

Meeting Agenda of the City and Borough of Juneau
Title 49 Committee of the Planning Commission

Thursday, March 5, 2020
Community Development Department
Large Conference Room, 12:00 pm

Members Present:

Nathaniel Dye, Travis Arndt, Joshua Winchell

Members Absent:

Weston Eiler

Staff Present:

Jill Maclean (CDD Director), Laurel Christian (CDD Planner), Irene Gallion (CDD Planner), Allison Eddins (CDD Planner), Jack Scholz (CDD Admin)

I. Call to Order

The meeting was called to order at 12:09 p.m.

II. Approval of Agenda

MOTION: *by Mr. Arndt to approve the agenda.*

The motion passed with no objection

III. Approval of Minutes

A. Draft Minutes November 1, 2019 Title 49 Committee Meeting

MOTION: *by Mr. Arndt to approve the November 1, 2019 minutes.*

The motion passed with no objection.

B. Draft Minutes December 12, 2019 Title 49 Committee Meeting

MOTION: *by Mr. Arndt to approve the December 12, 2019 minutes.*

The motion passed with no objection.

IV. Agenda Topics

A. AME2020 0002: Landscape and vegetative cover definitions

Ms. Eddins stated that Title 49 lacks a definition of landscaping and vegetative cover. When staff is reviewing USE and building permits, they need to make sure applicants meet these requirements. Parking lots need to be “attractively landscaped,” but the code doesn’t define what that means. This opens up potential for confusions,

and developers don't know what to expect. She said that the first step is to create a purpose statement regarding vegetative cover and landscaping.

Ms. Eddins said that she searched through Title 49 and looked for every mention of the topic. There is no purpose stated, but based on context and research she was able to conclude that the type of vegetative cover mentioned in the code is attempting to minimize risks of flooding and erosion, and to slow the speed and volume of storm water runoff. When the code mentions landscaping, on the other hand, the context points towards and aesthetic purpose, or to create a visual or aural buffer.

Mr. Arndt said that it's beneficial to see what the actual intent is. Previously, it had been uncertain. He stated that he thinks they should include other aspects, such as pervious pavement, that perform the same environmental function.

Mr. Dye mentioned settling ponds as another example, since they hold water and allow it to naturally percolate into the soil rather than contributing to runoff.

Mr. Arndt included drainage swales and decorative rock formations as well. He wasn't sure if they would fit well under "vegetative cover," however.

Ms. Eddins said that decorative rock formations could be included under landscaping. She said that vegetative cover is meant to balance negative environmental effects.

Mr. Arndt said that there is a type of formation that looks like decorative rocks on top but is also an underground swale.

Mr. Winchell mentioned Japanese rock gardens as another pervious surface.

Ms. Eddins asked if they should come up with some wording that includes other ways to accomplish the intent. She cautioned against lists due to the potential for loopholes.

Mr. Arndt said that maybe "vegetative cover" isn't the correct term.

Mr. Dye said that "vegetative cover" often becomes confused with "green space." He expressed a need to preserve green space while still mitigating erosion via storm water management.

Ms. Maclean asked if green space meant landscaping.

Mr. Dye stated that he liked the landscaping definition because it includes natural vegetation. He said that they should maintain the percentages of green space within vegetative cover.

Ms. Maclean said that, initially, staff were going to keep both concepts of landscaping and vegetative cover and make sure that both definitions were clear. She said that she didn't believe that Ms. Eddins had decided on percentages yet. She thought that they needed both definitions as well as strong, clear purposes for each that are distinct from each other.

Mr. Dye said that often multi-family residential districts get hit the hardest. He suggested adding to the definition that 5% of total lot size of vegetative cover could be hard-scaped to accommodate storm water management.

Mr. Winchell asked to carve an exception for rock covering for industrial zones. He asked how industrial zones would attain 5% vegetative cover. He said it is possible to beautify the area with rock formations while still mitigating storm water damage. He suggested only having the exception for industrial, and perhaps commercial, zones.

Ms. Eddins asked for clarification regarding meeting vegetative cover requirements with a hard surface.

Mr. Arndt said that he wanted to turn the amount that needs to be landscaped into a percentage.

Mr. Dye disagreed about adding a separate landscape requirement. Landscaping is already used but it isn't defined.

Ms. Eddins said the reason why the multi-residential zones get hit the hardest is because there is an aesthetic intent. She supported Mr. Arndt's idea for percentages. She believed that there isn't anything clear on the intent of "vegetative cover."

Mr. Arndt stated that parking and vegetative cover requirements drive what projects developers can do.

Ms. Maclean asked how the Subcommittee felt about keeping both definitions for landscaping and vegetative cover, create distinct purposes for each, looking at percentages for different zoning districts, and reaching out to CBJ Engineering to ensure that the definitions relate to their needs.

