

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

Monday, August 20, 2018
Community Development Department
Large Conference Room, 12:30 pm

Members Present:

Nathaniel Dye, Paul Voelckers, Dan Miller, Michael Levine, Carl Greene

Staff Present:

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

I. Call to Order

Meeting called to order at 12:34 pm.

II. Agenda Topics

A. Alternative Residential Subdivisions (ARS)

Ms. Maclean shared the draft ordinance with the changes (see tracked version) made after the last meeting. She noted there were no substantial changes.

Mr. Voelckers recalled conversation from the last meeting regarding development that needed to protect long term flexibility it could be platted as such but not developed, using language like stub streets. Yes, said Ms. Maclean, she will add this in.

Any comments on process, asked Mr. Dye?

49.15.920 General provisions.

(6)(j) Buffer

Mr. Voelckers said he found (6)(j) *Buffer* vague. Should he assume this means a buffer within setback requirements? Perhaps it should say within setbacks of a parent lot? Ms. Maclean said it would not always be within setbacks. Planned Unit Developments (PUD) require 25 ft. Ms. Maclean pointed out that a setback is not a buffer, only the distance of a structure from the property line. Mr. Voelckers said he was concerned that this important concept was not defined adequately. If there is no stab at geometry here, where can this information live?

Ms. Maclean said for some PUD developments, 25 feet is too much; the idea is to give the Commission flexibility for example for a property that abuts state land which will never be developed. For a property in a D3 zone with higher density, we might want a larger buffer - flexibility depending on the site. Mr. Voelckers said this is a catch 22; it is great to preserve flexibly, but the Planning Commission doesn't see this until late in the process. He feels the need to give guiding principles. Mr. Levine pointed out that (6)(j) states "shall be a buffer" but this is not specified. Mr. Dye asked if it is tied to bonuses. Also, for properties that abut those with different densities, setbacks drop to the lower densities, correct? Mr. Miller said the minimum buffer is based on whatever setback is required and more may be needed. The Commission has the ability to change it but needs to send a developer down a path whereby he doesn't need to redo the whole thing later.

Mr. Voelckers offered some specific grammatical edits. He said he thinks “off-site” in this section is confusing. Mr. Levine suggested replacing it with “surrounding”.

Mr. Levine said it would be better if there was a statement of purpose for buffers. The language does not say why you may need one and what is trying to be achieved. He suggested adding what a minimum buffer is and that this can be expanded for whatever reason like neighborhood harmony; give some criteria. Ms. McKibben said there is a definition of buffer strip in the code, and she read from 49.80.120 - *Buffer strip* aloud. Mr. Levine said he would not use the word “strip”. Mr. Dye asked if “vegetative” is defined in code. No, said Ms. McKibben, but it generally refers to green growing things.

Mr. Miller pointed out that no parking may be permitted there. He described a situation where he used non-vegetated screening; he built a tall berm that stopped all the noise coming from the pit area towards the housing area and it worked well. If something like that keeps out noises from a neighboring property, why should the developer not be able to put parking right next to it? Mr. Dye said he could see a carport acting as a screening wall that buffers. Mr. Voelckers said it might be pushing things too far because the language is already liberal with density and things. If requiring a buffer, there should be a definition of what the minimum is. Mr. Miller’s example is discretionary, said Mr. Voelckers.

Mr. Miller said if a building is next to an industrial area, then that does not trigger this requirement but is there more for the harmony of the development.

(6)(k) *Parent Lot*

Mr. Levine asked why do we care about who owns the parent lot? Mr. Palmer said there are nuances; somebody has to keep the project affiliated with the use, like if a developer remains a majority shareholder. The underlying concept is whoever owns the land is responsible for utilities. There is language in the PUD regarding the criteria which has been adopted here. Mr. Voelckers said he feels there is ambiguity about the underlying responsibility. Mr. Palmer said the goal is to make a model that is tight enough to avoid the risk that a developer has not enough significant interest so that there could be a separation between what homeowners want.

(6)(m) *Permitted uses*

Mr. Voelckers was concerned about the phrase “associated accessory structures”. These can be micro lots with no size at all; how far down this road do we want to go, he asked? Ms. Maclean said accessory structures are a shed or a garage, and it all depends on the lot sizes. Some may be tiny while others could be large. This allows for flexibility but the structure must have specific residential uses and be accessory to the residential structure. Only if the lot met the standard size for zoning could there be an additional residential structure.

Mr. Voelckers was curious if there was a need to reference another part of code in regards to the sentence about a home occupation or a child care home being permissible. Mr. Palmer did not think it was needed because of the first sentence of whole ordinance stating “requirements of this title apply except as provided in this article”. He said he prefers to not cite code if there is no need.

(6)(n) *Street sign*

Mr. Levine asked why only one sign is required and wondered if there might be instances where more are needed. Mr. Dye asked if the sign is for a private street. Mr. Voelckers suggested saying “signage” instead. Mr. Dye suggested “signage may be required” but asked if the development is a 2-unit lot, is a sign required? Isn’t there a case where signage might not be required? Ms. Maclean said she did not like using “may”. Was this

engineering that put this section in, she asked? Mr. Levine suggested checking with Streets or whoever cares about street signs.

