



City of Canby

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January 9, 2018

To: Mayor Hodson and Council Members

From: Rick Robinson 

Subject: Construction Standards in R-1 Low Density Residential Zones

TASK

You have asked me to review the issue raised by Jason Padden during the last Council Meeting and provide you with recommendations relating to the appropriateness of the development standards in the City's R-1 Low Density Zone.

SUMMARY

After reviewing Chapter 16.16 R-1 Low Density Residential Zone (attached), I believe it to be consistent with standards in similar jurisdictions and appropriate for the City of Canby. Section 16.16.030-E-1 of the City Code identifies a maximum height of 35 feet for a principal building constructed in the R-1 zone. I believe this to be a reasonable height in a City wishing to avoid a cookie-cutter approach to housing construction, one offering houses with a variety of construction types, roof slopes, and stories.

An argument was made that a storage room on the second floor of the newly constructed house did not constitute a second story because it was not constructed for habitation. I disagree. When the room was framed in and a permanent access stairs constructed, I believe it became a room on the second story of the home.

DISCUSSION

As has been shown based on Mr. Padden's comments, problems integrating new homes with differing architectural goals can occur when new housing is constructed in an area of existing homes. To address this issue, efforts are made to create a transition from the existing architecture to the new. In the case of Phase 3 of Northwood Estates, nine lots, including the lot with the storage room on the second floor, were subject to a special condition limiting the construction to a single story.

City staff do our best to review applications in an effort to assure compliance with special conditions and exceptions when new dwellings are proposed. Because of very limited staffing, we also operate on something of an honor system, with the expectation that the developer, contractor, and where appropriate, the owner are aware of and respect the

restrictions and/or conditions placed on each lot to be developed within a subdivision. Working together we are generally successful in assuring compliance with the development standards outlined in Section 16.16 of the City code, and adherence to special conditions that apply to particular lots within the City. Unfortunately this system did not work in this instance.

I have attached a series of emails that I believe are relevant to the specific project Mr. Padden has addressed. One positive aspect of this particular issue is that the owner of the home immediately adjacent to the home under construction does appear to be satisfied with the design of the new home.

CONCLUSION

Moving forward, City staff will do our best to identify and enforce special conditions on construction with our available resources. We must also continue to depend on the honesty and integrity of those other persons involved in the development and construction of homes in Canby and their willingness to meet the standards approved for the development. Working together I'm confident we can avoid mistakes like this in the future.

Chapter 16.16

R-1 LOW DENSITY RESIDENTIAL ZONE

Sections:

- 16.16.010 Uses permitted outright.**
- 16.16.020 Conditional uses.**
- 16.16.030 Development standards.**

16.16.010 Uses permitted outright.

Uses permitted outright in the R-1 zone shall be as follows:

- A.** Single-family dwelling; one single-family dwelling per lot;
- B.** Agriculture, including all accessory structures necessary to the conduct of agricultural activity but excluding commercial processing, sales, manufacturing, or packaging plants except when used primarily for items grown on the premises;
- C.** Accessory uses and/or accessory structures;
- D.** Accessory dwellings attached to a primary dwelling (sharing a common wall) are permitted only when approved through administrative review, in conformance with Chapter 16.48. The administrative approval shall be based on findings that all of the following standards are met:
 - 1.** Compliance with the Oregon Structural Specialty Code;
 - 2.** Attached accessory dwellings are considered to be part of the primary dwelling for the purpose of meeting the development standards in Section 16.16.030;
 - 3.** The accessory dwelling does not exceed 800 square feet of floor area;
 - 4.** Not more than one accessory dwelling unit per lot;
 - 5.** One off-street parking space provided (i.e., in addition to any off-street parking required for other uses on the same lot);
 - 6.** Exterior siding and roofing must be similar in color, material and appearance to that used on the primary dwelling. Different siding or roofing may be approved by the planning commission if it finds that the proposed design is more compatible with surrounding residences;

