

# Memorandum

To: Planning Commission

From: Shane Hope, Consultant  
Edith Duttlinger, Acting Community and Economic Development Director

Date: November 13, 2017

Subject: Analysis of Residential Development Code Issues (White Paper)

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This memo is intended to summarize key code issues related to:

- (1) Requirements that apply to the RS 4800 district;
- (2) Intent for the “Transitional Uses” section of Chapter 19.30 MTMC, particularly for townhome development; and
- (3) Related challenges for residential development in other parts of the municipal code.

Based on the issues, a recommendation is stated in the last part of this memo.

## **RS 4800 DISTRICT ISSUES**

### **Dimensional Requirements**

#### Height

For many years, the maximum building height in all Mountlake Terrace single-household residential districts has been 3 stories, not to exceed 35 feet. An overlay zone established in 2010 allowed more slightly more intense residential development but only when the height was less than 30 feet and special design standards were met. In 2016, a new RS 4800 zoning district (instead of an overlay) was established for this same general area. The new district allows 4800 square-foot lots to be the standard minimum size instead of 7200 square feet, but for all lots in this district less than 7200 square feet, the maximum building height is 2 stories, not to exceed 30 feet. The lower height limit makes it hard to build some housing styles, especially townhomes in the Transitional Uses areas where they are allowed.

Alternatives to the current height approach include:

- a) Allow the “Transitional Uses” area (between the Town Center and the single-household zone) to have a 3-story/35 foot maximum height, same as allowed in other RS zones; or
- b) Allow the entire RS 4800 district to have a 3-story/35 foot maximum height.

#### Lot Coverage

The Dimensional Requirements Table in MTMC 19.30.030 sets standards for three types of lot coverage:

1. Coverage by structures

2. Coverage by impervious surfaces
3. Coverage by hard surfaces.

The distinctions among the above types are not always clear or helpful. For example, in the Town Center district, lot coverage is defined to include buildings and parking/circulation but in the RS districts, lot coverage by buildings is separately calculated from parking/circulation areas. In addition, the terms “impervious surfaces” and “hard surfaces” overlap. The definition of hard surfaces can be found in Ecology’s Stormwater Manual and includes—but is not limited to—impervious surfaces. The term “hard surfaces” is not defined in Title 19. Elimination of one more of the above coverage types should be considered. Also, a somewhat greater coverage amount than specified may be appropriate for the smaller lots—and certainly for the “Transitional Uses” area where townhomes are desired.

#### Lot Area (minimum)

The Dimensional Requirements Table requires the minimum lot size, with certain exceptions, to be:

- 8400 square feet in the RS 8400 district
- 7200 square feet in the RS 7200 district
- 4800 square feet in the RS 4800 district.

The RS 4800 zone was established in 2016. It covers approximately the same area as a “smaller lot overlay zone” allowing 4800 square foot lots (under an ordinance adopted in 2010 and repealed in 2016). Either approach can work if one is clear about both the intent and details of the requirements. (See also “Transitional Uses” section of this memo.) However, as change occurs over the longer term, keeping the area as its own residential zoning district, rather than an overlay, will be clearer for the property owners.

At the same time, a smaller minimum lot size for this district should be considered. Here’s some background about why.

*My recall is that the intent behind the original “smaller lot” overlay zone allowing 4800 square-foot lots (when adopted in 2010) was to encourage residential redevelopment in parts of the RS 7200 (and maybe the RS 8400) district near the Town Center through the incentive of allowing more housing—namely, allowing 2 adjacent “standard” lots (or the equivalent area) to be reconfigured for 3 houses on 3 smaller lots. Thus, in a 14,400 square foot area, 3 houses could be built on 3 lots of 4800 sq. ft., instead of 2 houses on 2 lots of 7200 sq. ft. The “trade-off” for the additional development was that certain design standards would apply, adding pedestrian-friendly sidewalk requirements and somewhat reducing the scale of allowed housing on the smaller lots. That opportunity was not taken for several years, perhaps partly because the incentive was adopted during a significant recession when less construction was happening but perhaps even more because—and this seems to be born out in the stronger market of more recent years—for the individual owners of any two contiguous lots (or potential developers having to acquire two contiguous lots from separate owners), the difficulty and financial outlay for land assembly—combining two contiguous lots into three—and removal of the 2 existing houses outweighs the benefits of site development and construction of 3 houses.*