(6)(o) Mailboxes

Mr. Dye questioned the stipulation that the director determines placement of a mailbox. Ms. Maclean said this also was put in by other departments. Again, staff needs to check on this.

49.15.920 ARS Review Process.

Mr. Levine asked if the preliminary plat process is the same as everything else. He does not like the idea of approving something based on a preliminary plat and then things get changed; he does not like having requirements that people do not meet and are difficult to enforce. Mr. Miller said at the preliminary plat stage, everything is being paid for out of pocket. There is no income for the developer until a final plat is approved. Trying to do all those things on the preliminary plat is arduous. If there are conditions identified that have to be met, then those conditions need to be enforced. Mr. Levine remembered an instance where there was an issue about drainage. He said he is okay with this section but for him it flags a grievance in need of airing.

49.15.930 – Preliminary ARS plan approval.

(b)(3) Design

Mr. Voelckers said he felt this section comes back to the idea about beauty being in the eye of the beholder. He suggested the focus should be on siting, access, massing and architectural features and not to worry about color. Mr. Miller said, What about parking? He felt this needs to be identified. Mr. Voelckers agreed about keeping parking in this section.

Mr. Voelckers felt the need to add a new category to be (b)(5), density bonus provisions. The ordinance does not do anything here to illustrate this. He suggested having the applicant state what they think they deserve due to the provision of density features and total claimed. Then the “description of phased development” section should become (b)(6), he said.

Mr. Dye asked if bonuses are discussed in pre-application meeting. Ms. Maclean said they may be and/or they are discussed while an applicant works with a planner on their application. Mr. Dye asked if staff typically states what is intended or if this is an open conversation? Is there concern with encouraging a developer to throw out the first number for discussion, he asked? Mr. Voelckers said so much language has been added that did not exist before and so he feels it necessary to be specific about laying out the case. Mr. Miller doubted someone new to this ordinance can read it and get it right the first time. There will need to be a conversation with staff to arrive at the final plat, but this can be figured out via the preliminary plat.

Ms. McKibben said not to look to the current process as a model. Bonus points are vague at present. Staff should bring this up at a pre-app conference. She said she envisions that by the time something goes before the Planning Commission, bonuses will be laid out clearly and staff will have done the evaluation.

(b)(5) Description of phased development

Mr. Levine asked if he was correct in understanding that a preliminary development plan is supposed to let the Planning Commission see what the whole thing might look like at end. Mr. Miller asked if a preliminary plat is supposed to show the whole thing. Ms. Maclean said if a developer is only sure of what is being done in Phase I, s/he would have a full plat for 1 and a draft for any other phases. Mr. Voelckers said he felt a developer has to show cumulative impact. Mr. Levine said he was concerned that this doesn’t address this concern. A developer is not beholden to it because it is coming later. He understood the point of not allowing phasing is to be able to evaluate whole project at once. Ms. Maclean said that if Phase 2 is totally different from Phase 1, the Planning

Commission can deny that second phase; they are not beholden to approving it just because they approved Phase 1. Bonuses for Phase 1 are based on what that land can absorb. There would not be a whole lot that would change. Mr. Levine stated a concern for a property that can hold 15 units but only builds 7 and later wants to add an additional 8. Mr. Dye said does he understand correctly that sketch plats presented for Phase 1 are not relevant when 2 and 3 are applied for? Mr. Levine said that without more concrete information, he feels the Commissioners are not evaluating a project correctly.

Ms. Maclean mentioned a situation where a project did not trigger a Traffic Impact Analysis with a first phase but later likely to do so. So the developer had to provide what the cumulative impact might be. Mr. Levine suggested the ordinance could require the analysis to be based on the maximum units that could be allowed in the future. Mr. Miller said he was told he had to do this and that would be fine for Planning Commission. However what is a developer of tiny homes to do, if s/he plans for 3 phases, builds the first 10 units and can't sell them all? At that point the developer would need to make a change because it turns out that the market is not going along with the plan s/he had mind.

Mr. Voelckers suggested stating under (5)(B) "at maximum level of projected density". Would this satisfy the concern, he asked? Mr. Levine asked why the rest is relevant. If a developer is not beholden to do this in subsequent phases, then don't say it. Mr. Levine asked the group to imagine a situation where half way through the project is derailed and the initial plan just doesn't work out. A developer would need to come up with a new plan. Ms. Maclean said sections B through F give clear direction and she likes that. These points are very specific about what the applicant needs to provide. Mr. Miller said he would like to change the wording to "maximum density". Mr. Levine said he wants to make sure the Planning Commission encouraged the most use of the land and knows what the total possible might be. He would like to run all the numbers and all the potential bonuses. Mr. Voelckers said that would demonstrate the cumulative key impact. If there is less, then that is ok. More is the problem, he said. Mr. Greene said what if the applicant does not own all the land? Mr. Miller said he can see this happening; a developer might be buying parcels piecemeal. Mr. Levine said the best thing to do here is evaluate the maximum use.

