

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

Friday, November 1, 2019
Community Development Department
Large Conference Room, 12:00 pm

Members Present:

Nathaniel Dye, Travis Arndt, Ken Alper

Members Absent:

Shannon Crossley

Staff Present:

Jill Maclean (CDD Director), Alexandra Pierce (CDD Planning Manager), Irene Gallion (CDD Senior Planner), Laurel Christian (CDD Planner), Amy Liu (CDD Planner), Chelsea Wallace (CDD Admin)

I. Call to Order

The meeting was called to order at 12:05pm.

II. Approval of Agenda

III. Approval of Minutes

IV. Agenda Topics

A. Proposed Rezoning of Downtown Juneau Alternative Development Overlay District Area

Ms. Christian informed the Committee that Staff had prepared a memo with discussion points to go over at this meeting. To summarize from past meetings, the Committee and Staff had made some decisions on the Alternative Development Overlay District (ADOD) standards, including a minimum lot size requirement of 3,000 square feet; allow future subdivisions to use the ADOD standards; minimum lot depth will be 25 feet; lot coverage is not changing; vegetative coverage is being reduced to 15% across the board for all zoning districts. Other decisions made include a maximum height for primary uses is 35 feet and accessory use is 25 feet; if someone is in the Light Commercial Zoning District, the current height is 45 feet, but if they wish to utilize the ADOD standards, it will be reduced to 35 feet. Staff revised the boundary line of the ADOD, as well.

Mr. Arndt recalled discussion regarding changes in lot coverage and developers being allowed to use larger setbacks. He asked if this was decided on, as well.

Mr. Dye recalled that the requirements would remain the same.

Mr. Arndt didn't recall this being an issue and thought it may be good to have the requirements remain the same, but thought there had been some discussion on adjusting them.

Ms. Christian recalled that the decision had been made to keep the requirements for lot coverage as is, because the setback box allows almost all of the lot to become developable, so the lot coverage helps restrict that a little

bit. Moving forward, Ms. Christian stated that Staff was hoping to discuss the outstanding questions. The first question was regarding setback exceptions and how the ADOD relates to the current setback exceptions in Code. Some current Code exceptions are more restrictive than the ADOD exceptions and some are less restrictive. Generally, Staff thinks the less restrictive exceptions should apply, but the more restrictive exceptions should not. Another question Staff is hoping to have answered is how residential uses are treated; Mixed Use (MU), as well as Commercial Uses, and if a different process is needed, such as a Conditional Use Permit if someone wishes to utilize the ADOD dimensional standards.

Mr. Arndt asked if the MU zones were taken out of the ADOD boundary.

Mr. Dye replied that MU had been removed from the boundary, but Light Commercial zones still allow for mixed-use development.

Ms. Christian agreed with Mr. Dye and stated that other questions needing to be answered were regarding how duplexes will be treated and if a separate setback exception needs to be created for lots that are still nonconforming to the new ADOD standards. Ms. Christian suggested working through the memo and noted that Ms. Liu had pulled some purposes from past ADOD discussions and put them in the memo, to help keep the Committee and Staff grounded on what they were originally intended for and how things have changed. The original purpose of the ADOD was to change setbacks, lot coverage, and vegetative coverage; there would be no changes to height, density, or parking.

Mr. Dye clarified where the original intent was spelled out – the bottom of page two of the memo.

Ms. Christian stated he was correct and that new purpose says “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.” It is balancing new development that matches the current character. That is more what purpose has been morphed into from the original ADOD.

Mr. Dye recalled that it had been decided that the ADOD would be a new overlay and not a rezoning, so it may be better not to say “new zoning”.

Ms. Christian said the language could be adjusted, because the intent is not to change the zoning.

Ms. Maclean and Mr. Dye made some suggestions for adjusting the language.

Mr. Arndt asked if this would be the purpose statement at the beginning of the Code section, or where this information would be used.

Ms. Pierce stated that it could be the purpose statement used in Code; however, it is not the statement they have been working with. She believes it has good language that distills the concept down in a very straightforward way as the Committee moves forward to try to communicate everything to the public and the Assembly.

Mr. Dye stated it could end up being the premise for the purpose statement in the new ordinance.