7. The property owner resides on the subject property and uses it as his/her primary residence. It is the property owner's on-going responsibility to provide evidence showing that this standard is met;
 8. Utility connections and metering comply with applicable city standards and those of utility providers;
- E. Day care facility in a residential home, with twelve (12) or fewer children;
- F. Manufactured and mobile home subdivisions, where developed as planned unit developments, subject to the requirements of Divisions IV and V;
- G. Minor public facilities;
- H. Manufactured home - with the following additional approval criteria:
1. Must be double-wide or wider and must enclose at least 1,000 square feet.
 2. Must be located not more than twelve (12) inches above grade on an excavated and back-filled masonry foundation which is enclosed at the perimeter.
 3. Must have a pitched roof with a minimum slope of at least a nominal three (3) feet in height for each twelve (12) feet in width.
 4. Exterior siding and roofing must be similar in color, material and appearance to that used on surrounding dwellings within three hundred (300) feet of the lot.
 5. The exterior thermal envelope must meet performance standards equivalent to those required for single family dwellings under the State Building Code.
 6. Must not have bare metal siding or roofing.
- I. Home occupations which meet the strict definition of section 16.04.240. (Ord. 890 section 15, 1993; Ord. 859 section 1, 1991; Ord. 740 section 10.3.18(A), 1984; Ord. 1080, 2001; Ord 1237, 2007))

16.16.020 Conditional uses.

Conditional uses in the R-1 zone shall be as follows:

- A. Cemetery;
- B. Church;
- C. Day care facility, other than a residence or caring for more than twelve (12) children;
- D. Hospital;

E. Nursing home, convalescent home, home for the aged, board and care home, foster care home, etc.;

F. School;

G. Major public facilities;

H. Golf courses, public or private, with facilities and structures that are associated with the use;

I. Home occupations which otherwise meet the strict definition of section 16.04.240, but which involve the manufacture of products, nonresidential storage of goods, or any activity which is likely to increase traffic;

J. Accessory use or structure (not a dwelling) located on a lot or lots abutting the lot which houses the principal use of the property;

K. Manufactured and mobile home park or trailer park, subject to the criteria of Chapter 16.44;

L. One two-family dwelling where the lot contains a minimum of twelve thousand square feet. Through the conditional use process, the Planning Commission may require the two dwellings in a duplex to share a common driveway to minimize curb cuts and paving;

M. One duplex on a corner lot that contains a minimum of ten thousand square feet, provided that the building is designed such that vehicle access to the different units is taken from different streets;

N. Bed and Breakfast;

O. Accessory Dwelling that is not attached to the primary dwelling. The accessory dwelling shall be separated from the primary dwelling by a minimum of 10 feet and conform to the standards in Section 16.16.010(D)(2). The building height standards in Section 16.16.030(E) shall apply.

P. Zero-lot line development for uses otherwise allowed, provided that the minimum side yard setback shall be 7 feet when adjacent to housing with standard setbacks. Prior to building permit approval, the applicant shall submit a copy of a recorded easement for every zero-lot line housing that guarantees rights for the purpose of construction and maintenance of structures and yards. The easement shall stipulate that no fence or other obstruction shall be placed in a manner that would prevent maintenance of structures on the subject lot; and the building placement, landscaping, and/or design of windows shall provide a buffer for the occupants of abutting lots.

Q. Other developments customarily found within a residential zone, as determined by the Planning Commission.

R. Detached accessory structure (not dwelling) up to twenty-two feet high which is located outside the allowed building footprint area for the principal structure and which does not meet the step-up height standard described in 16.16.030(E)(2)(b). (Ord. 890 section 16, 1993; Ord. 740 section 10.3.18(B), 1984; Ord. 1080, 2001; Ord. 1111 section 7, 2003; Ord 1237, 2007)

16.16.030 Development standards.

The following subsections indicate the required development standards of the R-I zone:

A. Minimum and maximum lot area: seven thousand (7,000) square feet minimum, and ten thousand (10,000) square feet maximum, per single-family dwelling. The maximum lot area standard does not apply to single family dwellings existing at the time of subdivision or partition plan approval; and the Planning Commission may approve smaller or larger lots in conformance with subsection B, below. Preexisting, legally created lots of record shall be considered to be legally buildable and separately saleable, provided they contain at least five thousand (5,000) square feet; and further provided, that any structures on such lots meet the required setbacks from the lot lines which will result when these lots of record are separated. Lot width requirements may be reduced to a minimum of fifty feet, and side yard setbacks reduced to a minimum of five feet for such lots.

