, and type of all:

1. Flood management areas regulated by Chapter 27;

2. Willamette and Tualatin River protection areas regulated by Chapter 28;

3. Water resource areas regulated by Chapter 32;

4. Areas identified as a potential landslide or a landslide hazard area in the City's

Natural Hazard Mitigation Plan;

5. slopes greater than 25%;

6. trees and documents required per the City Arborist; or

7. cultural or historic resources.

D. If applicable, covenants proposed to address the approval criteria;

E. If applicable, a PUD phasing plan that:

1. delineates the extent of development proposed for each phase;

2. includes a schedule of required public improvements and proposed community facilities for each phase of the development; and

3. meets the applicable provisions of this chapter and CDC 99.125; and

F. Any additional information required by the Community Development Director pursuant to CDC 99.035(A).

#### 24.050 PERMITTED USES

The permitted, accessory and conditional uses, and uses permitted under prescribed conditions in a PUD shall be the same as the underlying district. In addition, the following uses are permitted in all PUDs:

A. Duplexes, attached housing and multiple-family housing, including cluster development, cottage housing and zero lot line development;

B. Community buildings scaled to serve the needs of the residents of the development;

C. Indoor recreation facilities, athletic clubs, fitness centers, racquetball courts, swimming pools, tennis courts, or similar uses scaled to serve the needs of the development;

D. Outdoor recreation facilities, golf course, swimming pools, tennis courts, or similar use;  
and

E. Recreation vehicle storage areas.

#### 24.060 APPROVAL CRITERIA

PUDs must comply with the following standards:

A. Compatibility. The PUD shall be developed so it achieves compatibility with abutting development in terms of architectural character, massing, and scale. In addition, the development must include at least one of the following:

1. Community facilities. Provision of community facilities beyond what the City requires without a PUD. Community facilities may be located on or off-site. For phased PUDs, the proposed benefits required by this section shall be commensurate with the level of development for each phase, as determined by the approval authority. The community benefit shall be provided either concurrent with, or prior to, the development of each phase.

a. Types of community facilities. Examples of community facilities include, but are not limited to:

1) Parks or open spaces, recreational facilities such as tennis courts, active play areas and swimming pools;

2) Infrastructure improvements that provide benefits for residents of West Linn, including storm water, utility, or other facilities; and

3) Transit facilities, bicycle/pedestrian pathway systems or other transportation improvements.

**b. Ownership. The proposed facilities may be publicly or privately owned in accordance with the following requirements:**

**1) If a facility is to be privately owned, the City must find that acceptable terms for the ongoing maintenance of the facility have been provided.**

**2) If a facility is to be publicly owned, any facilities that are to be dedicated to the City must serve the public and be acceptable to the City.**

**2. Natural, cultural or historical resources. The proposed PUD preserves, enhances or rehabilitates natural, cultural or historical features of the subject property beyond what the City requires without a PUD. Examples of these resources include, but are not limited to:**

**a. Significant natural areas, publically accessible views, and wildlife habitats or corridors; and**

**b. Historical and cultural features.**

**B. Site design. The proposed PUD provides a superior site design with elements that exceed what the City requires without a PUD. Examples of elements that represent superior site design include, but are not limited to, site designs that provide:**

**1. Internal pedestrian, bicycle, or vehicular circulation paths or patterns that exceed city requirements;**

**2. Location and/or screening of parking facilities, and**

**3. High quality and/or extensive landscaping, buffering, and/or screening.**

**C. Architectural design. The proposed PUD provides superior architectural features that exceed what the City requires without a PUD. Examples of elements that represent superior architectural design include, but are not limited to:**

**1. High quality materials, finishes and textures;**

**2. For single family attached or multi-family housing, facades that include horizontal and vertical variations in the building silhouette that are consistent with single family housing;**

**3. Contextual design in terms of building orientation, placement, articulation, scale and roof form; and**

**4. Compatibility with the neighboring development's architecture, massing, and scale.**

**D. Sustainable design. The proposed PUD includes sustainable design features or methods that exceed what the City requires without a PUD. Examples of sustainable design features or methods include, but are not limited to:**

**1. Siting and orientation of buildings, windows, and/or landscaping to take advantage of solar, shade, and wind impacts;**

**2. Onsite generation of renewable energy for heating and/or cooling such as passive or active solar, wind, or biomass;**

**3. Transportation demand management strategies or transportation management systems;**

**4. Minimal use of impervious surface area and materials;**

5. Use of green streets or low impact development, including, but not limited to, street side planters, swales, rain gardens, native vegetation, or permeable pavement, when acceptable to the City; and

6. LEED or similar certification.

E. Transitions and buffers. Transitions or buffers between the site and adjacent properties shall be provided as follows:

1. Active recreational facilities, such as hard surface athletic courts or swimming pools, and recreational vehicle storage areas shall be located internal to the development where possible. Upon demonstration by the applicant that this is not possible, such facilities located along the perimeter of the development shall be buffered and/or screened to minimize adverse impact to neighbors.

2. When more than two attached housing units (e.g., a triplex) are proposed adjacent to and visible from existing dwellings within 120 feet or directly across the street and visible from an existing single-family dwelling, the multifamily structures shall include architectural design elements, such as building modulation and roof styles, that mimic those of single family dwellings.

3. All parking and access serving multi-family units shall be set back a minimum of 20 feet from the abutting property line, unless the approval authority, based upon the City Engineer or Community Development Director's recommendation, approves a smaller setback or joint access between adjoining properties.

4. Other transition proposed by the applicant that meets the intent of this Subsection (E).

#### 24.070 DEVELOPMENT STANDARDS

##### A. Applicable Zone Exceptions.

The provisions of the applicable zoning district apply, except as follows:

1. The floor area ratio and lot coverage requirements of the underlying zone may be applied to the total project area, exclusive of right-of-way/private streets, rather than on a lot by lot basis;

2. Lot size, yards, and lot dimensions may be modified; and

3. Lots along the perimeter of a PUD that abut existing single family homes shall not be reduced to less than 75% of the minimum lot size of the underlying zone and shall contain single family homes.

B. Open space. PUDs that contain multi-family units, 10 or more duplexes or single-family attached dwellings on lots under 4,000 square feet shall comply with the requirements of CDC 55.100(F).

C. Density Transfer. Density transfers shall be based on the minimum lot size in the applicable zoning district and at the following rates:

1. Density may be transferred at a rate of up to 50% from lands where development is not allowed by the following:

a. Chapter 27, Flood Management Areas;

b. Chapter 28, Willamette and Tualatin River Protection;



- c. Chapter 32, Water Resource Area Protection; or
- d. areas identified as a potential landslide or a landslide hazard area in the City's Natural Hazard Mitigation Plan.

**2. Density may be transferred at a rate of up to 100% from land with the following characteristics:**

- a. Heritage Trees and significant trees, consistent with CDC 55.100(b), or
- b. slopes between 25-50%.

**3. Density Calculation. The total number of dwelling units shall be calculated as follows:**

**a. Subtract the square footage of the natural resource area from the total square footage of the property. Property size – Natural Resource Area = Remaining Area.**

**b. Multiply the square footage of the natural resource area by 0.5. Natural Resource Area x 0.5 = Additional Area for Development.**

**c. Add the result from Subsections (a) and (b) above. Remaining Area + Additional Area for Development = Total Development Area.**

**d. Divide the total development area by the minimum lot size in the zoning district for the housing type proposed. If not an even number, this number shall be rounded down to the nearest whole number.**

<b>Example: Density Calculation</b>	
Zone:	R-7
Property size:	90,000 sq. ft.
Natural resource area:	25,000 sq. ft.
Additional area for development:	12,500 sq. ft.
Remaining area:	65,000 sq. ft.
Total development area:	65,000 + 12,500 = 77,500 sq. ft.
Number of units:	77,500/7,000 = 11.07, 11 units

**4. A tentative subdivision plan or partition approved under Chapter 39, Article III shall contain the natural resource area in a separate tract that is permanently restricted from future development, consistent with applicable provisions of the CDC. This restriction shall be provided on the final plat and the area shall be preserved by common ownership of the development or, if acceptable to the City, the tract may be dedicated to the City. The applicant shall provide the documents necessary to ensure the tract will be preserved by common ownership in a manner that is acceptable to the City; the documents shall be approved by the City Attorney prior to recording.**

**D. Density Bonus. Density bonuses, using the minimum lot size in the underlying zone, may be given for the categories below. The cumulative density bonus from all of the provisions below shall not exceed 40%.**

**1. Affordable housing. Affordable housing units may receive a density bonus of up to 30% when at least 30% of the dwellings are part of a Federal, State, or local housing program, and the affordability of the housing units is guaranteed.**

**2. Additional open space land. The dedication of additional natural resource areas beyond what is required under the approval criteria, including trails, paths, significant trees, stands of trees, and trailheads may result in a density bonus up to 5% per ½ acre, with a maximum density bonus under this provision of up to 20%.**

**3. Parks. The dedication of improved site area that is accepted by the City, consistent with the Parks, Recreation, and Open Space Master Plan, or another public agency, as usable, accessible park land, may result in a density bonus of 5% per ½ acre, with a maximum density bonus under this provision of up to 30%.**

**SECTION 15: Amendment.** CDC 28.110 [Approval Criteria] is amended to read as follows:

H. Partitions, subdivisions and incentives.

...

3. Development of HCA-dominated lands shall be undertaken as a last resort. **The applicant may develop using the provisions in Chapter 39, Article III, or Chapter 24, Planned Residential Development.** A planned unit development (PUD) of Chapter 24 CDC may be required.

**SECTION 16. New Chapter and Amendment.** Chapter 39 [Residential District Use Standards] is created and the following West Linn Municipal Code Chapters are relocated and amended as follows:

A. West Linn Municipal Code Chapter 34 [Accessory Structures, Accessory Dwelling Units, and Accessory Uses] is relocated and renumbered as Article II, beginning with 39.030, and Section 34.030 is amended as follows;

**34.030 ACCESSORY DWELLING UNITS**

A. An accessory dwelling unit (ADU) may be allowed in conjunction with an existing primary single-family dwelling, **except cottage housing subject to Chapter 39, Article IV,** by:

- 1. conversion of converting** existing space inside the primary dwelling; **by**
- 2. means of an addition adding** to an existing dwelling; **by**
- 3. means of an addition as adding to** an accessory structure; or
4. **by**-converting or adding to an existing accessory structure, such as a garage, on the same lot with an existing primary dwelling, **when the following conditions are met:**

**B. The following conditions apply to an ADU:**

1. One off-street parking space for the ADU shall be provided in addition to the required parking for the primary dwelling except in those cases where the abutting street has a paved width of 28 feet or more and allows on-street parking.
2. Public services can serve both dwelling units.

3. The number of occupants is limited to no more than one family as defined by the Community Development Code.
4. The ADU does not exceed one bedroom and has an area between 250 and 1,000 square feet. If the ADU is located in an accessory structure, then it shall not exceed 30 percent of the gross square footage of the primary dwelling, except that an ADU may be a minimum of 250 square feet in size regardless of the size of the primary dwelling. No more than one ADU is allowed.
5. The ADU is in conformance with the setback and lot coverage requirements of the underlying zone.
6. The following minimum area standards shall be met:
  - 1 person – 250 square feet
  - 2 persons – 500 square feet
7. Existing accessory structures such as large workshops, offices, garages, etc., constructed prior to January 2000, that exceed dimensional standards prescribed above for ADUs may be converted into ADUs in the future so long as the occupied or inhabited area is restricted to less than 1,000 square feet. Existing structures are not required to meet the design standards of subsections (B)(1) through (9) of this section, but shall conform to them to the greatest extent feasible.

~~C. B.~~ Design standards for both attached and detached ADUs are as follows:

- B. West Linn Municipal Code Chapter 37 [Home Occupations] is relocated and renumbered as Chapter 39, Article V;
- C. West Linn Municipal Code Chapter 36 [Manufactured Homes] is relocated and renumbered as Chapter 39, Article VI;
- D. West Linn Municipal Code Chapter 43 [Single-Family and Duplex Side Yard Transitions] is relocated and renumbered as Chapter 39, Article VII;
- E. West Linn Municipal Code Chapter 38 [Additional Yard Requirements and Exceptions] is relocated and renumbered as Chapter 39, Article VIII.

**SECTION 17. New Article.** The following Article is added to Chapter 39:

**Article I.**

**39.010 PURPOSE**

- A. Allow for accessory uses that are customary and incidental to the primary use.**
- B. Allow for accessory dwelling units in conjunction with a primary single-family dwelling to facilitate increased density and housing choices for residents.**
- C. Allow for variation from development standards while maintaining or enhancing the overall character of existing neighborhoods.**
- D. Provide opportunities for a variety of housing types and affordable housing.**
- E. Provide for home occupations in residential zones as a means of providing convenient employment opportunities and decreasing auto dependence.**
- F. Reduce the impact that new development may have on surrounding development.**

G. Allow for development that is sensitive to the environment, especially in areas with steep slopes, water resource areas, and other riparian habitats.

H. Allow for the preservation of open and natural areas.

**39.020 APPLICABILITY**

This chapter applies to residential lots, sites, and common areas in the R-40, R-20, R-15, R-10, R-7, R-5, R-4.5, R-3, and R-2.1 districts; the Willamette Neighborhood Mixed Use Transitional Zone; and to residential development and uses in other districts.

SECTION 18. New Article. The following article is added to Chapter 39:

Article III. Cluster development. This article provides for development while avoiding or minimizing impacts to natural resources on the site. A portion of the allowed residential density from the area to be conserved may be transferred to an unencumbered, or less impactful, portion of the site.

**39.080 Applicability.**

A. A property may utilize these provisions if it has the following:

1. Flood management areas regulated by Chapter 27;
2. Willamette and Tualatin River protection areas regulated by Chapter 28;
3. Water resource areas regulated by Chapter 32;
4. Areas identified as a potential landslide or a landslide hazard area in the City's Natural Hazard Mitigation Plan;
5. Slopes greater than 25%;
6. Heritage Trees or significant trees; or
7. Other natural, cultural or hazardous areas proposed by the applicant and

determined to be significant and worthy of preservation by the City.

B. A single lot is not eligible for land division under this subsection if the lot is completely encumbered by:

1. Flood management areas regulated by Chapter 27;
2. Willamette and Tualatin River protection areas regulated by Chapter 28;
3. Water resource areas regulated by Chapter 32;
4. Areas identified as a potential landslide or a landslide hazard area in the City's Natural Hazard Mitigation Plan; or
5. Slopes greater than 50%.

39.090 Density Transfer. Density transfers shall be based on the minimum lot size in the applicable zoning district. The allowed density for such areas may be transferred to a portion of the site unencumbered by natural resources.

A. Except as provided in Subsection (B), density may be transferred at a rate of up to 50% from lands where development is not allowed by:

1. Chapter 27, Flood Management Areas;
2. Chapter 28, Willamette and Tualatin River Protection;

- 3. Chapter 32, Water Resource Area Protection; and
- 4. Areas identified as a potential landslide or a landslide hazard area in the City's Natural Hazard Mitigation Plan.

B. Density may be transferred at a rate of up to 100% from land with the following characteristics:

- 1. Heritage Trees and significant trees, consistent with CDC 55.100(B), and
- 2. Slopes between 25-50%.

39.100 Density Calculation. The total number of dwelling units shall be calculated as follows:

A. Subtract the square footage of the natural resource area from the total square footage of the property. Property size – Natural Resource Area = Remaining Area.

B. Multiply the square footage of the natural resource area by 0.5. Natural Resource Area x 0.5 = Additional Area for Development.

C. Add the result from Subsections (A) and (B) above. Remaining Area + Additional Area for Development = Total Development Area.

D. Divide the total development area by the minimum lot size in the zoning district for the housing type proposed. If not an even number, this number shall be rounded down to the nearest whole number.

<b>Example: Density Calculation</b>	
Zone:	R-7
Property size:	90,000 sq. ft.
Natural resource area:	25,000 sq. ft.
Additional area for development:	12,500 sq. ft.
Remaining area:	65,000 sq. ft.
Total development area:	65,000 + 12,500 = 77,500 sq. ft.
Number of units:	77,500/7,000 = 11.07, 11 units

39.110 Clustering. The permitted number of lots and associated structures on the site may be clustered as follows:

A. Lot sizes, lot dimensions and yards may be reduced by up to 30% in order to cluster housing/development, provided setbacks are not less than three feet, except for zero lot line development authorized under Subsection Chapter 39, Article IX.

B. Platted lots that are completely encumbered by a designated natural resource area (e.g., a Water Resource Area such as a stream or wetland or a slope over 50%) may cluster development further from the resource or in a less impactful location. However, the number of buildable platted lots within the designated natural resource area shall not increase.

**39.120 Restricted use of natural resource areas. A tentative subdivision plan or partition approved under Chapter 39, Article III shall contain the natural resource area in a separate tract that is permanently restricted from future development, consistent with applicable provisions of the CDC. This restriction shall be provided on the final plat and the area shall be preserved by common ownership of the development or, if acceptable to the City, the tract may be dedicated to the City. The applicant shall provide the documents necessary to ensure the tract will be preserved by common ownership in a manner that is acceptable to the City; the documents shall be approved by the City Attorney prior to recording.**

**SECTION 19. New Article.** The following Article is added to Chapter 39:

**Article IV.Cottage Housing. This section allows for the development of smaller units of detached housing to provide variety in housing design and the availability of units for populations that are diverse in age, income, and household composition. Cottage housing developments shall comply with the following requirements:**

**39.130 Open space. The development shall provide open space as follows:**

**A. A minimum of 250 square feet of privately owned, contiguous, usable, open space adjacent to each dwelling unit. No dimension of this open space area shall be less than 10 feet.**

**B. The development shall contain a courtyard or usable landscaped area owned in common by the owners of the dwellings (i.e., available for the use of all residents of the development) that contains a minimum of 1,500 square feet or 500 square feet per unit, whichever is greater. This open space shall be contained in a contiguous area with no dimension less than 30 feet. Open space meeting the minimum requirement of this subsection shall not have a slope in excess of 5%.**

**C. Up to 25% of the required open space may be satisfied by building a community building for the use of the cottage housing residents.**

**39.140 Site design.**

**A. Dwelling units. Units shall be located on at least two sides of the courtyard or common area.**

**B. Lot size and density. The permitted density in cottage housing developments shall not exceed one dwelling unit per 3,000 square feet.**

**C. Lot coverage. Lot coverage shall be calculated for the entire development site and shall not exceed 40 percent.**

**D. Interior separation. A minimum separation of ten feet is required between primary structures. Facades of primary structures that face facades of accessory structures shall be separated by a minimum of three feet. Primary entrances that face each other shall be separated by a minimum of 10 feet.**

**E. Number of units. The development shall include no less than four and no more than 12 dwelling units per courtyard. A development may contain more than one courtyard. An**

accessory dwelling unit (Chapter 39, Article II) may not be added to an existing cottage development.