The intent for the RS 4800 district should be revisited. Is it to encourage redevelopment of some single-household sites (esp. those close to the downtown with generally the oldest housing stock), thereby diversifying the housing choices for people—and having more households that use the nearby Town Center and light rail station? If so, what is the preferred scale of redevelopment and does that make market sense, given that the area is almost totally comprised of individually-owned lots of roughly 7200 sq. feet, each with an existing single-family detached house?

One alternative is to allow some portion of the district to have 3600 square foot lots, so that a single 7200-sq. foot lot could be divided in half. A major advantage of this alternative is that, in most cases, only one property owner would then be needed to make a decision about redevelopment—thereby making it more feasible, both time-wise and cost-wise. Major disadvantages are that smaller lots could result in more driveways to interrupt the roadway/sidewalk and buildings could look overwhelming or misplaced unless good design standards are also adopted. Design standards can address the number and placement of driveways, the type of building features that promote a pedestrian-friendly environment, whether an older house can be retained on the subdivided lot, and more.

If one area of the existing RS 4800 district is allowed to have 3600 square foot lots instead of a minimum 4800 square feet, it is probably the area that is east of 55<sup>th</sup> Ave W, north of 236<sup>th</sup> Street SW, west of 52<sup>nd</sup> Ave W, and south of 228<sup>th</sup> St SW. That is largely because all of these lots are 7200 square feet (thus, easily divided in half to 3600 square feet) and closely connected to the Town Center, as well as being a walkable distance to the Transit Station.

#### Maximum Floor Area Ratio

“Floor area ratio” (or FAR) is a term used to compare the overall floor area of a building (generally, all stories combined) with the size of the lot. It is calculated by taking the building’s total floor area and dividing it by the size of the lot.

The only residential zoning district to have a maximum floor area ratio is the RS 4800 district. Per the Dimensional Requirements Table of MTMC 19.30.030.C, the RS 4800 district is subject to a 0.6 maximum FAR. That means on a 4800 square foot lot, the total maximum home size, including a garage and any accessory dwelling, is 2,880 square feet—even if a larger home could otherwise be built using the setback and lot coverage standards. “FAR” can be a useful tool to address the scale of a building when setback and lot coverage standards are deemed not enough. However, it is critical to make sure that any maximum FAR is reasonable for the intended purposes and does not create significant unintended consequences. In the case of the “Transitional Uses” area of the RS 4800 district, where townhomes are allowed, a FAR of 0.6 appears too low to make townhome development feasible. That is because the applicable FAR means, for example, that all townhomes combined—including their garages—on a 4800 square foot lot could not exceed 2,880 square feet in total floor area.

Here are alternatives to the existing approach:

- a) Simply exempt the maximum FAR requirement from being applied to the “Transitional Uses” area;

- b) Increase the maximum FAR in the RS 4800 district to 0.75, which would allow a maximum home size (counting the garage and any accessory dwelling) of 3,600 square feet;
- c) Do both (a) and (b); or
- d) Remove the FAR requirement from the entire RS 4800 zone.

### **Other RS 4800 Standards**

Until the code was changed circa 2016, an RS 4800 overlay was the tool that allowed homes in part of the RS 7200 zone to be built on 4800 square foot lots. The pre-2016 code required homes on such lots to meet “Smaller Lot Residential Design Standards”, which were adopted by reference. These Design Standards provided guidance for the sidewalk and pedestrian landscape areas, driveways, and building design.

