

ORDINANCE 2832

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 50 (COMMUNITY DEVELOPMENT CODE) FOR THE PURPOSE OF CLARIFYING AND UPDATING VARIOUS PROVISIONS (2019); AND, ADOPTING FINDINGS (LU 19-0033).

WHEREAS, notice of the public hearing for consideration of this Ordinance was duly given in the manner required by law; and

WHEREAS, a public hearing before the Planning Commission was held on November 13, 2019, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, the Planning Commission has recommended that LU 19-0033 be approved by the City Council; and

WHEREAS, a public hearing on LU 19-0033 was held before the City Council of the City of Lake Oswego on December 17, 2019, at which the staff report, testimony, and evidence were received and considered; and

WHEREAS, through the application of the Community Development Code and related code provisions, the public and Planning Division staff have found that some sections of the Lake Oswego Code, Chapter 50 (Community Development Code) could be improved by removing ambiguous and conflicting language, correcting provisions, adding clarifying text which is consistent with past interpretations, and updating the Community Development Code; and

WHEREAS, the amendments by this Ordinance relate to the following provisions of the Community Development Code:

- Nonconforming Regulations for Non-Residential Structures;
- Special Street Setbacks and Required Yards;
- Downtown Redevelopment Design (DRD) District Storefront Windows;
- Lake Grove Village Overlay Storefront Windows, Lighting, and Invasive Trees;
- Residential Building Design Standards For Setback Planes;
- Housing Design Standards For Storefront Windows (Clear and Objective);
- Commercial Tandem Parking Standards;
- Street Connectivity Standards;
- Lighting Standard Applicability;
- Accessory Dwelling Unit (ADU) Standards, Procedures, and Definition;
- Public Notice For Other Jurisdictions;
- Neighborhood Association Appeal Fee Waiver Requirements;
- Ministerial and Minor Development Classifications;
- Conditional Use Permit Expiration Deadlines;
- Major Public Facility Expiration Deadlines;
- Flag Lot Standards for Access Lanes;

- General And DRD Specific Design Variance Standards For Applicability; and
- Modify or Add Definitions for Floor Area, Lot Coverage, Lot Size or Lot Area, Caliper or Caliper Inch, and Diameter at Breast Height or DBH;

The City of Lake Oswego ordains as follows:

Section 1. The City Council hereby adopts the Findings and Conclusions (LU 19-0033), attached as Attachment 1.

Section 2. The Lake Oswego Code, Chapter 50 (Community Development Code) is hereby amended by deleting the text shown by ~~striketrough~~ type and adding new text shown in double underlined type, in Attachment 2. (Sections or subsections within LOC Chapter 50 that are omitted in Attachment 2, and not marked for deletion or addition, are neither amended nor deleted by this Ordinance.)

Section 3. Severability. The provisions of this ordinance are severable. If any portion of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date. As provided in Section 35C of Chapter VII of the Lake Oswego Charter, this ordinance shall take effect on the 30th day following enactment.

Enacted at the meeting of the City Council of the City of Lake Oswego held on the 7th day of January 2020.

//

//

//

AYES: Mayor Studebaker, Manz, Kohlhoff, Nguyen, O'Neill, LaMotte, Wendland

NOES: None

ABSTAIN: None


EXCUSED: None



Kent Studebaker, Mayor

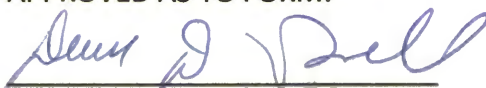
Dated: January 10, 2020

ATTEST:



Anne-Marie Simpson, City Recorder

APPROVED AS TO FORM:



David D. Powell, City Attorney

1 meeting on November 13, 2019. The Commission adopted its Findings, Conclusion and Order
2 recommending approval of LU 19-0033 on November 25, 2019.