F. Yards. Yards for the exterior perimeter of the project shall be those specified in the underlying zoning district.

G. Garages and Parking. Garages and parking areas shall have the following features:

1. Parking shall be shared, screened and in accordance with the single family requirements in Chapter 46. It shall not be located in the front yard.

2. Shared garages shall be limited to a maximum of four stalls per structure and shall be detached from the dwelling units.

3. The garages shall have roof lines similar to the dwelling units.

H. Pathway. A pedestrian pathway, a minimum of four feet in width, shall connect the public street with all cottages and the shared parking areas with all cottages.

I. Covenants. Covenants shall be recorded that establish common areas maintained by the owners and that preclude their conversion to another use.

J. Density bonuses. Other density bonuses in the code, including CDC 24.080(D), shall not apply to cottage developments.

K. Community buildings. Any community building shall be no more than one story and shall be clearly incidental in use and size to the dwelling units.

39.050 Cottage design. Cottages shall have the following features:

A. Dwellings shall not have a footprint greater than 1,000 square feet, excluding a garage. Two story dwellings shall not exceed 1,200 square feet in size. Floor area shall not include any space with a floor-to-ceiling height of less than six feet.

B. Window and door trim with a minimum width of 3.5 inches, except for the sill, on all structures.

C. Eaves of at least 12 inches on all structures on at least two sides of each building.

D. To avoid blank facing walls cottages shall have one of the following on street and courtyard facades:

1. Changes in exterior siding material and paint color;

2. Windows, including bay windows; or

3. Building modulation with a depth measuring at least one foot.

E. There shall be a usable covered porch with a minimum of 80 square feet and a minimum dimension of five feet.

F. Dwellings shall not be more than 28 feet in height. All parts of the roof greater than 18 feet in height shall have a minimum slope of 6:12.

G. The floor area ratio (FAR) for the underlying zone shall not apply.

SECTION 20. New Article. The following article is added to Chapter 39:

Article IX. Zero lot line development. A zero lot line development allows houses along common street frontage to be shifted to one side of each lot to provide greater usable yard space on each lot.

**39.370. Side yards.**

**A. The required side yard on one side of the house may be reduced to zero. This does not apply to the side street yard, or to the side yard adjacent to lots that are not part of the zero lot line development.**

**B. The minimum distance between all buildings in the development must be equal to at least twice the side yard required in the applicable zoning district.**

**C. The setbacks established under this section shall appear upon the face of the plat or partition. A deed restriction must be recorded on the deed of each applicable lot to ensure the side yard is maintained.**

**39.380 Eaves. The eaves on the side of a house with a reduced side yard may project a maximum of 18 inches over the adjacent property line. An easement for the eave projection must be recorded on the deed for the lot where the projection occurs.**

**39.390 Maintenance. An easement between the two property owners to allow for maintenance or repair of the house is required when the eaves or side wall of the house are closer than three feet to the adjacent property line. The easement on the adjacent property must be wide enough to allow four feet between the eaves or side wall and the edge of the easement.**

**39.400 Privacy. If the side wall of the house is on the property line, or within three feet of the property line, windows or other openings which allow for visibility into the side yard of the adjacent lot are not allowed. Windows that do not allow visibility into the side yard of the adjacent lot, such as a clerestory window or a translucent window, are allowed.**

**SECTION 21: Amendment.** CDC 55.100 [Site Analysis] is amended to read as follows:

F. Shared outdoor recreation areas. This section only applies to multi-family projects and projects with 10 or more duplexes or single-family attached dwellings on lots under 4,000 square feet. In those cases, shared outdoor recreation areas are calculated on the duplexes or single-family attached dwellings only. It also applies to qualifying PUD under the provisions of CDC 24.17070(B).

**SECTION 22: Amendment.** CDC 59.050 is amended to read as follows:

**59.050 USES AND DEVELOPMENT PERMITTED UNDER PRESCRIBED CONDITIONS**

The following uses are allowed in this zone under prescribed conditions:

1. Signs, subject to the following provisions:

a. Wall signs. Shall not exceed 10 percent of the square footage of the front elevation. The calculation of allowable signage is explained in CDC 52.300. The sign(s) shall be proportionate to buildings and signs on adjacent buildings. The 10 percent shall be broken up into multiple signs. The sign(s) shall be mounted or



painted on the second floor, on the valance of the awning, on the windows at pedestrian level, or on four-by-four awning posts.

b. Ground-mounted signs. One ground-mounted sign is permitted in the front yard with a maximum size of 16 square feet, a maximum height of four feet, and a minimum setback of five feet from the right-of-way.

c. No signs shall be the internally lit "can" type. No backlit signs are permitted. Illumination by spotlight is permitted for either sign type. Neon signs are permitted only inside the windows. No flashing signs are allowed. By temporary sign permit only, neon colored lettering or designs painted on windows or on paper or banners in the windows are allowed, but discouraged. Small signs or plaques that describe the building in a historical sense are exempt from the allowable square footage restrictions. Signs cannot project from the building face.

d. Temporary signs. Temporary sandwich board signs are permitted without the temporal restrictions of Chapter 52 CDC.

e. All other provisions of Chapter 52 CDC. Signs are applicable unless they conflict with the provisions of this chapter.

2. Temporary use, subject to the provisions of Chapter 35 CDC.

3. Home occupations, subject to the provisions of Chapter 37 CDC.

**4. Single-family attached residential units, duplex residential units, and multiple-family residential units that are part of a PUD and subject to the provisions of Chapter 24 CDC.**

**SECTION 23: Amendment.** CDC 85.200 [Approval Criteria] is amended to read as follows:

A.

...

19. All lots in a subdivision **or parcels created by a partition** shall have access to a public street **through direct frontage or an access easement**. ~~Lots created by partition may have access to a public street via an access easement pursuant to the~~ **Easements shall comply with** the standards and limitations set forth for such accessways in Chapter 48 **of the CDC**.

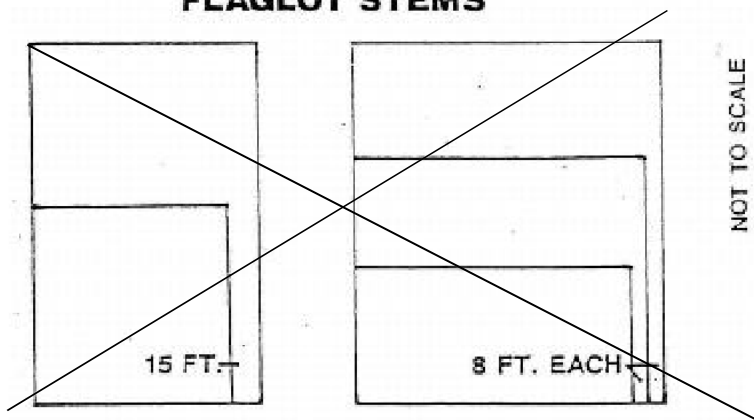
...

B. Blocks and lots.

...

~~7. Flag lots. Flag lots can be created where it can be shown that no other reasonable street access is possible to achieve the requested land division. A single flag lot shall have a minimum street frontage of 15 feet for its accessway. Where two to four flag lots share a common accessway, the minimum street frontage and accessway shall be eight feet in width per lot. Common accessways shall have mutual maintenance agreements and reciprocal access and utility easements. The following dimensional requirements shall apply to flag lots:~~

## FLAGLOT STEMS



- a. Setbacks applicable to the underlying zone shall apply to the flag lot.
- b. Front yard setbacks may be based on the rear property line of the parcel which substantially separates the flag lot from the street from which the flag lot gains access. Alternately, the house and its front yard may be oriented in other directions so long as some measure of privacy is ensured, or it is part of a pattern of development, or it better fits the topography of the site.
- c. The lot size shall be calculated exclusive of the accessway; the access strip may not be counted towards the area requirements.
- d. The lot depth requirement contained elsewhere in this code shall be measured from the rear property line of the parcel which substantially separates the flag lot from the street from which the flag lot gains access.
- e. As per CDC 48.030, the accessway shall have a minimum paved width of 12 feet.
- f. If the use of a flag lot stem to access a lot is infeasible because of a lack of adequate existing road frontage, or location of existing structures, the proposed lot(s) may be accessed from the public street by an access easement of a minimum 15-foot width across intervening property.

### **7. Mid-block lanes and flag lots.**

**a. When permitted. Mid-block lanes and flag lots are permitted, consistent with subsections 1) and 2) below, when there is adequate lot area to divide the property into two or more lots, but not enough street frontage to meet the applicable minimum front lot line width:**

**1) Mid-block lanes. When frontage onto a public street cannot be provided for new land divisions due to physical constraints, including, but not limited to, the existing parcel configuration, topographic constraints, or the location of existing dwellings, lots may receive access from mid-block lanes, as shown in Figure 2. Mid-block lanes shall be required, whenever practicable, as an alternative to approving flag lots. If possible, houses on mid-block lanes shall face the lane.**

**2) Flag lots. Flag lots shall only be permitted when a public through street is not required to meet the connectivity standards of the TSP and a mid-block lane cannot be extended to serve future development (See Figure 2).**

**b. Development Standards. Mid-block lanes and flag lots shall comply with CDC 48.030 and the following, as applicable:**

**1) Width.**

**i. Mid-block lanes shall have:**

**(A) A minimum paved width of 20 feet, or**

**(B) The minimum width needed to provide adequate fire protection.**

**ii. Flag pole accesses shall have:**

**(A) A minimum paved width of 12 feet and an overall minimum width of 15 feet, or**

**(B) The minimum width needed to provide adequate fire protection.**

**2) Area. Only the flag portion of the lot is included when calculating minimum lot area and lot depth.**

**3) Access. Shared access easements along existing driveways shall be provided unless the location of existing residences or accessory structures prevents it. No more than two accessways shall be permitted within a distance equal to the average required minimum lot width for the underlying zone.**

**4) Mid-block lane/accessway ownership and maintenance. Easements for private accessways and lanes shall be provided at the time of partition or subdivision.**

**5) Future street plans. Building placement and alignment of shared accessways shall be designed so that future street, lane, and accessway connections can be made when surrounding properties develop. If adjacent parcels can be partitioned or subdivided, an overall redevelopment concept showing street or lane connections through the adjacent property shall be completed.**

**6) Screening. A screen shall be placed between the flag portion of a lot and neighboring properties when the flag portion of a lot is within seven and one half feet of a residence. A screen shall be:**

**i. A landscaping strip that includes shrubs, trees, and groundcover that is at least five feet in width and a minimum height of six feet at maturity, or**

**ii. A fence, six feet in height or the maximum height allowed per CDC 44.020.**

**The screening requirements shall not apply if fencing or landscaping is restricted due to natural resource constraints.**

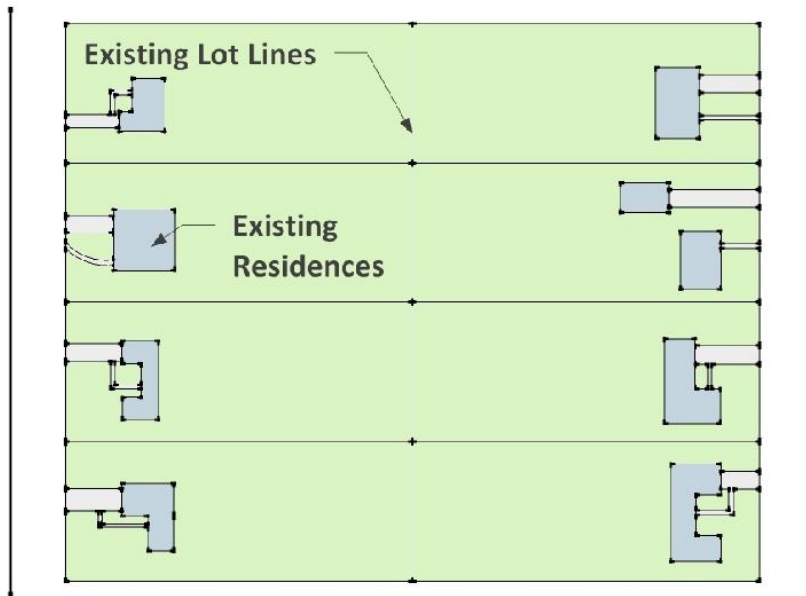


Figure 1: Mid-Block Lanes - Before Infill

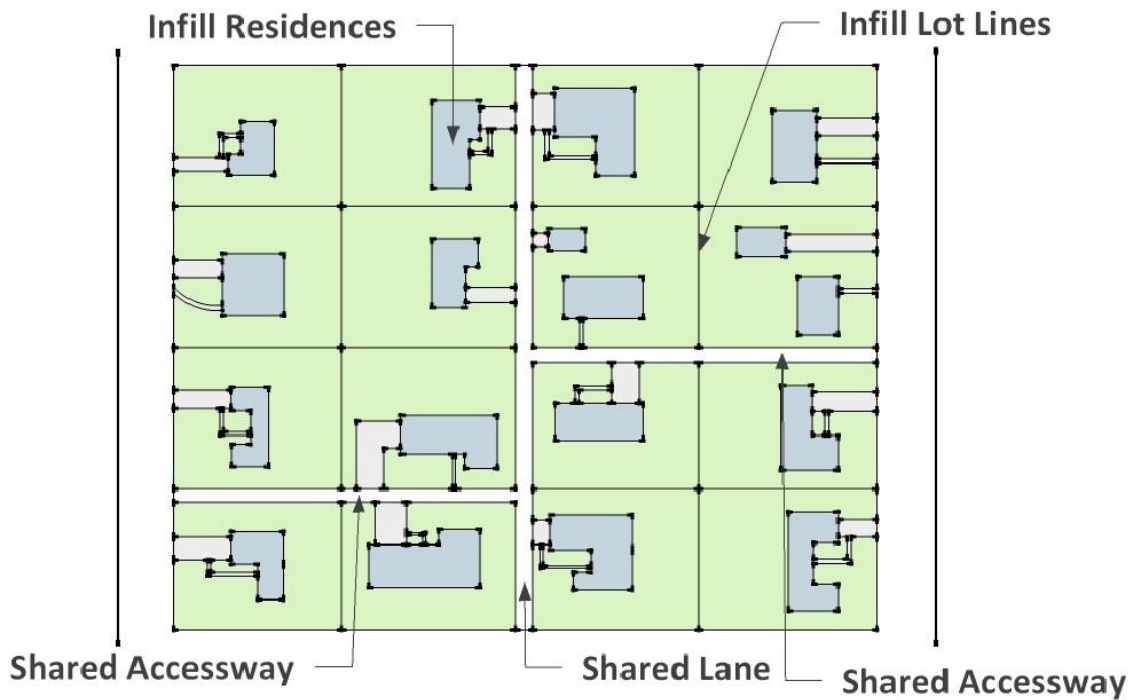


Figure 2: Mid-Block Lanes - After Infill

**7) Orientation. New residences on flag lots shall face the access easement, unless restricted due to environmental constraints. If an access easement is not proposed, then the applicant shall use a line that is parallel to**

the projected extension of the access easement if the access easement continued through the property. The yard setback requirements and associated exceptions of the applicable zoning district apply, with the following exceptions:

i. The front yard setback shall be at least 10 feet. The front yard shall be measured from the lot line that runs closest to, and parallel with the accessway. If no accessway is proposed, the applicant shall use the lot line that is parallel to the projected extension of the accessway if the accessway continued through the property.

ii. The yard setback between the face of the garage and the nearest edge of the access easement shall be at least 20 feet.

8) Building Height Limitation. The maximum building height for structures on flag lots shall be the average height of the dwelling units on the abutting properties.

9) Addresses for all flag lot residences shall be posted where the access lane or driveway meets the public right-of-way.

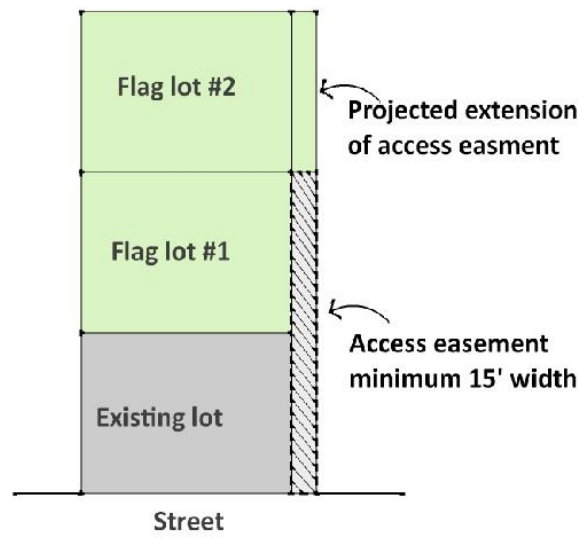


Figure 3: Multiple flag lots shall have a shared access easement

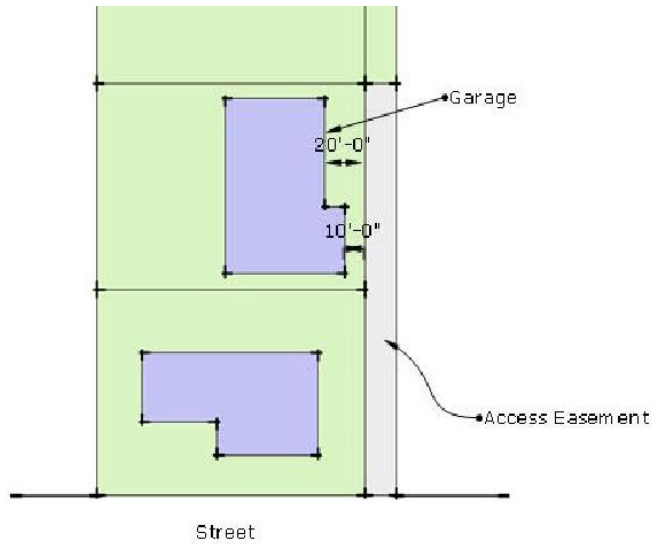


Figure 4: Flag lot front yard setback requirements

**SECTION 24: Severability.** The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

**SECTION 25: Savings.** Notwithstanding this amendment/repeal, the City ordinances in existence at the time any criminal or civil enforcement actions were commenced, shall remain valid and in full force and effect for purposes of all cases filed or commenced during the times said ordinance(s) or portions thereof were operative. This section simply clarifies the existing situation that nothing in this Ordinance affects the validity of prosecutions commenced and continued under the laws in effect at the time the matters were originally filed.