With adoption of the newer RS code, the previously adopted “Smaller Lot Residential Design Standards” was no longer referenced. However, a few parts of the original Design Standards were separately adopted into the RS 4800 district requirements in MTMC 19.30.060. The main parts of the Smaller Lot Residential Design Standards that were dropped were:

- Guidance for a sidewalk and pedestrian landscape area (including the prior requirement for a 5’-wide landscape area with street trees between the sidewalk and street curb)
- Encouragement of shared driveways (and examples of layouts)
- Requirement for a front-facing garage to have articulation from the rest of the house
- Requirement for the house or garage to have a minimum roof pitch of 4:12; instead, the new code required a (steeper) minimum 6:12 roof pitch.

## **TRANSITIONAL USES**

### Effect of Transitional Use Code Section

A code section for “Transitional Uses” was adopted in 2015. It allows “transitional uses” in all RS zoning districts—for an area defined as “only on parcels that (1) directly front on streets abutting BC/D zoning district, and (2) are directly accessed off streets abutting the BC/D zoning district.”

Based on this definition, 61 lots in the RS 4800 zone and 13 lots in the RS 7200 zone are currently part of the Transitional Uses area.

- Note: The second part of the above definition means that a corner lot that otherwise qualifies to be in this area cannot take access off a side street, even if that would make the traffic circulation better.

“Transitional uses” are not specifically defined anywhere in the city code. However, MTMC 19.30.065 recognizes only townhomes and parking lots as transitional uses that are permitted in the designated area.

The “Transitional Uses” code section is authorized in a manner that has basically the same effect as an “overlay” zone; thus, all aspects of the underlying zone apply unless specifically authorized otherwise. This means, for example, that townhomes in the Transitional Uses area of the RS 4800 district are subject to the same standards as the rest of the RS 4800 district, except for:

- Building design, which is subject to the BC/D (Town Center) standards;
- Front yard setbacks, which “may” be the same as the BC/D district.

As written, the Transitional Uses section of the RS code has numerous issues that need to be addressed. The major ones are discussed below. Some of them may be handled by converting the “Transitional Uses” area into its own zoning district and listing the appropriate dimensional requirements needed to reasonably accommodate townhome development and overflow parking lots from the Town Center.

#### Lot Area and Lot Coverage

Under Chapter 19.30, the Transitional Uses area does not have its own standard for minimum lot area and lot coverage. Therefore, the underlying zone requirements apply to townhome development in the Transitional Uses area. That means, for example, while two townhomes in the RS 4800 Transitional Uses area can arguably share one 4800 square foot lot, that could mean the maximum number of townhomes allowable on one lot. That is, in part, because the code does not clarify the intent for a larger number of townhomes and the code definition of townhomes refers only to “two or more” units. In addition, the “target net density” of the underlying 4800 zone and the 7200 zone is described, respectively, as 7 units per acre and 4.5 units per acre. Townhomes in other areas can be built at 16 and more units per acre.

Likewise, the code language does not specify a separate requirement for maximum lot coverage in the Transitional Uses area. That means that the maximum lot coverage by structures—which is 40% for all RS districts—also applies to the Transitional Uses area. Thus, townhomes and any accessory structures cannot take up more than 40% of the lot. By contrast, townhomes in the Town Center are subject to a different standard; there, a maximum 75% lot coverage applies to the total footprint for buildings and parking.

#### Setbacks

In the Transitional Uses area, the side and rear setbacks are required to be the same as in the underlying RS zone.

- That means that townhome development in the Transitional Uses area is generally subject to a minimum 5-foot side setback and a minimum 15-foot rear setback. However, the front setback for townhomes in the Transitional Uses area is specifically allowed to be different than in the underlying RS zone. Townhomes in the Transitional Uses area may have the same front setback as in the BC/D district—which means essentially zero. (The BC/D district requires 0’ front setback except as needed for the required pedestrian activity and any frontage parking. However, because no pedestrian activity area is required for the RS district, a Transitional Uses townhome can be built to the front property line. )
- All setbacks for parking lots in the Transitional Uses area must meet the same dimensional standards as required in the RS district because the code does not specify otherwise. These setbacks for Transitional Use parcels used for vehicle parking lots are generally:
  - Front setback—15 feet
  - Side setback—5 feet (unless part of a corner lot, when it must be 10 feet)
  - Rear setback—15 feet.
- Code changes to require slightly more front setback for townhomes and slightly less setback for parking lots should be considered.

