



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
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NOTICE OF ADOPTED AMENDMENT

12/11/2009

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: City of Salem Plan Amendment
DLCD File Number 005-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Thursday, December 24, 2009

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

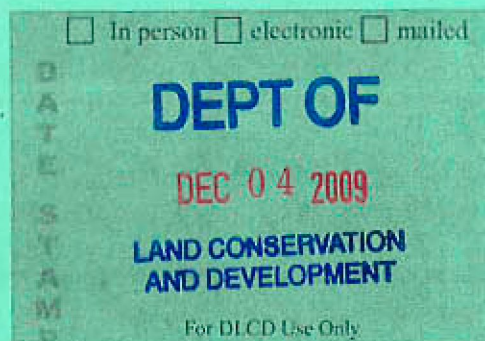
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Bryce Bishop, City of Salem
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> N

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
 PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **City of Salem**

Local file number: **CA09-1**

Date of Adoption: **11/23/2009**

Date Mailed: **12/2/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: 5/11/2009

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The adopted amendment amends Salem Revised Code (SRC) Chapters 63 (Subdivisions), 145 (RA – Residential Agriculture zone), and 146 (RS – Single Family Residential zone) by modifying the definitions of "Flag Lot" and "Accessway" and clarifying that minimum required lot width, depth, and frontage must be calculated exclusive of the flag lot accessway.

Does the Adoption differ from proposal? Yes, Please explain below:

The adopted amendment differs from the original proposal in that the definition of "flag lot", under SRC Chapter 63 (Subdivisions), was modified to explain that a flag lot means a lot or parcel that is set back from the street at the rear **or at the side** of another lot or parcel. The language, "or at the side", was added. The adopted amendment also includes some minor additional house keeping/grammatical, non-substantive revisions.

Plan Map Changed from: **NA**

to:

Zone Map Changed from: **NA**

to:

Location: **NA**

Acres Involved:

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

☒ Yes ☐ No

If no, do the statewide planning goals apply?

☐ Yes ☒ No

If no, did Emergency Circumstances require immediate adoption?

☐ Yes ☒ No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Bryce Bishop** *BB*

Phone: (503) 588-6173 Extension: 7599

Address: 555 Liberty St SE, Rm 305

Fax Number: 503-588-6005

City: **Salem**

Zip: 97301-3513

E-mail Address: **bbishop@cityofsalem.net**

ORDINANCE BILL NO. 54-09

AN ORDINANCE RELATING TO THE DEFINITIONS OF FLAG LOT AND ACCESSWAY
AND CLARIFYING MINIMUM LOT WIDTH, DEPTH, AND FRONTAGE
REQUIREMENTS WHEN ASSOCIATED WITH AN ACCESSWAY; AMENDING SRC
63.030, SRC 63.145, SRC 145.070, AND SRC 146.070.

The City of Salem ordains as follows:

Section 1. SRC 63.030 is amended to read:

63.030. Definitions. As used in this Chapter, except where the context otherwise clearly requires, words and phrases defined in SRC Chapter 111 shall have the meanings set forth therein unless another definition is set forth in this section.

(a) "Accessway" means ~~the portion of a flag-lot or parcel, or abutting lot or parcel, providing legal access to from street to one or more flag lots. An accessway may be either through fee-simple ownership as part of a flag lot~~ or by an access easement and associated reciprocal and irrevocable access rights for all lots or parcels using the accessway.

(b) "Affected units of land" means abutting units of land for which a common property line is being relocated.

(c) "Alley" means a public way not more than twenty feet and not less than ten feet in width, that has been deeded to the public or dedicated and accepted by the City for public use, that provides a secondary means of motor vehicle access to abutting property.

(d) "Arterial street" - See "Major Arterial" and "Minor Arterial" in the "Street" definition.

(e) "Block" means the properties abutting one side of a street;

(1) Between two cross streets;

(2) Between the city limits and the nearest cross street;

(3) When there is only one cross street:

(A) Between a cross street and the dead end of a street;

(B) Between a cross street and a line projected from the centerline of an intersecting street, such as a "T" intersection;

(4) When there are no cross streets, then the block shall be between the points 600 feet from the mid-point of the front property line for the property under consideration

1 and along the street.

2 (f) "Building" means a structure built for the support, shelter, or enclosure of persons,
3 animals, or property of any kind.

