



August 8, 2018

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 842 - An Ordinance Making Limited Amendments to the Community Development Code to Address Recommendations from the Equitable Housing Site Barriers and Solutions Project**

STAFF REPORT

For the August 15, 2018 Planning Commission Hearing
(The public hearing will begin no sooner than 6:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend to the Board of Commissioners (Board), approval of Ordinance No. 842 as filed.

II. OVERVIEW

Ordinance No. 842 proposes limited amendments to the Community Development Code (CDC) to facilitate residential development. The ordinance amends certain setbacks within three land use districts, corrects/clarifies standards of the Transit-Oriented: Retail Commercial (TO:RC) district related to Day Care Facility classification and residential development, reduces certain landscape area requirements, allows omission of sidewalk on one side of a private street in some cases, reduces minimum residential driveway widths and updates related parking standards.

III. BACKGROUND

Like many other communities in Oregon, Washington County currently lacks sufficient housing supply to address local housing needs, particularly for lower income residents. One out of four county households earns under \$35,000 a year – less than 50 percent of the regional median family income. The County estimates that an additional 14,000 to 23,000 dwelling units affordable to those households would be necessary to meet the housing needs of those

community members.¹ As of 2016, the regional vacancy rate for owner-occupancy housing was estimated at one percent, and the rental vacancy rate at 2.9 percent (down from 2.2 percent and 5.9 percent in 2010, respectively).² Rental costs are rising more quickly than the national average throughout the Metro region. A lack of housing in general, and a limited range of available housing types and sizes, impacts community members across a spectrum of life stages and income levels. Removing barriers to residential development and encouraging housing development in a wider range of housing types, sizes, and price points is necessary to meet current and future housing needs in Washington County.

The County's Equitable Housing Barriers and Solutions project,³ funded by a Metro grant and initiated in the fall of 2017, sought to identify Washington County Community Development Code (CDC) standards that may affect the spatial or financial feasibility of a residential development. As part of this effort, the project team prepared a series of draft residential development concepts for various county locations and land use districts, testing compliance with applicable CDC criteria for each design. A technical advisory group (TAG) including representatives from affordable and market rate housing developers and other stakeholders helped to review draft concepts to further explore the challenges and impacts of CDC standards on housing development.⁴ Subsequent interviews with a group of Homebuilders Association (HBA) members and individual interviews with market rate housing developers also contributed to study findings. In some cases standards were found to pose difficulties for residential development in general, while in other cases CDC standards represented obstacles unique to particular development concepts and/or land use districts.

The Equitable Housing Barriers and Solutions final report, released in May 2018, recommended amendments to several CDC standards to remove barriers to residential development and encourage development of equitable and affordable housing throughout urban unincorporated Washington County. CDC amendments recommended through this project are expected to be implemented through several ordinances over multiple years.

Ordinance No. 842 is one of the ordinances intended to address recommendations of this report. This ordinance proposes amendments to certain CDC standards for yard setbacks, landscape area requirements, private street improvements, driveway widths, and criteria for residential development in the TO:RC district that were identified as potential development barriers. These

¹ 2015-2020 Consolidated Plan for Washington County and the Cities of Beaverton and Hillsboro: <https://www.co.washington.or.us/CommunityDevelopment/Planning/upload/FINAL-VOLUME-4-condensed-version-2015-2020-Con-Plan.pdf>

² Comprehensive Housing Market Analysis: Portland-Vancouver-Hillsboro, Oregon-Washington, U.S. Department of Housing and Urban Development (HUD) Office of Policy Development and Research, May 1, 2016

³ Washington County Equitable Housing Barriers and Solutions report: <https://www.co.washington.or.us/lut/divisions/longrangeplanning/planningprograms/communityplanning/equitable-housing.cfm>

⁴ The TAG included representatives from: Community Partners for Affordable Housing (CPAH), Rembold (real estate development), REACH (homeless resources/shelter), Bienestar (affordable housing communities), Scott Edwards Architects, Clean Water Services, and the following Washington County departments/divisions: Current Planning Services, Long Range Planning, Housing Services, Office of Community Development

proposed code amendments are intended to reduce those barriers by increasing the available buildable land on development sites that include residential units, and by reducing some requirements for private streets and driveway widths that may reduce development costs and improve developer ability to meet parking requirements. These changes may help increase the overall housing supply in Washington County, which may indirectly improve housing affordability for residents.