3 The City Council held a public hearing and considered the Commission’s
4 recommendation on December 17, 2019.

5 The following information was presented to the Council at its hearing and added to the
6 record:

7 G-4 Letter from Housing Land Advocates & Fair Housing Council of Oregon, dated
8 12/12/19

9

10 **CRITERIA AND STANDARDS**

- 11 A. City of Lake Oswego Comprehensive Plan
 - 12 Community Culture – Civic Engagement, Policies 1, 2, 4 and 5
 - 13 Land Use Planning – Land Use Administration, Policy D-1
 - 14 Inspiring Spaces and Places – Goal 1, Policy 1(a)

- 15 B. City of Lake Oswego Community Development Code
 - 16 LOC 50.07.003.3.c. Published Notice for Legislative Hearing
 - 17 LOC 50.07.003.16.a Legislative Decisions Defined
 - 18 LOC 50.07.003.16.b Criteria for Legislative Decision
 - 19 LOC 50.07.003.16.c Required Notice to DLCD
 - 20 LOC 50.07.003.16.d.iii Planning Commission Recommendation Required
 - 21 LOC 50.07.003.16.e City Council Review and Decision

22 **FINDINGS AND REASONS**

23 The City Council incorporates the Planning Commission staff report dated October 9,
24 2019 for LU 19-0033, with all exhibits, and the Findings and Reasons in the Commission’s
25 November 25, 2019 Findings, Conclusions and Order, as support for the Council’s decision. In
26 the event of any inconsistency between the supplementary matter herein and the staff report,
the matter herein controls.

Following are the supplementary findings and conclusions of this Council:

Exhibit G-4: Letter from Housing Land Advocates and Fair Housing Council of Oregon.

In response to the issues raised in the letter, the City Council finds that the proposed

1 amendments are to the Community Development Code and not to the Comprehensive Plan or
2 Map. Further, the amendments comply with the applicable Comprehensive Plan goals and
3 policies as detailed in the October 9, 2019 staff report, which was available for public review 35
4 days prior to the initial public hearing before the Planning Commission.

5 The Legislature's enactment of House Bill 2001, Sec. 7 (2019), and the Governor's
6 signature on August 8, 2019, immediately preempted and nullified the local Accessory Dwelling
7 Unit (ADU) additional parking and owner-occupancy requirements by amendment of ORS
8 197.312(5)(b). The Council finds that HB 2001 did not condition the statutory preemption of
9 local ADU additional parking and owner-occupancy requirements upon additional local
10 revisions to the existing ADU requirements or a determination of whether or not the statutory
11 preemption – as applied locally -- would cause unreasonable cost or delay in the potential
12 construction of an ADU. The Council finds the City code provisions regarding ADU additional
13 parking and owner-occupancy requirements were preempted by HB 2001 effective August 8,
14 2019, and are now of no legal effect. The removal the ADU additional parking and owner-
15 occupancy requirements from the City code is to remove code provisions that are pre-empted
16 by state law, to avoid public and staff confusion. Further, the assertion that the proposed
17 amendments do not comply with ORS 197.312(5) is incorrect as only provisions within the
18 existing Code language are cited in support of that assertion, not the amendments.

19 Statewide Planning Goal 10 (and the Complete Neighborhoods and Housing Goal in the
20 City's Comprehensive Plan) ensures the opportunity to provide adequate numbers of needed
21 housing units, the efficient use of buildable land within urban growth boundaries, and
22 implementation measures that promote certainty in the development process to help reduce
23 housing costs. The City Council finds that none of the proposed amendments under Ordinance
24 2832 will impact the city's buildable lands inventory or the availability of needed housing within
25 the City, and that compliance with Statewide Goal 10 (and the corresponding Complete
26 Neighborhoods and Housing Goal) will be maintained.

1 **CONCLUSION**

2 The City Council concludes that LU 19-0033, as recommended by the Planning
3 Commission, complies with all applicable criteria and should be approved. The Council also
4 concludes that proposed Ordinance 2832, which implements LU 19-0033, should be enacted.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

LOC 50.01.006.4.b.ii

4. DAMAGE AND RECONSTRUCTION OF NONCONFORMING STRUCTURES

////

b. Structures Other Than Single-Family or Duplex Dwellings, Accessory Structures, and Historic Landmarks

////

ii. Ability to Construct or Reconstruct Nonconforming Structure

(1) Damage to Nonconforming Structures of Less than 50% of the Structure Replacement Cost

~~Subject to the time limitation in subsection 4.c of this section, if~~ **if** a nonconforming structure is damaged from any cause to the extent that the cost of rebuilding the damaged portions is less than 50% of the current replacement cost of the entire building, the rebuilding may be reconstructed to the extent that it was nonconforming, except that no portion of the structure shall be reconstructed in the flood management area.