4 (g) "Building setback line" means an imaginary line established by subdivision
5 regulation or the Salem Zoning Code requiring all buildings to be set back to or beyond
6 that line which is a certain distance from lot, parcel, or property lines or a point within
7 street right-of-way.

8 (h) "Collector street" - See "Street."

9 (i) "Commission" means the Planning Commission of the City of Salem.

10 (j) "Cul-de-sac" - See "Street."

11 (k) "Curb line" means the line indicating the edge of the vehicular roadway within the
12 overall right-of-way.

13 (l) "Current developed area" means that area of the Salem urban area so designated
14 pursuant to SRC 66.030.

15 (m) "Division of land" means the creation of lots or parcels.

16 (n) "Final plat" - See "Plat."

17 (o) "Interested person" means any person owning land within 250 feet of a subdivision
18 or partitioning, as shown on the records of the county assessor. "Interested person"
19 includes affected private and public utilities and public agencies.

20 (p) "Local street" - See "Street."

21 (q) "Lot" means a unit of land that is created by a subdivision or partitioning of land.

22 Except where otherwise stated, the term "lot" includes the term "parcel."

23 (1) "Corner lot" means a lot having two or more adjacent front lot lines in which the
24 interior angle formed by the extensions of the front lot lines in the direction which
25 they take at their intersections with the side lot lines forms an angle of 135 degrees or
26 less. In the event a street front lot line is a curve at its point of intersection with a side
27 lot line, the tangent to the curve at that point shall be considered the direction of the
28 front lot line.

29 (2) "Flag lot" means a flag-shaped lot or parcel with its widest point, and majority of
30 land area (called the "flag"), ~~that is~~ set back from the street ~~in the rear or on the side~~ of

1 another lot or parcel, and having a comparatively narrow strip of land connecting to
2 the street via an accessway (called the "pole") which provides legal access to the
3 "flag." ~~With vehicular access to the street provided by an accessway.~~

4 (3) "Infill lot" means a residential flag lot created by the partition of land after
5 February 8, 2006.

6 (r) "Lot area" means the area in square feet or acres (43,560 square feet equals one acre)
7 of a horizontal plane bounded by the vertical extension of the lot lines.

8 (s) "Lot depth" means the horizontal distance between the front lot line and the rear lot
9 line measured at a point half-way between the side lot lines.

10 (t) "Lot width" means the horizontal distance between the side lot lines, measured at
11 right angles to the lot depth at a point mid-way between the front and rear lot lines.

12 (u) "Major Arterial" - See "Street"

13 (v) "Map" means a final diagram or drawing of a partition.

14 (w) "Minor Arterial" - See "Street"

15 (x) "Neighborhood Activity Centers" includes, but is not limited to, existing or planned
16 schools, parks, shopping areas, transit stops, or employment centers.

17 (y) "Neighborhood organization" means a neighborhood organization officially
18 recognized pursuant to SRC 64.250-64.350.

19 (z) "Official zoning map" means the official zoning map as adopted, amended, and
20 replaced pursuant to SRC 113.020 - 113.070.

21 (aa) "Outside property lines" means the line forming the exterior boundaries of a lot,
22 including lots as defined under SRC 111.130(g).

23 (bb) "Owner" means the owner of record of real property as shown on the latest tax rolls
24 or deed records of the county, and includes a person who furnishes evidence that the
25 person is purchasing property under a written recorded or unrecorded land sale contract.

26 (cc) "Parkway" - See "Street"

27 (dd) "Partition" means an act of partitioning land or an area or tract of land so
28 partitioned.

29 (ee) "Partition land" means to divide land into two or three parcels of land within a
30 calendar year, but does not include:

(1) Divisions of land resulting from lien foreclosures;

(2) Divisions of land resulting from foreclosures of recorded contracts for the sale of real property;

(3) Division of land resulting from the creation of cemetery lots;

(4) Adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable law or ordinance, including but not limited to provisions pertaining to minimum area, frontage, average width, vehicular access and required setbacks;

(5) The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by a single owner;

(6) Divisions of land resulting from purchase or the exercise of the power of eminent domain by a governmental entity having lawful authority to do so;

(7) A sale or grant by a person to a public agency or public body for state highway, county road, city street, or other right-of-way purposes provided that such road or right-of-way complies with the comprehensive plan and applicable statutes.