Ms. Christian stated that Staff didn’t necessarily intend to write the purpose statement at this meeting. Staff included this information to show where they are coming from and what is being aimed towards with the decisions being made. It is more so background information, but the language can be adjusted. Ms. Christian

then moved forward to discuss setback exceptions. She directed attention to a diagram in the memo that shows one of the setback exceptions that would allow someone to have a balcony that is not more than 5 feet wide, which could extend to the front property line. Staff is recommending that less restrictive setback exceptions apply and exceptions that are more restrictive do not. In this case, it is saying the setback can be zero, where the minimum is 3 feet. Staff is not saying that the total sum is reduced; they are saying that the one line can be reduced.

While Mr. Arndt agreed with Staff's idea behind this example, he felt the wording should be adjusted. He thought the dimension and the number is still to the front of the house. He then gave an example of how he thought it should be looked at.

Mr. Alper asked if this example would work for an enclosed structure, as well.

Ms. Christian stated that was not intended for this example. However, there are exceptions for sheds. She asked if the Committee would not want a shed to be included in setback sum, or only the primary structure.

Mr. Arndt asked if a shed could normally fall within the setbacks.

Ms. Christian replied that there were some parameters for things like that.

Mr. Arndt thought that if a shed is allowed under the current guidelines, then it shouldn't be counted. He then gave an example of what he thought the Code could allow for.

Ms. Maclean understood what Mr. Arndt was portraying; however, she did not completely agree that the regulations should follow his suggestion. She thought that even if there is an exception, sometimes where the setback is dropped all the way to zero feet, then the setback is zero and the other 20 feet in setbacks should have to be made up on the other sides of the property. Otherwise, it might be considered "double dipping."

Mr. Arndt felt that it would not be considered double dipping, because the part of the single-family dwelling would not be able to get any closer to the perimeter than 3 feet.

Mr. Dye agreed with Mr. Arndt, but felt it would be best to hear more from Ms. Christian.

Ms. Christian stated these regulations wouldn't just be in regard to balconies, but would also include arctic entries, which would appear to be like a single-family home. She thought that would make it more difficult in a Staff review to make that distinction and didn't necessarily agree with Mr. Arndt either.

Ms. Maclean agreed with Ms. Christian. She understood that Mr. Arndt was looking to only allow the single-family structure, or the primary structure, to receive the reduction in setbacks, but she thought the regulation should be looser than that. She felt the regulation should allow for anything, even an accessory apartment, to receive the setback reduction, but if that is the case, it sort of is double dipping.

Mr. Arndt clarified that he was stating that anything that would normally need to meet the setback, is where the setback should be measured to. Anything that is exempt, doesn't actually happen.

Ms. Maclean stated that the problem is not that they don't have to meet a setback. They are meeting setback of some sort and it varies, depending on what it is and where it is. She gave some examples to explain what she meant.

Mr. Arndt stated that what he was trying to have remain the same is that if something required a setback currently, then those items should add up to the 20 feet in setback requirements. The other exceptions should not have to add into the 20-foot requirement.

Ms. Christian stated that Code was not saying that there is no setback, it is saying that it is reducing the setback. There are other exceptions, but they still have setbacks, it's just less than what is generally required.

For the example being shown, Mr. Arndt asked if the house could be placed 3 feet back, if the deck was removed.

Ms. Christian stated this was correct.

Mr. Arndt felt that if the deck is added, it should not affect where the house is allowed to be, because the deck is the exception. The deck can extend in, but none of the uses that normally would be limited to 3 feet should be able to go past 3 feet.

Ms. Pierce asked if Mr. Arndt would use the same reasoning for an arctic entry.

Mr. Arndt asked if the arctic entry is a current exemption.

Ms. Christian and Ms. Maclean replied that it is

Mr. Arndt stated that he would apply the same reasoning, then.

Ms. Christian asked if he would also apply the reasoning to a garage exception.

Mr. Arndt stated that he is not trying to change the current exemptions. He just believes that if something would normally have the 3-foot limit, then it should remain that way and the 3 feet should be counted in the sum of the setback.

Ms. Maclean felt that she was not following correctly. She clarified her understanding of what Mr. Arndt was trying to say.

Mr. Arndt felt that Ms. Christian's example being shown was drawn correctly, but the difference in what he was saying is that she didn't include the number from the front lot line to the part where the setback would be measured.