(2) Damage to Nonconforming Structures of More than 50% of the Structure Replacement Cost

~~Subject to the time limitation in subsection 4.c of this section, if~~ **if** nonconforming structure is damaged from any cause to the extent that the cost of rebuilding the damaged portions is 50% or more of the current replacement cost of the entire building, the rebuilding shall conform to City codes and standards.

LOC 50.03.004.1.b.vi(1)

vi. Accessory Dwelling Unit

(1) Generally Applicable Standards

An accessory dwelling unit (ADU) may be allowed in conjunction with a single-family dwelling by conversion of existing floor area, by means of an addition, or as an accessory structure on the same lot with an existing dwelling, when the following conditions are met:

~~(a) The site is large enough to allow one off-street parking space for the accessory dwelling unit in addition to the required parking for the primary dwelling. The required parking for the ADU may be located within the front yard setback on an existing driveway provided the parking does not encroach into the public right-of-way.~~

(ab) Public services are to serve both dwelling units.

(be) The maximum size of the ADU is limited to 800 sq. ft. of gross floor area, except where a portion of a dwelling existing as of August 2, 2018, is converted to an ADU up to 200 sq. ft. of floor area consisting of circulation areas (halls, stairs, etc.), chimneys, and heating and ventilation systems is excluded from the gross floor area calculation.

(cd) No more than one additional unit is allowed.

(de) The unit is in conformance with the site development requirements of the underlying zone, including any allowed adjustments and additions listed in the base zone, or is located within a lawful nonconforming structure, or the ADU is located in a structure that was previously granted a variance pursuant to LOC Article [50.08](#) (provided, that any variance for the structure was not obtained solely to locate an ADU on the site; the inability to site an ADU on a parcel is not an unnecessary hardship).

~~(f) One unit shall be owner-occupied/the principal residence of the property owner. The owner shall be required to record a declaration of restrictive use in the appropriate County Clerk deed records prior to issuance of a building permit for the ADU on the lot. The declaration shall state that use of the parcel is subject to compliance with the City of Lake Oswego's ADU requirements, including the requirement that one of the dwellings on the lot be owner-occupied/the principal residence of the property owner, in order to permit usage of an ADU on the lot.~~

(eg) The following standards shall be met where a detached ADU is placed less than ten ft. to a property line:

////

(fh) For an internal conversion ADU, the required separate entrance to the ADU shall not be placed on the front facade of the existing house. No variance to this limitation is permitted.

LOC 50.04.002.3

3. METHOD OF MEASUREMENT

The special street setback (SSS) shall be measured from the ~~special street setback~~ SSS reference line (as established pursuant to LOC 42.03.135), the prescribed special setback distance in LOC 50.04.002.5. On these streets, the front yard begins at either the front lot line or the SSS, whichever is furthest from the reference line.

LOC 50.05.004.6.b

b. Storefront Appearance Required

////

In addition, such design shall maximize the opportunity for window shopping through compliance with the following requirements:

- i. A minimum of 80% (~~linear measurement~~) of the exterior ground floor façade abutting pedestrian ways shall be designed as storefront with display windows and entry features.

////

LOC 50.05.007.5.i.iv

iv. Storefront Window

Purpose: These standards provide a storefront appearance on the ground floor and maximize the opportunity for window shopping.

The following standards apply to commercial development at Urban Streetfront Environment locations designated as Storefront Window Boones Ferry Road and Storefront Window Village Cross Street on the Village Character Map, Figure [50.05.007-D](#): Village Character Map.

////

(3) A minimum of 65% ~~(linear measurement)~~ of the exterior ground floor [façade](#) that is at or within the build-to line or abutting public plazas shall be designed as storefront with windows and entry features.

////

LOC 50.05.007.7.c.iii(5)

////

iii. General Standards for Village Commons Area and Village Gathering Places

The Village Commons Area and Village Gathering Places shall:

////

- (5) Include lighting consistent with the [sidewalk lighting on Boones Ferry Road](#) ~~Lake Grove Village design theme~~. Lighting shall be directed away from adjoining residentially zoned neighborhoods ~~and shall be designed to incorporate dark sky standards.~~

LOC 50.05.007.7.e.i

e. Park Streetfront Environment

////

i. Tree Retention

No tree with a trunk of at least eight in. DBH located within 30 ft. of the Kruse Way right-of-way or within 20 ft. of any other public street right-of-way shall be removed unless determined to be invasive, dead, or hazardous pursuant to LOC Chapter 55, Trees, or located within area required to provide the separated pathway and retaining wall set forth in subsection 7.e.iii of this section, Crossroads Gateway Special Requirements.