However, any property for state highway, county road, city street, or other right-of-way purposes shall continue to be considered a single unit of land until such time as the property is further subdivided or partitioned;

(ff) "Planning administrator" means the planning administrator, department of Community Development ~~Department~~, City of Salem, or the planning administrator's designated representative.

(gg) "Plat" means a final map, diagram, drawing, replat, or other writing containing all the descriptions, locations, specifications, dedications, restrictions, provisions, and other information concerning a subdivision or partition. Except where otherwise stated, the term "plat" includes the term "map."

(hh) "Property line" means the boundary line between two units of land.

(ii) "Property line adjustment" means the relocation of a common property line between two abutting properties.

////

1 (jj) "Public access way" means a walkway that provides pedestrian and bicycle passage
2 either between two or more streets or from a street to a building or other destination, such
3 as a park, or transit stop.

4 (kk) "Reasonably direct" means either a route that does not deviate unnecessarily from a
5 straight line, or a route that does not involve a significant amount of out-of-direction
6 travel by likely users.

7 (ll) "Replat" means the act of platting lots, parcels, and easements in a recorded
8 subdivision or partition plat to achieve a reconfiguration of the existing subdivision or
9 partition plat or ~~to~~ increase or decrease the number of lots in a previously recorded plat.

10 (mm) "Reserve block" means a strip of land, usually one foot in width, deeded or
11 dedicated to the City, reserved across the end of a street or alley and terminating at the
12 boundary of a subdivision or partition; or a strip of land deeded to the City between a
13 dedicated street and adjacent property; in either case reserved or held by the City for
14 future street extension or widening, or to prohibit access from property adjacent to a
15 street.

16 (nn) "Safe and convenient" means bicycle and pedestrian routes, facilities, and
17 improvements which:

18 (1) Are reasonably free from hazards, particularly types or levels of automobile
19 traffic which would interfere with or discourage pedestrian or cycle travel for short
20 trips;

21 (2) Provide a reasonably direct route of travel between destinations such as between
22 a transit stop and a store; and

23 (3) Meet travel needs of cyclists and pedestrians considering destination and length
24 of trip; and considering that the optimum trip length of pedestrians is generally ~~one~~
25 ~~from~~ 1/4 to ~~one-half~~ 1/2 mile.

26 (oo) "Salem Transportation System Plan" or "TSP" means the detailed transportation
27 plan of the City adopted under SRC 64.230.

28 (pp) "Street" means a public or private way that is created to provide ingress or egress to
29 one or more lots, parcels, areas, or tracts of land, excluding a private way that is created
30 to provide ingress or egress to land in conjunction with the use of the land for forestry,

1 mining, or agricultural purposes. The term "street" shall include such designations as
2 "highway," "thoroughfare," "parkway," "throughway," "road," "avenue," "boulevard,"
3 "lane," "court," "place," "loop," "drive," "circle," and other such terms. A public
4 right-of-way or accessway twenty feet or less in width or a private way of travel twenty-
5 five feet or less in width providing access to no more than four lots or parcels and zoned
6 for residential uses shall not constitute a street. A private way of travel on property
7 zoned for commercial or industrial uses, and greater than twenty-five feet in width, may
8 be allowed at the discretion of the Planning Administrator.

9 (1) "Parkway" means a major facility for moving large volumes of both intra-city
10 traffic and regional traffic at high speeds. It is typically a divided highway with a
11 minimum of four travel lanes and extremely limited access, as shown in the Salem
12 Transportation System Plan.

13 (2) "Major Arterial" means a major facility for moving large volumes of intra-city
14 and regional traffic. It serves as the main radial and provides peripheral routes
15 through the city. The ultimate cross-sectional width is a multi-lane facility, as shown
16 in the Salem Transportation System Plan.

17 (3) "Minor Arterial" means a facility providing primarily intra-area and inter-
18 neighborhood access. It is designated to have a minimum of two travel lanes with
19 left-turn pockets and center left-turn lanes where appropriate, as shown in the Salem
20 Transportation System Plan.

21 (4) "Collector street" means a facility that allows traffic within an area or
22 neighborhood to connect to the arterial system. It is given priority over local streets
23 in any traffic control installations. Single family and duplex access may be limited
24 according to standards on file with the ~~Director of Public Works~~ **Director**.