Ordinance Notification

Notice 2018-13 regarding proposed Ordinance No. 842 was mailed July 19, 2018, to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the Planning Commission at that time. A display advertisement regarding the ordinance was published July 27, 2018, in *The Oregonian* newspaper.

IV. ANALYSIS

This analysis addresses each proposed amendment in the order shown within the filed ordinance.

Yard (Setback) Reductions

Setback requirements provide important separation between buildings, but also reduce the amount of developable land available for residential uses. Developers are prohibited from building in required yard (setback) areas. In higher density residential land use districts, current CDC yard requirements may limit developable land enough that it becomes infeasible to develop some lots at the maximum allowable residential density. An analysis of test development concepts in the Equitable Housing project indicated that reduced yard requirements in the R-24, R-25+, and Community Business District (CBD) land use districts for some types of multifamily attached residential dwellings could help encourage more residential development in those locations.

The Equitable Housing Project found that developers are more likely to seek development to maximum allowable density in these higher density districts, in order to take advantage of efficiencies of scale. Depending on the minimum lot size and/or size of available lots, however, existing yard requirements may mean that it is difficult or impossible for developers to accommodate the maximum number of allowable units on a given parcel. Although yard requirements are often used to accommodate landscaping that provides aesthetic benefits for the development and community, analysis during the Equitable Housing Project suggests that reducing required yard in the R-24, R-25+ and CBD is likely to have a relatively small negative impact on the total amount of landscaping, while providing additional land area that may help developers produce additional housing units.

R-24 and R-25+ land use districts currently have a set of yard standards for *attached single-family* development that require smaller yard areas than would be required for *multifamily* attached residential development. Multifamily and single-family attached residential can be very similar in building form, and a multifamily attached development is likely to have very similar community impacts to single-family attached development of the same height.

In CBD, 20-foot front yards are required for *all* development, regardless of housing type or height. Side and rear yard standards are determined based on the land use district of abutting parcels, and can be as low as zero for parcels that abut other CBD sites.

Ordinance No. 842 proposes to amend minimum yard requirements in R-24 and R-25+ land use districts by adding a new set of yard standards for multifamily attached residential buildings of less than 35 feet. The proposed ordinance establishes yard requirements for multifamily attached development that are similar to those for single-family attached housing of the same maximum height. Yard requirements for residential development over 35 feet in height, and all other development, remain the same. This reduced yard requirement in CBD may encourage more residential development in these areas, which are intended to include a mix of retail, service, and businesses as well as medium and high density residential uses. Additional residential development may support more active community centers and increased customer base for businesses and services in the CBD.

For the Community Business District, Ordinance No. 842 proposes to add a new 10-foot minimum yard requirement for buildings of less than 35 feet in height that include multifamily attached residential units (including mixed-use buildings). Side and rear yards, and yard requirements for residential development over 35 feet in height, and all other development, remain the same.

Table 1 on the following page shows the current yard requirements and proposed new standards for the R-24, R-25+ and CBD land use districts.

Other jurisdictions within Washington County, including the cities of Beaverton and Hillsboro, establish minimum yard (setback) requirements for multifamily development in residential and mixed-use districts that range from zero to 20 feet for front, side, and rear yards. Most districts that allow multifamily attached development require 10-foot front yards in these jurisdictions, though generally areas that are intended for more active and intensive use, especially station area communities, transit-oriented locations, and areas that allow mixed-uses, require smaller setbacks.

Developer feedback - both through the Equitable Housing TAG and stakeholder interviews - encouraged moderate reductions in yard requirements. Developers noted that, in general, allowing more land area for development could make it easier to maximize residential development and provide more spatial flexibility for development plans.