LOC 50.06.001.2.c and 2.e

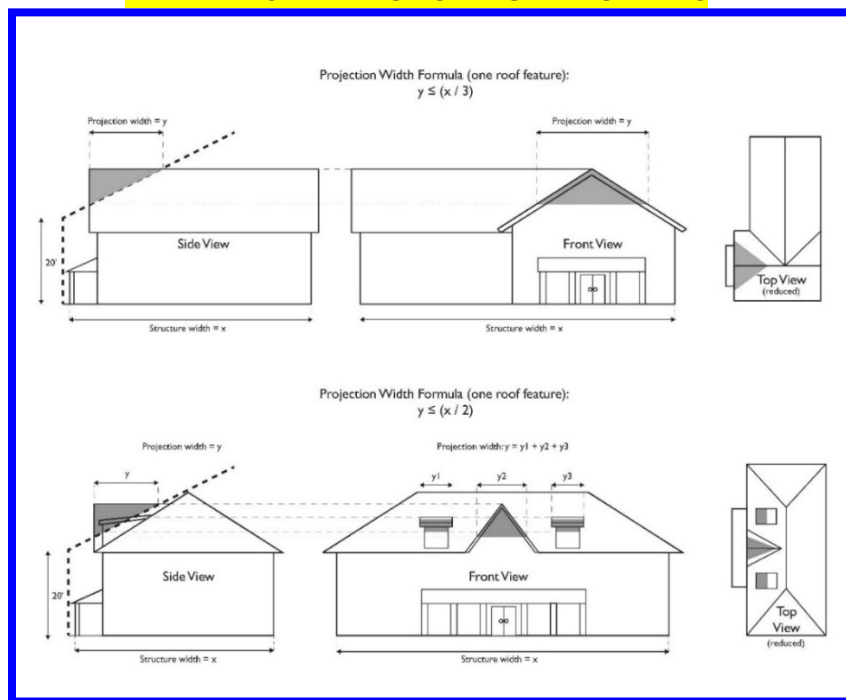
c. Street Front Setback Plane Exceptions

i. Roof Form

Any individual roof form, such as a dormer or gable end, may penetrate the street front setback plane if it is less than one-third of the structure width, as illustrated in Figure 50.06.001-B: Exceptions to Street Front Setback Plane. Two or more separate and distinct roof forms, ~~such as dormers~~ may ~~project into~~ penetrate the street front setback plane if they are less than one-half of the structure width. For the purposes of this standard, a projecting dormer(s) must be enclosed in the roof form on at least two sides. All portions of a compliant dormer may project.

Figure 50.06.001-B: Exceptions to Street Front Setback Plane

**Note to Council and Codifier:
DELETE OLD GRAPHIC
AND REPLACE WITH FOLLOWING NEW GRAPHIC**



////

ii. ~~Projections~~Plane Extension Limitations

Any eaves, bay windows, chimneys and other decorative features, front porch, cornices, eaves, gutters, belt courses, leaders, sills, pilasters, lintels, ornamental features, and other architectural features,

canopies, sunshades, chimneys, and flues that are allowed to project into the front yard setback shall fit below the extension of the street front setback plane, as illustrated in Figure [50.06.001-C](#).

////

e. Side Yard Setback Plane – Interior Yards

////

- i. Roof forms may penetrate into the side yard setback plane required under (e), above, as follows:
 - (1) Any individual roof form, such as a dormer or gable end, may penetrate the side setback plane if it is less than one-third of the structure length at 12 ft. in height. Two or more separate and distinct roof forms ~~such as dormers or gable~~ may ~~project into~~ penetrate the side setback plane if they are less than one-half of the structure length at 12 ft. in height. For the purposes of this standard, a projecting dormer(s) must be enclosed in the roof form on at least two sides. All portions of a compliant dormer may project.
- ii. On steeply sloped lots ~~that are upslope from the abutting street~~, no side yard plane is required.