25 (5) "Local street" means a facility not designated on one of the higher systems. It
26 serves primarily to provide direct access to abutting land and offers the lowest level
27 of traffic mobility.

28 (6) "Cul-de-sac" means a dead-end street having a turnaround area at the dead end.
29 Cul-de-sac length shall be measured from the nearest right-of-way line of the nearest
30 intersecting street to the throat or point of beginning of the turnaround area.

1 (7) "Dead-end street" means a street which terminates without a turnaround area and
2 is intended to continue through at some future time.

3 (8) "Half-street" means a fifty percent portion of the ultimate width of a street,
4 usually along the edge of a subdivision or partition, and including pavement, curb,
5 gutter, sidewalk, piped drainage, street lights, and signing, where specified by the
6 Director of Public Works ~~Director~~.

7 (9) "Three-quarter street" means a half-street improvement on the development side
8 plus a minimum twelve-foot wide turnpike travel lane with shoulders and drainage
9 ditches where needed on the opposite side, where specified by the Director of Public
10 Works ~~Director~~.

11 (10) "Under improved street" means any public street, road or right-of-way which
12 lacks any of the following: paving, curbing, sidewalks, piped drainage, adequate
13 right-of-way geometry or paving width, grade and structural sections required under
14 the standards and specifications on file in the office of the Director of Public Works
15 ~~Director~~.

16 (qq) "Subdivide land" means to divide an area or tract of land into four or more lots
17 within a calendar year, when such area or tract of land existed as a unit or contiguous
18 units of land under a single ownership at the beginning of such year.

19 (rr) "Subdivision" means an act of subdividing land or an area or tract of land which has
20 been subdivided.

21 (ss) "Tentative plan" means a preliminary diagram or drawing concerning a partition or
22 subdivision.

23 (tt) "Tree" means a tree having a caliper of more than eight inches measured at four feet
24 above grade.

25 (uu) "Unit of land" means a lot, parcel, or other tract of land described by a metes and
26 bounds, which is lawfully established and which has been recorded. A lot, parcel or tract
27 is "lawfully established" only if:

28 (1) The lot or parcel was created in compliance with all applicable planning, zoning,
29 and subdivision or partition ordinances and regulations in effect at the time of
30 creation; or

(2) The lot, parcel or tract has been validated pursuant to SRC 63.150.

(vv) "Urban Service Area" means that portion of the Salem urban area so designated pursuant to SRC Chapter 66.

(ww) "Utilities" means water, gas, sewer, storm drainage, electrical, telephone, and wire communication service, cable television, and all persons and companies supplying the same.

(xx) "Variance" means an exception to the requirements of this Chapter for the subdivision or partitioning of land.

(yy) "Walkway" means a right-of-way deeded, dedicated, and designated for the use of nonmotorized vehicles and pedestrians.

Section 2. SRC 63.145 is amended to read:

63.145. Lot Standards.

(a) **Width.** Each lot shall have a minimum width between the side lines of not less than 40 feet, ~~excluding the area of any accessway serving one or more flag lots~~, or as may otherwise be allowed or required in the zoning district where it is located.

(b) **Depth.** Each lot shall have an average depth between the front and rear lot lines of not less than 70 ~~feet~~ feet and not more than 300 percent of the average width ~~between the side lot lines, excluding the area of any accessway serving one or more flag lots.~~

Each double frontage lot shall have an average depth between the front and rear lot lines of not less than 120 feet unless a lesser depth is approved by the Planning Administrator where necessitated by unusual topographical or other physical conditions.

(c) **Area.** Each lot shall comprise a minimum of 4,000 square feet, ~~exclusive~~ ~~excluding the area~~ of any accessway serving one or more flag lots, except for an infill lot in the RA and RS zones, which shall have a minimum lot area of 5,500 square feet, ~~exclusive~~ ~~excluding the area~~ of any accessway serving one or more flag lots, or as otherwise stipulated in the zoning district where it is located. If topography, drainage, vegetation, or other conditions justify, the Planning Administrator may require a greater or smaller area in any lot within a tentative plan.

