



**CITY COUNCIL AND PLANNING COMMISSION AGENDA
JOINT STUDY SESSION
MONDAY, June 4, 2018
5:30 P.M. – CITY COUNCIL CHAMBERS**

1. Review and consider amendments to Chapter 11 of the Fremont Municipal Code pertaining to zoning and subdivision regulations, hereinafter referred to as the City's Unified Development Ordinance.
 - i. Lot area and open space standards in Article 6, Section 11-602, Table 11-602.01
 - ii. Clarify fencing materials and requirements in §11-614.02.E (Residential Districts, and §11-616.02.E (Non-Residential Districts).
 - iii. Proposed Changes to Table 11-603.01.01 relating to minimum street frontage and minimum lot area.

Staff Report

TO: Mayor, City Council and Planning Commission
FROM: Jennifer L. Dam, Planning Director
DATE: 5/31/2018
SUBJECT: Open Space requirements in residential districts

Recommendation:

Background:

Section 11-602.01 Development Standards and 11-706.07 set out standards for open space as it relates to lot development and subdivisions (see below). As defined, the open space ration is land that is to be set aside for common use of the space.

The early drafts of the UDC had fewer residential districts and subdistricts. Additionally there were lower open space ratios. The minimum open space ratio for the "Standard 1" and "Standard II" districts was 10% and 15% respectively.

The former Planning Director interpreted open space as the area within the required yard. However, the definition clearly discusses "common" use of the open space. Additionally, the allowable impervious surface coverage in both the draft and the adopted UDC are the same. It is clear that the intent was to provide for a set aside for open space.

The Open Space ratios in the adopted UDC are 50% for "Standard 1" and "Standard 2" single family dwellings and 30% for multi-family dwellings. These ratios are onerous to any developer for open space set asides.

This leads to several questions in order to resolve the best course forward:

- 1) Is there a desire for open space in each subdivision?
 - a. Open space in the form of parks, trails, or green space can be desirable for residents
 - b. However, the question of who maintains the open space and the cost needs to be addressed

- 2) Is there a desire to require a "park fee" or to allow a payment in lieu of providing open space?
 - a. This would allow funds to be set aside, for example, for the development of regional parks or a trail system in a manner that better fits the needs and goals of the Parks Department. The Park Master Plan from 2012 emphasized the need to focus on the development of trails and regional parks. Examples of metro area community's park fees are as follows:
 - b. Bellevue requires a park fee of \$850 per acre for a subdivision divided into \$300 for trail development and \$550 for park development in the greater city. Additionally, they require a set aside of 8.5 acres of park land per 1,000 people in a subdivision. That is calculated

by assuming that there are 2.6 people per dwelling unit. Rather than ending up with small parcels of land, they typically allow an increase in the park fee.

- c. Papillion requires a park fee of \$125 per unit at the time of building permit, which primarily is used for the maintenance of existing parks. There is an additional Capital Facility park fee of \$6,705 per acre at the time of subdivision. Finally, they have added an additional ½ cent sales tax that will be used to fund a community center. Once the community center is paid for, the funding will be targeted to parks.
 - d. Gretna allows a \$30,000 per acre calculated on the basis of .04 acres per dwelling unit in lieu of a subdivider's required dedication of land for parks, trails, or recreational uses.
- 3) Is there a desire to require open space for only certain types of residential development? For example, cluster developments or multi-family developments?
- a. Bellevue requires "adequate" recreational facilities be provided for multi-family developments.

Options:

1. Retain an open space requirement, but reduce it to a more reasonable ratio, such as in the original draft UDC.
 - a. Retain an open space requirement, but reduce it to a more reasonable ratio, such as in the original draft UDC *or allow a developer to pay a fee "in lieu of" providing open space.*
2. Remove the open space requirement for most or all residential development
 - a. Require an opens space fee and retain open space requirement for multi-family and cluster development
 - b. Retain open space requirement for multi-family and cluster development
 - c. Completely remove the open space requirement and don't require a fee

Recommendation:

1. Retain an open space requirement for cluster developments
2. Require that multi-family developments provide "adequate" outdoor recreation space and facilities on site. Perhaps a minimum 250 sq ft per unit with amenity requirements based on the size of the complex ranging from picnic areas, to play grounds to clubhouses with pools or other recreation space such as tennis courts.
3. Require a .10 open space ratio for Standard I lots, a .15 open space ratio for Standard II lots, and a .15 open space ratio for duplex and townhouse lots or an in lieu of park fee of \$850 to ensure that the City can develop adequate park space to serve the developments in the future.
4. *If there is a desire to spend more time studying this issue, the following language should be added to allow development to proceed until such time as the open space requirements are finalized:*

11-602.01

D. Adjustments and changes

1. Necessary or requested adjustments or changes to the requirements of Table 11-602.01 Residential Development Standards may only be made by reason of:
 - a. Preliminary Plats approved prior to the date of adoption of this ordinance;
 - b. Site constraints or impracticalities that are due to special conditions of the property;
 - c. Conditions that have not been brought about by action of the applicant or owner; and
 - d. Unnecessary hardship caused by the strict interpretation of this UDC
2. In these instances, the City Council may consider authorizing a special exception, or if the standards of approval may not be met, by considering approval, approval with conditions, or denial of the request for adjustment.

Existing UDC Requirements:

11-602.01 Development Standards

A. Generally. The minimum or average lot size, minimum open space ratio, maximum gross density, minimum area of development, and utility requirements for each district and neighborhood type are as set out in Table 11-602.01., *Residential Development Standards*.

B. Application. These standards apply to all subdivisions or resubdivisions of property and to all residential developments including but not limited to single-family detached, single-family attached, and multiple family developments.

C. Interpretation of Table. The table may be interpreted as follows:

1. District and Neighborhood Type sets out the zoning districts (shaded in gold) and the individual neighborhood types permitted within them.
2. Minimum or Average Lot Size sets out the minimum or average lot size that is used to establish the gross density for each neighborhood type. (See Table 11-602.02.01., *Single-Family Detached Lot and Building Standards* and Table 11-602.02.02., *Single-Family Attached and Multiple Family Lot and Building Standards* for the lot dimensions, setbacks, and building heights and coverage ratios.)
- 3. Minimum Open Space Ratio (“OSR”) sets out the minimum amount of common open space that is required for each district and neighborhood type. This open space may be used for resource protection (e.g. floodplains, wetlands or riparian areas, woodlands, etc.) and to meet bufferyard and parkland dedication requirements.**
4. Maximum Gross Density sets out the maximum number of dwelling units per acre for each district and neighborhood type.
5. Minimum Area of Development sets out the minimum area of land required to develop a neighborhood.
6. Utility Requirement sets out whether on-site utilities (well and septic) are allowed or whether public utilities are required for each neighborhood type. This requirement is based on the minimum lot size and gross density of development.

Table 11-602.01. Residential Development Standards					
District and Neighborhood Type	Development Standards				
	Minimum or Average Lot Size	Minimum Open Space Ratio (“OSR”) ¹	Maximum Gross Density	Minimum Area of Development	Utility Requirement
Rural (R)					
Farm	20 ac.	90%	0.05	n/a	Public ²
Acreage	10 ac.	90%	0.10	n/a	Public ²
Ranchette	3 ac.	80%	0.33	n/a	Public ²
Planned	1 ac.	70%	1.0	3 acres	Public
Lake	n/a ³	70%	1.00	3 acres	Public ²
Suburban Residential (SR)					
Estate	3 ac.	80%	0.33	n/a	Public ²
Cluster	1 ac.	70%	1.00	3 acres	Public

