



PREPARED FOR THE PLAN COMMISSION

Proposal: Zoning Text Amendment

Legistar File ID #: [90557](#) (Cottage Courts)

Prepared By: Zoning and Planning Staff

[90557](#) – This zoning code change establishes a new use, cottage courts, as a permitted use in all residential zoning districts, other than the two highest density residential districts. Cottage courts are a “missing middle” housing type intended to provide another option for small scale residential development or infill development that can fit within existing neighborhoods and primarily largely utilize zoning standards. The proposal includes the following standards for cottage courts:

- **Lot Size:** Cottage courts may be located on a single overall zoning lot that is 10,000 square feet to one acre in size. The overall zoning lot must meet the same lot width and lot coverage requirements of single-family lots within the lot’s zoning district.
- **Number of Units:** Up to eight single family detached homes may be allowed on the overall zoning lot, including any pre-existing single-family homes incorporated into a cottage court.
- **Setbacks:** The front, side and rear setbacks for the zoning district only apply to the perimeter of the cottage court zoning lot. A building envelope consistent with what is allowed in the base zoning district is established, within which the cluster of homes may be placed. Each home must be at least 6 feet from other homes in the cottage court or, if located on individual lots, have a three-foot setback from “interior” lot lines.
- **Building and Site Design:** The footprint of each individual home in a cottage court cannot exceed 1,000 square feet, and may contain as many stories as the base zoning district allows. The homes closest to the street must have an entrance oriented to the street, except in situations where they are set back at least 75 feet from the street; in these cases an entrance may be oriented to the street or the internal courtyard. All other homes must have an entrance oriented to the courtyard.
- **Type of Dwellings:** Single family dwellings are the allowed housing type within a cottage court.
- **Courtyards:** A cottage court must have a single courtyard at least 20 feet by 20 feet in size to be used as shared pedestrian access or open space. Automobile parking and buildings cannot be located within the courtyard.
- **Minimum and Maximum Auto Parking:** No automobile parking is required for a cottage court. There is a maximum of two automobile parking spaces per dwelling. If a cottage court is located within the Transit Oriented Development (TOD) Overlay District, there is a maximum of 1.5 automobile parking spaces per dwelling.
- **Allowable Auto Parking Location:** If automobile parking is provided, a single, shared parking area must be used; individual driveways and attached garages are prohibited at each cottage. Parking areas may include surface parking, detached shared garages and carports.

Staff supports this proposed ordinance.

Proposed Alternates

[90557, Martinez-Rutherford proposal](#) – This alternate proposes to allow two-family dwellings within a cottage court. There are two types of two-family dwellings in the zoning code, two-family dwelling – twins (side by side or townhome) and two-family dwelling – two units (all other unit configurations). Principal buildings in a cottage court could be single-family dwellings, two-family dwellings, or a combination, with a maximum number of eight total units.

Allowing two-unit buildings in a cottage court provides for an additional housing type option within the cottage-style framework, and could result in more efficient and less expensive construction. The two-unit structure is currently an allowed use in the residential zoning, so to add this as an eligible use in a cottage court would be consistent with the underlying zoning districts.

Staff supports this proposal.

[90557, Ochowicz proposal](#) – This alternate proposes that the cottage court use have a minimum rear yard setback of eight feet for a cottage court in any district rather than utilize the rear yard setback that is required by the zoning district where a cottage court is located. The intent of this amendment is to provide a larger building envelope for additional build-out of a cottage court, by allowing the cottage building envelope to have a reduced setback. This would be a reduction from the current required rear yard setbacks of between 20' and 30' depending on the district.