**SECTION 26: Codification.** Provisions of this Ordinance shall be incorporated in the City Code and the word "ordinance" may be changed to "code", "article", "section", "chapter" or another word, and the sections of this Ordinance may be renumbered, or re-lettered, provided however that any Whereas clauses and boilerplate provisions (i.e. Sections 24-26) need not be codified and the City Recorder or his/her designee is authorized to correct any cross-references and any typographical or errors.

**SECTION 27: Effective Date.** This ordinance shall take effect on the 30<sup>th</sup> day after its passage.

The foregoing ordinance was first read by title only in accordance with Chapter VIII, Section 2(C) of the City Charter on the \_\_\_\_ day of \_\_\_\_\_, 2014, and duly PASSED and ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2014.

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JOHN KOVASH, MAYOR

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KATHY MOLLUSKY, CITY RECORDER

APPROVED AS TO FORM:

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CITY ATTORNEY

## Memorandum

Date: June 20, 2014

To: Planning Commission

From: Sara Javoronok, Associate Planner

Subject: PUD and infill code amendments (CDC 10-02)

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### **Purpose**

The Planning Commission will hold a public hearing on the proposed Planned Unit Development (PUD) and infill code amendments on July 2, 2014. Staff and the Planning Commission have discussed these amendments extensively and this memo summarizes the project and the content of the amendments. The attached June 2014 Discussion Draft has not changed from the draft reviewed at the June 18, 2014 Planning Commission Work Session.

The purpose of these amendments is reflected in the City Council resolution creating the task force that helped to develop these amendments. The resolution included the following:

WHEREAS, the City Council has directed the Planning Department, as part of its authorized planning strategy, to prepare amendments to the Community Development Code to provide the opportunity for infill housing development that is more compatible with the immediately surrounding property; and

WHEREAS, the Planning Commission and Planning Staff have determined that it would be advantageous and efficient to establish an ad hoc subcommittee that could provide a greater range of relevant expertise on the subject to assist with the drafting of these code amendments; and

### **Background**

Staff briefed the Planning Commission in September 2011, October 2013 and March, April, May, and June 2014. The City began this project in 2010. The goal was to amend the planned unit development (PUD) regulations to no longer require a PUD to develop natural resources/constrained areas, better coordinate with other applicable regulations, remove obsolete and ineffective provisions, clarify confusing and contradictory provisions, and facilitate appropriate development. It also sought to identify and implement ways to improve the design and minimize the adverse impacts of flag lots.

A Task Force, whose membership included Chair Steel and former Commissioner Babbitt, met over 20 times in 2010 and 2011. The Planning Commission reviewed a draft of the proposed amendments on September 7, 2011. At the October briefing, the Planning Commission recommended reconvening the task force that was instrumental in drafting the regulations to discuss staff's proposed meetings. This meeting was held in November 2013. However, only the Planning Commission members that were part of the task force attended.



## Discussion

### *Draft Amendments*

There are three main components to the draft amendments:

- Planned Unit/Residential Development
- Flag Lots
- Alternative Development Standards for cluster development, cottage housing, and zero lot line housing

### *Planned Unit/Residential Development and Cluster Development*

Generally, planned unit developments (PUDs) are larger developments, often with a variety of uses or housing types. One definition of a PUD is as follows:

*A planned unit development (PUD) is a large, integrated development, developed under unified control according to a master plan, and located on a single (or contiguous) tract of land. Local PUD development regulations provide more planning flexibility than traditional zoning, and contain a mix of complementary uses. Some jurisdictions provide for planned residential developments (PRDs) which also are master-planned, and typically clustered development. As the name implies, PRD's are primarily residential developments, but some contain limited convenience commercial uses or other accessory uses and services.  
(<http://www.mrsc.org/subjects/planning/pud.aspx>)*

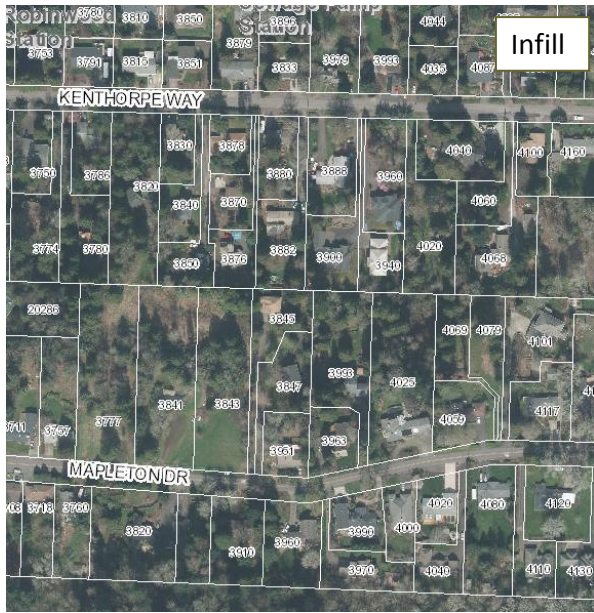
There are many existing PUD developments in the City. More recent developments include Rosemont Crossing (near the intersection of Santa Anita and Rosemont), Douglas Park (between Salamo and Tannler), Maxfield (off of Rosemont), Rosemont Pointe (off of Rosemont), Chinook Terrace (off of Parker), and Fern Creek Place (off of Suncrest).

The City's current PUD language is most often applied to small infill subdivisions with natural resources/constrained areas, which was not its original intent. Some communities have separate provisions for the development of these areas, often called "cluster development", which is proposed for a new Chapter 17 and discussed later in this memo.

An additional recommendation is to no longer allow PUDs on commercial or industrial properties. The existing provisions are geared to residential properties and are difficult to apply in non-residential situations. There are also few locations in the City where a PUD is appropriate for a commercial site. The recently passed Regulatory Streamlining Amendments provide for "Special Waivers," a type of variance that would more easily allow for variations from the underlying zone for commercial and industrial properties.

### *Flag Lots*

Flag lot development is common throughout the City, typically on lots where there is an existing house and enough land to partition the property and, most often, add one or two additional houses. There are numerous examples around the City, including on Mapleton and Kenthorpe, which are shown below. When these areas were originally platted, they were developed with large lots, many close to an acre. The area is now zoned R-10, which sets a minimum lot size of 10,000 square feet. As a result, many of them have been partitioned into smaller lots. Often, new residences are built either in front of or behind existing residences. In some cases, this has created conflict with adjacent properties because of the proximity of driveways, windows, and situations where visually the properties clash with the surrounding development due to height, style, or other aesthetic issues.

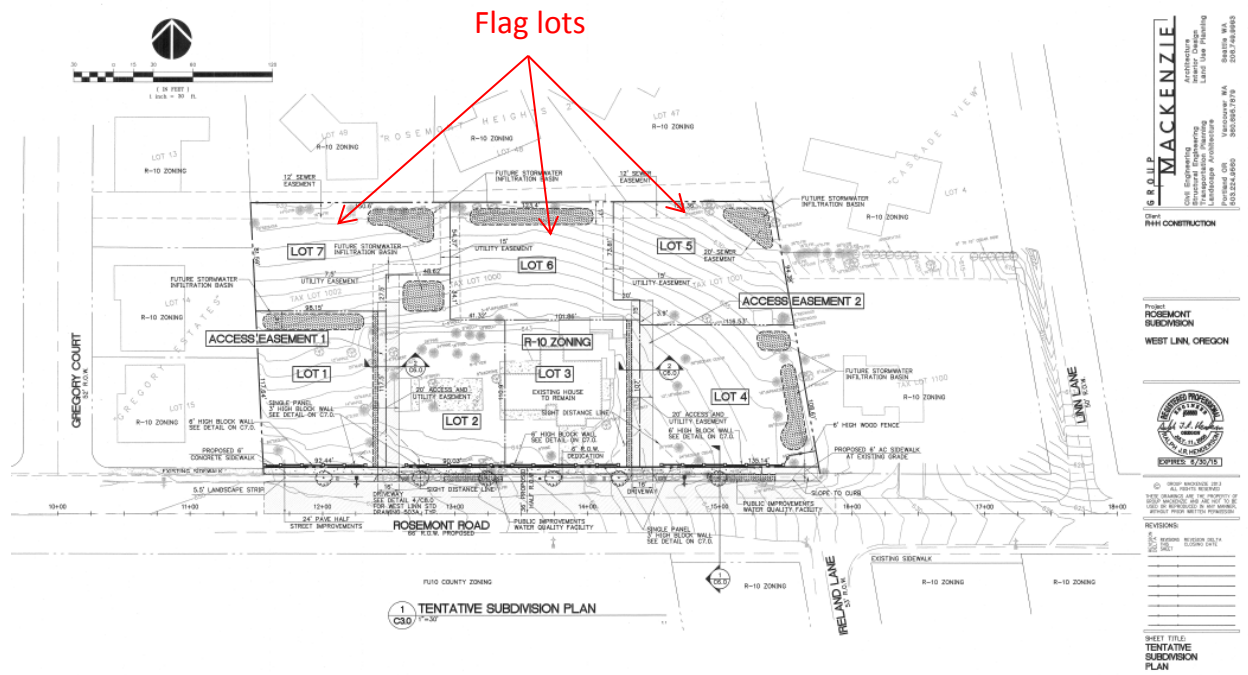


Mapleton & Kenthorpe



Rosemont Pointe

Less frequently, there are flag lots in new subdivisions where due to site conditions there is room for an additional lot, but there is not room for the lot to front a public street. By definition, subdivisions involve four or more lots. Recently, some new subdivisions have had lots that are flag lots. These are often due to the shape of the underlying parcel and the desire and need for additional density. An example includes the recent Rosemont Subdivision, shown below:



TE DATA TABLE  
 Rosemont Subdivision

**TREE INFORMATION**  
 PERCENTAGE OF SITE COVERED BY SIGNIFICANT TREE PROTECTION AREA: 15.3%  
 PERCENTAGE OF SITE COVERED BY SIGNIFICANT TREE PROTECTION AREA: 15.3%

**LEGEND**  
 SEE LEGEND ON SHEET C10

**BRUCE P. MACKENZIE**  
 ARCHITECTURE  
 CIVIL ENGINEERING  
 TRANSPORTATION PLANNING  
 LANDSCAPE ARCHITECTURE  
 1000 S. W. 10TH AVE., SUITE 200  
 PORTLAND, OR 97205-5079  
 503.254.8800

**RHH CONSTRUCTION**

Project: **ROSEMONT SUBDIVISION**  
 WEST LINN, OREGON

**SEAL**  
 BRUCE P. MACKENZIE  
 ARCHITECT  
 REGISTERED ARCHITECT  
 OREGON  
 EXPIRES: 3/31/25

REVISIONS:  
 NO. DATE BY  
 1 11/15/24 JLM  
 2 11/15/24 JLM

SHEET TITLE:  
 TENTATIVE SUBDIVISION PLAN

Particularly on infill sites, there can be tight access and differences in scale and style between residences and neighboring properties. Staff recommends provisions directing flag lot development, when possible, to mid-block lanes, which would increase connectivity, and, as possible, orient houses to the lanes (see page 9). Staff also recommends screening of the flag portion of the lot when it is near adjacent residences and decreasing the front yard setback to 10 feet, and requiring a 20 foot yard setback for garages. However, staff does not recommend decreasing the permitted height, increasing the required yard setbacks, or increasing the setbacks for balconies and patios. This is likely to severely restrict the use of many lots, particularly in new subdivisions. In many cases, the requirement for mid-block lanes and an additional requirement requiring landscaping or other screening would be sufficient to address the majority of the issues. In 2010, the Planning Department changed its height requirement to be from peak to grade rather than midpoint of the roof to grade. This lowers the permitted height approximately seven feet.

#### *Alternative Development Standards*

Staff recommends standards for cluster development, cottage housing, and zero lot line development. Cluster development can be defined as follows:

*Cluster development is a development arrangement in which all buildings allowable on a site are concentrated on a portion of the site, leaving the remainder of the site undeveloped. This contrasts with the conventional land development and subdivision approach, which is to divide an entire site into lots, each of which meets minimum zoning lot size requirements and may be used for building construction.*

*By clustering buildings together on smaller lots rather than spreading development throughout the site, a developer has greater flexibility to design around environmental and other constraints, without having to reduce the total number of developable lots. As a result, cluster development can provide a win-win approach for communities and developers to protect and buffer environmentally sensitive areas, to preserve important site features, or to provide recreation areas or natural open space. It also provides the flexibility to conserve or buffer natural resource lands, such as farmlands. Maintaining the undeveloped lands in productive uses, such as orchards or pastures, can contribute economic value to the project. (<http://www.mrsc.org/subjects/planning/lu/cluster.aspx>)*

Examples of existing PUD developments that may have been developed under cluster provisions, had they been in place, are Chinook Terrace and Fern Creek Place. The cluster development language provides an alternative to a PUD for similar properties. As proposed, cluster development would allow for smaller lot sizes, yard setbacks and dimensions (up to 30% and a minimum yard setback of three feet) through a density transfer of up to 50% from another area elsewhere on the site.

Staff recommends adding language that permits cottage housing. This type of housing is becoming more common and there are a number of successful developments in the Northwest (see page 15). Cottage housing is typically smaller than other new construction – the proposal is for residences not to exceed 1,200 square feet – and constructed in groups of four to 12 houses. Common open space and a courtyard are required and there is often a community building or other space available for group use. Staff recommends providing off street parking at the same rate as for other single family homes and that it may be accommodated on site rather than at each residence. Homes typically have one to two residents and are occupied by young professionals, single parents, or those downsizing to a smaller home. In preparing the draft, staff also referred to regulations in

various communities including Oregon City, Wood Village, Seattle, Battle Ground, WA, and Kirkland, WA.

Staff also recommends adding language to permit zero lot line residences (see page 18). This type of development allows for greater use of side yards by placing a double side yard on one side of the property and the house on the side lot line on the other side. Staff recommends language allowing eaves to extend over the property line, providing for maintenance easements on the adjacent property, and regulating building and window location to provide for privacy. This is similar to zero lot line regulations in Portland.

*Public Comment*

Staff has received written public comment from Rolf Olson, which is attached. Approximately 70 people have called or come to City Hall to talk with staff about the proposed amendments and how they might affect their property. An Open House was held on June 19, 2014 that was attended by approximately 50 people.

**Attachments:**

1. Addendum
2. June 2014 Discussion Draft
3. Public Comment

# ADDENDUM

## STAFF EVALUATION OF THE PROPOSAL'S COMPLIANCE WITH APPLICABLE CRITERIA

CDC Section 98.100 lists the factors to be addressed in the staff report for legislative proposals. The applicable factors along with staff's response are as follows:

**1. *The Statewide Planning Goals and rules adopted under ORS Chapter 197 and other applicable state statutes.***

**Staff Response:** Staff reviewed the Statewide Planning Goals and found that the following goals are applicable. Staff is not aware of any other state regulations that apply to the proposed amendments that are not reflected in the Metro and City plans and regulations addressed in this Addendum.

Goal 1: Citizen Involvement: "To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process".

**Staff Response:** The project to develop the proposed amendments provided for public involvement as noted in the staff memo, including a Task Force, posting preliminary and public hearing drafts of the proposed amendments on the department's web page, Measure 56 Notice, Open House, and soliciting comments from affected and interested parties. In addition, two public hearings will be held as required by CDC Chapter 98. Staff determines that the project is consistent with Goal 1.

Goal 2, Land Use Planning: "To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions." Guidelines for implementing Goal 2 call for collection of factual information pertaining to ordinances implementing land use plans and consideration of alternative solutions.

**Staff Response:** Staff, the Task Force, and the Planning Commission have discussed the proposed amendments extensively and considered various alternatives to address issues with the existing PUD and residential development regulations.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces: "To protect natural resources and conserve scenic and historic areas and open spaces."

**Staff Response:** The proposed PUD and cluster development amendments include provisions that encourage the protection of natural resources. The PUD regulations provide a bonus to projects that provide open space. The proposed amendments are consistent with Goal 5.

Goal 10 Housing: "To provide for the housing needs of citizens of the state."

**Staff Response:** The proposed amendments generally apply to residential developments. The proposed PUD, cluster development and cottage housing amendments encourage, and in some cases, incentivizes development that provides a variety of housing types and options. The proposed amendments are consistent with Goal 10.

Goal 14, Urbanization: “To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.”

**Staff Response:** The proposed amendments substantially relate to residential development and providing housing for the population within the existing Metro Urban Growth Boundary. The proposed regulations encourage variations in lot size and housing type, which would make efficient use of the land. To provide for livable communities, the proposed PUD amendments permit a variety of housing types and encourage open space, parks, and affordable housing. The proposed amendments are consistent with Goal 14.

**2. *Any federal or state statutes or rules found to be applicable;***

**Staff Response:** Staff is not aware of any applicable state or federal regulations which are not implemented by the Metro and City plans and codes addressed in this Addendum.

