

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

November 1, 2019
Marine View Building, 4th Floor
12:00 PM

- I. ROLL CALL
- II. APPROVAL OF AGENDA
- III. AGENDA TOPICS
 - A. Proposed Rezoning of Downtown Juneau Alternative Development Overlay District Area
- IV. COMMITTEE MEMBER COMMENTS AND QUESTIONS
- V. ADJOURNMENT



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DATE: October 25, 2019

TO: Nathaniel Dye, Chair
Title 49 Committee

FROM: Irene Gallion, Senior Planner
Amy Liu, Planner
Laurel Christian, Planner

CASE NO.: AME2018 0004

PROPOSAL: Proposed Rezoning of Downtown Juneau Alternative Development Overlay District (ADOD) Area

Attachments

Attachment A – Setback Exceptions, 49.25.430

General Overview

At the October 2, 2019 Title 49 (T49) Committee meeting, staff and the Committee members made several decisions moving the discussion forward, and identified outstanding questions to be answered for the October 30th meeting.

Decisions

- Minimum lot size is 3,000 square feet.
- Commonwall lot size is 3,000 square feet.
- Future subdivisions may use ADOD standards.
- Minimum width and depth are 25 feet each.
- Lot coverage does not change. Vegetative coverage is reduced to 15%.
- Maximum height for primary uses is 35 feet, and for accessory uses is 25 feet.
- Revised ADOD boundary only containing residential zoning districts and Light Commercial

Outstanding Questions

- *Setback exceptions:* How does the ADOD relate to setback exceptions, more restrictive or less restrictive, in 49.25.430? Does the setback sum include distances between lot lines and the structures listed in this code section?
- *Nonresidential uses:* In addition to residential uses, does the ADOD apply to Mixed Use and Commercial uses? If yes, are there different processes depending on the category of use e.g. Conditional Use Permit?
- *Duplexes:* Should the minimum area for duplexes change?
- *Undersized lots:* Should there be a different setback sum for ADOD lots that do not meet the minimum ADOD lot area?

This memo will also revisit the purpose of the ADOD.

Purpose of ADOD

At the June 12, 2017 Committee of the Whole meeting, staff discusses the purpose of the ADOD:

*Downtown Juneau and downtown Douglas were built before modern zoning and the current zoning does not "fit" the needs for future development in those areas. **Staff was realizing that many projects in those areas were seeking variances for rebuilding on the properties in both areas. Variances are supposed to be used for a true hardship, and we have come up with a temporary, interim solution, called an "overlay zone," until work can be done to revise the zoning in both areas, based on area plans to be done in the near future. These overlay zones sit "on top" of the existing zoning that exists, to give property owners and the planning commissioners more options. The changes in standards regard setbacks, lot coverage and vegetative coverage. No changes will be made to density, height, and parking. The overlay zones are for use by residential projects in order to preserve the character of the neighborhoods.***

The purpose is more generally stated in the June 24, 2019 City Manager's report:

The purpose of the alternative development overlay district is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This extension provides adequate time for the review and adoption of new zoning for the downtown neighborhoods.

The written purpose found in CBJ 49.70.1200 is:

The purpose of the alternative development overlay district is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This article is intended to provide for the development of housing, preserve the character of neighborhoods, and promote the restoration of blighted buildings.