Staff considered creating a separate Cottage Court zoning district which would have its own standards, including for setbacks. Ultimately, it was decided that creating a new permitted use which would be allowed in all residential zoning districts would be preferable, so that many of the zoning code's existing standards could be utilized, and so as not to require a property rezoning for a cottage court to be created. Accordingly, cottage courts are proposed to have the same overall lot perimeter setbacks as the zoning district they are located in. In the interior of the lot, homes have a six-foot setback from each other or, if located on individual lots, a three foot setback from their individual lot lines, resulting in a minimum 6' building separation. An additional intent in creating this new permitted use was to provide an easier path for cottage courts to be created than utilizing the existing process for Residential Building complexes, which involves lots with multiple principal residential buildings. While the Residential Building Complex process can provide more flexibility, including to allow the Plan Commission to approve reduced setbacks, it also requires review by the Urban Design Commission and a conditional use review by the Plan Commission. It was believed that this approach would allow cottage courts to be created as an additional housing option that fits into the pattern of various existing neighborhoods and zoning districts, but with a more streamlined permitting path. It is generally recognized that the standards associated with new use would lay the foundation for permitting this housing type, and will likely be updated and refined in the future as the city learns about how the use is implemented in its neighborhoods.

With regard to considering whether to provide an alternative rear setback for the proposed cottage court use, staff has provided some additional context about setbacks and their application in the broader zoning code. Generally, rear yard setbacks are intended to provide minimum buffering between principal buildings on lots

and to align buildings within a common building envelope, provide space for outdoor recreation, accessory uses and structures, and drainage/pervious areas for stormwater. Consistent backyard space through a developed block can be seen as a result of a district-wide required rear yard setback.

In August 2023, the Common Council approved a zoning code change to provide consistency between dimensional requirements, including setbacks, for all housing types located within the same zoning district in six residential zoning districts that had differing requirements (78690). In September 2024, Common Council approved a similar code change to the TR-C4 zoning district to again have the same setbacks and other standards for all uses within the district (84329). This proposal would reintroduce setback inconsistency within a zoning district by creating a carveout for a single use.

Accessory dwelling units (ADUs) are permitted in these residential districts with minimum side and rear yard setbacks of three feet. However, ADU structures are considered to be accessory structures like detached garages and sheds. Where other setbacks apply to principal structures, all accessory structures, regardless of use, have the same rear and side setbacks. It has also been noted that the maximum footprint of a cottage within the newly proposed cottage court use is the same as the maximum footprint allowed for an ADU and that ADUs are now permitted to contain up to two units. With the Alder Martinez Rutherford proposed amendment, cottage courts could also permit two units. For the purposes of the proposed cottage court use, however, cottages would be considered principal uses—either single family, two-family twin, or two-family two-unit.

It has been noted that maintaining the current rear yard setback could become an impediment to accommodating the maximum number of homes permitted a cottage court in some cases. However, currently only hypothetical examples have been generally evaluated. While this could be true in some cases—particularly on the smallest end of the lot size allowed, staff recognizes that actual property characteristics, site layouts, and whether structures include one or two homes will ultimately result in a range of actual cottages in a single development. For example, a medium-sized centrally located lot might accommodate three or four cottages, where a suburban large lot might accommodate the maximum 8 cottages. While researching this new use, in addition to new-build cottage courts staff noted some examples of infill-style cottage courts with three or four cottages, typically composed of new cottages built behind or beside a pre-existing house on a larger lot or resulting from lot assemblage.

Generally, the zoning code does not provide for exceptions to or require varying setbacks for principal uses and structures within a zoning district. Some examples of exceptions include:

- Larger setbacks are required to allow for additional buffering between residential and non-residential uses within the same zoning district
- Reduced rear setbacks are allowed for alley loaded lots and reduced front setbacks for the rear lot created by a deep residential lot (backyard lot) division
- Front yard setbacks may be reduced as a result of front yard setback averaging, which is intended to align the street facing building envelope with other developed lots on a block
- Zoning variances to reduce setbacks may be possible, if granted by the Zoning Board of Appeals, for unusually shaped lots, topographic conditions such as severe slope, or other unusual or unique conditions.

Finally, staff notes that it is possible that a cottage court could not completely develop and have an unintended outcome. Under the proposal, if only one of the cottages in a proposed cottage court ultimately gets built with an 8' rear setback, it could result in an uneven rear setback pattern on a block. However, it is noted that the 10,000 sq. ft. minimum lot size and maximum 1,000 sq. ft. dwelling footprint may make this unlikely.

Staff does not support this proposal.