#### Building Design

For townhomes in the Transitional Uses area, the referenced building design standards are in the building design section of the Town Center Design Standards. Because Town Center standards are mostly aimed at commercial and mixed use buildings (including live/work townhomes), some of the building design standards, such as the requirement for a minimum of 50% transparent glazing on any ground floor façade facing the street, are not so well suited to townhomes intended to be more residential in nature. Application of the Multifamily Building Design Standards (or other townhome design standards) may be more appropriate for residential townhomes than the Town Center Building Design Standards.

In the longer term, more tailored design standards for this area could be introduced. But this is best done after a clear verification of intent (what type of townhomes, what type of open space, how the public amenities relate) and good public dialogue can take place.

### Site Design

The Transitional Uses code section does not require any special site design standards for townhomes, other than what applies to single-household residential—except for the additional requirement that a townhome on a corner lot cannot take access from a side street. (Note: this is more restrictive than for traditional detached houses on corner lots, which are allowed access from either street.)

- In the BC/D zone, site design requirements from the BC/D regulations and the Town Center Design Standards apply to the development of sites. These site design standards provide direction on street trees, pedestrian activity areas, screening of trash collection areas, and more. In designated multifamily zones, Multifamily Design Standards apply to these same types of issues.
- No such design standards apply to the Transitional Uses area. The code gives no guidance for pedestrian activity areas or screening of dumpsters, etc. Street trees are not required either. (Note: “Pedestrian activity areas “are the places where expanded sidewalks or landscape areas between the curb and sidewalk occur. They are required in some districts, but not in the Transitional Uses area.)

Likewise, parking lots in the Transitional Uses area are not clearly subject to requirements for lighting, pedestrian connectivity, or landscaping that apply to either the Town Center or the Multifamily zones.

- The Transitional Uses section of the code does call for landscaping to separate parking lots from adjacent lots in the RS district that are not within the Transitional Uses area. The landscaping must be a 15-foot wide dense vegetative screen that includes fir or cedar trees every 15 feet. This is likely to create a significant barrier and use space that could otherwise go toward parking.; furthermore the type of trees required are large-growing and not always compatible with using land efficiently on an urban lot—and, when mature, they may unnecessarily block sunlight into the yards of adjacent residences. Landscaping treatment that would provide screening suitable to the environment without using as much space should be considered to replace the current requirements.
- While certain details about lighting for parking lots are mentioned in the Transitional Uses section of the code, no lighting is not actually required.
- The standards for street frontage improvements are not referenced, although standards in Chapter 19.95 would apply to development.

### Open Space

Open space is required in different forms and amounts in both the BC/D zone and the Multi-family zones. It is not specifically required for townhomes in the Transitional Uses area. To some extent, the current limits on lot coverage will result in de facto open space. However, some consideration should be given to adding or clarifying specific open space requirements.

### Bicycle Storage

The Multifamily zoning regulations require bicycle storage to be part of residential development. The BC/D zoning regulations originally did too, but this requirement appears to have been dropped in recent years. A place to store bicycles is an important component of people having the option to use bicycles if they choose. On typical single-family lots, many options for bicycle storage exist, but in multifamily buildings and townhomes, options for bicycle storage need to be built into the development. Requiring some amount of bicycle storage seems appropriate for the Transitional Uses area (and, of course, the Town Center), which is near to the Transit Station and other destinations where bicycling may make sense instead of driving. (Note: Not everyone will use a bicycle regularly. The issue here is just making sure residents have a reasonable location where they can choose to store a bicycle.)

An update to the Transitional Uses code section should be considered for requiring bicycle storage at the ratio called for in the Multifamily zoning regulations.