Planned	14,000 sf.	60%	3.11	1 acre	Public
Standard I	11,000 sf.	50%	3.69	23,610 sf.	Public
Standard II	8,000 sf.	50%	4.27	20,403 sf.	Public
Duplex	4,500 sf.	50%	4.84	18,000 sf.	Public
Townhouse	3,500 sf.	40%	5.42	24,111 sf.	Public
Multifamily	2,750 sf.	30%	6.00	1 acre	Public
Auto-Urban Residential (AR), Suburban Commercial (SC), General Commercial (GC), and Campus/University (CU)					
Cluster	1 ac.	70%	1.00	3 acres	Public
Planned	12,000 sf.	60%	3.63	1 acres	Public
Standard I	8,750 sf.	50%	5.30	17,500 sf.	Public
Standard II	5,750 sf.	50%	6.98	12,481 sf.	Public
Duplex	3,250 sf.	50%	8.65	10,072 sf.	Public
Townhouse	2,500 sf.	40%	10.33	12,651 sf.	Public
Multifamily	1,750 sf.	30%	12.00	21,780 sf.	Public
Urban Residential (UR), and Downtown Commercial (DC)					
Planned	10,000 sf.	60%	4.36	1 acres	Public
Standard I	6,750 sf.	50%	8.28	13,500 sf.	Public
Standard II	3,500 sf.	50%	12.21	7,135 sf.	Public
Duplex	2,250 sf.	50%	16.14	5,398 sf.	Public
Townhouse	1,500 sf.	40%	20.07	6,511 sf.	Public
Multifamily	1,000 sf.	30%	24.00	10,890 sf.	Public
Mobile Home (MH)					
Mobile Home ⁴	4,500 sf.	50%	9.68	3 acres. ^{4,5}	Public

TABLE NOTES:

1. In certain circumstances, a greater open space ratio may be required to protect floodplains. In each district, the planned neighborhood offers the highest density with the greatest amount of open space for resource protection purposes. See Section 11-405.02., Floodway (FW) Overlay and Flood Fringe (FF) Overlay Districts.
2. On-site utilities (well and septic) are allowed where approved by the zoning administrator as part of the site plan approval process.
3. Unit area requirements shall be set forth by a Condominium or Property Owners Association as part of Condominium or Property Owners Declaration, and shall be governed by the same, so long as all other development standards identified herein are satisfied.
4. The maximum size of a mobile home park or subdivision is 15 acres.
5. Tornado shelters shall be provided in mobile home parks and subdivisions. The shelter(s) shall be built according to the recommendations of the Civil Defense authority and of sufficient size to meet the specific needs of the park and its residents.

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11-706.07. Open Spaces.

A. Generally, this subsection is designed to achieve the open space requirements of bufferyards, resource protection, recreation, storm water management, and preservation of community character.

B. Design.

1. Generally, open spaces shall be integrated into the development design to bring significant open space to the maximum number of properties, as well as visibility from public rights-of-way within the proposed development. Small, odd, left-over open space areas shall be avoided. Extra landscaping may be required to enhance the value of such spaces where they cannot be avoided.

2. Open space shall be designed to provide greenways along drainage corridors and streams. The landscaping along corridors or streams shall be designed to enhance the filtering of surface and subsurface water flows. Trails shall provide access along the greenway for the residents of the proposed development.

3. Formal open spaces such as parks and greens shall be designed to provide areas of focus within the development. Landscaping and furniture for pedestrians shall be installed to enhance this effect.

Staff Report

TO: Mayor, City Council & Planning Commission
FROM: Jennifer L. Dam, Planning Director
DATE: 5/31/2018
SUBJECT: Fencing Requirements in Residential, Commercial and Industrial areas

Recommendation: Move forward with changes to fencing requirements to allow chain link outside the front yard in residential areas and in all yards in industrial districts

Background:

Section 11-614.02.(E) describes fence materials that are permitted in residential districts as:

1. Allowed Materials. Materials used for fences and walls shall be durable, and of a character commonly used in residential applications, including:

- a. Weather-resistant or pre-finished (painted or sealed) wood;*
- b. Ornamental wrought iron or powder-coated aluminum (except on fences/walls that are used for screening purposes);*
- c. Masonry (brick, stucco-finished concrete, split face concrete masonry units, or stone), but not unfinished concrete block; or*
- d. Any combinations of these materials.*

2. Limited Materials.

- a. Slatted chain link is permitted in side and rear yards, not adjacent to a public or private street.*
- b. Wire mesh is only permitted where enclosing sport courts and tennis courts.*

3. Prohibited Materials: The following materials are not permitted as fence or wall components; scrap lumber, plywood, tree branches, tree trunks, sheet metal, plastic or fiberglass sheets, barbed wire, spikes, nails, razors, electric currents or other features specifically designed to injure or scratch an individual or animal who attempts to negotiate the fence or wall.

Exception: Barbed wire is permitted in R Rural districts where enclosing lots or tracts used exclusively for crop production and/or animal husbandry.