**3. *Metro plans and rules found to be applicable***

**Staff Response:** The proposed amendments are in accordance with the Metro Urban Growth Management Functional Plan. Specifically, the proposed amendments facilitate greater options for housing types within the City consistent with Title 7, Housing Choice. In addition, consistent with Title 3, Water Quality and Flood Management and Title 13, Nature in Neighborhoods, the proposed PUD and cluster development regulations facilitate development while protecting natural resources and other environmentally constrained lands.

**4. *Applicable Comprehensive Plan provisions;***

Goal 1 sub-goals:

1. Provide the opportunity for broadly based, ongoing citizen participation, including opportunities for two-way dialogue between citizens and City elected and appointed officials.

Policy 4: Provide timely and adequate notice of proposed land use matters to the public to ensure that all citizens have an opportunity to be heard on issues and actions that affect them.

Policy 5: Communicate with citizens through a variety of print and broadcast media early in and throughout the decision-making process.

**Staff response:** Notice of the proposed amendments was provided through publication in the newspaper, posting on the City website, emails to potentially interested parties, and a Measure 56 notice to affected individuals. Two formal public hearings are scheduled.

Goal 2 sub-goals:

1. Maintain land use and zoning policies that continue to provide for a variety of living environments and densities within the city limits.

4. Encourage energy-efficient-housing (e.g. housing with solar energy, adequate insulation, weatherproofing, etc.).

Policy 2: Allow clustering of residential development on land with significant environmental constraints only if:

- a. Such clustering can be demonstrated to protect environmental resources, not only on the affected parcel, but on surrounding parcels; and,
- b. Such clustering is found to be compatible with and complementary to existing neighborhoods in the vicinity of the parcel to be developed.

Policy 3: Develop incentives to encourage superior design, preserve environmentally sensitive open space, and include recreational amenities.

Policy 4: Require open space to be provided in planned unit developments to allow for shared active and passive recreational opportunities and meeting areas for future residents.

Policy 5: New construction and remodeling shall be designed to be compatible with the existing neighborhood through appropriate design and scale.

**Staff response:** The proposed PUD amendments provide for variations in housing densities beyond what is permitted in the underlying zone and require sustainable design features, many of which encourage energy-efficient housing. The proposed cluster development, cottage housing, and zero lot line development regulations provide for a variety of housing types. Development utilizing a PUD or the cluster development provisions could protect the natural areas and any environmental resources on the site and, along with the existing dimensional and other requirements encourage compatible development. The proposed PUD amendments require superior design, require and/or incentivize open space for some developments, and require recreational amenities or other public benefits. Many of the amendments address design and scale elements that encourage superior architectural elements and compatibility with surroundings areas.

Goal 5 sub goals:

2. Protect sensitive environmental features such as steep slopes, wetlands, and riparian lands, including their contributory watersheds.
3. Preserve trees in park lands, natural areas, and open space wherever possible.

Policy 5: Preserve important wildlife habitat by requiring clustered development or less dense zoning in areas with wetlands and riparian areas, natural drainageways, and significant trees and tree clusters.

**Staff response:** The proposed PUD and cluster regulations discourage the development of steep slopes, wetlands, riparian areas, and other environmentally constrained lands through density transfer. The preservation of trees is encouraged through density transfers and density bonuses for parks and open spaces.

Goal 10: sub-goals:

1. Encourage the development of affordable housing for West Linn residents of all income levels.
2. Assure good functional and aesthetic design of multi-family and clustered single-family developments.

Policy 2: Provide the opportunity for development of detached and attached single-family units, duplexes, garden apartments, town houses, row houses, multiplex units and boarding houses, lodging or rooming houses, and manufactured housing.

Policy 5: Allow for flexibility in lot design, size, and building placement to promote housing variety and protection of natural resources.

Policy 10: Encourage use of energy efficient building materials and practices in the design, construction, and remodeling of housing.

**Staff response:** The proposed PUD amendments provide a density bonus for the development of affordable housing, encourage the development of various types of residential housing, and require sustainable design features, which could include energy efficient building materials and practices. The proposed PUD and cluster development amendments allow for flexibility in lot design and size to protect natural resources.

***5. Portions of implementing ordinances relevant to the proposal***

**Staff response:** Staff is not aware of any ordinances relevant to the proposed amendments that are not addressed above.



## Memorandum

Date: June 20, 2014

To: Planning Commission

From: Sara Javoronok, Associate Planner

Subject: PUD and infill code amendments (CDC 10-02), Supplementary information

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In response to comments raised at the Planning Commission briefing on June 18, 2014, below are options that were previously discussed by the Planning Commission, but not included in the Discussion Draft. The provisions that were removed from the June 2014 Discussion Draft are shown in **bold**:

### *Planned Unit Development – 3 acre minimum*

One of the purposes of the proposed amendments was to provide alternatives for development besides a PUD for smaller properties, particularly those with natural resources or other environmental constraints. However, the proposed limitation of three acres could limit creative development opportunities for sites simply based on their size. This could prove especially limiting given the few available large properties available for development in the City.

#### CHAPTER 24, PLANNED UNIT DEVELOPMENT

##### 24.020 APPLICABILITY AND APPROVAL PROCESS

- A. A PUD may be requested in one or more residential zoning districts (R-40 – R-2.1) and the Willamette Neighborhood Mixed Use Transitional Zone.
- B. A PUD may be requested for sites that have three or more gross acres.**
- C. The application shall be processed as provided by CDC Chapter 99, Procedures for Decision-Making.

### *Flag Lots – additional height and setbacks*

The Task Force recommended limitations on building height and additional yard setbacks for taller structures, balconies, and patios. Staff believes that the additional yard and setback requirements can be adequately addressed by the orientation and screening requirements. In addition, placing different height and setback requirements on some properties would be difficult to enforce and could create different values for lots based on what happens to be on the neighboring property.

#### CHAPTER 85, GENERAL PROVISIONS

##### 85.200 APPROVAL CRITERIA

- B. Blocks and lots.

- 8) Exterior balconies and patios with a floor in excess of nine feet in height above ground elevation are prohibited within 20 feet of any interior side or rear property line, except as provided for in Subsection 10.**
- 9) In the R-7 to R-40 zoning districts, portions of any structure that exceed 18 feet in height must be setback a minimum of 20 feet from all interior side yards, as illustrated in Figure 4, except as provided for in Subsection 10.**
- 10) The standards of subsections (8) and (9) above shall not apply to the parent lot or lot lines contiguous to land:**
  - (A) designated by the City as park or open space;**
  - (B) zoned non-residential;**
  - (C) unbuildable by plat or other instrument recorded with the County;**
  - (D) not including any dwelling units within 50 feet of the shared property line; or**
  - (E) that can be further subdivided.**
- 11) Building height limitation. The maximum building height for a structure on flag lots shall be the taller of:**
  - (A) 28 feet; or,**
  - (B) The average height of the dwelling units on any two abutting properties which are not part of the partition site.**
- 12) The plans submitted for a flag lot shall include the location, setbacks, and approximate height of existing structures on adjacent parcels.**

## Memorandum

Date: August 1, 2014

To: Planning Commission

From: Sara Javoronok, Associate Planner

Subject: PUD and infill code amendments (CDC 10-02)

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### **Purpose/Background**

On July 2, 2014 the Planning Commission opened the public hearing for this project. The period for written comment was left open until July 30, 2014 and the PC will continue their discussion on the proposed amendments on August 6, 2014.

### **Discussion**

#### *Additional Research*

The Planning Commission requested additional information on PUD and flag lot regulations. Below is a summary of PUD and related regulations in other jurisdictions to assist your discussion on establishing a minimum acreage for a PUD.

- Oregon City does not have specific language for a PUD. However, it requires master plans for institutional developments over 10 acres. The City also has residential design and landscaping standards and specific standards for a concept plan area.
- Milwaukie has a two acre minimum for a Planned Development unless the Planning Commission determines that a smaller site is suitable because of unique character, topography, landscaping features, or constitutes an isolated problem.
- Lake Oswego does not have PUD regulations, but allows for an "Overall Development Plan and Schedule," which allows for phasing of a development. In addition, they have four different residential overlay districts in various areas of the city.
- The City of Portland also has numerous overlay zones and specific plan districts that provide for a variety of development types.
- The City of Gresham has Planned Development provisions that apply in some of their residential zones. They do not have a minimum size.
- The City of Tigard has Planned Development regulations that are applicable in all zones and does not have a minimum size.

The Planning Commission previously requested information about flag lot regulations in other communities. See Attachment 1, a table that summarizes the regulations in Portland, Lake Oswego, Milwaukie, Oregon City, and Gresham. All of the communities have some flag lot regulations, with those in Lake Oswego the most detailed.

*Proposed Modifications*

Staff is recommending the following changes to the Discussion Draft. Recommended changes are shown in **grey highlight** and ~~striketrough~~. The changes below to chapters 24 and 17 address issues with terminology and refer to the City’s adopted Natural Hazard Mitigation Plan.

**24.040 SUBMITTAL REQUIREMENTS**

In addition to the submittal requirements and responses to the approval criteria for all other concurrent land use applications under review, the submittal for a PUD shall include the following:

...

- C. If applicable, tables and maps indicating location, acreage, and type of all:
  - 1. Flood management areas regulated by Chapter 27;
  - 2. Willamette and Tualatin River protection areas regulated by Chapter 28;
  - 3. Water resource areas regulated by Chapter 32;
  - 4. ~~potentially severe landslide hazard areas;~~ **areas identified as a potential landslide or a landslide hazard area in the City’s Natural Hazard Mitigation Plan;**
  - 5. slopes greater than 25%;
  - 6. trees and documents required per the Tree Technical Manual; or
  - 7. cultural or historic resources.

...

**24.070 DEVELOPMENT STANDARDS**

...

- C. Density Transfer. Density transfers shall be based on the minimum lot size in the applicable zoning district and at the following rates:
  - 1. Density may be transferred at a rate of up to 50% from lands where development is not allowed by the following:
    - a. Chapter 27, Flood Management Areas;
    - b. Chapter 28, Willamette and Tualatin River Protection;
    - c. Chapter 32, Water Resource Area Protection; or
    - d. ~~potentially severe landslide hazard areas;~~ **areas identified as a potential landslide or a landslide hazard area in the City’s Natural Hazard Mitigation Plan; and**
    - e.** slopes greater than 50%.

**17.030 STANDARDS**

...

- B. Cluster development.** This section provides for development while avoiding or minimizing impacts to natural resources on the site. A portion of the allowed residential density from the area to be conserved may be transferred to an unencumbered, or less impactful, portion of the site.
  - 1. Applicability.
    - a. A property may utilize these provisions if it has the following:
      - 1) Flood management areas regulated by Chapter 27;
      - 2) Willamette and Tualatin River protection areas regulated by Chapter 28;
      - 3) Water resource areas regulated by Chapter 32;

- 4) ~~potentially severe landslide hazard areas;~~ **areas identified as a potential landslide or a landslide hazard area in the City’s Natural Hazard Mitigation Plan;**
  - 5) slopes greater than 25%;
  - 6) Heritage Trees or significant trees; or
  - 7) Other natural, cultural or hazardous areas proposed by the applicant and determined to be significant and worthy of preservation.
- b. A single lot is not eligible for land division under this subsection if the lot is completely encumbered by:
- 1) Flood management areas regulated by Chapter 27;
  - 2) Willamette and Tualatin River protection areas regulated by Chapter 28;
  - 3) Water resource areas regulated by Chapter 32;
  - 4) ~~potentially severe landslide hazard areas;~~ **areas identified as a potential landslide or a landslide hazard area in the City’s Natural Hazard Mitigation Plan;** or
  - 5) slopes greater than 50%.
2. **Density Transfer.** Density transfers shall be based on the minimum lot size in the applicable zoning district. The allowed density for such areas may be transferred to a portion of the site unencumbered by natural resources.
- a. Except as provided in Subsection (2)(b), density may be transferred at a rate of up to 50% from lands where development is not allowed by:
- 1) Chapter 27, Flood Management Areas;
  - 2) Chapter 28, Willamette and Tualatin River Protection;
  - 3) Chapter 32, Water Resource Area Protection; and
  - 4) ~~potentially severe landslide hazard~~ **areas identified as a potential landslide or a landslide hazard area in the City’s Natural Hazard Mitigation Plan;** and
  - 5)** slopes greater than 50%.

Based on input from staff and other planners that have worked on cottage housing projects, staff is recommending several changes detailed below. Generally, the changes provide additional open space and area for each cottage and add additional regulations for garages and community buildings. The proposed changes are as follows:

- C. **Cottage Housing.** This section allows for the development of smaller units of detached housing to provide variety in housing design and the availability of units for populations that are diverse in age, income, and household composition. Cottage housing developments shall comply with the following requirements:
1. **Open space.** The development shall provide open space as follows:
    - a. A minimum of 250 square feet of privately owned, contiguous, usable, open space adjacent to each dwelling unit. No dimension of this open space area shall be less than 10 feet.

- b. The development shall contain a courtyard or usable landscaped area owned in common by the owners of the dwellings (i.e., available for the use of all residents of the development) that contains a minimum of 1,500 square feet or ~~250~~**500** square feet per unit, whichever is greater. This open space shall be contained in a contiguous area with no dimension less than 30 feet. Open space meeting the minimum requirement of this subsection shall not have a slope in excess of 5%.
  - c. Up to 25% of the required open space may be ~~utilized through~~**satisfied by building** a community building ~~built~~ for the use of the cottage housing residents.
- ...
- 5. Dwelling size. Dwellings shall not have footprint greater than 1,000 square feet, **excluding a garage**. Two story dwellings shall not exceed 1,200 square feet in size. Floor area shall not include any space with a floor-to-ceiling height of less than six feet.
- ...
- 7. Lot size and density. The permitted density in cottage housing developments shall not exceed one dwelling unit per ~~2,500~~**3,000** square feet.
- ...
- 10. Interior separation. A minimum separation of ~~six~~**ten** feet is required between primary structures. Facades of primary structures that face facades of accessory structures shall be separated by a minimum of three feet. Primary entrances that face each other shall be separated by a minimum of 10 feet.
- ...
- 13. Garages and Parking. **Garages and parking areas shall have the following features:**
    - a. Parking shall be shared, **screened from cottages and public streets**, and in accordance with the single family requirements in Chapter 46. It shall not be located in the front yard.
    - b. Shared garages shall be limited to a max of four stalls per structure and shall be detached from the dwelling units.**
    - c. The garages shall have roof lines similar to the dwelling units.**
- ...
- 17. Community Buildings. Any community building shall be no more than one story and shall be clearly incidental in use and size to the dwelling units.**

*Public Comment*

Staff has received the attached written public comment (Attachment 2) from Dave and Vicki Gackle.

**Attachments:**

- 1. Various flag lot requirements
- 2. Public Comment

## Attachment 1: Various flag lot requirements

	<b>Portland</b>	<b>Lake Oswego</b>	<b>Milwaukie</b>	<b>Oregon City</b>	<b>Gresham</b>	<b>Tigard</b>
<b>Area</b>	Flag pole does not count towards the area	Flag pole does not count towards the area			Flag pole does not count towards the area	Accessway may not be included in the lot area calculation
<b>Orientation</b>		New dwelling shall face the access lane				Developer may determine the location of the front yard.
<b>Accessway</b>		Access to the flag lots is consolidated into a single shared access lane with access to the parent parcel or off site, wherever practicable. Driveways can service a single property; an access lane shall serve no more than eight. Driveway widths shall be a minimum of 12 ft.	Minimum accessway width and street frontage is 25 ft.	Joint accessway required unless the topography or the location of the existing dwelling unit prohibits it. Accessway must have at least 16 ft. of pavement to service one or two units. With a flag “pole”, the pole must connect to a public street, be at least eight feet in width, and must be under the same ownership as the flag portion of the lot.	Minimum travel lane of 12 ft. and 3 ft. planter strip. Max width of 20 ft. Have provisions for interim flag lots that will support a future street plan	Each lot created through the partition process shall front a public right-of-way by at least 15 ft. or have a legally recorded minimum 15-ft. wide access easement
<b>Setbacks</b>						
<b>Front</b>	15	10 structure, 20 garage	Same as underlying, 20 ft.	Same as underlying (R-10), 20 ft.	10	
<b>Rear</b>	15	In R-10 and R-15, the sum of the side and rear must be at least 50 ft.	Same as underlying, 20 ft.	Same as underlying (R-10), 20 ft.	10, 6 ft. with alley	
<b>Side</b>	15		Same as underlying, 10 ft.	Same as underlying (R-10), 10 ft., one side, 8 ft., other	10	No side yard can be less than 10 ft.

	<b>Portland</b>	<b>Lake Oswego</b>	<b>Milwaukie</b>	<b>Oregon City</b>	<b>Gresham</b>	<b>Tigard</b>
<b>Height</b>	30 ft., grade to mid-point	22 ft. or the average of the dwellings on existing properties, with exceptions	Same as underlying, the maximum height for their R-10 and R-7 districts is generally 2.5 stories or 35 ft., whichever is less, and the height is measured from grade to peak.	Same as underlying, maximum height in their R-10 and R-8 districts is 2.5 stories, not to exceed 35 ft. and is generally measured from grade along the street facing elevation to the midpoint of the highest ridge on a gabled roof.	22 ft. for roofs with less than a 1:4 pitch or with a butterfly or mansard roof; 30 for other roof types	1 ½ stories or 25 ft.; or 2 ½ stories or 35 ft. (whichever is less) with requirements including that it have a 10 ft. side yard, is more than 50 ft. from a residential structure on a neighboring lot, or that structure is more than 25 ft.
<b>Landscaping/ Screening</b>	5 ft. along the perimeter of the flag portion for their R7 to R-2.5	5 ft. landscaping strip for both sides abutting the access lane; also on flag with existing mature vegetation, a fence, or trees/hedges	Screening is required on lot lines abutting any neighboring lot that is not part of the parent lot. Either fencing or dense plantings of trees and shrubs that will provide continuous sight obstruction within three years of planting is required.			Screening required where the paved accessway is within 10 ft. of an abutting lot. May also be required for privacy.
<b>When permitted/ Other</b>			Allowed when it can be demonstrated that access via a public street is not possible. Allowed in partitions, but prohibited in subdivisions platted after August 2002.	Allowed in partitions when configuration, topography, or an existing dwelling unit preclude other partitioning and development of the property. Permitted in subdivisions for the above or when it otherwise meets the minimum density, lot width, or lot depth of the underlying zone.	Permanent flag lots are only permitted with mid-block streets or alleys cannot be extended to serve future development.	Structures shall generally be located so as to maximize separation from existing structures.