## **OTHER RESIDENTIAL ISSUES**

### **District Naming**

The current naming convention in the development code for various single-household residential zones uses the minimum lot size typically required for each zone to be part of the district's name. This is not necessarily the best naming convention because the lot sizes are often not known to the public and, anyway, lot size variations are allowed within each zone. Also, having a minimum lot size directly in the name of the category makes for a rather long name and can make future code changes to lot area requirements in that zone more confusing. A simpler naming convention is recommended, for example:

- RS-1 (or R-1) for the area intended for the largest residential lot sizes;
- RS-2 (or R-2) for the area that is predominately zoned for medium-sized residential lots;  
and
- RS-3 (or R-3) for the area intended for smaller residential lots.

### **Density Calculations**

In 2016, a new subsection (19.30.035.C) was added to the RS code, which established "target net densities" for each RS district. This provision is confusing and not needed because densities are set through lot area and other requirements. In fact, the concept of target net densities seems to be tied to a prior proposal for stormwater LID requirements, which is not in effect. (See LID discussion below.)

If allowing cluster development is the intent, this can be accomplished through other subdivision or planned unit development techniques. The "target net densities" subsection should be deleted.

### **Accessory Dwellings**

The regulations for accessory dwellings (19.30.050) have not changed since 2008. However, two code updates should be considered as follows:

- a) Under 19.30.050.B.5, add a requirement that any detached accessory dwelling must be located in the rear yard;
- b) Allow more flexibility for the location of an entrance to the accessory dwelling, especially where the dwelling is on a corner lot or is set back from the primary street.

### **Cottage Housing**

The code section for cottage housing (MTMC 19.30.170) is substantively the same as originally adopted in 2008. Because the 28,800 square-foot minimum lot size for cottage housing requires an area that is the equivalent of at least four contiguous 7200-square foot lots, the City is likely to get few development proposals for this housing type in the foreseeable future. Nevertheless, at least one issue could be considered for adjustment: the distance between the effective “rear yards” of cottage homes and the abutting side yard of any RS-zoned parcel that is not part of the cottage development. The current requirement allows a cottage’s effective “rear yard” to be to be totally within the parent lot’s 5’ wide side yard setback. This could result in a cottage having a small “backyard” that is only 5’ deep and uncomfortably close (from both parties’ perspectives) to an existing adjacent house. The challenge, however, is adding a greater dimensional requirement, given that fitting cottages on the site to meet all the open space and design requirements for this type housing is already difficult.

### **Low Impact Development (LID)**

MTMC 19.30.110 was added to the RS code in 2016 to address managing stormwater through certain “low impact” techniques. However, the specific requirements appear to be beyond what is required by state Department of Ecology guidance. Because this entire section is specifically tied to Chapter 16.22 MTMC for stormwater and Chapter 16.22 was proposed but not adopted, the section is not applicable.

At some point in the near future, the City’s stormwater standards—including this section—should be revisited to meet Ecology requirements without creating unnecessary complexities for development. Meanwhile, deleting this code section, which is not in effect anyway, would be a good step.

### **Subdivision Process**

The subdivision process is addressed in Title 17, not in the RS code. However, certain aspects of the subdivision process affect the timing and feasibility of residential development, including townhome development in the Transitional Use area. Some members of the development community have a perception that subdivision approvals are not given in Mountlake Terrace until civil improvements are completed.

Some of the perception may be related to the major Subdivision Code update that was adopted in 2015. The new code contains requirements and processes that were not previously used in Mountlake Terrace, for example, “subdivision improvement agreements.” It can be confusing to know which process is required and which is optional. However, based on my preliminary reading

of Title 19, civil improvements need not be complete before a final subdivision plat or binding site plan is approved or a short plat is recorded so long as a bond or other assurance has been issued in the required amount.

### **Concurrent Plan and Permit Submittals**

The development community has expressed concern about whether site plans, civil plans, and building permit applications can be submitted concurrently and at what point building permits can be issued during the subdivision process. With tight timeframes, tight sites, and tight financing, a long approval process would be very challenging.