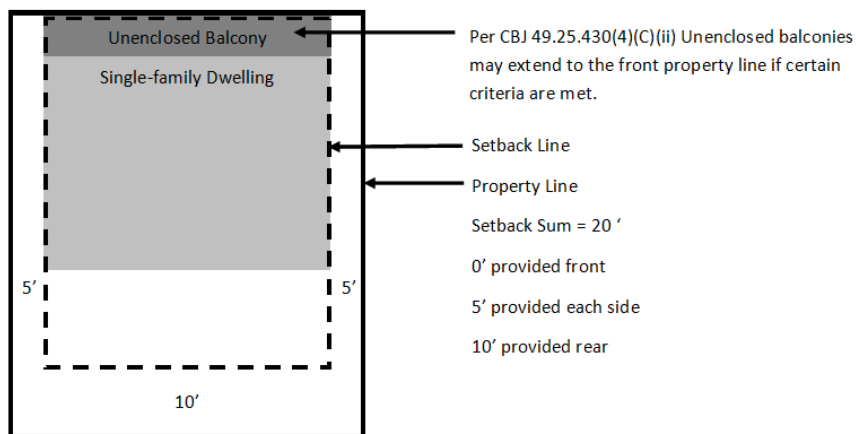
Staff and the Title 49 Committee further discussed the purpose of the ADOD moving forward at the September 4, 2019 Title 49 Committee meeting.

New zoning should balance the desire to preserve the existing character of the neighborhood with the desire to construct new dwellings that match the existing character of the neighborhood.

Setback Exceptions

Please see Attachment A for line by line commentary on how each exception would relate to the ADOD. Generally, less restrictive requirements apply, and more restrictive requirements do not apply. The ADOD would override more restrictive requirements. **Staff recommends that setback exceptions less restrictive than the ADOD be revised and printed specifically in the ADOD code section.**

If a property owner was able to use a less restrictive setback exception than the 3-foot minimum for a side in the ADOD, that reduction does not change the required total setback sum for the lot. In the below example, a property owner can get their front yard setback reduced to zero feet for an unenclosed balcony, but they are still required to come up with 20 feet on all other sides.



Nonresidential uses

Staff recommends that residential uses are allowed outright to use the ADOD dimensional standards. Nonresidential uses, including Mixed Use and Commercial, may use the ADOD with a Conditional Use Permit. Additionally, if a non-residential use “opts-in” to the ADOD dimensional standards, they will be required to use all of the ADOD standards. For example, under current zoning a lot zoned Light Commercial has a maximum height of 45 feet. Under the proposed ADOD, the maximum height would be 35 feet. In order for the Light Commercial lot to utilize the reduced setbacks, their maximum height would now be 35 feet. This opt-in system is all or nothing.

Major or minor development within the ADOD that is Commercial or Mixed Use would require a Conditional Use Permit, if they wish to utilize the ADOD dimensional standards. Requiring a Conditional Use Permit for Mixed Use and Commercial uses that wish to utilize the ADOD dimensional standards would allow the Planning Commission to determine that neighboring properties see no detrimental impacts. The Planning Commission would also be able to place conditions on the development through the Conditional Use Permit process.

Duplexes

The minimum lot size for a duplex currently exists for D5 zoning, and not D10 or D18 zoning, where such structures would be considered multifamily.

Provided that certain conditions are met, a D5 zoned lot could have two dwelling units, either in the form of a duplex or a single-family home with an accessory apartment. In D5, the minimum lot size for a duplex is 10,500 square feet, while the standard lot size is 7,000 square feet. A D5 lot less than 10,500 square feet may still have a single-family dwelling with an accessory apartment, either allowed outright or with a Conditional Use Permit.

Duplexes and single-family dwellings with an accessory apartment are similar in that they both involve two distinct dwelling units. Duplexes, however, are not restricted to a square footage, while accessory apartments on a standard or substandard lot must be no more than 600 square feet in living space. Duplexes count toward density while accessory apartments do not.

PIN	Zoning	Address	Neighborhood	Acreage	Square Footage	CDD Use Code	Housing Types	Housing Category	Property Use Code	Property Type
1C040G02	D5	527 Nelson	Starr	0.03	1306.8	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C070B0C	D10	157 Gastin	Gastineau	0.0469	2042.964	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A07	D18	425 Harris	Starr	0.05	2178	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A13	D5	508 Kenne	Starr	0.06	2613.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C060C12	D5	542 W Eight	Flats	0.09	3920.4	TRIPLEX	Multifamily	Multifamily	Duplex	Duplex
1C040A08	D18	526 East St	Starr	0.11	4791.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A26	D18	634 Harris	Starr	0.1123	4891.788	MULTIFAM	Multifamily	Multifamily	Duplex	Duplex
1C040A40	D18	863 Basin	Starr	0.12	5227.2	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C030J11	D5	425 Judy L	Highlands	0.16	6969.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C030D05	D5	1754 Ever	Highlands	0.42	18295.2	DUPLEX	Duplex	Single Fan	Duplex	Duplex

