

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

Monday, August 27, 2018
Community Development Department
Large Conference Room, 12:30 pm

Members Present:

Nathaniel Dye, Paul Voelckers, Michael Levine, Carl Greene

Members Absent:

Dan Miller

Staff Present:

Laura Boyce (CDD Planner), Jill Maclean (CDD Director), Rob Palmer (CBJ Attorney), Beth McKibben (CDD Planning Manager), Tim Felstead (CDD Planner), Laurel Bruggeman (CDD Planner), Marjorie Hamburger (CDD Admin)

I. Call to Order

Meeting called to order at 12:03 pm.

II. Approval of Minutes

A. August 13, 2018 Draft Minutes

MOTION: *by Mr. Levine to approve the August 13, 2018 minutes*

The motion passed with no objection.

III. Agenda Topics

A. Accessory Apartments

Ms. McKibben said that a lot of work was done to this in the last major code revision, adopted in 2015. At that time, the community was greatly concerned about having these apartments in their neighborhoods but they have become more familiar now. She went through her PowerPoint presentation (this can be found with the meeting packet) which provided information on permitting and walked through the code. She pointed out that there is no inconsistency in the code as it stands.

Mr. Voelckers asked about Mr. Miller's issue of concern about the inconsistency of the code allowing for different sizes. Ms. McKibben pointed to page 4 of her memo regarding two single family dwelling per lot and reiterated that "the record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size." However, she said, it seems clear that the decision was intentional.

The table in the staff report needs to be looked at, said Ms. McKibben, when Commissioners are thinking if they want to include duplexes.

Mr. Levine asked why the community should care how big the apartments are. He said he felt the community concern is mostly just about who lives there. The apartments are accessory to the primary use of the property, said Ms. McKibben. On the scale of small to large, the CBJ code settled on these numbers: 600 sq. ft., 2 or fewer bedrooms, 50% of overall lot size. So size was capped at 50% of the primary dwelling up to 1,000 sq. ft, she said. Why asked Mr. Levine? The apartment is intended to be incidental to the primary use and subordinate, so those working on the code in 2015 came up with those figures. Density means units - more bedrooms equals more people and more traffic. Mr. Levine said isn't the concern more about how many people are in there and what the apartment looks like? Why else should the community be concerned, he asked? The only thing that matters is density, so limiting the apartment to two bedrooms makes sense to him, also scale.

Mr. Voelckers said the threshold is to get to two bedrooms. Mr. Levine said it makes sense to him why the code is limiting in that way. Ms. McKibben said it is less about what it looks like and more about scale and trying to keep the apartment accessory to the primary use. Mr. Levine said 1,000 square feet is a nice size.

Ms. McKibben directed members to look at the table (page 3 in memo) showing the range of what could be allowed in the various zoning districts. Mr. Voelckers asked if something like this table will be included in the new, amended code. It seems useful, he said. Ms. McKibben said a separate table of dimensions could be created, maybe, or there could be other ideas, but she agreed that this table is a good concept.

Ms. McKibben threw in the idea of the proposed common wall for context. In 2014 when work was done on the code, a staff conversation discussed if an accessory apartment should be allowed with a duplex. Ms. McKibben proposed they consider a small apartment or a duplex on a lot 150% or larger of minimum lot size. She suggested the Commission could consider allowing two small accessory apartments with a Conditional Use Permit (CUP).

Mr. Voelckers asked for explanation of the graphic showing common wall lots with accessory apartments (see PowerPoint, slide 8). Ms. McKibben said this was a proposal for the committee to consider. The suggestion is to consider one duplex with one small apartment and consider allowing 2 small accessory apartments with a CUP. What is the advantage to having the CUP, asked Mr. Levine? Ms. McKibben said it is consistent with the philosophy about requiring CUPs – the process provides notice to neighborhoods and includes Planning Commission review. Mr. Voelckers said it felt right to him. Two more on each side of duplex begs the question if they are the same thing. Mr. Levine said he agreed with requiring a CUP for the second apartment, then.