////

LOC 50.06.001.7.c.i(2)(a)(ii)(D)

(2) Building Facade Elements

////

(a) Base: The "base" of a multi-story building extends from the sidewalk or landscape grade, as applicable, to the bottom of the second story or the belt course/string course/cornice that separates the ground floor from the upper levels of the building. The base of a single-story building extends from the sidewalk or landscape grade, as applicable, to the ceiling. The building base shall be defined by providing the following elements:

////

(ii) Buildings providing a ground floor commercial component shall provide all of the following additional elements:

////

(D) Storefront windows~~Windows~~ ("glazing") with not less than 40% visual light transmittance shall be provided ~~along on~~ a minimum of 60% ~~of the length~~ of the street-facing ground floor building facade. The bottom edge of windows shall be constructed at or between 12 in. and 30 in. above the abutting walkway surface. Minimum glazing includes any glazed portions of doors.

LOC 50.06.002.2.a.iii

iii. On-Site Location of Required Parking Spaces

(c) Commercial Uses other than in FMU Zone: Tandem parking is permitted for hotels or motels, eating or drinking establishments without drive-up window, clubs, lodges, meeting rooms, and auditoria in commercial zones if the following criteria are met:

i. An attendant is present to move vehicles and such movement of vehicles does not require backing onto a public right-of-way (an alley may be used if allowed by the City Engineer); or

ii. If the tandem parking is for the exclusive use of employees.

LOC 50.06.003.4.b.vi

The purpose of the connectivity standard is to ensure that:

////

vi. ~~The Metro Urban Growth Management Functional Plan, Title 11,~~ Metro Regional Transportation Function Plan, Title 1, street connectivity requirements are met;

////

LOC 50.06.004.3.a

a. Applicability

- ~~i. This section is applicable to all minor or major development which results in increased use of public and private streets, public pathways and accessways, or parking lots, and lots in the PF and PNA zones.~~
- ~~ii. Temporary lighting for theatrical, television, and performance areas, and lights associated with special events are not subject to this section if no "development" occurs.~~

This section is applicable to:

- i. Minor or major development that results in increased use of public and private streets, public pathways and accessways, or open air parking lots;
- ii. Addition, removal, alteration, or expansion of light fixtures or poles in open air parking lots or public pathways or accessways; or
- iii. Addition, removal, alteration, or expansion of outdoor lighting on lots in PF and PNA zones.

Exception: Temporary lighting for theatrical, television, and performance areas, and lights associated with special events are not subject to this section if no development occurs.

LOC 50.07.003.1.e.i

e. Pre-Application Conference

- i. ~~A pre-application conference with the City Manager is required for minor and major development permit applications, and ministerial permit applications for accessory dwelling units that add floor area to the lot, such as an addition to an existing single-family dwelling, detached accessory structure, or a unit above a garage. Pre-application conferences must be scheduled by the applicant prior to submitting an application for development or, in the case of an accessory dwelling unit adding floor area to a lot, a building permit.~~

A pre-application conference with the City Manager is required for:

(1) Minor and major development permit applications; and,

(2) Ministerial permit application for any type of accessory dwelling unit (ADU) that is not a conversion of existing floor area (including the garage floor area) in a primary structure. An ADU created by an addition to a primary structure is not a conversion. An ADU that is located in an accessory structure is not a conversion.

Exception: Exterior paint color review on nonhistoric buildings; modifications to an approved development permit where there is no increase in the intensity of the use and no new building permit would result; City projects to construct a nonhabitable structure not abutting a residential property; and minor variance to the fence standards when proposed to resolve a code enforcement citation.

Pre-application conferences must be scheduled by the applicant prior to submitting an application for development or prior to submitting for a building permit for an ADU that is not a conversion.

////

LOC 50.07.003.3.a and 3.c

a. Written and Posted Notice for Minor Development

////

iii. Notice to Other Jurisdictions, and Affected Roadway and Railroad Authorities

Written notice shall be provided to:

////

c. Notice for Initial Public Hearing for Minor and Major Development

i. Notice of a public hearing before a hearing body containing the information required below shall be mailed at least 20 days before the initial public hearing as follows:

- (1) To the applicant;
- (2) To property owners in the same manner as provided in LOC [50.07.003.a.i](#);
- (3) To neighborhood associations in the same manner as provided in LOC 50.07.003.a.ii;

~~(4) To the affected roadway authority or jurisdiction and affected railroad companies if:~~

~~(a) The application indicates that a railroad-highway crossing provides or will provide the only access to land that is the subject of the application; and~~

~~(b) A city's or county's or state's boundary or transportation facility is within one-half mile of the lot; and~~

(4) To a:

(a) City and County when the lot is within ½ mile of the city's or county's boundary;

(b) City, County, and ODOT when the lot is within ½ mile of the city's, county's or state's transportation facility; and

(c) Railroad company when the railroad-highway crossing provides or will provide the only access to land that is the subject of the application.