Reducing the current minimum area for a duplex will not significantly improve conformity for existing duplexes or the ADOD area as a whole. Reduction still involves inconsistent logic with other minimum areas. There are up to five existing duplexes in D5 zoning within the ADOD. The number of duplexes in all zoning districts is less than 1% of the total number of dwellings in the ADOD.

Staff recommends option 1: do nothing. A comparison of three options is below.

	Option 1: Do nothing	Option 2: Reduce according to existing ratio; 5,250 sf*	Option 3: Reduce to twice the standard area; 6,000 sf
Pro(s)	• Simplifies the ADOD revision • Avoids possibility that changing density per lot will conflict with future Comp Plan recommendation	• May incentivize duplexes within the ADOD area	• May incentivize duplexes within the ADOD area
Con(s)	• Does not positively or negatively affect conformity for the ADOD as a whole • Does not incentivize duplex development downtown	• Does not positively or negatively affect conformity for the ADOD as a whole; most D5 duplex lots are less than 5,250 sf • Contradicts the logic of D10 zoning, which requires 8,712 sf for two units • Changing density per lot may conflict with future Comp Plan recommendation	• Does not positively or negatively affect conformity for the ADOD as a whole; most D5 duplex lots are less than 5,250 sf • Changing density per lot may conflict with future Comp Plan recommendation

* $3500 \times 10500 / 7000 = 5250$

* Minimum lot size for a single-family dwelling is reduced by 50%. Minimum lot size for a duplex should also be reduced by 50%.

Staff recommends Option 1 for the following reasons:

- The purpose of the ADOD is to allow new residential structures (or expansions) which fit the existing character of the neighborhood and to increase conformity for existing structures. Less than 1% of properties within the ADOD boundary have duplexes within the D5 zone, so there would not be a significant increase in conformity for existing duplexes.
- A lot that measured 3,000 square feet will now be allowed to have a single-family dwelling and accessory apartment without a Conditional Use Permit, so downtown residents will have more options for adding dwelling units downtown.
- Neighborhood density should be reviewed with a possible future zone change and Comprehensive Plan rewrite. Reducing the minimum lot size for single-family dwellings changes the density for an individual lot, but not at a neighborhood scale.
- Reducing the minimum lot size for a duplex in D5 would not be consistent with the D10 and D18 zone districts, where density is measured by units per acre not minimum lot size. This would be confusing and difficult to explain/justify to customers.

Undersized lots

Staff recommends that lots smaller in area than the minimum 3,000 square feet be eligible for a reduced setback sum. Staff recommends the following language:

Substandard lots. If lot size is nonconforming to the requirements set forth in the ADOD overlay dimensional standards, the required setback sum may be reduced to the same percentage that the lot size bears to the ADOD overlay dimensional requirements. In no case shall the required setback sum for the lot be less than 12 feet and in no case shall any side be less than 3 feet.

For example, if a lot remains nonconforming in lot size, the setback sum required could be reduced to the same percentage. If the minimum lot size is 3,000 square feet, and my lot is 2,000 square feet, my setback sum could be reduced to 66% required (13.33 feet).

49.25.430 - Yard setbacks.

No portion of any of the items listed in subsection (1) of this section may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table of dimensional standards in table 49.25.400, except as otherwise noted in this section. An alley or walkway is not subject to front setbacks unless it is the primary access to the lot.