(d) **Frontage.** Unless otherwise stipulated in the zoning district where it is located, each lot shall have a minimum frontage width of at least 40 ~~feet~~ feet, except along cul-de-sac

1 turnarounds and on the outside of curves having a radius of 200 feet or less and a
2 direction change of 60~~50~~ degrees or more, in which case the minimum lot line fronting
3 the curve shall be 30~~40~~ feet, but provided that in no case shall the lot width be less
4 than 40~~50~~ feet at the front building setback line. ~~Frontage shall be calculated~~
5 ~~excluding the area of any accessway serving one or more flag lots~~

6 **(c) Designation of Front Lot Line.**

7 (1) For corner lots the front lot line shall be that having frontage on a street
8 designated by the building permit applicant and approved by the Planning
9 Administrator.

10 (2) For double frontage lots the front lot line shall be that having frontage on a street
11 designated by the applicant, approved by the Planning Administrator and set forth in
12 the conditions of approval, which shall be recorded on deeds conveying lots.

13 (3) For flag lots the front lot line shall be that outside property line that is an
14 extension of the accessway or the line separating the flag portion of the lot or parcel
15 from the lot or parcel between it and the street from which access is provided to the
16 flag lot, unless the Planning Administrator otherwise directs, in which case the front
17 lot or parcel line shall be set forth in the conditions of approval, which shall be
18 recorded on deeds conveying lots.

19 (4) For all other lots, the front lot line shall be the property line that has frontage on
20 the public street.

21 **(f) Side lot lines.** As far as is practicable, side lot lines shall run at right angles to the
22 street upon which the lot faces, except that on curved streets they shall be radial to the
23 curve.

24 **(g) Rear lot lines.** In the case of a triangular shaped lot, diamond shaped lot, or a
25 trapezoidal lot which is narrowest at the rear and has a distance between the side lot lines
26 at the rear of less than ten feet, the rear line for building setback purposes shall be a line
27 ten feet in length within the lot, parallel to and at the maximum distance from the front lot
28 line. In the case of lots to which this provision applies, or others where the rear of the lot
29 is narrower than ten feet, the Planning Administrator shall require that the rear line for
30 building setback purposes be clearly noted on the final plat.

1 (h) **Curved front lines.** When front lot lines are on a curve or arc, the front lot line
2 distance shall be indicated on the final plat or map by bearing and chord distance.

3 (i) **Suitability for intended use.** All lots shall be suitable for the general purpose for
4 which they are intended to be used. No lot shall be of such size or design as to be
5 detrimental to the health, safety, or sanitary needs of the residents of the subdivision or
6 partition or of such lot.

7 (j) **Future subdivision or partition of lots.** Where the subdivision or partition will
8 result in a lot one-half acre or larger in size and which in the judgment of the Planning
9 Administrator is likely to be further divided in the future, the Planning Administrator may
10 require that the location of lot lines and other details of layout be such that future division
11 may readily be made without violating the requirements of this Chapter and without
12 interfering with orderly extension and connection of adjacent streets. It is intended that
13 the lot lines and other details of future subdivision or partition of a tract be advisory only,
14 and shall not be final or binding on the applicant or the Planning Administrator unless the
15 applicant makes further application therefor; however, any restriction of buildings
16 within future street locations may be imposed by the Planning Administrator who may
17 require such restrictions to be set forth in a recorded deed restriction.

18 (k) **Building setback lines.** Where topography, vegetation, or lot configuration dictate a
19 different building envelope than that set by the Salem Zoning Code in order to properly
20 develop the lot and site a building thereon, where accessways without street frontage are
21 allowed, or where needed right-of-way exceeds that required to be dedicated under SRC
22 63.235, the Planning Administrator may require building setback lines to be shown on the
23 plat or map without regard to the minimum setbacks specified in the Salem Zoning Code,
24 and such setback lines shall be observed to the same extent as if required in the Salem
25 Zoning Code.

26 **Section 3.** SRC 145.070 is amended to read:

27 **145.070. Lot Area and Dimensions.** Within an RA district:

28 (a) **Lot area.** The minimum lot area requirement for single family dwellings is 4,000
29 square feet exclusive~~excluding the area~~ of any accessway, except for infill lots, in which
30 the minimum lot area shall be 5,500 square feet~~excluding the any area of any~~ used as an

accessway. All nonresidential uses shall occupy lots of 6,000 square feet or more except those uses specified in SRC 145.020(b) and SRC 145.020(f) or as otherwise specifically provided in this zoning code. Duplexes, where allowed under SRC 145.020(b), shall be on a lot with a minimum of 7,000 square feet.

