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Kevin Cook
Multnomah County
Land Use Planning Division
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RE: METRO COMMENTS ON ZONING AMENDMENTS
PC-2022-15634

Dear Kevin:

Thank you for providing the staff report for the planning commission hearing for review. Metro provides the following comments and suggestion for consideration. I have listed the proposed standard in italics and provided comments and/or suggestions following each. Thank you for your work on this project!

39.4120 LOT SIZE REQUIREMENTS

...

(C) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 39.9510(D).

COMMENT: This standard would likely restrict the use of the division for parks (for government agencies) in an unintended manner. In other counties where division for parks are allowed, Metro may acquire, for conservation purposes, the "back 40 acres" of a parcel (a stream corridor or flood plain for example) that is not adjacent to a street. The back 40 would not be adjacent to the street. This standard, as written, would prohibit that from occurring.

Suggested language: "(C) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 39.9510(D) and except as allowed in MCC 39.4143 where the property does not abut a street."

§ 39.4143 LAND DIVISION FOR PUBLIC PARK AND CONSERVATION LANDS.

A land division to create one new parcel for the purpose of purchasing one of the resulting parcels as provided in this section and to manage the new parcel as public park land or conservation land may be approved provided:

(A) A parcel created by the land division that is not sold to a local or regional government provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

*(1) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel;
or*

(2) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

COMMENT: Subsections A1 and A2 relate to the property retained by the current owner (not sold to the parks provider). I understand there would be a standard relating to the retained parcel being able to support the uses it is currently supporting. But why would there be a restriction on the retained property that does not contain a dwelling as proposed in subsection A2? If an owner of the property wants to foreclose an opportunity that they may have had to construct a dwelling by selling a large portion to Metro (and retaining a small portion), that is a choice they make in selling property to Metro and for which Metro provides fair value compensation.

Secondly, the reference to ORS 195.120 (and the other dwelling standards in Chapter 215.705-.750) seems misplaced. Subsection A relates to the retained property as currently structured in the proposed language. However, ORS 195.120 relates to parks (which would be the sold property). Also, ORS 195.120 is a LCDC directive (for the agency to adopt rules). It is not a standard that directly applies to Metro or other parks providers. ORS 195.120 does not regulate dwellings.

I would suggest deleting subsection 2 in its entirety. Otherwise, the language could use editing to clearly state the intended standard.

39.4250 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES

...

(C) A land division to create one new parcel for the purpose of purchasing one of the resulting parcels as provided in this section and to manage the new parcel as public park land or conservation land may be approved provided:

...

(3) A parcel created pursuant to this subsection that does not contain a dwelling:

...

(d) May not be smaller than 25 acres unless the purpose of the land division is:

(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(ii) To allow a transaction in which at least one party is a local or regional government public park or open space provider, or a not-for-profit land conservation organization, that has cumulative ownership of at least 2,000 acres of open space or park property.

COMMENT/SUGGESTION: If this is intended to apply to the acquiring party (government), then I would suggest that it read:

“(3) A parcel created and purchased by the provider of public parks or open space or to a not-for-profit land conservation organization may not be smaller than 25 acres ...”

That way it would clearly apply to the sold parcel (and not the retained parcel).

As written, the 25-acre limitation could be read to apply to both parcels (assuming there is no dwelling on either). That reading would substantially restrict the use and benefit of this allowance where Metro acquires large portions of existing parcels, and the selling party retains small portions (less than 25 acres and vacant).

If you would like to have a conversation about any of these issues, comments, or suggestions, please contact me at your convenience. I appreciate this effort.

Respectfully,



Gary Shepherd
Senior Attorney
Office of Metro Attorney