- (1) *Buildings, as building is defined in 49.80.120, and the following items:*
 - (A) Motor vehicle fuel dispensing pumps and associated overhead canopies or roofs;
 - (B) Carports;
 - (C) Radio and television antennas, masts and towers (including telecommunications towers), any of which are 25 feet or greater in height or 25 square feet or greater in area at the base or foundation; and dishes greater than five feet in diameter; and
 - (D) Above ground fuel and water storage tanks with a volume greater than 660 gallons.
- (2) *Street right-of-way line determined.* The street right-of-way line shall be determined by reference to a recorded map, monuments, right-of-way easements, right-of-way maps, or other means. The setback shall be measured from such right-of-way line.
- (3) *Multiple Frontage lots.* Buildings on lots bordered by two or more rights-of-way must meet the front yard setback from one lot line adjoining the rights-of-way. Setbacks from the remaining lot lines adjoining rights-of-way will be considered street side yards.

On undeveloped corner lots or corner lots on which existing buildings conform to required setbacks, the owner may establish the rear yard opposite either right-of-way frontage. The remaining yard(s) not fronting on a street right-of-way will be considered a side yard(s).

On lots with existing buildings that have nonconforming setbacks, setbacks for yards shall be established based on the yard that most closely meets the respective setback requirement.

Lots bordered by three or more rights-of-way shall not be required to provide a rear yard setback.

A front yard for a lot not bordered by a right-of-way shall be established on the lot line where access is provided to the lot.

- (4) *Projections into required yards.*
 - (A) *Architectural features.* Architectural features and roof eaves may project into a required yard four inches for each foot of yard setback required but no closer than two feet to the side and rear lot lines.

AL- Though the new setback system doesn't make a distinction for front, rear, etc, would we still assign sides so that a setback exception like this could be applied?

LC – I'm okay with this exception being allowed, so long as any fire code requirements were met for the building division. I'm also fine assigning a side.

ADOD will get you closer to the property line than most of these setback exceptions, there are not very many that would apply. I think that it would be easier to create a section in the ADOD chapter with it's own exceptions, and say this chapter doesn't apply. I know that it sucks to have duplicated code, but it might be easier that saying A,B,&C apply but X,Y,&Z don't apply. If there is a section in the ADOD code which lists the allowed exceptions, we also avoid the opt in/opt out conversation, because they're listed in code and their own thing. Thoughts?

IG- So, if the side or rear yard is 3', the projection could be 12' or one foot. So, in line with Laurel's EXCELLENT idea to skuttle Section K and incorporate the exceptions into this

area of code, maybe we reword it to say, "Architectural features and roof eaves may project into the required yard setback but can be no closer than two feet from the side and rear lot lines." Leave math out of it?

AL- Agreed, less cross referencing please!

- (i) In the MU2 zoning district, architectural features, roof eaves, and canopies may project into a required front or street side yard setback to the front or street side yard property line.
- (B) *Enclosures.* Bay windows, garden windows, chimney and ventilation shafts, and other similar enclosed structures that do not increase the building's floor area may project four feet into any required yard provided that the maximum length of projection along the building does not exceed 15 lineal feet for any one yard. In no instance shall the projecting structure be closer than three feet to a lot line.

AL- This fits into new ADOD seamlessly. To be sure, do we want these enclosures to count toward the setback sum? My thought is yes.

IG- Yes.

LC – Yes. We can measure from the exterior finish of the building, which could include a chimney shaft.

- (C) *Structures unheated.* The following unheated structures are allowed in required yard setbacks, as provided below, and provided that roof eaves associated with these structures may be no closer than two feet to any side or rear lot line.
- (i) Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs, may extend to the front lot line or street side lot lines provided the structure does not exceed five feet in internal width exclusive of support structure and is no closer than three feet to a side or rear lot line;

AL- I think this exception should override the ADOD minimum. Should they count toward the sum?

IG- Also, if someone has already taken advantage of this waiver, does that obligate them to opt out of the ADOD? Would this be a sort of double-dipping that makes things too squished?