(b) **Lot dimension, single family dwellings and duplexes.** Each single family dwelling and duplex shall be located on a lot having a minimum width of 40 feet and an average lot depth between the front and rear lot lines of not less than 70 feet and not more than 300 percent of the average width between the side lot lines. For flag lots, the dimensional requirements are tied to two perpendicular directions, running generally parallel to the lot or parcel boundaries, one having an average length across the lot or parcel of 40 feet and the other having an average length across the lot or parcel of 70 feet. In all cases, minimum lot area requirements shall also be met. ~~Lot dimensions shall be calculated excluding the area of any accessway.~~

(c) **Lot dimension, nonresidential uses:** The minimum lot depth requirement for nonresidential uses is 80 feet, and the minimum lot width requirement is 60 feet, providing the minimum lot area is met.

(d) See SRC 130.260 for street frontage requirements.

Section 4. SRC 146.070 is amended to read:

146.070. Lot Area and Dimensions. Within an RS district:

(a) **Lot area.** The minimum lot area requirement for single family dwellings is 4,000 square feet, ~~exclusive~~ ~~excluding the area~~ of any accessway, except for infill lots, in which the minimum lot area shall be 5,500 square feet, ~~excluding the any area of any~~ used as an accessway. All nonresidential uses shall occupy lots of 6,000 square feet or more except those uses specified in SRC 146.020(b) and SRC 146.020(g) or as otherwise specifically provided in this zoning code. Duplexes, where allowed under SRC 146.020(b), shall be on a lot with a minimum of 7,000 square feet.

(b) **Lot dimensions, single family dwellings and duplexes.** Each single family dwelling shall be located on a lot having a minimum width of 40 feet and an average lot depth between the front and rear lot lines of not less than 70 feet and not more than 300 percent of the average width between the side lot lines. For flag lots, the

1 dimensional requirements are tied to two perpendicular directions, running generally
2 parallel to the lot or parcel boundaries, one having an average length across the lot or
3 parcel of 40 feet and the other having an average length across the lot or parcel of
4 70 feet. In all cases, minimum lot area requirements shall also be met. lot
5 dimensions shall be calculated excluding the area of any accessway.

6 (c) **Lot dimension, nonresidential uses.** The minimum lot depth requirement for
7 nonresidential uses is 80 feet, and the minimum lot width requirement is 40 feet
8 feet, providing the minimum lot area is met.

9 (d) See SRC 130.260 for street frontage requirements.

10 **Section 5. Severability.** Each section of this ordinance, and any part thereof, is severable, and
11 if any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of
12 this ordinance shall remain in full force and effect.

13 PASSED by the City Council this 23rd day of November, 2009.

14 ATTEST:

15 *Kathy Hall*
16 City Recorder

17 Approved by City Attorney: *[Signature]*
18
19

20 Checked by: Bryce Bishop

21 G:\Group\Legal\Council\102609 Flag Lot ord.doc
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TO: MAYOR AND CITY COUNCIL

THROUGH: LINDA NORRIS, CITY MANAGER

FROM: VICKIE HARDIN WOODS, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT

**SUBJECT: AMENDMENTS TO THE SALEM REVISED CODE REGARDING THE
DEFINITIONS OF "FLAG LOT" AND "ACCESSWAY" AND CLARIFYING THAT
MINIMUM LOT WIDTH, DEPTH, AND FRONTAGE MUST BE CALCULATED
EXCLUSIVE OF THE FLAG LOT ACCESSWAY (CA 09-1)**

ISSUE:

Should the City Council enact Ordinance Bill No. 54-09 amending SRC Chapters 63, 145, and 146 to modify the definitions of "flag lot" and "accessway" and to clarify that minimum required lot width, depth, and frontage must be calculated exclusive of the flag lot accessway?

RECOMMENDATION:

Staff recommends that the City Council advance Ordinance Bill No. 54-09 to second reading for enactment amending SRC Chapters 63, 145, and 146 to modify the definitions of "flag lot" and "accessway" and to clarify that minimum required lot width, depth, and frontage must be calculated exclusive of the flag lot accessway.