TABLE 1: Current yard (setback) requirements and proposed new standards for R-24, R-25+ and CBD districts

CURRENT R-24 AND R-25+				PROPOSED
Minimum yards (setbacks):	Detached units	Attached single-family 35 feet in height or less	All other uses	Attached multifamily 35 feet in height or less
▪ Front yard	10 feet to front building wall and 6 feet to porch or other enclosed entryway*	10 feet to front building wall and 6 feet to porch or other enclosed entryway*	20 feet*	10 feet to front building wall and 6 feet to porch or other enclosed entryway*
▪ Street side yard	8 feet*	8 feet*	10 feet*	8 feet*
▪ Side yards	5 feet*	5 feet*		
- 1 story building	n/a	n/a	5 feet	5 feet
- 2 story building	n/a	n/a	7 feet*	7 feet*
- 3 story building	n/a	n/a	10 feet	10 feet
- 4 story building	n/a	n/a	15 feet	n/a
- 5 story building	n/a	n/a	20 feet	n/a
▪ Rear Yard	12 feet, or 5 feet to a detached garage*	12 feet	20 feet	8 feet

CURRENT CBD		PROPOSED
Minimum yards (setbacks):	All buildings. No distinction between uses or height.	Buildings that include attached multifamily 35 feet in height or less
▪ Front yard	20 feet	10 feet
▪ Side and rear yard	Determined based on the land use district of abutting lots, and may be as low as zero	Determined based on the land use district of abutting lots, and may be as low as zero

**with some exceptions*

Note: in R-24 and R-25+, if the development site is adjacent to a different primary land use district, a 10-foot minimum shall be used for all yard (setback) requirements.

Transit-Oriented Retail-Commercial (TO:RC) District Standards – Clarification/Correction
Section 375 (Transit-Oriented Districts) establishes development standards for Transit-Oriented land use districts that are intended to encourage an active environment and development that is transit supportive and pedestrian oriented.

One standard that is intended to encourage an active streetscape in the TO:RC district reads as follows:

375-7 Development Limitations for Permitted Uses in Transit Oriented Districts

14. Attached dwelling units (**i.e., condominiums, apartments**)⁵ and group residences are only allowed on the upper floors of **nonresidential** buildings (**i.e., retail uses**) in the TO:RC District. Residential uses shall not be permitted as stand-alone uses (i.e., structures). Residential uses shall, however, be allowed to be located on the upper floors of a **parking structure** designed to also serve a mixed-use Transit-Oriented Retail Commercial **or business** development. [Emphasis added in **bold**]

Commonly translated as “that is,” usage of “i.e.” within the CDC requirement is typically interpreted to mean that retail uses are the **only** nonresidential uses allowable on the ground floor of buildings that include dwelling units. However, based on use of “i.e.” in other parts of the CDC, staff believes the term was misused here. The likely intended meaning in this section is “for example,” and staff believes that the original intent was to allow a variety of nonresidential uses on the ground floor in TO:RC land use districts. This is reinforced by the final sentence in the above standard, which allows for a parking structure serving commercial or business development on the ground floor.

Affordable housing representatives who participated in the County’s Equitable Housing Project Technical Advisory Group (TAG) reported that this apparently unintentional prohibition of nonresidential uses other than retail poses a significant financial barrier to development and maintenance of regulated affordable housing. They explained that buildings that include a commercial component must pay higher commercial construction wages for all project construction work under the state’s prevailing wage requirements.⁶ They also explained that current lack of demand for commercial space makes renting such spaces difficult, resulting in vacant building square footage that may be better used for additional housing units or resident amenities.

⁵ This is one instance of many where “i.e.” is misused (and should be “e.g.”), since “condominiums” and “apartments” do not represent the range of attached units that could be allowed in TO:RC. In fact neither is specifically listed in the table of allowed uses for this district. Rather, the table specifies only “low-rise apartments,” “mid-rise apartments,” and “high-rise apartments.”

⁶ TAG members further noted that a requirement for mixed-use in general can add significant cost and serve as a barrier to regulated affordable residential development, but this ordinance does not propose to remove that requirement. Concurrent Ordinance No. 841, however, proposes an alternative review option for certain regulated affordable housing developments that allows waiver of the mixed-use requirement for eligible affordable housing proposals.

Arguably, any number of ground-floor uses would meet the standard's intent of encouraging active ground floor uses and pedestrian activity. Nonretail commercial uses such as offices, community centers, libraries, day care facilities and a number of others, could conceivably meet the intent of this standard as well. Industrial uses and space-intensive uses such as theaters, car rental facilities and warehouses are not permitted in the TO:RC district and therefore do not create potential concerns for ground-floor development.