LC – I think it's okay to allow this to continue and override the 3 foot minimum. If the intent of the 3 foot minimum is for fire separation reasons, there would be no neighbor on the front of the house to consider, and there is a 3' side yard minimum. I also think that a 5 foot wide landing is not very intense of a structure, and in some situations necessary to enter a dwelling. There are many of these existing and I wouldn't want to see them become non-conforming.

- (ii) Arctic entries not exceeding 65 square feet gross floor area, and no closer than five feet to any property line;

AL- ADOD should override this exception. Lot coverage might rein in the size of these structures.

IG- Agreed in theory.

LC – Agreed, if I can building my house 3' from the property line using the ADOD, that should include an arctic entry. As long as it's no closer than 3'.

- (iii) Enclosures for outdoor fuel tanks, detached storage sheds, greenhouses, playhouses, refuse containers, woodsheds, and similar accessory buildings, if less than four feet high in a front or street side yard and ten feet high in a side yard, and 12 feet high in a rear yard. The total encroachment into a yard, regardless of the number

of encroaching buildings, shall be no more than 40 square feet in a front yard, 65 feet in a side yard, and 120 square feet in a rear yard. Where a structure is located in more than one setback, the more restrictive standards shall prevail. In no instance shall the enclosure be closer than three feet to a lot line;

AL- ADOD should override this exception. Lot coverage might rein in the size of these structures.

LC- agreed – use the 3' minimum to the property line.

IG- Because ADOD overrides, we would not include it in our exemptions at all, correct?

AL- Correct.

- (iv) Temporary boat or recreational vehicle shelters consisting of a plastic, canvas or similar cover material applied to a frame for winter storage provided that the cover and associated framework are removed during the period of April 15 through September 30 and provided that the shelter is no closer than three feet to a lot line; iv.

AL- This exception doesn't conflict with ADOD.

IG- Agreed.

- (v) Other enclosures, devices, structures or accessories deemed by the director to be similar to a building or to those other items listed in this subsection. AL- No comment.

- (D) *Uncovered porch, terrace, or patio.* An uncovered porch, terrace, or patio extending no more than 30 inches above the finished grade may be no closer than three feet to a side lot line and no closer than ten feet to a front, street side or rear lot line.

AL- ADOD should override this exception. IG- Agreed. LC - Agreed

- (E) *Unenclosed porches or decks.* Unenclosed first story porches or decks, with or without roof, and with or without non-sight obscuring safety rails less than 44 inches in height, may project no more than six feet into any yard setback, provided, however, such projection is no closer than five feet to a lot line. Eaves may project a maximum of three feet from these structures. AL- ADOD should override this exception. IG- Agreed. LC - agreed

- (F) *Sloping lots.* If the natural gradient of a sloping lot, from front to rear, exceeds 25 percent, the front yard setback shall not be less than the established yard of a dwelling, not including accessory structures, such as garages and storage buildings, which occupies an adjoining lot. In no instance shall the setback be less than five feet.

ADOD should override this exception. LC - Agreed NA to ADOD IG- Agreed.

- (G) *Shoreline properties.* In any zoning district, yard setbacks are not required from tidewater lot lines.

AL- Not really applicable in Juneau ADOD area, but maybe Douglas ADOD area.

LC – agreed, this should override ADOD

IG- If we are listing exemptions, this is another one we would not include because it is not applicable, but we WOULD include for Douglas. Right?

- (H) *Carports and garages.* A minimum setback of five feet from any property line shall apply to carports and garages in any residential zoning district if:

AL- ADOD should override this exception. LC – agreed IG- Agreed.

- (i) The topography of the lot makes construction a hardship;

- (ii) The carport or garage has a maximum height of 17 feet measured from the finished garage floor level, instead of from the datum established in 49.25.420(b), and a maximum gross floor area of 600 square feet;
 - (iii) Sight distance is approved by the director; and
 - (iv) Enclosed space directly under the garage shall be subject to the above setback exception, and no additional stories are allowed on top of the garage.
- (I) *Parking decks.* A parking deck, no part of which exceeds one foot above the level of the adjoining roadway, and which does not include other uses, is exempt from the setback requirements of this chapter; provided a non-sight-obscuring safety rail not more than 42 inches in height is allowed.