BACKGROUND:

On January 9, 2006, the City Council adopted amendments to the SRC establishing new standards for infill residential development applicable to the creation and development of flag lots within the City's single family residential zones, RA (Residential Agriculture) and RS (Single Family Residential). The overall intent of the amendments was to establish standards to help promote greater compatibility and reduce potential impacts between infill development and existing neighborhoods. The amendments, in summary, increased the minimum required lot size for "infill" flag lots from 4,000 square feet to 5,500 square feet, increased the minimum required side yard setbacks for "infill" flag lots from five feet to ten feet, required building setbacks to be measured from the flag lot accessway, and modified the definitions of "flag lot" and "accessway".

An "infill lot" is defined within the subdivision code as, "a residential flag lot created by the partition of land after February 8, 2006."

Subsequent to the adoption of the amendments several cases have brought to light problems associated with the current infill development standards. The proposed amendments are intended to correct these issues to better reflect the intent behind the standards adopted in 2006.

FACTS AND FINDINGS:

Procedural Findings

1. Under SRC 110.070, any amendment to the Salem Zoning Code that amends, supplements, or changes only the text must be initiated either by the City Council or by the Commission by resolution. The proposed amendments were initiated by the Planning Commission with the approval of Resolution No. 09-1.

A public hearing was subsequently ultimately set for September 15, 2009. Notice of the public hearing was published in the Statesman Journal on September 3, 2009, and September 10, 2009. Notice was also mailed to every neighborhood association, the Home Builders Association of Marion and Polk Counties, and to the Boards of Commissioners of Marion and Polk Counties on August 26, 2009.

2. ORS 197.610 and OAR 660-018-0020 requires that the Department of Land Conservation and Development receive notification of any proposed amendment to a local land use regulation at least 45 days prior to the first public hearing. Notice to DLCD was mailed on June 19, 2009.
3. On September 15, 2009, the Planning Commission held a public hearing to receive testimony and consider the proposed amendments.

Subsequent to the close of the public hearing, the Planning Commission voted to approve the amendments, with a modification to the definition of "flag lot", and recommended that the City Council accept first reading of an ordinance bill for the purpose of amending the code.

The Planning Commission's amendment to the definition of "flag lot" inserted the words "or side" after the word "rear" to clarify that a flag lot may be located either to the rear or side of another lot or parcel.

In addition, the Planning Commission also requested that staff conduct an analysis of the effect the increased minimum lot size requirement for infill lots has on the overall residential land supply. The Planning Commission did not request the analysis as a requirement for recommendation of approval of the proposed amendments, but rather requested it for informational purposes.

Based upon basic assumptions, the difference between the minimum lot size requirement for flag lots before and after the adoption of the infill residential standards effects less than approximately one percent of the total vacant residential land supply within the Single Family Residential and Developing Residential Comprehensive Plan designations.

Proposed Code Amendments

4. The proposed code amendments consist of two main elements:
 - A. Modifications to the Definitions of "Flag Lot" and "Accessway".

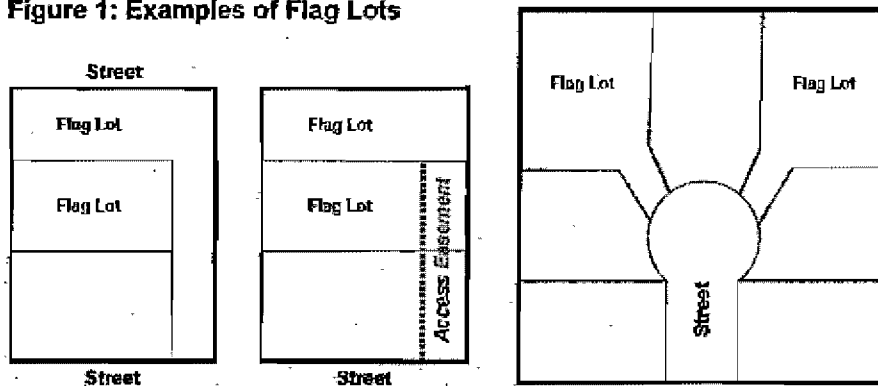
The proposal amends the definition of "accessway" under the subdivision code to restate it more concisely and to reflect the intent of the residential infill standards.