Section 11-615.02 Fences and Walls describes fences and walls permitted in nonresidential and mixed-use district. The language is identical to that above referencing fences residential areas but for the exception, which reads:

Exception: Barbed wire or razor wire may be permitted by the planning commission in the form of a special exception where it can be demonstrated that such security measures are required and cannot be achieved by other means.

The language spells out requirements for “slatted chain link” but not for plain chain link. It is not clear what is intended by “wire mesh” or if that includes plain chain link.

Slatted chain link is unattractive and is easily broken. It is not a quality material for screening. Plain chain link is translucent and blends into the background.

Chain link is prevalent in residential areas, primarily to fence in rear yards. Some chain link fencing is found in front yards in residential areas. There is a need to clarify if chain link is permitted in residential districts, or in commercial districts for residential uses, a) behind the front yard setback; and 2) within the front yard setback.

Chain link has been used in some commercial areas to enclose garden centers or lumber yards. Section 11-615.03 clarifies that the expectation is for a decorative wall/fence combination. Screening for other districts is also described to require opaque fencing or a wall.

Chain link is prevalent in industrial areas to enclose parking lots, storage areas, and so forth. As with residential districts, clarification is needed to determine whether or not chain link is permissible.

Recommendation:

Allow chain link fencing (without slats) in residential areas in the rear and side yards and outside of the front yard setback. Remove “slatted chain link” as a permissible material in residential areas.

Allow chain link fencing as a permissible material in industrial areas, remove “slatted chain link” as a permissible material. Allow fencing to be within the front yard setback, outside of the required landscape buffer, provided access is not taken from that frontage, in which case, fencing would need to be set back in order to meet site triangle and vision requirements for ingress/egress.

Proposed changes are attached.

11-614.02. Fences and Walls.

A. Generally. The requirements of this section apply to fences and walls in residential districts.

B. Application. This section applies to all fences and walls with a height of 30 inches or more, above finished grade. Any owner or authorized agent who intends to construct, enlarge, alter, repair, relocate, or demolish a fence, shall first make application to the zoning administrator and obtain the required permit.

C. Height. The maximum height of a fence or wall within a required front yard or street yard setback shall be 42 inches. The maximum height of any fence or wall outside of a required front yard shall be six feet.

Exception: A fence or wall built within the required street yard of a lot abutting an arterial street, including street yards of corner lots and rear yards of double frontage lots, may be built to a height of six feet, so long as access to the property is not taken from the same arterial street.

D. Openness. Fences located in a required front yard or street yard setback shall not exceed more than 50 percent opacity. All other fences and walls built on residential property outside of required front or street yards may exceed 50 percent opacity.

Exception: A fence or wall built within the required street yard of a lot abutting an arterial street, including street yards of corner lots and rear yards of double frontage lots, may exceed 50 percent opacity, so long as access to the property is not taken from the same arterial street.

E. Materials.

1. Allowed Materials. Materials used for fences and walls shall be durable, and of a character commonly used in residential applications, including:

a. Weather-resistant or pre-finished (painted or stained and sealed) wood;

b. Ornamental wrought iron or powder-coated aluminum (except on fences/walls that are used for screening purposes);

c. Masonry (brick, stucco-finished concrete, split face concrete masonry units, or stone), but not unfinished concrete block; or

d. Any combinations of these materials.

2. Limited Materials.

a. Slatted chain link is only permitted in side and rear yards, not adjacent to a public or private street and in front yards outside of the required setback.

b. Wire mesh is only permitted where enclosing sport courts and tennis courts.

11-615.02. Fences and Walls.

A. Generally. The requirements of this section apply to fences and walls in nonresidential and mixed-use districts.

B. Application. This section applies to all fences and walls with a height of 30 inches or more, above finished grade.

C. Height. The maximum height of a fence or wall within a required front yard or street yard setback shall be 42 inches. The maximum height of any fence or wall outside of a required front yard shall be six feet.

Exception: A fence or wall built within the required street yard of a lot abutting an arterial street, including street yards of corner lots and rear yards of double frontage lots, may be built to a height of six feet, so long as access to the property is not taken from the same arterial street.

D. Openness. Fences located in a required front yard or street yard setbacks shall not exceed more than 50 percent opacity. All other fences and walls built in nonresidential and mixed-use districts outside of required front or street yards may exceed 50 percent opacity.