AL- Probably not relevant, but should still apply to ADOD. We should check Douglas ADOD for this later.

LC – this probably won't be applicable in most of the ADOD area, but I think people should be allowed to use it.

IG- Agreed.

- (J) *Substandard lots.* If the lot width, lot depth, or both are less than required, the corresponding side or rear setbacks may be reduced to the same percentage that the lot width, depth, or both, bear to the zoning district requirements, except that in no case shall the side and rear yard setbacks be less than half those required by this chapter, or five feet, whichever is greater. AL- Not relevant.
- (K) *Existing substandard setbacks.* A new building may have a front yard setback equal to the average front yard setback of the three closest adjacent buildings, or a street side yard setback equal to the average street side yard setback of the three closest adjacent buildings. The average calculation shall be made using one building per lot. If any of the three buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback or street side yard setback shall be used to calculate the average.

AL- ADOD should override this exception. LC- agreed. IG-Agreed.

An existing building located on the subject lot may be used as one of the three buildings to calculate the setback determination.

For purposes of this section, the buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade. Porches, bay windows and temporary buildings allowed to project into setbacks cannot be used for averaging. In no instance shall the required setback be less than half that required by this chapter or ten feet, whichever is greater.

If there are fewer than three buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks, or street side yard setbacks, of such fewer buildings, using a maximum of one building per lot.

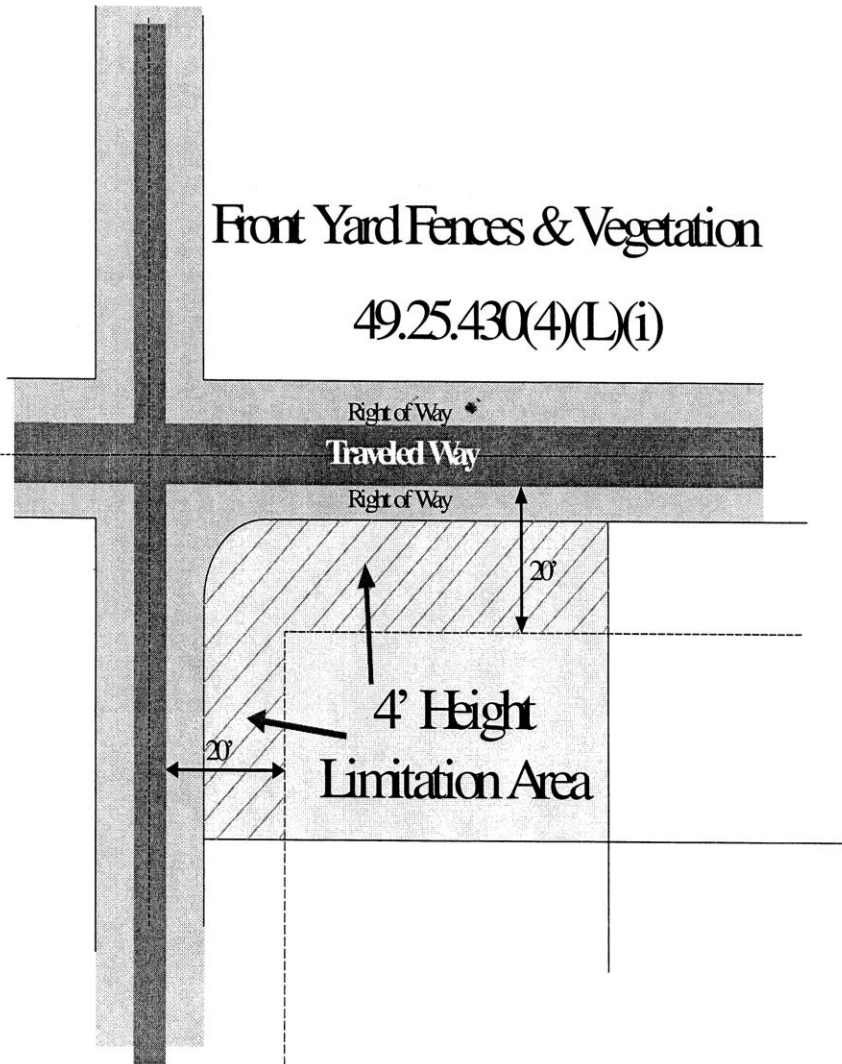
- (L) *Fences and vegetation.* For this section a "traveled way" is defined as the edge of the roadway shoulder or the curb closest to property.