Based on a review of the City's zoning code for permits and procedures and the building and construction code for building permits, I see no clear prohibition on the concurrent submittal or approval of some types of applications. However, some subdivision code language is confusing or conflicting on that point. For example, MTMC 17.03.110, which relates to short subdivisions could be interpreted, at initial reading, to prohibit the issuance of building permits until all "public facilities"(which is defined to include sidewalks, streets, water systems, stormwater facilities, etc.) are constructed or other conditions completed. However, a closer reading recognizes that "other security to the City" may be provided in lieu of constructing the public facilities. On the other hand, MTMC 17.06.020 states that "following approval of the application" (presumably the application for preliminary subdivision approval), the civil plan shall be submitted for review. That could be understood to mean that civil plans cannot be submitted until *after* preliminary approval of the subdivision.

In actuality, Title 17 contains some provisions that seem to require that a subdivision agreement—a legal instrument not commonly used by cities in our state—be executed before certain other permits and approvals can be obtained. (Most cities use a performance bond or similar financial instrument, rather than a formal subdivision agreement, to set aside a monetary amount to ensure completion of civil improvements.) At the same time, Title 17 contains provisions indicating that a subdivision agreement is merely optional. Amendments to Title 17 may be needed to clarify this situation. Options include:

1. Amending the specific sections that indicate (in conflict with other sections) that a subdivision agreement is required before other permits or approvals can proceed; or
2. Removing all references to "subdivision agreement" throughout Title 17.

The caveat to these process and timing issues is that if the City allows a builder to proceed with civil or building construction when some part of another permit has not been decided, the builder needs to know he/she is taking a risk and may end up needing to alter some parts of the planned or constructed improvements. This caveat could be stated as a disclaimer on the face of any permits.

Meanwhile, adequate staffing and training of staff, based on consistent code interpretation and use of coordinated procedures across departments, may also help the process be more predictable and timely. Materials (electronic or printed) that explain processes are useful for both applicants and staff.

## RECOMMENDATION

The RS code should be updated to address numerous issues raised in this memorandum. This can be done in either of two ways:

1. Phased Approach: Update first the regulations that are most needed for some level of immediate townhome development in the Transitional Uses Area; these could even be considered “interim regulations” to allow for fine-tuning, especially of design standards. (This initial phase could be completed in as before the end of 2017.) Then in a subsequent update (over a three- to ten-month period), address the remaining and/or evolving issues and consider fine-tuning where needed; or
2. Comprehensive Approach: Review all residential code issues (including, not only how to make the Transitional Uses area work well but, for example, whether the RS 4800 zone as a whole should be treated differently to encourage redevelopment in more locations) and after careful analysis and public input, move toward adopting all updates at once, rather than in two or more batches. (This approach could take six to twelve months.)

An advantage of Approach # 1 is that it could allow townhome development in the Transitional Uses area sooner. However, this step, done quickly, may unintentionally miss some fine points. Also, it won't provide time to do much for other code issues that still need attention. With Approach # 1, it would be important to follow the first step (addressing immediate issues) with subsequent actions to address needed code updates and other issues.

An advantage of Approach # 2 is that it allows all issues to be addressed at once and more comprehensively—but it also means that resolving immediate problems with townhome development in the Transitional Uses area would be delayed.

Consequently, I recommend that the City proceed with the first approach above, namely:

- Start updating the regulations most needed for townhome development in the Transitional Uses Area right away (and include any other modest changes that are appropriate and can be easily made at the same time);
- Soon after, follow up with other needed code updates to help achieve the community vision<sup>1</sup>.

Based on my discussion with you and Scott, I have begun working on the code updates most needed for townhome development in the Transitional Uses Area, along with other modest clarifications and updates for the RS districts. Additional code issues can be addressed in the next phase.

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<sup>1</sup> The community vision is stated in the Comprehensive Plan: “*Mountlake Terrace is an attractive, walkable city with a revitalized town center, pleasant neighborhoods, healthy environment, regional transit access and ample opportunities for housing, education, businesses, recreation, and community involvement.*”