The proposal amends the definition of "flag lot" by removing the reference to the lot needing to be "flag shaped" and instead defines flag lot as a lot which is set back from the street at the rear or side of another lot or parcel with vehicular access to the street provided by an accessway.

Under the amended definition, a lot will be considered a "flag lot" if it is located at the rear or side of another lot and takes vehicular access to the street from an accessway; regardless of its shape or whether or not the lot has frontage on a street. Figure 1, included below, illustrates examples of lots that would meet the definition of "flag lot" based upon the amended definition. Without the amendment, the middle lot in the example on the left and the back two lots in the example in the middle would not be considered flag lots and could be a minimum of 4,000 square feet. Infill lots must be a minimum of 5,500 square feet in size with side yard setbacks a minimum of 10 feet in width.

The example on the right shows lots created through a subdivision that would meet the definition of flag lot. Because the definition of "infill lot" does not include flag lots created through the subdivision process, the minimum lot size of 4,000 square feet and minimum side yard setbacks of 5 feet still apply.

Figure 1: Examples of Flag Lots



B. Clarification that Lot Width, Depth, and Frontage must be Calculated Exclusive of the Flag Lot Accessway.

The proposal also amends the subdivision code and the RA and RS zone districts to clarify that required lot width, depth, and street frontage, like lot area, must be calculated excluding the area of any flag lot accessway. This ensures that when a flag lot accessway is proposed to be extended across another lot or parcel, the lot or parcel being crossed by the accessway will maintain conformance with the lot size and dimension requirements, therefore ensuring maintenance of an adequate building envelope and frontage on the street.

Consistency with the Salem Area Comprehensive Plan

5. The Salem Area Comprehensive Plan (SACP) is the long-range plan for guiding development in the Salem urban area. The overall goal of the plan is to accommodate development in a timely, orderly, and efficient arrangement of land uses and public facilities and services that meet the needs of present and future residents of the Salem urban area.

Sections II.G.1 and II.G.2 of the SACP, on pages 16 and 17, provide that the Zoning Code and Subdivision Code are two of the implementing tools of the plan. The Zoning Code is the traditional device for implementing the plan. In addition to regulating the use of land, the Zoning Code establishes development standards that specify lot size, building bulk and height, and building setbacks.

The Subdivision Code controls the manner in which land may be divided into lots and is a tool for the implementation of the plan and for quality development. The SACP explains that the purpose of the Subdivision Code is to assure that the subdivision of land meets standards for minimum block and lot sizes, streets, relationship of streets to the community's street plan and may provide for open space, schools and other public facilities. In addition, it is indicated that from time to time revisions and new techniques may be incorporated in the process.

The proposed amendments are consistent with and implement the Salem Area Comprehensive plan by modifying the standards applicable to the creation of lots through the land division process so that an orderly and efficient arrangement of land uses and public facilities can be achieved that meet the needs of Salem residents.

In addition, the SACP establishes the following policies applicable to the proposed amendments:

- **Urban Growth Policy No. 4 (Infill)(SACP Page 26):** *Development of land with existing urban services shall be encouraged before the conversion of urbanizable lands to urban areas.*
- **Growth Management Policy No. 8 (Partition Requirements)(SACP Page 29):** *Partitioning of property may be approved if the land division will not adversely affect the future development of adjacent lands and built-up areas and the proposed parcels are compatible with the existing pattern of development in the area, or the land division is necessary to legalize or recognize an existing situation.*
- **Growth Management Policy No. 9 (Infill on Facilities)(SACP Page 29):** *New development shall be encouraged to locate in areas where facilities are already available and in areas which require the least public cost to provide needed facilities and services.*

The proposed amendments are consistent with these policies in that they do not prohibit or discourage infill development from occurring where public facilities and services are already available.

The proposed amendments provide additional clarity in terms of what does and does not

constitute a "flag lot" and establish consistency between how lot area and lot width, depth, and frontage are calculated.

The proposed amendments will help to ensure that newly created lots are of a size and dimension, exclusive of any flag lot accessway, that is suitable for the purpose for which they are intended to be developed. This fulfills the intent of establishing minimum lot size and dimension standards within the zoning districts applicable to the development of land and helps to minimize potential adverse impacts.

ALTERNATIVES:

The City Council may:

1. Advance Ordinance Bill No. 54-09 to second reading for enactment.
2. Set a public hearing on the proposed amendments.
3. Take no action.



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