////

LOC 50.07.003.7.c.ii

c. Filing an Appeal of a Hearing Body or City Engineer Decision

////

ii. A notice of intent to appeal shall be in writing and shall contain:

////

(4) An appeal fee, if applicable [per subsections b.ii\(4\) and \(5\), above](#); and

////

LOC 50.07.003.13.a.ii(3)(a)

ii. Ministerial Development Types

////

(3) Exterior modification of a structure other than a detached single-family dwelling, accessory dwelling unit, duplex, zero lot line dwelling, or structure accessory to such structures which:

(a) Does not increase building footprint or height, except if the increase in building height is required to comply with Building or Fire Codes and does not substantially modify any street-facing facade, or the increase in building footprint is 100 square feet or less and does not substantially modify any street-facing facade; or

////

LOC 50.07.003.14.a.ii(4)

a. Minor Development Classification

////

ii. "Minor development" under subsection 14.a.i(1) of this section includes:

////

(4) Involves an improvement to an existing school facility that will not increase the capacity of the school facility, generate additional traffic, or generate significant additional noise or other negative impact on the surrounding neighborhood.

LOC 50.07.003.17

17. EXPIRATION OF DEVELOPMENT PERMIT

a. Except as otherwise provided in LOC [50.07.007.3](#), [50.07.007.4.f](#), ~~[50.07.005.5](#)~~, or [an](#) other provision of this Code, or as ~~may be~~ specifically stated as a condition of approval of a development permit, any permit issued under this Code shall expire three years following the final decision and effective date of any order constituting or approving the development permit unless:

i. If development involves construction of a structure, at least 15% of the structural construction has occurred within three years of the date of final decision. [For major public facilities, the three-year limitation does not apply to a Conditional Use Permit \(or modification\) and a Development Review Permit \(or modification\) is subject to a five-year deadline.](#); and

ii. Development authorized by the permit is commenced and work has reasonably continued to completion of the development.

LOC 50.07.005.5

5. ABANDONMENT OF CONDITIONAL USE PERMIT

~~a. A conditional use permit shall be void after three years if 15% of the structural construction has not occurred pursuant to the approval. The three-year limitation does not apply to permits issued for major public facilities.~~

b. If a use operating pursuant to a conditional use permit is discontinued for a period of at least one year, any further use of the property shall conform to the requirements of this Code. The City Manager shall, in writing, grant a one-year extension to a conditional use where the request for the extension is made by written application prior to the expiration of the one-year period. After the expiration of any extension of use, such a conditional use shall not operate without first obtaining a new conditional use permit.

LOC 50.07.006.7.c.i

c. Content of the Approved Final Overall Development Plan and Schedule

The approved overall development plan and schedule shall consist of the following documents:

- i. A site plan showing and type of all approved land uses, approximate ~~acreage~~ lot area, and approximate number of units or square footage of uses.

////

LOC 50.07.007.2.c.iii

c. Access

////

iii. A driveway shall be used to serve a single lot. An access lane shall serve no more than ~~two flag lots~~ **three lots total, up to two of which may be flag lots.** ~~(the access lane may also provide access for one non-flag lot).~~

(1) Driveway widths shall be a minimum of 12 ft. Driveway length, construction standards, and turnaround requirements shall be determined by LOC [50.06.003.2](#), On-Site Circulation – Driveways and Fire Access Roads.

(2) See LOC [50.06.003.1.d](#), Standards for Access Lanes, for width of access lanes.

////

LOC 50.07.007.2.d.iii

d. Lot Configuration Requirements

////

iii. Lot Size

Area of access easement or flagpole shall be deducted from the gross ~~acreage~~ square footage of the flag lot. The "flag" portion of the lot shall be equal to or exceed the square footage of the underlying zone.