Ms. Maclean asked what would be the reason the commission might deny this. What findings would need to be there to lead to denial? Ms. McKibben said it would have to be about neighborhood harmony, safety, and parking. Each full size unit needs 2 parking spaces, and the geography of Juneau doesn't always provide for that. These things should be reviewed through the building process. So it falls down on allowing the neighborhood to comment. Ms. Maclean asked what if someone doesn't like one neighbor but likes another, so s/he only protests against the one due to personal issues. Ms. McKibben said there have been situations with neighborhood opposition and lot which was undersized but the Planning Commission still approved, although that was rare. Most of the concern is in downtown Juneau and Douglas.

Mr. Levine said he is sympathetic to the idea that the Commission is not in the business of having things come to the consent agenda and be a waste of people's money. Ms. McKibben agreed with having more in-house approval. As the community becomes more accepting of this apartment idea, approval becomes easier. Mr. Voelckers said he hears Ms. Maclean's point. Mr. Levine pointed out that sometimes the process of airing grievances in a public meeting helps to resolve them.

Ms. McKibben said if the committee is in favor of the idea of 2 small apartments, the question then becomes how to approve them, over the counter or before the Planning Commission. Mr. Dye asked if the property is 250% over lot size, why can't someone get two 1,000 sq. ft. apartments approved over the counter; that is Mr. Miller's, he said.

Mr. Voelckers said a basic numeric fairness is the concern. Ms. McKibben said she doesn't know why the code fell down there but it is clear it was intentional.

Mr. Voelckers said in conclusion he likes the three for the two apartments as it gives the chance for that forum. Mr. Levine said he does not feel strongly one way or another and defers to others who think more holistically. Why not have this as an option when the goal is to create more housing, he asked?

Ms. McKibben asked the committee to again look at page 3 of the staff report. Mr. Voelckers said in the definition of RR (Rural Reserve), a house is not mentioned, only cabins and such. Ms. McKibben said RR is treated like D1. It is a question to be asked, if the city continues to allow these other things in a RR zone, is whether or not to allow common walls but allow for 2 single family dwellings and 2 accessory apartments. Mr. Voelckers asked if this was an abstract idea or are there cases like this? It is abstract, said Ms. McKibben, but worth thinking about.

Ms. McKibben summarized and said she is hearing that the committee is in favor of going ahead with making changes to allow for duplexes as presented in the table. Does the committee want to talk about 600 and 1000 sq. ft. on a super large lot, she asked? How many, asked Mr. Dye? Ms. McKibben showed data included in the PowerPoint. Yes, then, we should look at that, said Mr. Dye. Why can't there be two 1,000 sq. ft. apartments? Mr. Levine said there would have to be a rule that you can't subdivide the property. Ms. Maclean said for each detached, single family dwellings each could have one apartment and the property could be subdivided if it can meet standards. Ms. McKibben said the chart shows lots, but not all are developed. Mr. Dye suggested pursuing this as option for in-fill development. He said he assumes someone would be thinking about design and parking.

Mr. Dye said what is the actual question needing an answer? Mr. Levine said it is about RR zones. Mr. Dye said it seems to need a whole other meeting to address that question. Do we need RR at all, he asked? Ms. McKibben said currently if a lot is in a RR zone and meets these requirements it can have an accessory apartment. Rural Reserve has not been looked at in relation to the purpose of the zoning district. Mr. Levine said basically D1 and RR have been treated as the same. If we want to change this, we need another meeting, said Mr. Dye. Maybe this could be reviewed after the Comprehensive Plan revision. Mr. Levine said if we want to have an RR zone, what are the rules that need to be applied? But, he said, there is not enough of a good reason to do this work at this time. Mr. Voelckers said he is also happy to talk about this in the future.

Mr. Levine said he doesn't see a compelling reason for there being a difference between 600 and 1000 sq. ft. apartments on big lots.

Ms. McKibben asked if the committee wanted this topic to come back to them or go directly to the full commission? Mr. Voelckers, Mr. Dye and Mr. Levine all said they were happy for it to go to commission.

It can go on the October 9 agenda, said Ms. Maclean. Mr. Voelckers said please include the cool graphic.