B. Lot area exceptions:

1. The Planning Commission may approve an exception to the minimum and maximum lot area standards in subsection 16.16.030.A as part of a subdivision or partition application when all of the following standards are met:

a. The average area of all lots created through the subject land division, excluding required public park land dedications, surface water management facilities and similar public use areas, shall be no less than seven thousand square feet and no greater than ten thousand square feet. Non-required significant natural resource areas shall be included in the average lot size calculation to enable a transfer of density onto buildable portions of the site. Required areas include identified parks, wetland areas, riparian corridors, and other areas in which building is not permitted under local, state, or federal laws or regulations;

b. No lot shall be created that contains less than six thousand square feet;

c. The lot area standards for two-family dwellings, as provided in Sections 16.16.010 and 16.16.020, shall be met; and

d. As a condition of granting the exception, the city will require the owner to record a deed restriction with the final plat that prevents the re-division of over-sized lots (e.g., ten thousand square feet and larger), when such re-division would violate the average lot area provision in subsection 16.16.030.B.1.a. All lots approved for use by more than one dwelling shall be so designated on the final plat.

2. A public benefit must be demonstrated in order to allow more than ten percent of the lots to be outside of the minimum and maximum lot areas in subsection 16.16.030.A.

3. The Planning Commission may modify the maximum lot area requirements in 16.16.030.A if these cannot be met due to existing lot dimensions, road patterns, or other site characteristics.

C. Minimum width and frontage: sixty feet, except that the Planning Commission may approve lots having less frontage subject to special conditions to assure adequate access.

D. Minimum yard requirements:

1. Street yard: twenty feet on side with driveway; fifteen feet for all other street sides; except that street yards may be reduced to ten feet for covered porches only;

2. Rear yard: all corner lots, ten feet single story or fifteen feet two-story; all other lots, fifteen feet single story or twenty feet two-story. One story building components must meet the single story setback requirements; two story building components must meet the two-story setback requirements;

3. Interior yard: Seven feet, except as otherwise provided for zero-lot line housing.

4. Interior and rear yards may be reduced to three feet, or the width of any existing utility easement, whichever is greater, for detached accessory structures erected sixty feet or more from any street other than an alley. The height limitations noted in subsection E.2 below apply to such structures. Detached accessory dwellings are not eligible for the three foot reduction. Utility easements may only be reduced with the approval of all utility providers.

5. Infill standards may also apply. See CMC 16.21.050.

E. Maximum building height:

1. Principal building: thirty-five feet.

2. Detached accessory structure:

a. If located inside the allowed building footprint for the principal building, a detached accessory structure may be up to twenty-two feet tall, as measured to the highest point of the roof.

b. If located outside the allowed building footprint for the principal building, a detached accessory structure is subject to a step-up height standard, and is allowed outright only if it meets this standard. The structure shall

not exceed eight feet tall, as measured to the highest point of the roof, at a distance of three feet from the property line. The structure may increase in height by one foot vertically for every one foot horizontally away from the three foot line, up to the maximum height of twenty-two feet.

- c. A conditional use permit is required to locate the structure outside of the allowed building footprint for the principal building in violation of the step-up height standard.
- d. Detached accessory structures over twenty-two feet tall are not permitted.

3. For detached accessory dwellings, the Planning Commission may approve building heights over twenty-two feet through the Conditional Use process, but in no case shall the accessory dwelling be higher than the principal building. The Planning Commission may only approve the use of buildings over twenty-two feet in the case of existing structures where no substantial changes to existing roof lines are proposed.