Ordinance No. 842 proposes to amend Section 375-7 (14) to clarify that any nonresidential use allowed within the district is permitted on the ground floor of buildings containing multifamily residential in TO:RC. It also makes a correction in Section 375-10 (Development Standards in Transit Oriented Districts) to classify Day Care Facility (430-53.2) as a commercial use. Previously, Day Care Facility (430-53.2) was incorrectly listed in the residential use section.

Minimum Landscaping Reductions

Landscaping area standards define the minimum amount of buildable land that must be set aside to accommodate required landscaping. Landscaping area may include yard areas, landscaping around parking and loading areas, screening and buffering areas, and vegetated stormwater facilities. Similar to yard (setback) requirements, required landscaping area can reduce the amount of developable land available for residential uses, and developers are prohibited from building in landscaping areas. An analysis of test development concepts in the Equitable Housing Site Barriers and Solutions Project indicated that reduced landscaping area requirements in R-15, R-24 and R-25+ land use districts for multifamily attached residential dwellings could help encourage more residential development in those locations.

Depending on the minimum lot size and/or size of available sites, existing landscaping area requirements may mean that it is difficult or impossible for developers to accommodate the maximum number of allowable units on a given parcel. Although landscaping provides aesthetic benefits for the development and community, analysis during the Equitable Housing project suggests that reducing required landscaping area in the R-15, R-24 and R-25+ land use districts is likely to have a relatively small negative impact on the total amount of landscaping, while providing additional land area that may help developers produce additional housing units.

Currently, Section 407-1 (Minimum Landscaping Standards) requires a minimum of 25 percent of the buildable land area for all residential developments (except detached housing and duplex units) to be set aside for landscaping. This requirement is slightly higher than landscaping requirements for residential development in other Washington County jurisdictions. The city of Beaverton has a 15 percent landscaping requirement, and the city of Hillsboro does not have a minimum landscaping requirement in multifamily residential and station community residential zones, which accommodate residential densities comparable with densities allowed in the R-15, R-24 and R-24+ land use districts.

Ordinance No. 842 proposes to reduce minimum landscaping requirements for multifamily attached development in R-15, R-24 and R-25+ land use districts to 15 percent of buildable land area. This reduction will maintain some landscaping area to provide aesthetic benefit and green space in these land use districts, and will remain in keeping with landscaping requirements in other jurisdictions. The reduction will also increase the proportion of development sites that is

available for residential development, which may encourage developers to maximize density in these locations and generally support increased housing supply in Washington County.

Developer feedback (both through the Equitable Housing TAG and stakeholder interviews) encouraged moderate reductions in landscaping requirements. Developers noted that, in general, allowing more land area for development could make it easier to maximize residential development and provide more spatial flexibility for development plans.

Sidewalks on Private Streets

Washington County's CDC currently allows developers to provide private streets to serve residential subdivisions or partitions in some cases when not required for access to off-site properties. This can benefit developers by reducing development costs and allowing streets that do not require the same degree of engineering or the more complex structural requirements of a public street.

Currently, for private streets serving nine or more units, the CDC requires sidewalks on both sides. In some instances, relatively small housing developments subject to this standard may occur on somewhat narrow or oddly configured lots. In such cases, homes can often be accommodated only along one side of the street, and therefore need sidewalks and driveways only along one side. Site width may be insufficient to accommodate sidewalks on both sides without the need for multiple hardship relief variances (HRVs), which allow for a maximum 20 percent reduction in certain dimensional requirements. While HRVs can allow reductions to private street and sidewalk widths, the process of requesting multiple HRVs for small projects may be a significant development barrier, and HRVs do not allow for omission of sidewalks. In cases where it can be determined that a sidewalk along only one side of the street could adequately serve a small development with atypical site constraints, allowing omission of sidewalk on one side could provide needed flexibility for small residential projects.

Ordinance No. 842 proposes a modest change to existing private street standards to address this issue. The proposed ordinance would allow omission of sidewalk on one side of a private street serving nine or more units, where no dwellings or pedestrian-related uses can be accommodated/allowed on the opposite side. This proposed change may make small residential projects more feasible and less costly to develop, and may increase housing supply in general by making home siting more viable on lots that are otherwise difficult to develop.