CITY OF  
**West Linn**

PLANNING COMMISSION

Minutes of July 2, 2014

Members present: Chair Christine Steel, Vice Chair Russell Axelrod, Lorie Griffith, Nancy King, Jesse Knight, Robert Martin and Ryerson Schwark  
Mayor John Kovash attended the prehearing work session.

Members absent: None.

Staff present: Chris Kerr, Community Development Director; Sara Javoronok, Associate Planner; and Megan Thornton, Assistant City Attorney

**PREHEARING WORK SESSION**

Chair Steel convened the session at 6:00 p.m. in the Rosemont Room of City Hall. Staff reported receiving no additional written comments. A number of people had asked how the proposed amendments would affect them. Staff and the Commissioners discussed hearing procedure; potential continuation to August 6; what the supplementary staff memo contained; and that all of the documents were available to the public on the web and would be emailed to those who had signed up for emailed information. Mayor Kovash thanked the Commission for bringing forward an issue of staff-Commission cooperation. He talked about how to resolve it. The session was adjourned at approximately 6:26 p.m.

**REGULAR MEETING - CALL TO ORDER**

Chair Steel called the meeting to order in the Council Chambers of City Hall at 6:30 p.m.

[Note: Meeting video begins as Mr. Olsen comes forward to comment.]

**PUBLIC COMMENT**

➤ **Ole Olsen, 3993 Kenthorpe Way – on the difficulty of following the process.**

Mr. Olsen explained that he wanted to be kept better informed in regard to CDC-10-03, Ordinance 1623 as that legislation would impact his property rights. His experience was that he prepared for meetings and they were changed or canceled; he found he did not have the latest revision; and he could not find information on the website. The Commissioners suggested that Mr. Olsen could get answers from staff; he could take his concerns to the Commission for Citizen Involvement; and he could watch the City website for scheduled meetings.

➤ **Miquel and Lidia Salinas, 20765 Willamette Drive - on keeping Highway 43 safety and impacts in mind when considering land use matters.**

Mr. Salinas indicated he supported CDC-10-02. He indicated they should be constantly concerned about safety and impacts on businesses and residences during all land use and development-related matters. He listed his concerns as making maximum use of one's property and recognizing that even though the City did not own Highway 43 it impacted them. He suggested giving more consideration for left turns at strategic points and erecting courtesy signs such as 'Slow down and follow the speed limit.' Vice Chair Axelrod suggested Mr.

Salinas consider participating in the Arch Bridge master planning process, which would look at the Highway 43 corridor.

20:00

## **PUBLIC HEARING**

### **CDC-10-02, PUD/Infill draft code amendments**

The staff reports and written testimony are available online at: <http://westlinnoregon.gov/planning/planning-commission-meeting-39>

Chair Steel opened the public hearing and outlined the affected CDC chapters, the procedure, and the applicable criteria. No conflicts of interest were declared. No one challenged the authority of the Planning Commission or any individual Commissioner to hear the matter.

### **Staff Report**

Ms. Javoronok outlined the history of the project and the goal to no longer require a PUD for natural resource/constrained areas. Measure 56 notice had been sent to over 1,000 households; around 50 persons had attended the open house; and over the past few weeks over 80 persons had contacted staff to ask how the proposal would affect their property. She noted the June 20 supplementary staff memorandum reported on potential modifications to the amendments the Commissioners had discussed. She provided an overview of the three main components of the package: Planned Unit Developments, Flag Lots, and Alternative development standards (Cluster Development, Cottage Housing, and Zero Lot Line Development).

Ms. Javoronok clarified that the hearing draft did not include a 3-acre limit on PUDs that the Commissioners had discussed. The idea was to have smaller properties go through one of the alternative development types. Staff preferred that too, but they would not prohibit smaller properties from going the PUD route if they could use it to have a better design or make better use of the site. She clarified that the Commissioners had discussed additional Flag Lot provisions which were not in the hearing draft. They would address the impact on adjacent residential properties by requiring greater setbacks for upper balconies/patios; greater setbacks for structures over 18' high; and set the height limit at 28'. Staff's rationale for maintaining the current residential zone height limit of 35' was that a 2010 change in the way the City measured height had lowered allowable height by about 7'.

40:20

### **Questions of Staff**

Vice Chair Axelrod asked why the June 20 Supplemental Staff Memorandum did not report that the Commissioners had expressed concern at their June 18 meeting that staff was distributing a hearing draft that was not what the Commissioners recommended. He said the public should be aware that it was not endorsed by the Commission. Ms. Javoronok noted the memo talked about the options staff had discussed with the Commission and reported they had been



removed from the draft. It would be easy for the Commission to add those conditions back in when they made their recommendation.

43:30

### **Public Testimony**

#### **➤ David Dean, 22870 Weatherhill Road (In Support)**

Mr. Dean indicated he did not live in the City but was surrounded by it. He indicated he could not understand limiting PUDs to three acres or more and was opposed to doing that. There was no reason to limit them to 3 acres; there were many properties in the 1-3 acres range to be developed; and it was an unnecessary restriction on getting the flexibility a PUD could have. Under the right circumstances PUDs led to better developments and better housing choices in the City.

#### **➤ Russell Carter, 1900 Webb (Neither for nor Against)**

Mr. Carter indicated that he and his wife owned property that might be affected. He submitted written testimony that he said included a map and description of his property. It was 100' x 250' but they had no intention of changing it or further developing it during their lifetimes. They would resist any change of zoning, definition, or anything else that affected the property. He asked how the proposed amendments would affect it. Chair Steel encouraged him to arrange to talk to staff about the specifics in regard to his property. Ms. Javoronok clarified the proposed amendments did not require owners to develop their properties or make any changes to them. It would not change the zoning and she did not think it was likely to change their property taxes.

#### **➤ Tomas Pudil, 1928 Hillhouse Drive (In Opposition)**

Mr. Pudil testified that the people of West Linn would not benefit from the proposal because it would create more density and mean longer lines at stores and gas stations, longer time to enter a main street from a side street, and more people in the same area. They all would suffer. From living in Europe and Beaverton he knew how people felt when density increased. He said the City should go the extra mile and notify everyone in the City so they could anticipate and react to what was coming. He had received the notice because he owned a larger property, but his neighbors had not.

#### **➤ Linda Hamel, 5661 Cascade Street (In Opposition)**

Ms. Hamel asked the Commission to continue the hearing for additional citizen input because there were neighborhood association events going on that night and some people were away during Fourth of July week. She asked who had requested the code changes; what percentage of West Linn residents were in favor of the amendments; and would the changes weaken existing environmental protection codes, particularly in regard to setbacks. She related that it had been established that her property was in a riparian hardwood forest on a bluff, with significant floodplain, trees that anchored the slope, and wildlife habitat.

Those who indicated on the sign-up sheet that they did not wish to testify but were requesting standing in the matter:

- Lucille Grunst, 20775 Willamette Drive (In Opposition)
- Kevin and Michelle Patterson, 3927 Ridgewood Way
- Bill Brasel, 5831 West "A" Street

57:30

#### Staff Response to Public Testimony

Mr. Kerr advised this project carried out a 2010 Council goal. The Planning Commission, the City Council and staff thought PUD regulations were not providing the results they wanted and there had been some dissatisfaction with Flag Lot regulations and the way they were addressing infill development in general. The Council had formed a task force. Their recommendations had been forwarded to the Commission which had been working on them.

Ms. Javoronok advised the proposed amendments did not expand or diminish environmental regulations on any properties in the City. While the City had not directly asked every resident if they favored the proposal, there had been 40-50 people at the open house and over 80 people called or came in to City Hall to find out how it affected them. Staff had not heard a number of people say they were opposed to it. The notice had been sent to over 1,000 households within the City's growth boundary. They confirmed that the Commission could decide to keep the record open and set a date for continuance. There would also be opportunities for public testimony at the City Council hearing. Those who signed the Testimony Form would have standing and be notified of meetings ahead of time and get staff reports.

In regard to the density question, staff said the proposed PUD regulations and Cottage Housing could allow for greater density than would otherwise be permitted by the underlying zone. Metro required the City to provide for housing density of 8 units per acre. R-10 zoning was about 4.5 units per acre, and R-7 was 6 to 7 units. West Linn was not as dense as other metropolitan area cities.

#### Motion to Continue

Commissioner Schwark **moved to continue CDC-10-02** and keep the record open for written testimony to July 30. Commissioner Griffith **seconded** the motion and it **passed 5:1**. Chair Steel voted against explaining it was because she thought it was not fair to the staff to ask them to put the information together in such a short amount of time prior to the continued hearing.

Commissioner King **moved to continue CDC-10-02 to a date certain of August 6, 2014**. Vice Chair Axelrod **seconded** the motion and it **passed 6:0**.

Commissioner Schwark and Chair Steel asked staff to be prepared to address small PUD developments and Flag Lots in more detail at the next meeting. He explained the Commission was concerned that newly-divided flag lot properties could impact their neighbors negatively so they proposed some additional setback requirements that staff did not support. She pointed out the June 20 supplementary staff memorandum contained the language the Commissioners

had discussed which had the extra requirements. She indicated they wanted to hear what the public thought about it.

**ITEMS OF INTEREST FROM THE PLANNING COMMISSION**

Ms. Thornton confirmed that Planning Commission Policies and Procedures had been revised and would be provided to the Commissioners.

**ITEMS OF INTEREST FROM STAFF**

Mr. Kerr noted the joint Planning Commission/City Council work session was the following Monday.

**ADJOURNMENT**

There being no other business, Chair Steel adjourned the meeting at approximately 7:47 p.m.

APPROVED:

Christine M Steel  
Christine Steel, Chair

8-6-14  
Date





# CITY OF West Linn

## PLANNING COMMISSION

Minutes of August 6, 2014

Members present: Chair Christine Steel, Vice Chair Russell Axelrod, Lorie Griffith and Ryerson Schwark  
Members absent: Nancy King and Jesse Knight  
Staff present: John Boyd, Planning Manager; Sara Javoronok, Associate Planner; and Megan Thornton, Assistant City Attorney

### WORK SESSION

Chair Steel convened the session at 6:02 p.m. in the Rosemont Room of City Hall. Staff noted written testimony had been received. Commissioners and staff discussed hearing procedure and the September schedule.

### REGULAR MEETING - CALL TO ORDER

Chair Steel called the meeting to order in the Council Chambers of City Hall at 6:30 p.m.

### PUBLIC COMMENT

Alice Richmond, 3939 Parker Road announced two upcoming Adult Community Center events.

Janet Delgaard, 2629 Gloria Drive; Brian Hemphill, 2620 Woodsprite Ct.; and Roger Young, 5055 Summit St. each expressed multiple concerns about construction at a Rosemont/Summit development. Staff advised the Commission could not change the conditions of approval at this point. They advised there was no limit on decibel level and they suggested who the neighbors could talk to at the City regarding their concerns.

### APPROVAL OF MINUTES

Commissioner Schwark **moved** to approve the Minutes of June 18, 2014 as amended by Vice Chair Axelrod. Commissioner Griffith **seconded** the motion and it **passed** 4:0. Commissioner Schwark **moved** to approve the Minutes of July 2, 2014. Commissioner Griffith **seconded** the motion and it **passed** 4:0. Commissioner Schwark **moved** to approve the Minutes of July 16, 2014 as corrected by Chair Steel. Commissioner Griffith **seconded** the motion and it **passed** 2:0:2. Commissioner Schwark and Vice Chair Axelrod abstained.

### HEARING: CDC-10-02, PUD/Infill draft code amendments

Links to meeting documents and staff report: <http://westlinnoregon.gov/planning/planning-commission-meeting-42>

Chair Steel opened the hearing. No declarations were made. She announced the record had been closed to additional written testimony on July 30, 2014. She invited oral testimony. Alice Richmond, 3939 Parker Road, asked the Commission to consider her previously-submitted testimony. Chair Steel closed the public hearing.

## Deliberations

Ms. Javoronok highlighted aspects of the August 1 staff memorandum. Staff had researched how other jurisdictions addressed PUDs and Flag Lots. They recommended changes to Cottage Housing provisions that would decrease their density and add specific requirements for garages. Vice Chair Axelrod and staff discussed that staff would replace the language, 'potentially severe landslide areas' with 'areas identified as a potential landslide or landslide hazard area in the City's adopted Natural Hazard Mitigation Plan.' They also discussed that the Cottage dwelling size limit of 1,000 s.f. did not include garage area.

Chair Steel polled the Commissioners and determined that their issues were minimum size of PUDs and requirements for Flag lots. The only written public comment received asked them not to require a three-acre minimum parcel size for PUDs. Ms. Javoronok explained that staff no longer recommended that. Chair Steel could not recall minimum size being a big issue for the task force. Vice Chair Axelrod questioned that smaller parcels would be large enough PUDs to offer an appropriate community benefit. He indicated they resulted in denser housing that was inconsistent with the zoning and the neighborhood. He cited Suncrest as an example. He clarified that he thought cluster housing could be done in a tasteful way that would fit certain neighborhoods. Commissioner Schwark recalled they had learned there were very few properties which were three acres or more in West Linn.

When asked if he would be comfortable with a smaller minimum or using landscaping standards to address his concerns Vice Chair Axelrod indicated he would not because he wanted to honor the task force recommendation and he did not think landscaping standards could address the neighborhood character issue. Commissioner Schwark reasoned that people would only use the PUD process for a good reason because the Cottage and Clustered Housing processes were cheaper and easier. He noted the current draft did not include the minimum PUD size requirement.

Commissioner Schwark **moved** to accept the removal of a minimum size PUD requirement from the current draft of CDC-10-02. Chair Steel **seconded** the motion and it **passed** 3:1. Vice Chair Axelrod voted no.

In regard to Flag Lot requirements Commissioner Schwark indicated he could support using the standard residential height limit because the city had changed how height was measured. He was not okay with creating a new set of unique setbacks for Flag Lots. He noted Milwaukie had some good ideas about requiring screening of Flag Lots that they should talk about. Commissioner Griffith indicated she definitely wanted to have screening requirements. She related she had looked at how other cities addressed that. Vice Chair Axelrod suggested following Lake Oswego's example of setting the height limit at the averaged height of adjacent buildings, not to exceed a certain limit. Then, if the immediate neighborhood was predominantly single story homes the infill would not be out of character. He also wanted to maximize required setbacks. He did not think tall walls could be adequately screened using vegetation. Commissioner Schwark related his concern that creating a series of different regulations for Flag Lots might seem okay now, but result in a messy patchwork of

requirements within the same neighborhood that would have to be managed decades down the road.

Vice Chair Axelrod indicated he thought it was fine to have separate regulations for Flag Lots. He asked the Commissioners to examine previously proposed Flag Lot requirements language staff had distributed for the July 2 Commission meeting. He supported those setback requirements and an averaged height limit provision with a 28' cap. Staff clarified that language was not in the public hearing draft, which proposed to use the 35' height limit. Commissioner Schwark indicated he was okay with using the average, but the cap should be the underlying zone limit. If the limit was 28' that would mean new structures would be shorter than surrounding existing properties because the measurement method had changed. Ms. Javoronok clarified the 28' height limit was the task force recommendation. After the task force started meeting the city changed how it measured building height from grade-to-midpoint-of-roof to grade-to-peak-of-roof, which essentially cut off about 7' of allowable height. Commissioner Schwark and Vice Chair Axelrod discussed if the average should be of any two abutting properties, or if they had to factor in more or all abutting properties. Vice Chair Axelrod favored all.

Mr. Boyd cautioned against crafting code that would lead to processing more variances. If they required such wide setbacks and did not allow a taller building that could limit the ability to develop the lot. That would affect a property right. He suggested they be practical and ask themselves what their community needed. He recalled the City had a significant number of Flag Lots and they usually had high end homes on them, so people were building them and building them well. In regard to being practical Commissioner Schwark reasoned that if the height was averaged and comparable to the other houses in the neighborhood then the setbacks of the underlying zone ought to be okay. He would also apply the screening requirements.

Mr. Boyd related that staff did not have the capability of measuring and verifying the height of the adjacent houses; and, building plans were only kept for a certain period of time so those records might not be available. Vice Chair Axelrod related there were tools available that would make it easy to measure heights.

Vice Chair Axelrod **moved** to incorporate a Flag Lot development height restriction that was the average of the structures on adjacent properties. Commissioner Griffith **seconded** the motion and it **passed** 3:1. Commissioner Schwark voted against indicating that the record should show that he agreed with the principle of averaged height but he was concerned about staff's ability to measure and manage it.

In regard to setbacks for Flag lots Vice Chair Axelrod said if they were similar to surrounding properties there was a problem because flag lot structures were usually oriented differently than the surrounding buildings. Commissioner Schwark noted that if they imposed a 20' setback it would be as much as three times the width of the setbacks of the rest of the



neighborhood. That might raise legal issues if it prevented people from developing their property.

Commissioner Griffith supported having 20' separation between infill houses as opposed to 11' or 12'. Chair Steel noted the difference between how neighborhood infill looked and how new developments with flag lots in them looked. She recalled that there were some developments with big and beautiful homes with shared driveways. She indicated she did not want to require setbacks that caused problems for newer flag lot developments, as long as there was screening. Commissioner Schwark suggested imposing larger setbacks as well as averaged height was too onerous and unnecessary. They should have one or the other if they could figure out how to measure averaged height. Staff confirmed that the current draft required the setbacks of the underlying zone. Vice Chair Axelrod indicated it would be reasonable to recommend those setbacks and the averaged height limit to make Flag Lots consistent with adjacent properties.