AL- ADOD should override this? If we're fine with buildings, arguably more visually obtrusive than fences, to be closer to a ROW, then we might consider allowing fences to do the same. However, if we want to reduce fence height because of a *desired streetscape*, e.g. one that has a more friendly than gated, then fences could stay low.

LC – I can go either way. We should ensure that the 20' setback sum does not apply to fences.

IG- I hate this corner lot part, because 3' is still hard to see over if you are in a little car. But, these areas have sidewalks so I guess it works out, it is not like it comes right up to the edge of the road.

- (i) The maximum height of a sight obscuring fence or vegetation shall not exceed four feet within 20 feet of the edge of the traveled way. Trees are allowed within 20 feet of the edge of the traveled way provided they do not obscure view from a height of four feet to a height of eight feet above the ground;



- (ii) On corner lots the maximum height of a sight-obscuring fence or vegetation located within 20 feet of a street intersection shall not exceed three feet. The area in which sight-obscuring fences and vegetation is restricted shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 20 feet, then connecting the points. In this area, vegetation shall be maintained to a maximum height of three feet. Trees are allowed in this area provided the trees do not obscure view from a height of three to eight feet above the ground.
- (M) *Additional stories.* The commission, through the conditional use permit process, may allow the addition of a second or third story atop or below an existing enclosed structure which projects into a required yard setback if the structure is either lawfully nonconforming or if a variance was previously granted for the structure. The commission may deny such

request if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.

[AL- This does not conflict with ADOD.](#)

- (N) *Parcels adjoining publicly owned land.* The commission, through the conditional use permit process, may allow structural projections into required side or rear yard setbacks if the affected yard adjoins publicly owned land which has been placed in a park, open space, or similarly restrictive land management classification; provided such projections are minimized and are necessary to prevent substantial hardship to the applicant. The commission may deny such requests if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.

[AL- This should override ADOD.](#)

- (O) *Energy efficiency.* Energy efficiency improvements that do not increase interior square footage, such as exterior insulation, may project up to eight inches into a required yard. An energy efficiency improvement may not be approved under this section if it projects into the right-of-way or across a property line.

[AL- This should override ADOD.](#)

- (5) *Replacement and reconstruction of certain nonconforming buildings.* The replacement and reconstruction of certain nonconforming buildings in residential districts shall be governed by subsection 49.30.500(b).

(Serial No. 87-49, § 2, 1987; Serial No. 89-05, § 2, 1989; Serial No. 91-03, § 3, 1991; Serial No. 95-33, § 7, 1995; Serial No. 97-49, § 2, 1998; Serial No. 2004-13, § 3, 9-27-2004; Serial No. 2006-15, § 4, 6-5-2006; Serial No. 2007-40, § 3, 6-25-2007; [Serial No. 2012-36, § 2, 9-17-2012](#); [Serial No. 2015-03\(c\)\(am\), § 20, 8-31-2015](#); [Serial No. 2018-06, § 2, 3-5-2018, eff. 4-5-2018](#))

Cross reference— Right-of-way encroachment permits, CBJ Code ch. 62.55.