LOC 50.07.007.2.e.vi

e. Building and Site Design Standards

////

vi. Lot Coverage and Floor Area

For the purposes of calculating lot coverage and floor area on flag lots, the area of access easement or flagpole shall be deducted from the gross ~~acreage~~ square footage of the flag lot.

LOC 50.08.003.3

////

LOC 50.08.003.3 General Design Variance Criteria

The reviewing authority shall only approve a design variance if it determines that the following criteria have been met. [In the Downtown Redevelopment Design District \(DRD\), the following criteria apply only to design variances to the requirements in LOC 50.05.004.8 through 50.05.004.12 and to any other Code provision \(other than the above DRD standards\) for which a design variance is requested.](#)

////

LOC 50.08.003.4

LOC 50.08.003.4 Downtown Redevelopment Design District (Except Within R-2) Design Variance Criteria For Building Siting & Massing, Building Design, and View Protection Requirements, ~~Except Within R-2~~

The reviewing authority shall only approve a design variance to the ~~design~~ requirements in LOC 50.05.004.5 through 50.05.004.7 if it determines that the ~~application meets~~ following criteria have been met:

////

LOC 50.10.003.2

Caliper or Caliper Inch

Where this code requires a minimum caliper or caliper inch tree, the caliper inch of the tree proposed to meet the requirement is determined by:

a. If the required caliper inch is less than 4 inches, the circumference of the tree trunk is measured 6 inches above the root ball (for nursery stock or other trees not in ground), or if planted, the ground.

b. If the required caliper inch is 4 inches or more, the circumference of the tree trunk is measured 12 inches above the root ball (for nursery stock or other trees not in ground), or if planted, the ground.

The circumference (in inches) is divided by 3.14 to determine the caliper inch of the tree.

////

Diameter at Breast Height or DBH

The tree trunk diameter measured at 4.5 feet (54 inches) above mean ground level at the base of the trunk, except that if a tree splits into multiple trunks above ground but below 4.5 ft., the trunk is measured at its most narrow point beneath the split. The diameter is calculated by dividing the circumference by 3.14.

////

Dwelling Unit, Accessory

An accessory dwelling unit (ADU), either internal to, attached, or separate from a detached single-family dwelling unit and on the same lot as that dwelling. The following dwelling configurations shall ~~also~~ constitute an ~~accessory dwelling unit~~ **ADU** regardless of whether the occupants of the second dwelling unit are a part of the family of the occupants of the primary dwelling unit:

- a. ~~An detached~~ accessory structure that contains all of the elements of a dwelling unit within the accessory structure and the accessory structure complies with LOC 50.03.004.1.b.vi.~~An accessory dwelling unit that is located on top of a garage is considered a detached structure; not a conversion;~~ or
- b. A portion of the ~~dwelling primary~~ structure ~~that~~ contains the elements of an ~~accessory dwelling unit~~ **ADU** pursuant to LOC 50.03.004.1.b.vi, and the other portion of the ~~dwelling primary~~ structure meets the definition of "dwelling unit," and the two portions are physically separated from each other so that the usual and customary use of the two portions of the ~~dwelling~~ structure is as separate dwelling units, not as a single, interconnected housekeeping unit. ~~A conversion is a remodel of existing floor area, which for purposes of this code includes garage floor area. An addition to an existing dwelling is not considered a conversion.~~

////

Floor Area

The gross building floor area excluding:

////

- e. Allowable projections [per LOC 50.04.003.8.a “Projections from Buildings”](#);

////

Lot Area or Lot Size

- a. Non-Flag Lots: the gross ~~acreage~~ [square footage](#) of the lot within the lot lines.
- b. Flag Lots: the area of a lot, defined by the lot lines, less the area of access easements ~~and access lanes~~ [or flagpole](#).

////

Lot Coverage

The ratio of A to B where A is the area of all permanent structures or portions thereof over 30 in. in height, but exclusive of:

////

and B is ~~the gross acreage~~ [lot area or lot size](#) ~~of the site~~.

////

Yard, Required

The area of land and space between a lot line [\(or, for lots with special street setbacks, the special street setback line if outside the right-of-way\)](#), and a setback line, whether the setback line is established by the terms of this Code or by an approval granted pursuant to this Code.

////