Mr. Dye recommended waiting to bring it to the Planning Commission Committee of the Whole until the Subcommittee had another change to work on it. He stated that he thought requiring 5 and 10% makes sense from a storm water prevention standpoint, and that 15% is too much. He made a few more recommendations regarding the wording.

Mr. Winchell recommended focusing on areas that need the most beautification first. He expressed concern regarding enforcement in a few years. He said that adopting aesthetic standards that are cumbersome to maintain in an industrial zone will necessitate increased enforcement in a few years.

Mr. Arndt suggested using the phrase "included but not limited to" if staff decided to create a list for landscaping requirements.

Ms. Maclean clarified that the regulation should include the word "native" to rule out the possibility of invasive species.

Mr. Dye suggested adding wording about requiring the maintenance of vegetative cover to ensure that property owners continue to meet the requirements over time.

V. AME2018 0003: A text amendment to Title 49, Land Use Code 49.70.1200

Ms. Gallion stated that the Alternative Development Overlay District (ADOD) expires in August 2020. She presented the public comments she had received on the proposed ordinance to replace it. She had broken the comments into two sections: one on dimensions, and one on other elements of the proposed ordinance.

Ms. Gallion directed the Subcommittee to the first element: lot size. She asked if they would like to change the standards of lot size.

Ms. Maclean gave an outline of the hoped-for timeline that would move the proposed ordinance through the Planning Commission and on to the City and Borough of Juneau Assembly.

Mr. Arndt asked if this ordinance was the same as the past ordinance, or if it had changed.

Ms. Gallion replied that it was the same ordinance they had gone over in November. She stated that the purpose of compiling the comments on it was to see if they needed to modify it.

Mr. Dye remarked that presented concepts appeared to create confusion with the public.

Ms. Maclean said that the low frequency of housing turnover in the area means that lot size concerns come up infrequently. She surmised that they might not be aware of the difficulties related to lending due to unfamiliarity with the issue.

Mr. Winchell stated that there are a high percentage of lots downtown which can't conform and therefore can't attain lending. The ADOD addresses this issue through floating lot sizes so that they can conform, attain lending, and sell. He approved the changes.

Ms. Christian acknowledged complexities of the issue, especially when considering the overlapping concerns of lot size and density.

The subcommittee reviewed the comments for lot width and depth in light of public comment. They recommended no changes. They did the same with the comments on the sections regarding vegetative cover, structure height, and lot coverage.

When Ms. Gallion moved on to the comments regarding setbacks, Mr. Dye remarked that setbacks were also a complex issue.

The subcommittee decided on no modifications to proposed setbacks.

Regarding yard setback exceptions, Ms. Christian said that the first comment is talking about the exception for ramps and landings to access a dwelling. The commenter asks why that access piece couldn't be in the rear of a dwelling if the inhabitants access it from an alley, for example.

Mr. Arndt asked if there is an issue with adding access via the rear lot line.

Ms. Gallion said they could apply access through unenclosed walkways and stairways to rear lot lines as well.

Mr. Winchell asked about the prohibition on arctic entrances in the rear of a dwelling.

Ms. Maclean said that it is possible to have something that meets the setback requirements for a rear arctic entrance. She added that the setback exceptions apply borough-wide, as a reminder.

Mr. Dye said that downtown has a large number of unusual public right-of-ways. He suggested adding an exception for any property line abutting a public right-of-way. That way, if the alleyway already exists, a property owner could build an arctic entry in the rear.

Ms. Maclean said sliding setbacks already cover many of those cases. She questioned how many properties it would actually affect.

Mr. Arndt asked if the downtown alleys are already right-of-ways.

Ms. Christian responded that yes, they are platted as such.

Mr. Winchell asked if it would be cumbersome to include an exception for arctic entries in the rear and placed it under the purview of the Planning Commission. He noted the Flats neighborhood as an area to which it would be relevant.

Ms. Christian replied that they wouldn't need to bring those cases to the Planning Commission because they have rules in place that are easy to meet.

Mr. Dye said that there is no appropriate process through which those cases come to the Planning Commission, and they should be decided through code.

Ms. Christian said that major developments are the exception.

Mr. Winchell expressed his support. He asked if staff foresee a problem in the Flats neighborhood where property owners wouldn't be able to build arctic entries in the rear.

Mr. Arndt stated that arctic entries already do not qualify.

Mr. Dye said that the ordinance is talking about ramps and allowing for ADA access. He said that being able to get quality access for ramps is a positive.

Mr. Arndt said that it seems like the intent is to access a right-of-way.

Ms. Christian said that by including the phrase "streetside," that meets the intent. She expressed doubt that there would be any issues since they were already increasing flexibility by reducing the required setbacks.

Mr. Dye said that we don't have any traditional front and rear sides anymore because they're all sliding.

Ms. Maclean said that property owners can pick their setbacks, but they should be getting access from the front. She said that this is defined in code.