Mr. Dye clarified that the number should have been subtracted from the other 10 feet in setbacks.

Mr. Alper clarified that the exception wouldn't be counted toward the setback sum total. The whole idea is that the house is the house and it is 3 feet off the line and that is not an exception.

Mr. Arndt stated that, that is what he was suggesting.

Mr. Dye and Mr. Alper agreed with Mr. Arndt's suggestion.

Mr. Arndt felt the exceptions are good and should be allowed as they currently are, but felt developers should not be penalized somewhere else by using one of the exceptions.

Mr. Dye asked if Staff's intention was to "penalize" someone for using this method.

Ms. Christian stated it could be taken that way.

With that interpretation, Mr. Dye asked why this was Staff's intent.

Ms. Christian stated that Staff was okay with reducing the 3-foot minimum items, but wanted to keep the 20-foot regulation. She thought it wasn't as straightforward.

As an example, Mr. Dye asked if there were no sliding setbacks and plans were brought in showing the arctic entry exception, forcing the arctic entry past the setback line, if Staff would just make sure that the setbacks are actually there.

Ms. Christian stated he was correct.

Mr. Dye asked if what is being relied on for Staff analysis is what the plans show what will be used for setbacks.

Ms. Maclean asked if someone was to build a single-family home without a balcony today and they barely meet the 20-foot regulation, would they be able to build a balcony later on and if so, how would that work.

Mr. Arndt stated in that situation a Variance Permit would be required, but for his suggestion, a Variance Permit would not be needed. He then drew an example of what he was suggesting.

Mr. Dye stated that for Ms. Maclean's example, they have already maxed the 20-foot sliding scale, so they couldn't get a balcony. However, if they use the exception and don't have to use the sliding 20-feet for the balcony, then they would be able to get the balcony without the Variance Permit. Therefore, Staff is recommending a more restrictive regulation.

Mr. Arndt explained his suggestion with the example he had drawn. After some deliberation, the Committee and Staff concluded the suggestion was that the setback requirement would be 20 feet on a sliding scale, in addition to any specified uses that have exceptions.

Ms. Christian stated that language would need to be crafted carefully for this, because a definition of a structure also determines what the setback requirements are.

Ms. Pierce suggested using a current, real scenario to better understand the regulations. Using a property in the Starr Hill area as an example, the Committee and Staff worked through the requirements and decided that the property would still be conforming if they developed in the way Mr. Arndt had proposed.

The Committee and Staff agreed that these requirements would work well and Ms. Maclean noted that the language used in Code would need to be very precise for these regulations to avoid misinterpretations.

Ms. Christian moved the conversation forward to nonresidential uses. Since there are some Light Commercial (LC) and D18 zones allow some commercial uses, Staff recommends that commercial or mixed use, as in commercial and residential in one building, be allowed to use the ADOD dimensional standards with a Conditional Use Permit.

Mr. Dye asked if all current uses were opt-in.

Ms. Gallion stated that residential uses would be allowed by right, and commercial and mixed uses would be allowed with a Conditional Use Permit. It was not clarified if both were opt-in to use this process.

Ms. Maclean stated the option would be opt-in. However, if the property is a commercial or mixed use type of building, the owner would not be able to use both regulations. They would have to fully opt-in and agree to use all of those regulations only.

Mr. Dye suggested being very clear with this language in Code and using “mixed use development” for these types of situations, so they are not confused with Mixed Use zoning regulations. He asked if there would be a need for the Conditional Use Permit, if this is an opt-in option, instead of just Staff review.

Ms. Maclean stated that it really had to do with the area of where these developments would occur. Some expansion should have a public hearing. Opting into the new regulations could also give owners less restrictive regulations, as well. There aren’t many properties that would need a Conditional Use Permit, but here should be some type of public process for the ones that do.

Mr. Arndt stated that it may be better to move away from requiring Conditional Use Permits and move more towards allowing for Staff to decide. He believes this to be more streamlined for the people who want to develop their land and comply with the regulations. He doesn’t see where the Planning Commission would have grounds to deny a Conditional Use Permit if someone were to opt-in, comply with the regulations, and apply for a Conditional Use Permit.