F. The maximum amount of impervious surface allowed the R-1 zone shall be 60 percent of the lot area.

1. Impervious surface includes all surface areas that create a barrier to or hinder the entry of water into the soil in comparison with natural conditions prior to development. Impervious surfaces include, but are not limited to, buildings, paved parking areas and driveways, roads, sidewalks, patios, packed earth, and oiled surfaces. Open, uncovered retention/detention facilities, green roofs, and permeable surfacing materials shall not be considered impervious surfaces. Roof surfaces are also considered 'pervious' when 100% of the annual average roof runoff is captured and reused on-site for irrigation or approved interior uses.

2. To limit impervious surface, alternative surfacing materials may be used. Alternative surfacing includes, but is not limited to paving blocks, turf block, pervious concrete, and porous asphalt. Other similar approved materials are encouraged. Utilization of alternative surfacing methods shall be subject to review by the City Public Works Department for compliance with applicable regulations and development standards. Maintenance of alternative surfacing materials located on private property are the responsibility of the property owner.

G. Other regulations:

1. Vision clearance distance shall be ten feet from a street to an alley or a street to a driveway, and thirty feet from a street to any other street.

2. All setbacks to be measured from the foundation line of the building; overhangs shall not exceed two feet; mechanical units, used for the heating/cooling of residential units are exempt from interior and/or rear yard setback requirements.
3. Required yards on southern and western exposures may be reduced by not more than five feet for eaves or canopies to provide shade.
4. Accessory buildings shall not have a larger footprint than the primary building, unless lot area exceeds twelve thousand square feet. (Ord. 890 section 17, 1993; Ord. 740 section 10.3.18(C), 1984; Ord. 955 section 5, 1996; Ord. 981 section 45, 1997; Ord. 1080, 2001; Ord. 1111 section 7, 2003; Ord 1237, 2007; Ord. 1338, 2010)

Rick Robinson

From: Jason Padden <paddenj328@gmail.com>
Sent: Friday, January 05, 2018 11:54 AM
To: Curt McLeod
Cc: Rick Robinson; Bryan Brown; Brian Hodson
Subject: RE: Northwood Estates Phase 3 single story homes

Curt:

Thank you for the update. When I talked to Bill the other day he said that you had stopped by and that he and Linda toured the house behind them. He said they were satisfied with what they saw. For me that house is what it is. It is too far along to make any sort of modifications to it. Also it's not the homeowners fault the rule was interpreted this way and so why should they be penalized. That home is not behind my house and ultimately does not impact my property.

My concern is regarding what will end up being built behind my home. The way I saw it, if a house like that was allowed to be built on that lot then it would be allowed to be built on the lot behind me. As I have mentioned in my earlier email I have no control over this. If that is how the rules are interpreted then the ship has already sailed on my situation. That being said I do not have to agree with the interpretation.

I brought this to the city's attention because there's a tremendous amount of development going on within the city. If there are other pieces of property that have a similar restriction, this interpretation can now be applied to those properties as well. Thus, the property owners around those lots may be under a similar understanding as I am and be caught off guard in a similar way. If I can use my experience to help out other citizens in this community then I feel obligated to do so.

On a side note, I respectfully disagree with you that that room did not play a part in pushing the ridge line of the house up to its ultimate height. Case in point the blue house at the corner of North Elm and Northwest 12th Avenue is a true one story home. Also, there are other one story homes in the development with more architectural ridge lines than the blue house that are still shorter than the house being built.

Til' next time,
Jason Padden

On Jan 5, 2018 9:40 AM, "Curt McLeod" <cjm@curran-mcleod.com> wrote:

Hi Rick,

We have always marketed the noted lots as 'single story' only, never as a two story or a story and one half. Of these special lots, we have eight remaining that will all be single story.

The Liz Feller house on Lot 75 is unusual and in hindsight could be considered a two story. However, the living space is all located on the main floor. They provided a stairway (which I thought was from the garage but I see now it is from the living space) up to a single storage room. They put walls around this room and I agree this would be considered a second story. I would not consider this room to be a story and one half design. This room is on the east side of the new house and is mostly hidden from any homes on Birch Street as you can see on the elevations I have attached.