Driveway Width Reductions

Washington County's development code currently requires developers to supply a minimum number of both off-street *and* on-street parking spaces in urban residential and transit-oriented districts. On-street parking requirements are uncommon among Oregon cities and counties. The County's on-street parking standards apply to single-family *detached* and single-family *attached* housing (homes on individual lots) that have individual on-site parking and individual access to a local or Neighborhood Route street or private street.

Required minimum on-street parking depends on the number of off-street parking spaces to be provided (see table below). The required on-street spaces can be provided anywhere within 200 feet of the property and can be satisfied by using a parking court, limited to 12 spaces, provided it meets specific location and design requirements.

TABLE 2: Current CDC On-Street Parking Requirements for Urban Residential Districts

OFF-STREET PARKING SPACES	ON-STREET PARKING SPACES	COMBINED PARKING SPACES
1	2 per lot	3 per lot
2	1 per lot	3 per lot
more than 2	1 for every two lots, or .5 per lot	3.5 or more per lot

Research during the Equitable Housing project and feedback from planning staff and developers indicates that the CDC’s on-street parking requirements can be hard to meet, especially where CDC standards establish fairly narrow minimums for lot width at the street. In some cases, it appears that lack of space between driveways for required on-street parking can mean that developers reduce the number of residential units in order to accommodate required parking minimums.

Reducing minimum requirements for driveway widths may make it less challenging for developers to provide required parking by increasing the available street frontage that may be designated as an on-street parking space. Currently, CDC standards require a minimum width of 12 feet for a single driveway and a minimum of 30 feet for a combined driveway. However, Section 409 (Private Streets) allows private roads serving up to two units (depending on length), including those that serve as driveways for single and double flag lots, to be as narrow as 10 feet. Reducing minimum individual driveway widths from 12 feet to 10 feet, and combined driveway widths from 30 to 20 feet, would increase street frontage available for on-street parking. As such, it may provide enough spatial flexibility that developers need not reduce housing numbers within a development to accommodate driveways and on-street parking.

Reduced driveway width minimums may also make County standards slightly more compatible with standards for other local jurisdictions. Current driveway standards in the region range from a 9 to 12-foot minimum, and 10-foot minimums are relatively common. Table 3 below includes details.

TABLE 3: Residential Driveway Widths in Other Jurisdictions

JURISDICTION	DRIVEWAY WIDTH IN FEET
Portland	9 feet minimum* *Two strips with 3-foot wide planter up the middle allowed
Hillsboro	9 feet minimum
Tigard	10-foot minimum
Tualatin	10-foot minimum
Gresham (Downtown)	10-foot maximum ; or 16-foot maximum for shared (minimum not specified)
Clackamas	12-foot minimum
Beaverton	12-foot minimum

The County Engineering Division is prepared to update related Road Standards accordingly, if changes to CDC standards for driveway widths are adopted.

The amendments proposed in Ordinance No. 842 seek to mitigate barriers to residential development related to yard (setback) requirements, landscape area requirements, sidewalks on private streets, driveway widths, and criteria for residential development in the TO:RC district. Proposed amendments may reduce those barriers, encourage additional residential development, and reduce development cost, which may help increase the overall housing supply in Washington County.

Summary of Proposed Changes

Ordinance No. 842 makes limited amendments to the Community Development Code to facilitate development of housing. Specifically the ordinance:

- Reduces minimum yard (setback) standards of Sections 306, 307 and 313 for certain buildings in the R-24, R-25+ and CBD districts that include multifamily housing
- Clarifies existing standards of Section 375-7 regarding criteria for dwelling units in the TO:RC district
- Corrects Section 375-10 to reflect Day Care Facility as a commercial use
- Reduces minimum landscape area requirements of Section 407 for multifamily development in the R-15, R-24 and R-25+ districts
- Amends private street standards of Section 409 to allow omission of sidewalk on one side of a private street serving nine or more units in cases where site/vicinity constraints exist
- Reduces minimum residential driveway widths and updates related parking standards of Section 413