Commissioner Schwark **moved** to recommend approval of the amendments as proposed in the July 2, 2014 public hearing draft CDC-10-02 with the addition of a Flag Lot height restriction based on the average height of the abutting properties. Commissioner Griffith **seconded** the motion and it **passed** 3:1. Vice Chair Axelrod voted against, explaining that was because there was no minimum size PUD requirement. Commissioner Schwark **moved** to incorporate the changes related to landslide areas and Cottage Housing which were proposed in the August 1, 2014 staff memo into the Planning Commission recommendation to City Council. Commissioner Griffith **seconded** the motion and it **passed** 4:0. Chair Steel closed the hearing.

#### ITEMS OF INTEREST FROM THE PLANNING COMMISSION

Staff confirmed that the City was accepting applications for the open Commission position.

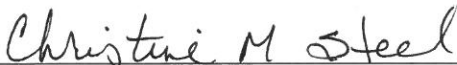
#### ITEMS OF INTEREST FROM STAFF

None.

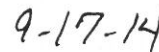
#### ADJOURNMENT

There being no other business, Chair Steel adjourned the meeting at 8:40 p.m.

APPROVED:



Christine Steel, Chair



Date

## Javoronok, Sara

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**From:** Rolf Olson <rolfolson@outlook.com>  
**Sent:** Monday, June 16, 2014 4:59 PM  
**To:** Javoronok, Sara  
**Subject:** OBC / RESIDENTIAL

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Sara ---

I talked to Chris this afternoon about more residential use flexibility in the OBC zone considering the apparent need for an avenue of mixed use in the CDC.

As you know, the OBC provides for residential use only above the first floor. I pointed out in my previous correspondence that this limitation required looking at using the PUD section of the code for the parcel at the NE corner of Hood and Burns.

Altering this limitation on residential use in a OBC zone could avoid use of the Waiver procedure for those having properties similarly situated to the subject property. Certainly it is important to use commercially zoned properties for commercial purposes where suitable, but when not suitable what is the best alternative?

The east portion of the Hood and Burns NE corner property is a good example of unsuitability for commercial use. Other commercially zoned properties have similar problems. For example, there may be little value in requiring commercial use for the rear portions and some side portions of commercial properties, especially when facing residential areas.

I submit this idea for consideration of the staff. Possibly there is more flexible language that could be crafted and reviewed by the Planning Commission when considering the current proposed changes in the CDC.

Thanks, Rolf

June 13, 2014

West Linn Planning Commission  
Staff, Sara Javoronok  
22500 Salamo Road  
West Linn, OR 97068

Subject: CDC Amendments, Undated Letter from Planning Commission post stamped June 10, 2014.

Hello Planning Commission,

I'm the owner of an OBC undeveloped parcel at the northeast corner of Hood and Burns, diagonally across from West Linn Central Village. Our concept for the property as presented to the planning staff is for a mixed use project.

The west portion of the parcel is compatible with the OBC requirement of residential use only above the first floor of commercial use, however, the east portion is best suited for residential use only. Therefore, the OBC code was at odds with a mixed use project on this parcel. Also, the CDC has no straightforward mixed use provisions.

However, through use of a PUD overlay a mixed use plan was put together and presented to the planning staff at a pre-hearing conference. The staff report from that meeting states, ". . . applicant's proposal can potentially meet the provisions of the CDC and be approved but only if it is applied for as a PUD".

In the event the current proposed changes to the CDC are approved the concept for this parcel could only proceed by use of the newly enacted Waiver procedure. A Waiver is certainly a reasonable option; however, we wish to highlight for the Commission the benefit of flexibility in use of the PUD provisions for commercial properties.

Sincerely,

Rolf Olson  
3453 Augusta National Dr S  
Salem, OR 97302

## Shroyer, Shauna

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**Subject:** FW: Letter re: Measure 56 And 1335 & 1329 WFD preliminary Plans  
**Attachments:** 176 - Aerial.pdf; 176 - Plan 1.pdf; 176 - Plan 2.pdf; 176 - Plan 3.pdf; 176 - Plan 4.pdf; 176 - Plan 5.pdf; 176 - Plan 6.pdf; 176 - Plan 7 Grading.pdf; 176 - Plan 8.pdf; 176 - Plan 9.pdf; 176 - Plan 10 Grading.pdf; 176 - Plan 11 Grading.pdf; 176 - Plan 12 Grading.pdf; 176 - Plan 13 Grading.pdf; 176 - Plan 14 Grading.pdf; 176 - Plan 15 Grading.pdf; 176 - Plan 16.pdf; 176 - Tax Map.pdf; City of West Linn letter.docx

-----Original Message-----

From: Multiphase Electric, LLC [mailto:[multiphase@ccgmail.net](mailto:multiphase@ccgmail.net)]  
Sent: Wednesday, July 30, 2014 12:07 PM  
To: Javoronok, Sara  
Cc: Pelz, Zach  
Subject: Letter re: Measure 56 And 1335 & 1329 WFD preliminary Plans

July 30, 2014

To: The City of West Linn

We are writing you in regards to the proposed changes related to measure 56. We own two investment properties that will be affected by this measure, 1335 and 1329 Willamette Falls Drive. The two together come in just slightly over two acres.

On July 3rd, 2007 we had a pre-application conference with the planning department. We had invested quite a bit of time and money working with a land planner, a civil engineer and the planning department, to come up with the most efficient design to best meet the needs/codes of the City as well maximizing our investment. Through all these discussions, we decided to develop a PUD. However, at that time, the market crashed and we decided to wait until a better time to develop. The market seems to be making a turn around and we just started to pull out our old files and beginning to rethink our plans once again. We now are aware of the changes that are proposed and we are concerned that if we lose the option to develop a PUD, we may lose some flexibility with our complex development. Our lots are sloped in some areas and we would like to maintain as many options as possible to try to maximize its potential and create something that the City would be excited about. It's not a simple & straight forward development.

We are aware that this measure is creating other options like the cluster housing and cottage housing. We are looking forward to exploring these options and appreciate what the City is trying to achieve by doing this. However, we would still like the ability to develop a PUD if that is the option that proves to be the most desirable.

We appreciate your time and consideration in not putting a size limit on the PUD. Please continue to allow developments smaller than 3 acres to have the most flexibility as possible to develop. We have enclosed some of the sketches we created in 2007-2008 for you review, keep in mind, they are just ideas and some are not logistically possible with the slopes.

Sincerely,

Dave and Vikki Gackle  
503-516-3110



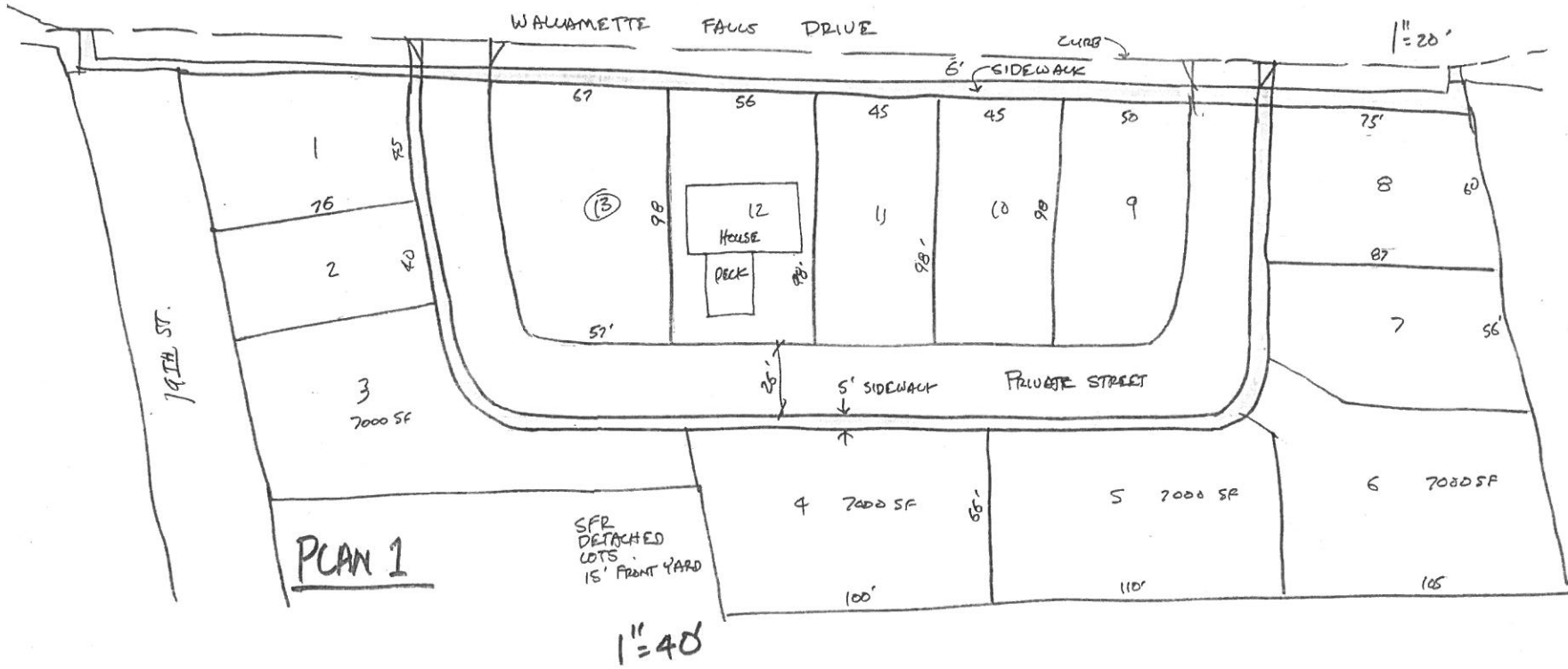


1" = 50'

201 ft

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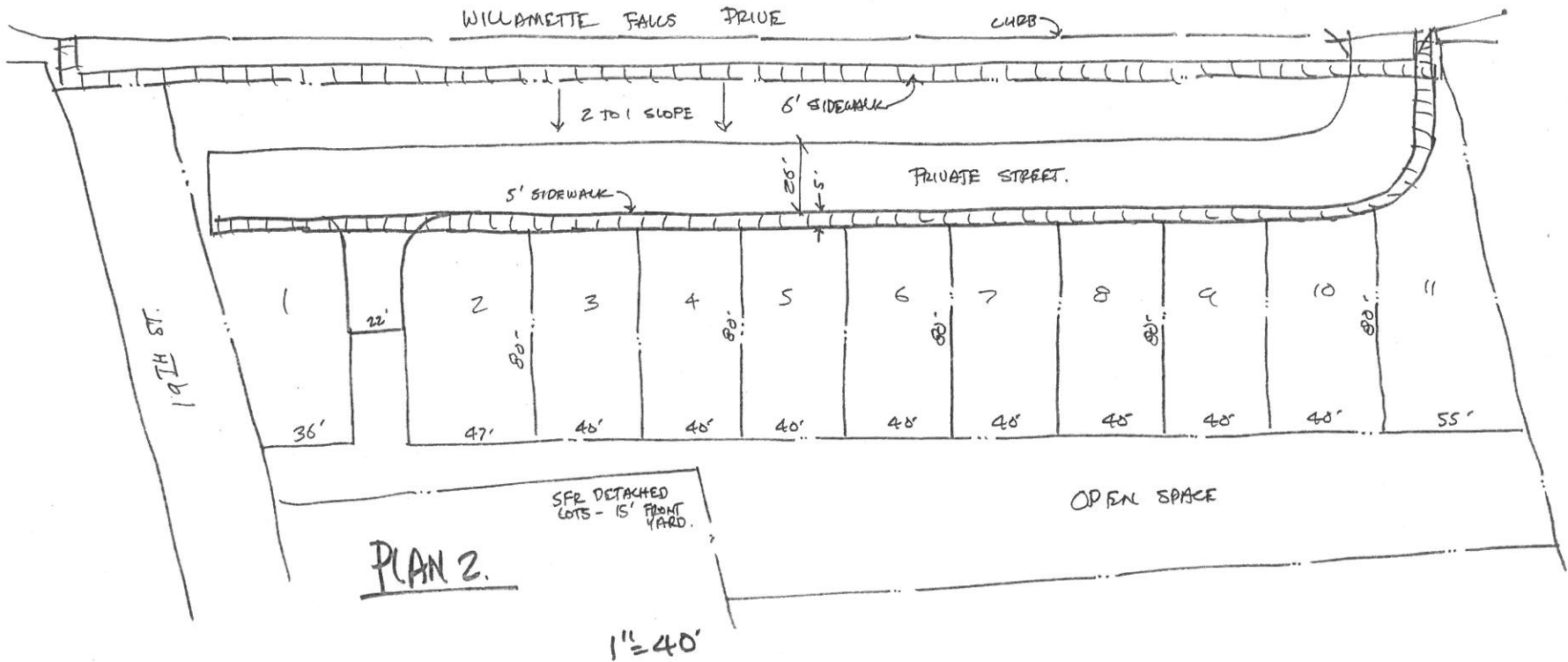


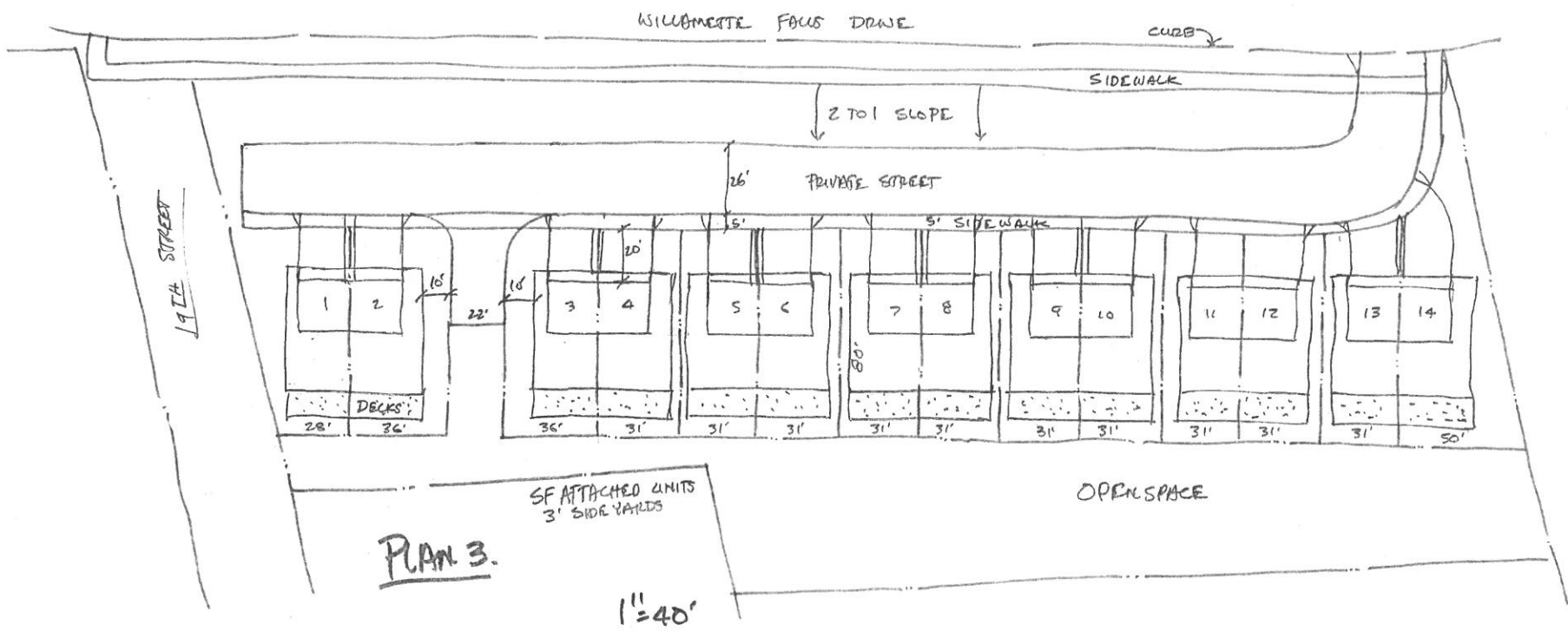
PLAN 1

SFR DETACHED LOTS 15' FRONT YARD

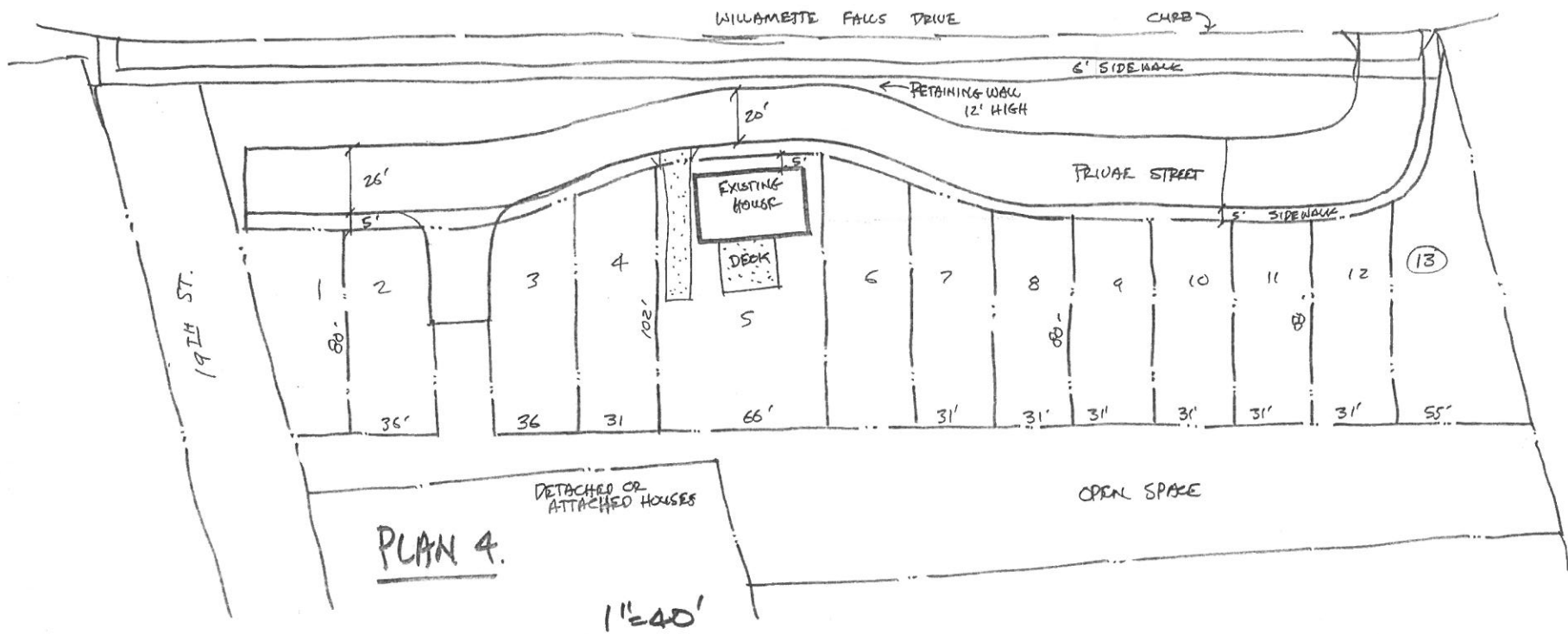
1" = 40'