B. Common Walls

Ms. Maclean said when the committee last left off going through this ordinance the main discussion was whether or not to allow mixed-use development in non-residential zonings and also there were questions about the minimum lot size and reducing lot sizes. Otherwise, the work needed is to make sure things are consistent. Some things fell off the Table of Permissible Uses (TPU) and the Dimensional Standards table.

Ms. Maclean said Mr. Palmer was invited for input about providing for the mixed use. Mr. Voelckers remembered that he got wrapped up at the last discussion about whether commercial use could be on floors other than the ground floor. Ms. Maclean said that she gave up on that, and so she suggested leaving it open. Ms. Maclean asked how to go about the permitting for the subdivision of this. It is clunky right now regarding the process, not the policy. It needs some input, said Ms. Maclean.

Mr. Levine asked what the concern about allowing commercial use in common wall buildings. Is there any reason not to allow nonresidential uses in those districts, he asked? The short answer no, said Mr. Palmer. It may be a semantics question to reclassify things as something else. A bigger topic to discuss right now is that through practice we have been allowing common wall lots to be smaller than the minimum standard and we need to answer the question of why. Mr. Levine said it makes sense to allow smaller lots. Mr. Dye said he thought there wasn't any argument since sideyard setbacks are not required, is that not the reason why it could fit?

Mr. Levine said his reaction is that these things ought to be called something else when in non-residential areas. Call them common walls in residential zones and have these rules. Then make other rules for non-residential zones, he said. Mr. Voelckers said isn't there also a reclassification potential like at Vintage Park? Mr. Palmer said residential common walls are similar to non-residential, but they are both attached. Might we look at saying something completely different for non-residential? Mr. Voelckers asked if there was urgency right now. Mr. Dye asked what a mixed common wall would look like.

Mr. Felstead said building code wise there would need to be high fire separation. Mr. Levine reiterated that he is in favor of making this just about residential common walls and, if we want to have a commercial option, then make that a different thing. Mr. Dye said that Juneau has quite a bit of development already with commercial common walls.

Mr. Dye asked if the committee needed to talk about smaller lot size. Not if you are avoiding the commercial piece, said Mr. Palmer.

Ms. Maclean said there are new numbers in the draft ordinance using Mr. Miller's math. Mr. Dye said he thinks he wants to stay with the density of 2,800.

Ms. Maclean said the rest of the work is cleaning up tables and making things consistent. She wanted to know if the committee wanted to talk about the internal process. Do you want this to remain in 49.65 or move to 49.15, she asked? Mr. Voelckers said he thinks it makes more sense to appear in 49.15.

Ms. McKibben said she is curious to know how other communities handle this. Are their processes less intuitional, she wondered? Ms. Maclean said if a surveyor is off, doing a lot line adjustment is simpler like on the Ridgeview project with 24 common walls. Mr. Dye asked how that is not considered phasing. Ms. Boyce suggested changing the process at least for the building permit to require an as-built. Ms. McKibben said by moving this section out of 49.65, the content goes from not variable to variable. Mr. Dye said lot dimensions are

variable. If this piece of code moved to 49.15, he said he thinks about Mr. Miller's comments about pouring foundations and receiving administrative forgiveness for mistakes. He said it would scare him to locate the code in 49.15.

Ms. Maclean said updating the process to make it more user-friendly is of concern to her. Mr. Levine said the right thing to do is commit to having a conversation about zoning districts and strike them for now. Make those that exist non-conforming then, asked Ms. Maclean? Mr. Felstead said there are some that are going through permitting right now and so need protection. Mr. Palmer said there are legal situations for people who have put up substantial funds for their projects.

Mr. Voelckers said that Mr. Dye raises a really good point about preserving the LC zone for higher and better use. If ARS goes through, there are plenty of other new options on line, said Mr. Dye. Mr. Dye said he has a newfound mind set from working on the Auke Bay Plan implementation about how rules need to be changed if we want to change development. A conversation is needed to be had regarding if we should preserve commercial districts for their intent. Mr. Levine said we can grandfather people in for those who are in process. For zones MU2, LC and GC, get rid of them at this point and make it clear we intend to make other code for other zonings.

IV. Next Meetings

- Monday, September 17, 2018, 12:00 – 1:30 pm.

VI) Adjournment

The meeting adjourned at 1:04 pm.