Mr. Dye said that someone could make the argument that the alleyway is the front.

Ms. Gallion said that she thought they should keep the lot line along the street as the front, but give people the ability to include public right-of-ways.

Ms. Maclean said that the current exemption only get property owners down to five feet for the arctic entry. Setbacks would be three feet under the ADOD.

Regarding the comments on the other elements of the ADOD not related to dimensions, Ms. Gallion said that she grouped them together for convenience, and not necessarily any other reason.

Ms. Maclean said that the complexity of the zoning code makes it difficult for property owners to what they can do under current zoning unless they consult with a planner. She said that the CBJ doesn't have design regulations for any neighborhoods, regardless of whether they're historic or not, and that this is going to be an ongoing issue.

Referencing a specific comment, Ms. Maclean asked why the commenter feels that this process should be extended for another year.

Ms. Gallion said that the person feels the process is rushed. She said that this sentiment goes back to the idea that CBJ should be reworking the zoning rather than reworking the ADOD overlay. She explained that reworking the zoning will come after the update to the Comprehensive Plan, which is about seven years off. She said that this is a triage move.

Mr. Dye added that starting on a smaller scale allows people to experience what changes look like before the updates to the Comprehensive Plan and zoning.

Regarding the section on draft zoning, Ms. Gallion said that staff could change "zoning" to "overlay district."

Ms. Maclean said that there might be a legal reason why it's called "zoning." She said that the idea could be brought up to the CBJ legal team.

The subcommittee reviewed some potential wording and organizational changes.

Mr. Dye asked whether a property would have to completely conform in order to be able to use this for their property.

Ms. Christian replied that if a property is nonconforming, the ADOD will help to make them more conforming.

Mr. Dye said that there is no middle ground between conforming and nonconforming.

Ms. Maclean said that the intention was to have property owners opt in or out of the ADOD, so perhaps that needs to be made clearer.

Mr. Winchell said that it brings the owner into conformity for the purpose of loans.

Ms. Maclean asked if the current overlay district only applies to residential uses, and if the new one would apply to commercial as well.

Mr. Dye confirmed that the new overlay district would apply to residential and commercial uses.

Ms. Gallion suggested that staff clarify that this is the case, with Ms. Christian suggesting that they add it into the purpose statement.

Mr. Dye reiterated his concern about aggravating existing nonconforming situations. He asked if this would help the situation.

Mr. Arndt said that it would help.

Ms. Christian said that they can reduce the setbacks of a nonconforming lot in a building permit.

Mr. Dye said that it allows people to attain legal nonconforming status in lot size but then aggravate their nonconforming status through the ADOD.

Ms. Christian disagreed that it aggravated the situation.

Ms. Maclean said that the reduction currently exists. Staff agreed that the ADOD doesn't aggravate the nonconforming situation.

The subcommittee discussed the merits of two separate ways of calculating yard setbacks. Mr. Dye disagreed that they needed to include calculations, and pointed out a potential loophole. The subcommittee agreed to exclude calculations.

Staff remarked that the upfill conditional use permit wasn't included but agreed that it didn't need to be. Staff concluded that they should make a note that the exception already exists.

Current code allows structural projections into setbacks if the lot abuts public land in reserve status. That exemption was carried over into the draft ordinance. Mr. Arndt said that he didn't think the exemption should exist at all, and that this might have to be a bigger conversation due to the complexity.

Ms. Maclean said that the exception does help avoid situations where property owners ask for variances. Often, the properties are on steep slopes so it's already a challenging situation.

Mr. Arndt said that the Planning Commission can't define what qualifies as an "excessively blocked view."

Ms. Maclean mentioned several instances in which the Planning Commission had, in fact, defined it.

Mr. Winchell asked if this allows property owners to exceed minimum standards, so if they meet all of the requirements, the buildings would be even closer together or higher.

Mr. Dye said that he thought it shouldn't be an exemption written into the ADOD. All agree, and the exemption is struck.

Mr. Winchell moved to approve staff findings for AME2018 0003 and to forward it to the Planning Commission Committee of the Whole.

VI. Committee Member Comments and Questions

Ms. Gallion asked the subcommittee what support materials they will need for sending AME2018 0003 to the Planning Commission Committee of the Whole.

Mr. Arndt replied that he thought the lot size drawings should be included in the presentation.

Ms. Gallion asked if they wanted to consider how to move forward with something similar in the Douglas area.

Ms. Maclean reported that Alexandra Pierce, the CDD Planning Manager, had started on that process. She said that they intend to ask for a one-year extension on that project.

Mr. Arndt expressed that AME2018 0003 will be a good example for a similar process in the Douglas area.

The subcommittee discussed the tentative schedule for future projects, remarking that CBJ's legal staff had limited time to devote to them.

VI. Adjournment

The meeting adjourned at 1:33 p.m.