Ms. Maclean agreed, but noted that the intent in Code is to make it very difficult for Conditional Use Permits to be denied. There just needs to be the option for conditions to be added to the permit to make sure the property owners are staying harmonious with the neighborhood. She also noted that having a Conditional Use Permit come before the Planning Commission could attempt to reduce the chance of an appeal and would reduce the chance in a longer delay if only the Director’s decision was appealed.

Using the Capital Brew Coffee situation as an example, Mr. Dye asked if the problem had been with the setbacks and driving lanes, or the land use.

Ms. Maclean stated that the problem had been with traffic, circulation, and hours of operation, which are items that the Director does not have discretion to condition. However, the Planning Commission does have the discretion to condition on these items.

Mr. Arndt stated that if they property had been in an LC zone, then the hours of operation would not have been of concern and they wouldn’t have needed a Conditional Use Permit. In this type of situation, if they opted in, they would now have more regulations to comply with.

Ms. Maclean stated that the vast majority of uses in the LC zone already require a Conditional Use Permit. It’s supposed to work like a buffer between residential and commercial zones.

Mr. Dye asked if this section of Code could be more precise on if a Conditional Use Permit is required or not, and how things would be looked at based on if a Conditional Use Permit was required or not.

Ms. Christian stated that it could be written so minor development wouldn’t need the Conditional Use Permit review, but major development would.

The Committee agreed this would work well.

Moving forward to duplexes, Ms. Liu recalled that Staff had been asked if any inconsistency and logic with the existing lot size of duplex needed to be reconciled, as the standard lot size is reduced. She stated that Staff has looked at existing duplexes and areas of the lots where they are located. Staff recommends not changing the minimum area for duplexes. This comes back to the purpose of the ADOD and other information that is outlined in the memo previously presented to the Committee.

Ms. Maclean asked if there were only 8 duplexes in the whole area.

Ms. Liu stated that in the D5 zoning district there are only 5-8 duplexes. There may be other two dwelling unit properties, but they are likely considered multifamily.

Mr. Arndt gave an example and asked why a benefit would be given to going from 7,000 square feet for a single family, but 10,500 square feet for a duplex, instead of 14,000 square feet.

Ms. Maclean stated this was due to the lot not having separate ownership. This also relates to why a duplex is not allowed to have ~~one-a~~ accessory apartment, whereas a common wall could each have one, because they are on separate lots.

Mr. Arndt felt like this still gives a benefit to duplexes over common walls, because you don't need as large of a lot for a duplex as you do a common wall lot. He asked for the reasoning behind this.

Ms. Maclean stated that when the common wall ordinance was adopted, there was a desire for the lots to be even. However, the common wall ordinance is being worked on currently and there is a recommendation for a decrease in the lot size.

Ms. Pierce stated that this topic had come up a number of times, recently, and it is being worked on. For the purposes here on duplexes, Staff is saying that there are so few in this area, that making changes to them within the Overlay District are not going to benefit duplexes that already exist and Staff does not see a major benefit in incentivizing duplexes for the purpose of this process.

To clarify, Mr. Arndt gave an example and asked what the minimum lot size of the duplex would be.

Ms. Liu stated it would need to be 10,500 square feet.

With that lot size, Mr. Arndt asked if they would then be able to use the ADOD dimension setbacks.

Ms. Christian stated they could use the ADOD dimension setbacks, Staff would just adjust the lot size to 10,500 square feet. If it were multifamily, it would just be what the density lot size is. Staff is not propose a change to density. She stated that 10,500 square feet could be put into the ADOD dimensional standards table, if that would help clarify things.

Ms. Pierce stated that Staff is not trying to make a full rezone here. Duplexes are such a small part of this and it doesn't seem like providing incentives for duplexes would accomplish much.

Mr. Arndt asked how a property owner should know that they can get more out of a 10,500 square-foot lot, if it isn't made clean and incentivized.

Ms. Maclean stated that everything outside of the D5 zone would consider it multifamily, instead of a duplex, so they would have clear options.

Mr. Arndt asked if the same density math should be used in the table.

Ms. Maclean stated that that math wasn't used for the single-family residential zoning districts.

Ms. Pierce stated there was an option in the table to reduce based on the existing ratio, though.

Mr. Arndt asked if this duplex information work with the new proposals they are making in updating the ordinance.