Mr. Greene said what if a developer does not want to be accused of phasing and so s/he is not presenting it that way because s/he doesn't own the land yet although s/he intends to purchase it when able. Mr. Dye said that this has happened in the past.

(d) Commission action

Mr. Voelckers said for (d)(1) he suggests "design provided for well-organized housing". And he suggested adding an item 9 here that adds in the analysis of bonus points. There should be some subjective analysis of the bonus, he said. The language should stipulate that the applicant show it and that the Planning Commission look at it. Mr. Palmer said for (d)(1), if a neighbor wants to challenge the standard of being well-organized, how can this be defended? Mr. Voelckers said "clustered" is a less useful term, in his opinion. "Well-organized" means buildings are not painfully close, etc. and although the term is also subjective, it is less imprecise than "clustered", which could be awful. At the end of day, we have to have discretion, he said. Mr. Miller said topography is a good example where "well organized" might be better than "clustered". A project might not be able to be clustered and still retain a pond, for example. He said he likes this idea. Mr. Levine said the criteria could be reorganized to provide effective siting, but he did not have strong feeling about this.

(e) Expiration

Mr. Levine said he felt the language should just say that the plan expires when it does. Why need language about "unless", he asked? Mr. Palmer said this may present a need to change the way this body looks at phasing. This is copied from the PUD and the idea is when someone does a phased project, they have to plan for

the whole thing. They are bound by whatever was approved. If a sketch plat is approved, the developer must abide. S/he could come back to modify it, if they want. Mr. Palmer said later in the ordinance there is language about amending a plan. Mr. Levine reiterated that if the Planning Commission approves a prelim plan, then the applicant is bound by that sketch. Mr. Voelckers said he thinks the stuff about amending plans is pretty good and has rigorous language.

Mr. Dye wondered if for a larger development the 18 months expiration date is enough time. Is there any reason to give more of a cushion, he asked? Mr. Miller said in most cases that is enough time and the developer can ask for an extension and get it easily.

49.15.940 - Final alternative residential subdivision plan approval

Mr. Voelckers and Mr. Greene left the meeting at 1:33.

Mr. Miller said he wanted to rehash the discussion about presenting a preliminary plat showing the maximum level of density. What kind of pushback will we get, he asked? He said he remembered an example of rezoning a lot to D18 but the developer only built to D5 after all that. If we make it so the project has to be looked at for maximum density, what is it going to be like at a pre-application conference when the developer says s/he ONLY wants to build less? Mr. Levine said the reason for doing it is so you can impose conditions on the approval. Ms. Maclean said the reasons were twofold – one to encourage developers to build to the fullest density. The other reason is for the developer's benefit so they are not precluded from building more because of right-of-ways and sidewalks, for example.

Mr. Miller said he thinks this is the right thing to do. Mr. Dye agreed. Mr. Palmer said that language at (d)(7) suggests being bound by a preliminary plan although it can be massaged. Mr. Levine said that pressure on the Planning Commission to approve changes to a prelim plat is enormous. So why not front load in order to avoid the argument, he asked?

Density chart

Mr. Miller said it was interesting, he thought there needed to be a sliding scale in order to work, but this chart shows not so. Maybe there could be a range of 25-50%, he suggested? For a maximum he would not want to make it more than 50%.

The remaining committee members looked into details of the chart to suggest switches to specific amounts and percentages.

Mr. Levine asked what is it going to look like in a D18 zone to have 15 extra units. Mr. Dye asked what the density per acre was in the Federal Flats neighborhood. About 12 per acre, was the response. Mr. Levine said he would like to defer to someone with more knowledge about what the upper levels look like at the higher density.

Mr. Miller and Mr. Dye said they would want to hear Mr. Voelckers opinions regarding density. Mr. Dye said it seems super complicated it him. Mr. Levine said he could solve some maximum points depending on the zone and this could solve the problem, but he did not know what those points should be. This is way out of my league, he said, all the details of numbers in the chart.

Ms. Maclean asked if the members were okay with 15 and 25. Yes, said all, and please get Mr. Voelcker's opinion.

Ms. McKibben said this is different from a regular density determination, is that what you want? Mr. Levine said this should be done in the same way as everything else. Ms. Maclean said she is concerned the sentence doesn't state the practice.

In the end, it was recommended to be 50 and 25.

Ms. Maclean asked where the ordinance was to go next. Mr. Dye said he felt okay sending it to the next level if staff and Chairman Haight agreed.

Ms. McKibben said she was confused about the expiration time for the preliminary and final plats. Does the preliminary plat expire if a final plan is not approved? If this ordinance is modeled on the PUD, it should be known that developers build buildings before the final plat. The expiration of the final is predicated by issuance of building permit. Is that what is intended, she asked? Staff spent time aligning expiration dates between this proposed ordinance and PUDs.

III. Next Meetings

- Monday August 27, 12:00 – 1:30 pm, Accessory Apartments and Common walls

VI) Adjournment

The meeting adjourned at 2:07 pm.