Exception: A fence or wall built within the required street yard of a lot abutting an arterial street, including street yards of corner lots and rear yards of double frontage lots, may exceed 50 percent opacity, so long as access to the property is not taken from the same arterial street.

E. Materials.

1. Allowed Materials. Materials used for fences and walls shall be durable, and of a character commonly used in nonresidential and mixed-use applications, including:

a. Weather-resistant or pre-finished (painted or stained and sealed) wood;

b. Ornamental wrought iron or powder-coated aluminum (except on fences/walls that are used for screening purposes);

c. Masonry (brick, stucco-finished concrete, split face concrete masonry units, or stone), but not unfinished concrete block; or

d. Any combinations of these materials.

2. Limited Materials.

a. Slatted chain link is only permitted in the GI and LI districts in the side and rear yards, not adjacent to a public or private street, and in the front yard, outside of the landscape buffer provided that fencing does not obstruct the site lines for ingress/egress.

b. Wire mesh is only permitted where enclosing sport courts and tennis courts.

3. Prohibited Materials. The following materials are not permitted as fence or wall components: scrap lumber, plywood, tree branches, tree trunks, sheet metal, plastic or fiberglass sheets, barbed wire, spikes, nails, razors, electric currents or other features specifically designed to injure or scratch an individual or animal who attempts to negotiate the fence or wall.

Exception: Barbed wire or razor wire may be permitted by the planning commission in the form of a special exception where it can be demonstrated that such security measures are required and cannot be achieved by other means

Staff Report

TO: Planning Commission

FROM: Jennifer Dam, Planning Director

DATE: June1, 2018

SUBJECT: Proposed Changes to Table 11-603.01.01 relating to minimum street frontage and minimum lot area

Recommendation: Discuss proposed changes

Background: The update of the UDC removed the requirements for minimum lot area and changed the street frontage requirements in non-residential areas.

Street frontage is defined in the UDC as the measurement of the lot line adjacent to the street.

The minimum street frontage as shown in the UDC, particularly in the GC, BP, LI and GI districts was increased significantly from the former zoning regulations.

The minimum street frontage in the UDC does not easily allow “pie shaped” lots, such as found on cul-de-sacs. Often the street frontage for such lots is in the range of 5- to 60 feet.

Reducing the street frontage requirement and adding a minimum lot area requirement helps ensure that parcels in commercial districts are of sufficient size for a permitted use.

The recommended minimum lot areas in the SC, GC and BP districts are the same as the prior zoning code. The recommended minimum lot area in the LI and GI districts are increased from 5,000 to 10,000 square feet to ensure an adequate size in industrial areas.

The proposed minimum street frontages are the same as in the prior code.

**Table 11-603.01.01.
Nonresidential and Mixed Use Development Standards**

Standard	Stories	Zoning District								
		SC	GC	DC ¹	BP	LI	GI	AV	CU	PO
Minimum Landscape Surface Ratio (LSR)	n/a	25%	15%	1%	20%	15%	15%	20%	20%	20%
Floor Area Ratio ("FAR") ²	1	0.321	0.280	n/a	0.342	0.462	0.518	0.342	0.342	0.342
	2	0.408	0.335	n/a	0.435	0.634	n/a	0.435	0.435	0.435
	3	n/a	n/a	n/a	0.478	n/a	n/a	0.478	0.478	0.478
	4	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<u>Minimum Lot Area</u>		<u>7,500</u>	<u>7,500</u>	<u>0</u>	<u>10,000</u>	<u>10,000</u>	<u>10,000</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Minimum Street Frontage	n/a	80' 60'	200' 5 0'	20' 0	125' 8 0'	200' 50'	250' 50'	125'	125'	125'
Maximum Building Height ³	n/a	35'	45'	60'	45'	45'	60'	45'	45'	45'

TABLE NOTES:

1. No off-street parking is required in the Downtown Commercial (DC) District.
2. The FARs account for the Landscape Surface Ratio (including setbacks, bufferyards, on-site drainage, and parking lot landscaping) and required on-site parking, excluding the DC District. Multiplying the site area by the FAR determines the maximum building size.
3. Refer to Subsection 11-603.01., *Development Standards*, Item C.2.c., Setback Planes.