This was the first house in this phase of development and I was, and am, unsure of our role in approving the house plan. We only sell the lot and have little involvement after the sale. The marketing information requires the nine lots to be "single story". We do review and approve the plans, typically just the size and elevations for the curb appeal impact, and most often we do not even receive a complete set of plans. I assume the plans are submitted to the City for permits, although the City may not verify these comply with the conditions of approval.

This house is very tall but the height is not impacted by this storage room. Without this storage room, the house would clearly be considered a single story and the exterior elevations facing Birch Street would be unchanged. For some reason, all new homes seem to have very steep pitched roofs with massive amounts of wasted attic space and high ridge elevations.

Let me know if Liz Feller needs to modify their house or approvals. I can assure you we will require and verify single story homes will go on the remaining eight designated lots. I do not see any problem with that and apologize for the conflict.

Curt McLeod P.E.
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6655 S.W. Hampton Street, Suite 210
Portland, Oregon 97223
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F: (503) 624-8247

Rick Robinson

From: Curt McLeod <cjm@curran-mcleod.com>
Sent: Friday, January 05, 2018 4:10 PM
To: Rick Robinson
Cc: Bryan Brown; Brian Hodson; Jason Padden (paddenj328@gmail.com)
Subject: RE: Northwood Estates Phase 3 single story homes

That reference is already noted in the CC&Rs for Phase 3 and also on all sales literature provided to buyers. Thanks

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email: cjm@curran-mcleod.com

Note my email may be saved in your contacts as a Comcast address. Beginning February 27th all mail must be addressed to CJM@Curran-McLeod.com to be deliverable.

From: Rick Robinson [mailto:RobinsonR@canbyoregon.gov]
Sent: Friday, January 05, 2018 11:07 AM
To: Curt McLeod
Cc: Bryan Brown; Brian Hodson; Jason Padden (paddenj328@gmail.com)
Subject: RE: Northwood Estates Phase 3 single story homes

Thank you for your response Curt. Bryan and I have discussed this in some detail. One of the issues appears to be that the County Surveyor would not allow the note with the restriction to be place on the plat.

It would be beneficial for all that conditions and restrictions placed on specific lots within the approved subdivision would show up in the CC&R's. This would communicate to the buyers and builders the special conditions that apply to a particular lot.

Thanks very much,

Rick

From: Curt McLeod [<mailto:cjm@curran-mcleod.com>]
Sent: Friday, January 05, 2018 9:41 AM
To: Rick Robinson <RobinsonR@canbyoregon.gov>
Cc: Bryan Brown <BrownB@canbyoregon.gov>; Brian Hodson <hodsonb@canbyoregon.gov>; Jason Padden (paddenj328@gmail.com)
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Subject: RE: Northwood Estates Phase 3 single story homes

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Let me know if Liz Feller needs to modify their house or approvals. I can assure you we will require and verify single story homes will go on the remaining eight designated lots. I do not see any problem with that and apologize for the conflict.

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From: Rick Robinson [<mailto:RobinsonR@canbyoregon.gov>]
Sent: Thursday, January 04, 2018 3:26 PM
To: Curt McLeod
Cc: Bryan Brown; Brian Hodson
Subject: Northwood Estates Phase 3 single story homes

Good afternoon Curt.

With respect to a concern expressed by a property owner adjacent to particular Northwood Estates Phase 3 lots, Bryan Brown shared with me the statement below that you have provided to him.

"No one has a two story home, and only the one we discussed on Lot 75 has the storage room upstairs. The other plans we have approved are all single story."

For complete transparency I feel it important to restate the issue as I understand it: Any building of a home on the lots restricted to a single story, pursuant to conditions placed on the particular lot by action of the Planning Commission, are to meet the express conditions established by the Planning Commission.

I believe that the intent of this restriction is to also prohibit the construction of storage rooms built above the first floor. If any house plans are being considered that include second floor rooms, including storage rooms, they will need to go before the Planning Commission for consideration of the appropriateness of the design based on the conditions of approval for the specified lots.

Please let me know if you have any questions.

Sincerely,

Rick Robinson
City Administrator
City of Canby, Oregon