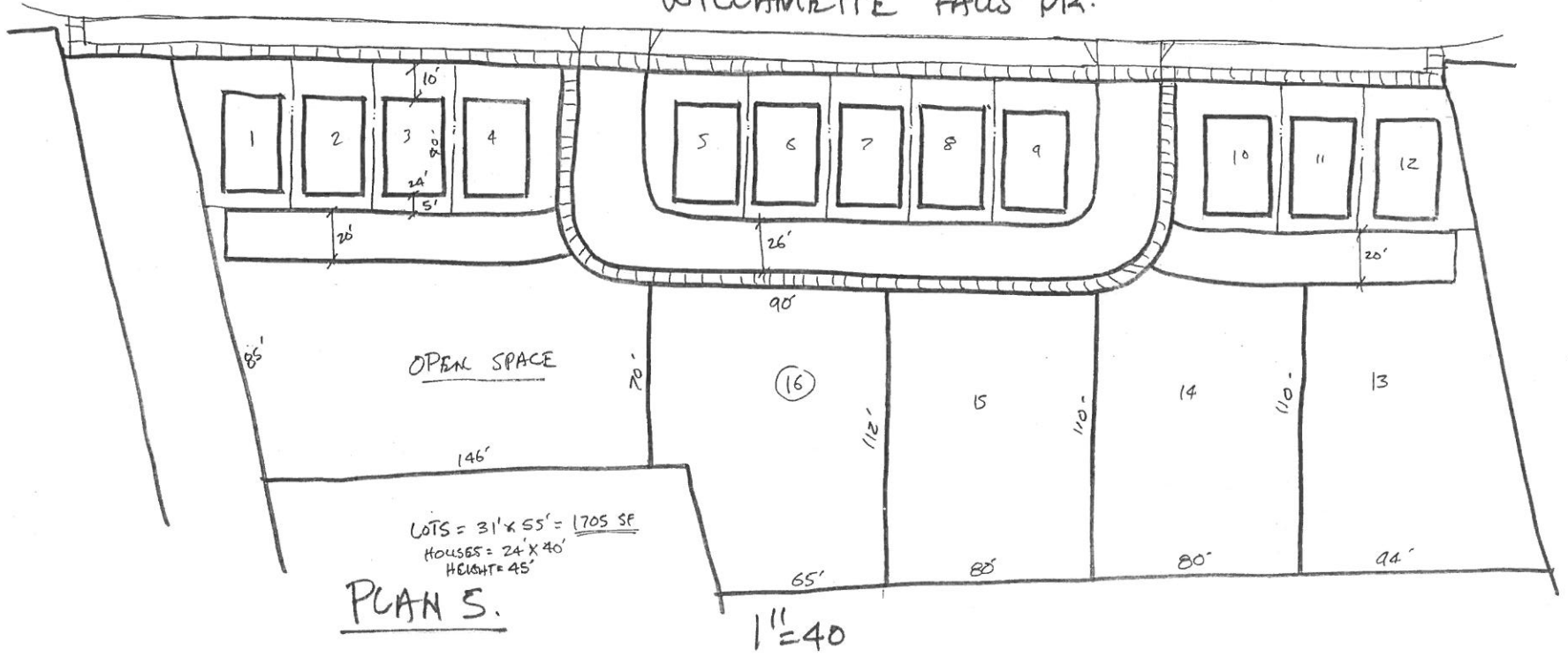






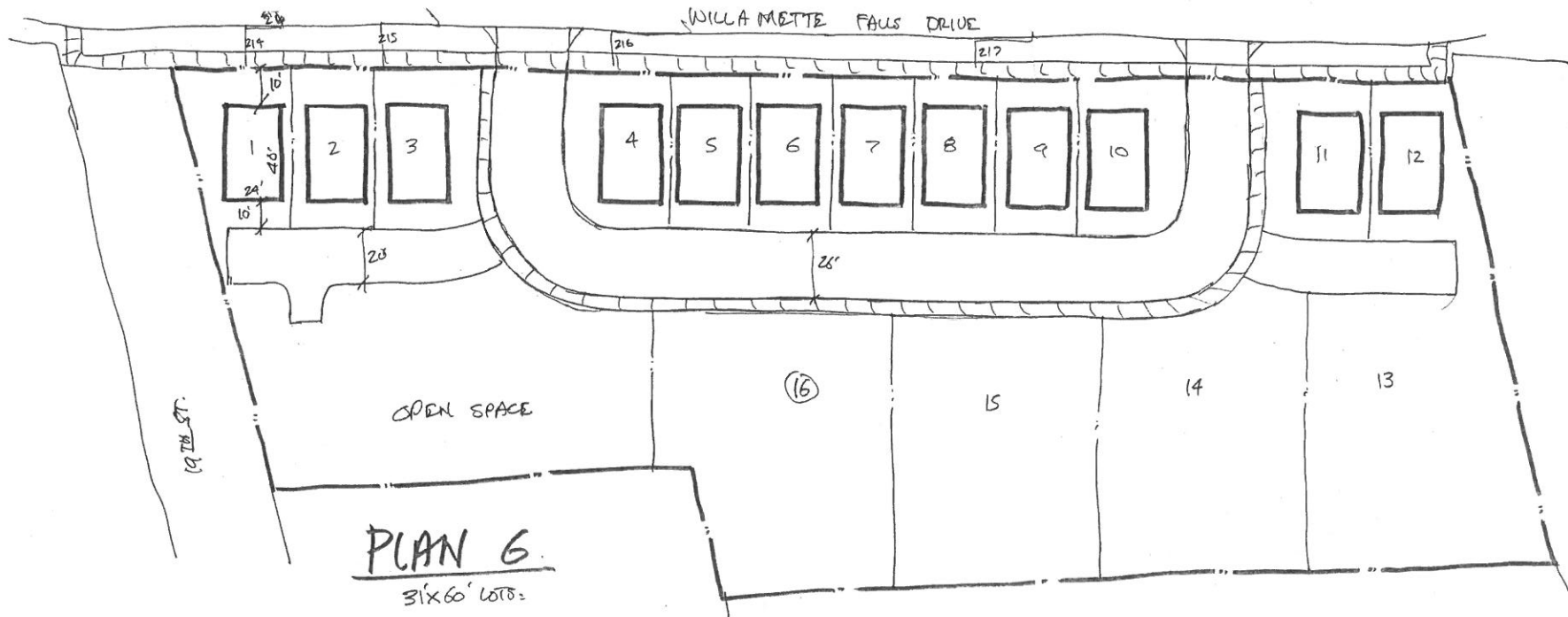


WILLAMETTE FALLS DR.



LOTS = 31' x 55' = 1705 SF  
HOUSES = 24' x 40'  
HEIGHT = 45'

PLAN 5.



1" = 40'

WILLAMETTE FALLS DRIVE.

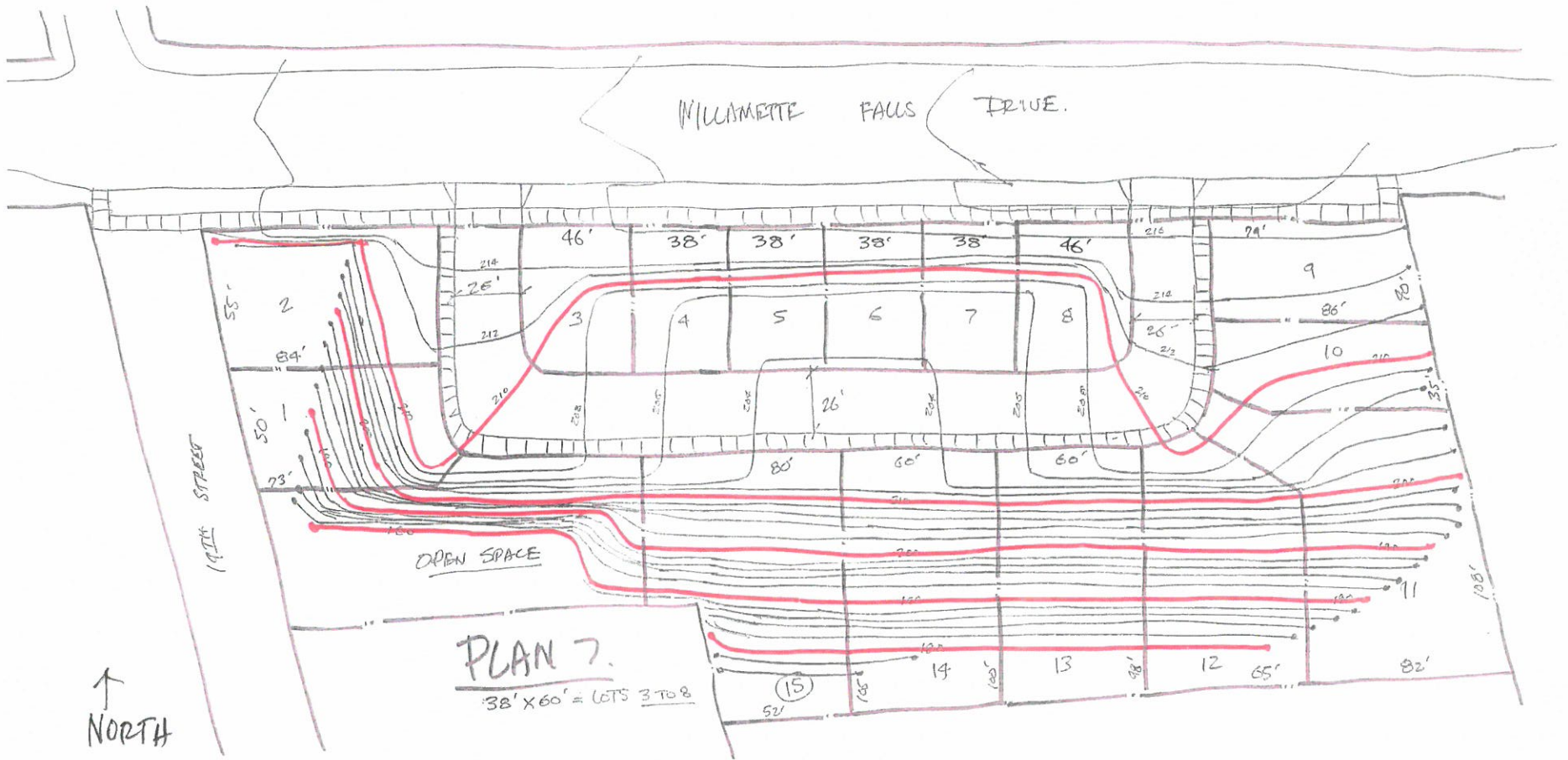
17TH STREET

OPEN SPACE

PLAN 7.

38' X 60' = LOTS 3 TO 8

↑  
NORTH



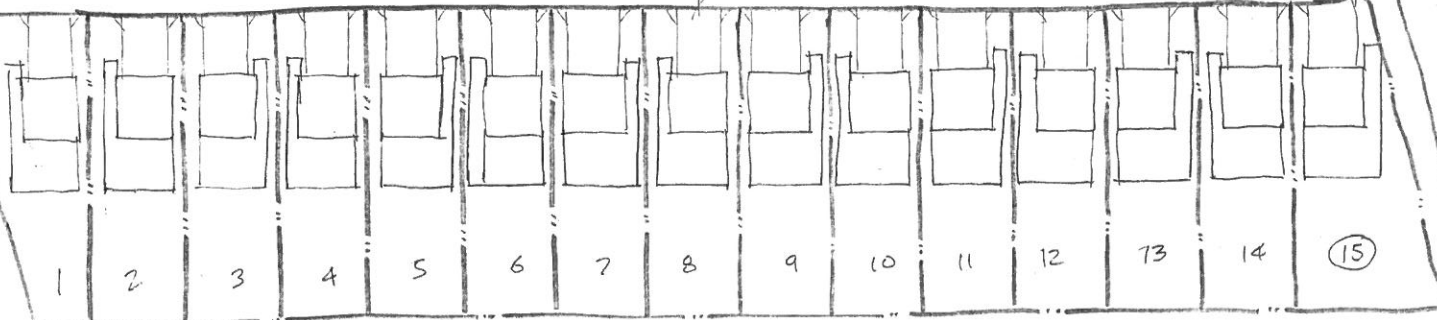
WILLAMETTE PAWS DRIVE

PUBLIC FRONTAGE ROAD

NEW TE

26'

19TH STREET



1 2 3 4 5 6 7 8 9 10 11 12 13 14 (15)

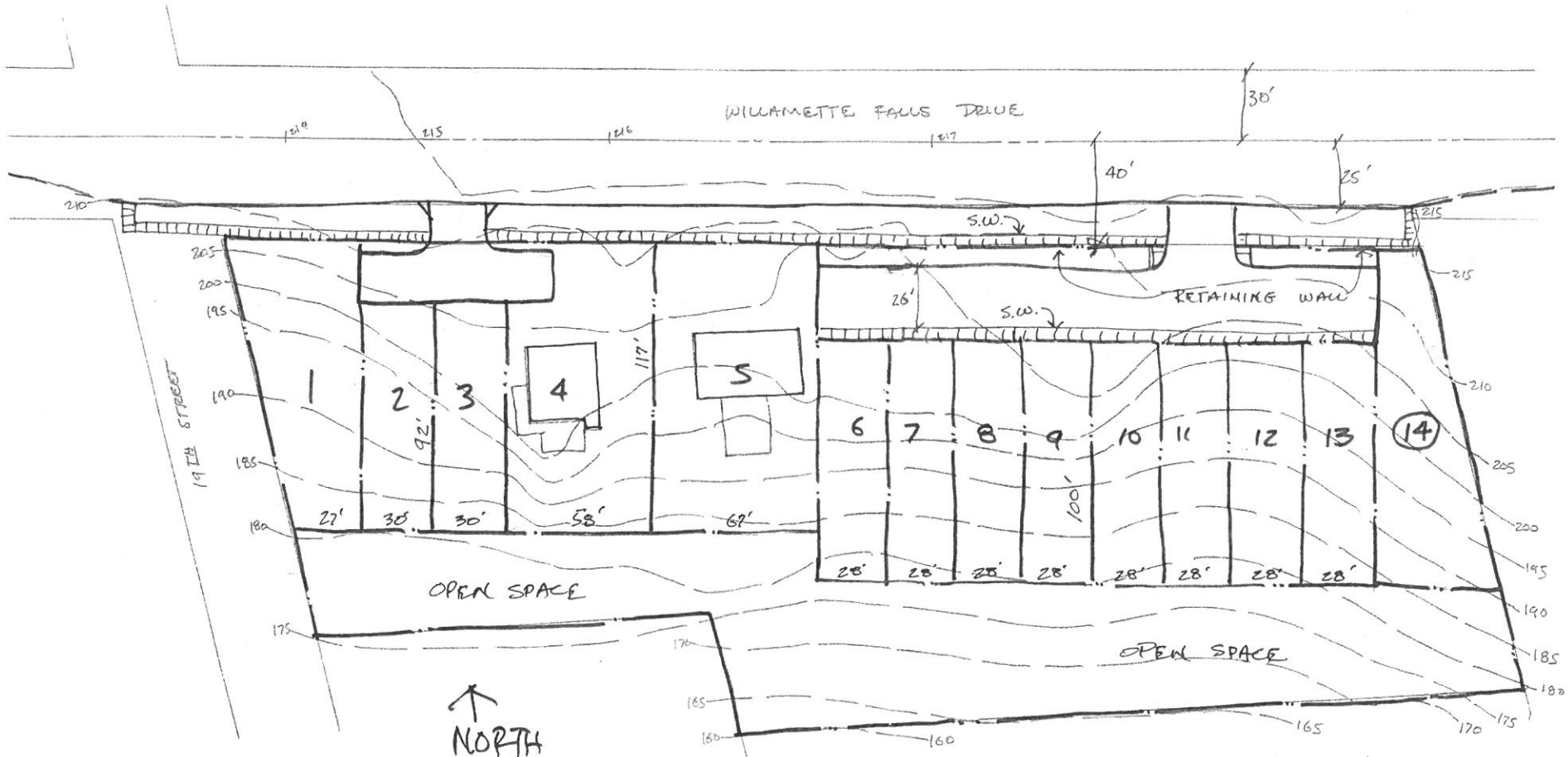
OPEN SPACE

24'x46'  
HOUSES

31'x90' LOTS  
PLAN B.