Ms. Maclean stated that the changes were being proposed in the common wall ordinance, not for duplexes.

Mr. Arndt asked what the parent lot size for the common wall ordinance is and what size the lots could be subdivided into.

Mr. Dye stated that they could be subdivided into two 6,000 square foot lots.

Mr. Arndt felt the duplex regulations should match that of the common wall regulations.

Ms. Pierce stated this could be done with option 2 in keeping the common ratio. However, this could start a cascade effect. She noted that this isn't a problem that CDD sees very often, so that is why Staff recommended no changes.

Mr. Alper felt there shouldn't be such a contradiction between the common walls and duplexes. He noted that going down the Option 2 track may also result in some issues.

Ms. Maclean pointed out that one missing aspect is that a common wall is its own lot and can have an accessory apartment, but an accessory apartment does not count towards density. She asked if a duplex doesn't count towards density either.

Ms. Christian stated that a duplex is two dwelling units.

Mr. Alper noted that in the end this could result in a common wall having accessory apartments for both units resulting in four total units, whereas a duplex with an accessory apartment would only have 3 units total and parking likely wouldn't be much different.

Ms. Maclean stated that the parking actually would be different. Each common wall unit requires two parking spaces and one for the accessory apartment. Whereas, duplexes would be two spaces for the single family and one for the duplex.

Ms. Liu pointed out that calculating Option 2 would still contradict the logic of the D10 zone, because it would be stating that you need a bigger lot in D10 to achieve the same outcome in D5.

Ms. Maclean agreed, and noted that Staff is not trying to change D5 dimensional standards, but trying to change the Overlay District standards. This makes things less uncomfortable, because this won't make D5 contradict with D10, it will only adjust things in the Overlay District standards.

Ms. Christian gave an example of what Option 2 could give a property owner.

The Committee agreed with Ms. Christian's interpretation and felt this would work well.

Ms. Liu gave an example and asked if it would work in the Overlay. After some deliberation the Committee agreed that this example resulted in some problems.

Ms. Pierce pointed out that CDD really sees very few duplexes, so this topic could be tackled when the time came with the Land Use maps in the new Comprehensive Plan. There weren't many problems that could be solved by changing regulations through the ADOD.

Mr. Dye stated he was okay with Option 2 and not altering D10 or D18 would help lay the work for when a rezone came to be to solve more issues. He asked if the Committee was okay with Option 2 and 4,500 square feet for only D5. The Committee agreed this was a good option.

Ms. Christian moved the conversation forward to setback exceptions. Staff proposed that a new setback exception be created to live in the Overlay District for lots that don't meet the minimum lot size, so they can get their sum of setback reduced. She gave an example of how this would work. She stated this would be similar to how the sides and rear are regulated in current practice; Staff is just proposing to expand that.

Mr. Arndt spoke in favor of the ratio idea with a minimum of 12 feet, 3 feet on side.

Mr. Alper like that this created a hard minimum.

Mr. Arndt agreed, but noted that it would be important to do the nonconforming situation review work, before deciding that this regulation could be used.

Ms. Christian stated that work would be required for any building permit, so the review would be done.

Mr. Dye asked if Staff needed language for Code regarding becoming legally nonconforming.

Ms. Maclean stated that was not necessary right now. Language would be worked on, but Staff did not want to add to any confusion on nonconforming.

Ms. Christian asked if the Committee had any outstanding questions for Staff.

Hearing none, Ms. Pierce stated that Ms. Gallion has been working on draft ordinance language.

Ms. Maclean asked if the Committee would like to see the draft ordinance after the Law department made revisions, or if they preferred it go to the Committee of the Whole.

The Committee stated they would like to see it first.

Mr. Alper asked if that would be draft ordinance would be what is before the Committee now in Appendix A.

Ms. Pierce stated that Appendix A was included, because setbacks were being discussed, but it was just part of the thought process.

Ms. Maclean stated that the ordinance would be brought back to the Committee after Law reviewed it. She asked when the Committee would like to meet again, noting some travel coming up. She also noted some topics the Committee needed to discuss and when those items may be ready for discussion.

After some discussion, the Committee decided to meet again on December 12.

V. Committee Member Comments and Questions

VI. Adjournment

The meeting adjourned at 1:31 P.M.