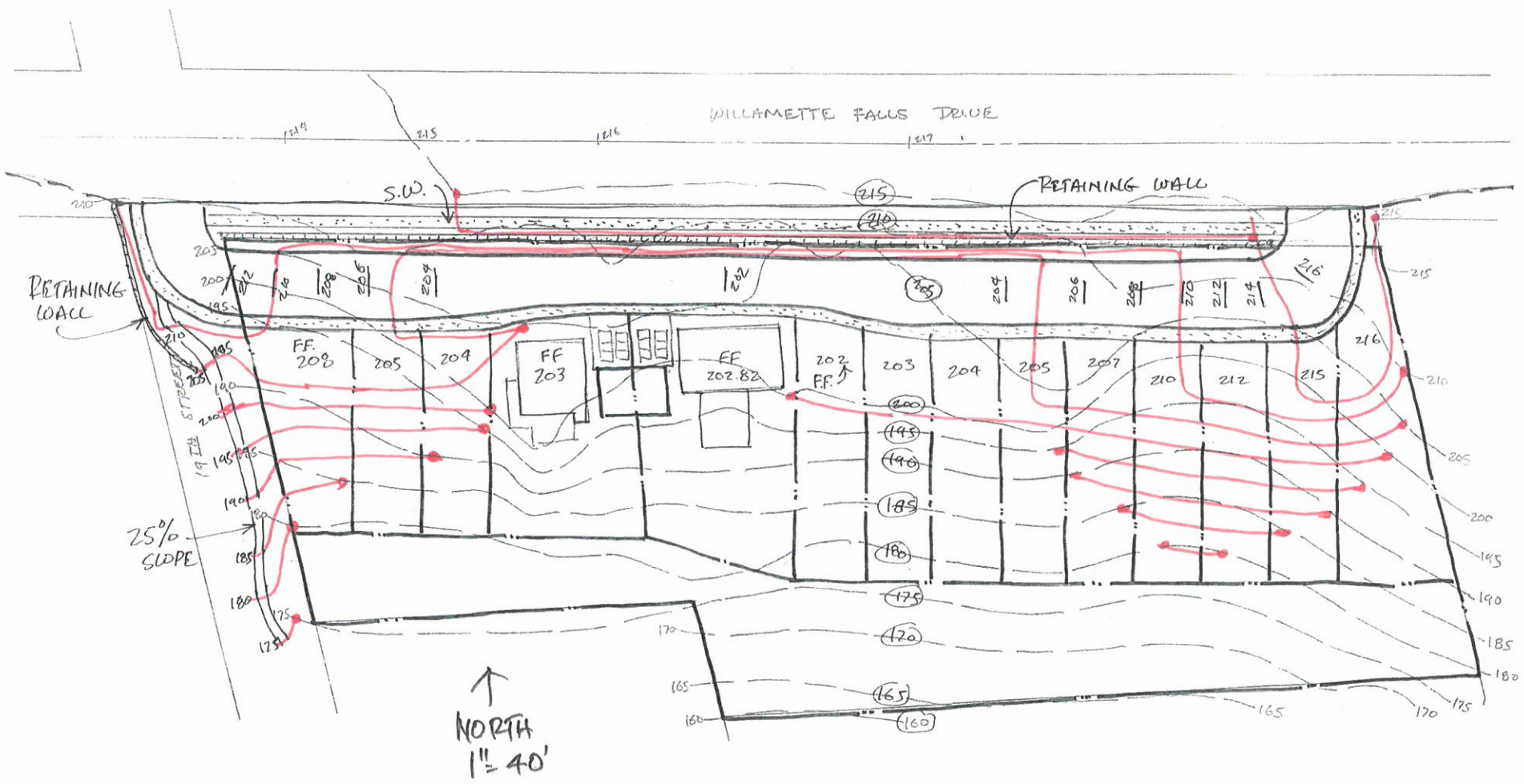
↑  
NORTH

1" = 40'



**PLAN 9.**  
7-9-10

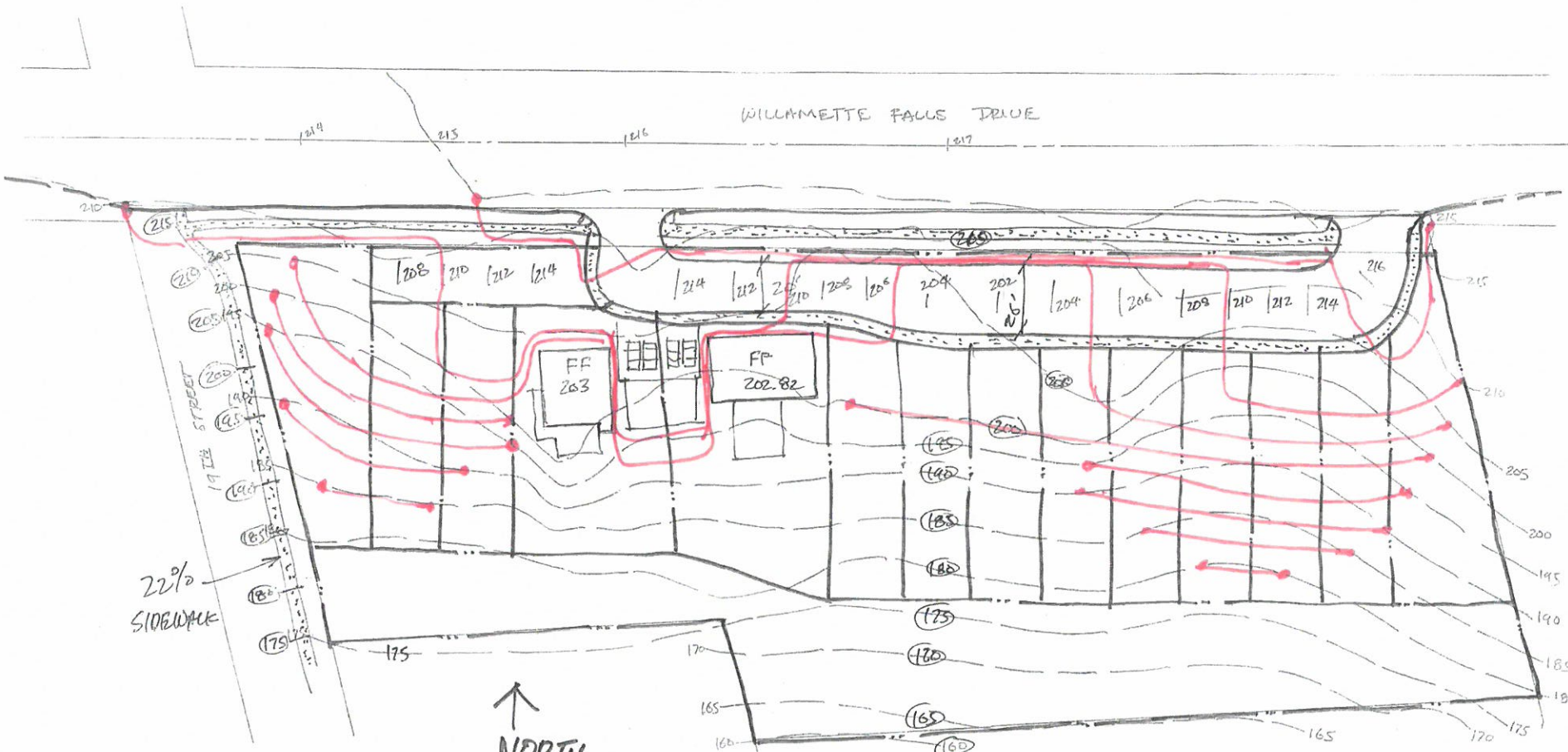
LOTS 2 & 3 = 24' HOUSES  
 LOTS 6 TO 14 = 20' HOUSES  
 WITH ONE CAR GARAGES



# PLAN 10

7-10-10



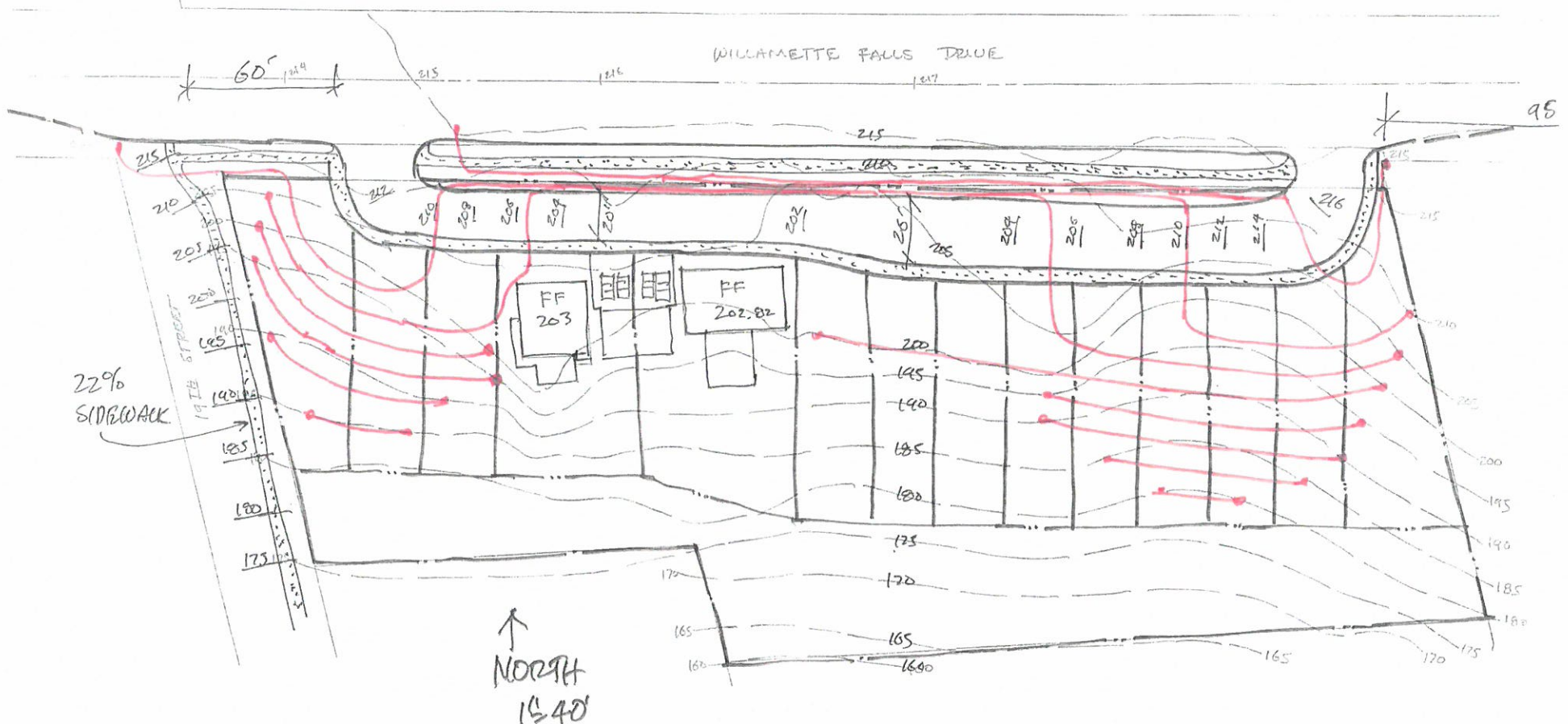


↑  
NORTH  
1" = 40'

PLAN II

7-10-10

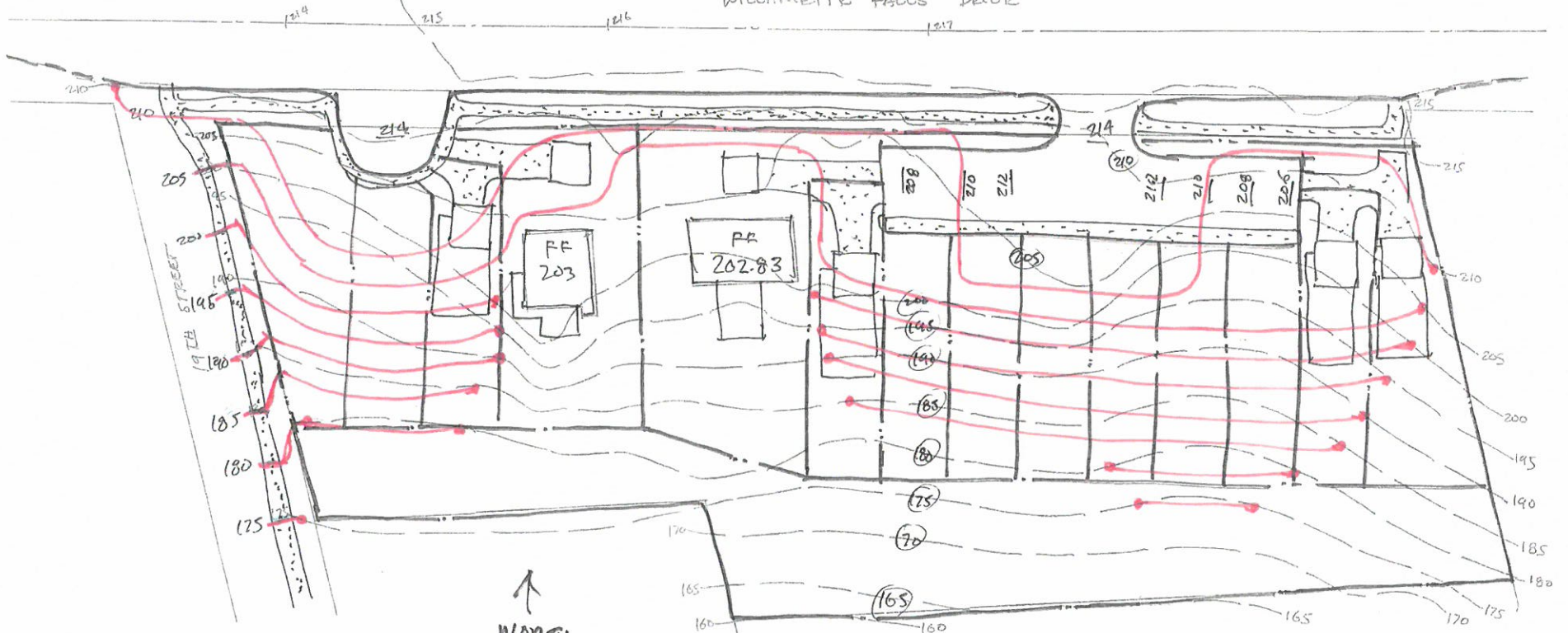




# PLAN 12

7-10-10

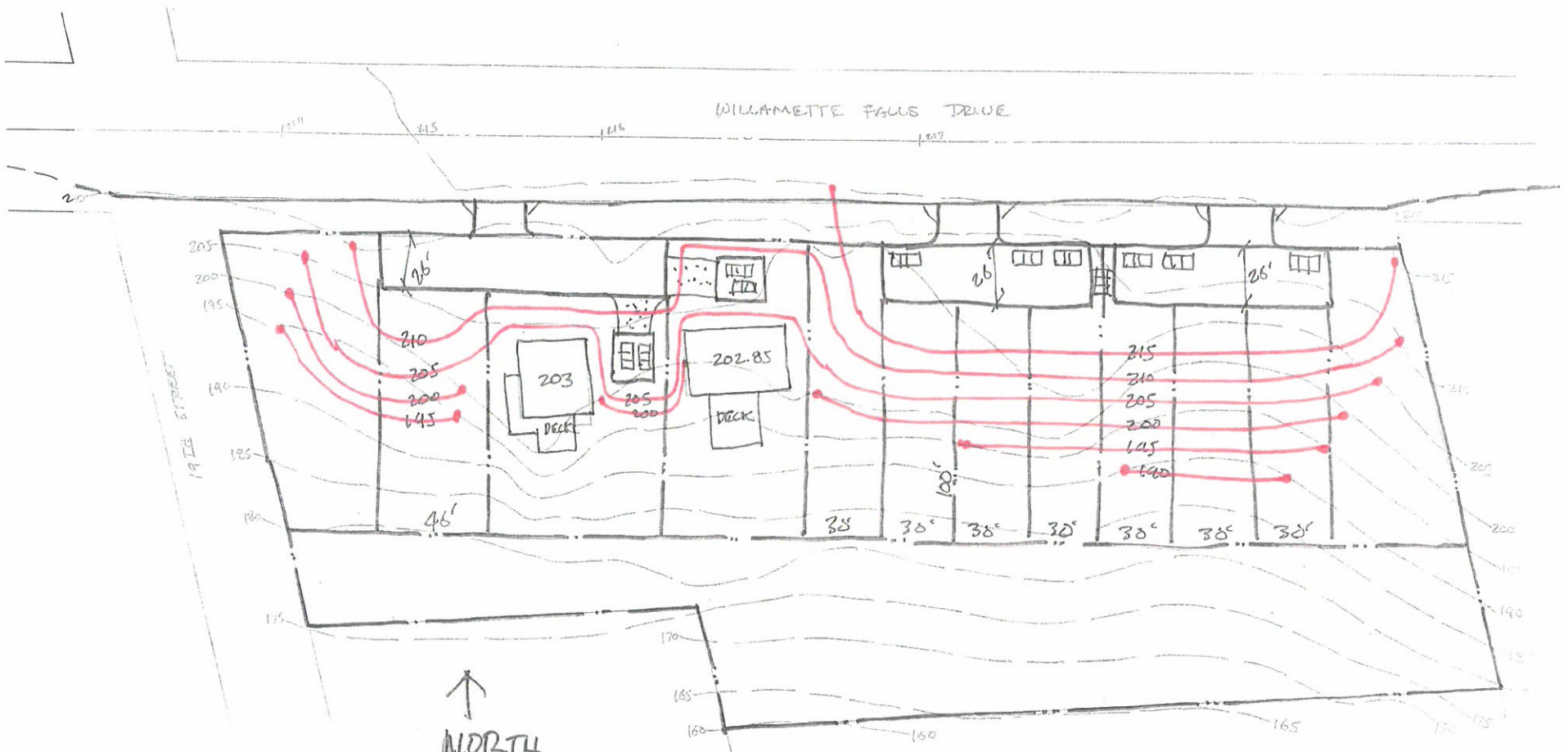
WILLAMETTE FALLS DRIVE



↑  
NORTH  
1" = 40'

# PLAN B

7-10-10



↑  
NORTH  
1" = 40'

PLAN 14

12 LOTS

7-11-10