

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

Monday, August 13, 2018
Community Development Department
Large Conference Room, 12:00 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), Laurel Bruggeman (CDD Planner), Marjorie Hamburger (CDD Admin)

I. Call to Order

Meeting called to order at 12:05 pm.

II. Approval of Minutes

A. July 16, 2018 Draft Minutes

MOTION: *by Mr. Levine to approve the July 16, 2018 minutes*

The motion passed with no objection.

B. July 24, 2018 Draft Minutes

MOTION: *by Mr. Levine to approve the July 24, 2018 minutes*

The motion passed with no objection.

III. Agenda Topics

A. Alternative Residential Subdivisions (ARS)

Mr. Dye asked for thoughts before diving into the draft ordinance line by line. Mr. Levine asked for some background and said this would be helpful in deciding if it is better to replace things or add things.

Ms. Maclean said the ordinance came about prompted by a project which is now in appeal status and also in response to the housing action plan which recommends new tools for developers to create affordable housing. In addition, the Planned Unit Development (PUD) ordinance is not easy to work with. At the last Title 49 meeting it was decided not to go forward with a redo of that at this time. The intent is to look at the PUD next year and include the ARS as another option for residential development.

Mr. Levine asked Mr. Miller for his opinions. Mr. Miller said he thinks this is a launching board for fixing the PUD but he sees distinctions between the two and doesn't see a problem with adding this ordinance as long as the other gets fixed as well. If the ARS is amenable to Mr. Miller, Mr. Levine said, he feels positive about moving forward.

Mr. Dye said he viewed the ARS as a private master-plan community. Mr. Voelckers said he finds it interesting to figure out how to include language that will incentivize greater density.

49.15.900 Purpose

Mr. Voelckers suggested the words “subdivision design” replace “procedures on line 18. He also felt it could be useful to indicate in the first sentence that the narrative is talking about unit lots. This will add clarity, he said, and he objected to the word “substantially” in the sentence.

Mr. Levine questioned line 21-23 and asked what the difference is between condominium and fee simple ownership. He said he thought the department was doing this to allow fee simple transfer. Mr. Palmer replied that a condominium conveys fee-simple but does not include the underlying land. However with this language, this applies to a condo as well. The important piece is there can be interests less than fee simple, such as for a lease. The Walmart property is an example of this. Mr. Levine said so the idea is to subdivide but the ownership remains with the dominant owner, is that correct? Yes, this is like the Juneau Housing trust model, said Mr. Palmer.

Ms. McKibben pointed out the definition of a unit lot found on page 14 (Section 4. Amendment of Section.) Mr. Palmer said he wants language to allow for unit lots and traditional lots. Does the added language of Mr. Voelckers allow for a unit lot? Mr. Dye asked if a new lot meets the underlying zoning, do the conforming issues come into play. Mr. Voelckers said he felt there was some fluffy language messing with the determination of conforming or not.

Mr. Voelckers pointed out that on line 21, the phrase should read “article provides” to match grammatical tense in the document.

Mr. Dye returned to the phrase “substantially conform”. Mr. Palmer said the intent was to distinguish from bungalow lots. The intent is that it has to be substantially more, said Mr. Voelckers, but to him the language seems imprecise but if there is a reason for that, then he is in support. Mr. Dye asked if it is wanted that subdivisions match the underlying zoning but with no private roads being built. Mr. Levine said he thinks this should not be allowed unless they don’t conform to the underlying zoning. If there is a lot big enough for three houses, this ordinance doesn’t apply.

Mr. Palmer said the language could say “all or a majority”, would that clarify he asked? Mr. Voelckers said he likes drift of that. Mr. Miller asked is that bad to do that? This allows the creation of lots that don’t meet it. Why would it matter if there is enough land? What if some land is unusable and could make lots conforming? Mr. Dye asked why private access wouldn’t work. Mr. Levine said there already is a process for that. Mr. Voelckers said Mr. Miller says we want to use this for multiple types of lots but why should we care if there are one or two lots that are standard? Mr. Miller said if someone is building on a non-conforming lot this is okay, but if the lot is conforming the builder is penalized. So what language should be used, asked Mr. Dye? Mr. Levine asked how much of this are we messing with, all subdivisions or just the issue at hand. It seemed to him that the discussion was leading away from the original problem stated by Ms. Maclean.

Mr. Dye suggested the committee come back to the purpose section later.

49.15.920 General provisions

(d) Other dimensional standards. After “minimum lot dimensions” Mr. Voelckers suggested adding one more sentence about unit lots structures comporting to overall setbacks of overall parent lot. Mr. Levine said full size lots should comport to setbacks, so why wouldn’t they?

(a) General. This is a powerful sentence, said Mr. Palmer. Height is not discussed, for example. Mr. Levine asked if the lot is full size lot then that is not a unit lot? Correct, said Mr. Palmer. Unit lots are allowed but are not required, said Mr. Voelckers.

(c) Lot size. Line 15 is a loaded line, Mr. Voelckers. This purports to the purpose of last meeting; we have to pick our battles.

(e) Density. Mr. Dye asked if density calculations can include land that is given back to city. Yes said Mr. Palmer and Mr. Miller.

Regarding line 25, Mr. Levine asked why not use the language from the mining ordinance for calculating density? Mr. Voelckers said it is different about water bodies counting. Mr. Levine asked if there is a way to be more precise for the applicant's sake. In a subdivision, there is a stipulation about minimum scale, said Mr. Voelckers. Would that be useful language here?

Page 3, (3). Mr. Voelckers wanted to consider a 30% bonus. He said he felt it justified to award a 30% bonus if the development was done attractively and correctly. He asked staff if there is precedence where there have been unintended negative consequences. Mr. Miller said for lower density zones, for example 2 acres in a D5 zone with a 30% bonus a developer can add 10 units and this is not a deal breaker for the neighborhood. However in D18 it might be different. He suggested maybe creating a sliding scale, for example 30% for D5 and under and 20% for above.

Mr. Voelckers said it does not seem scary to him if D18 is augmented to 30% by doing all these groovy things. Mr. Levine said it could be limited as suggested by Mr. Miller, or with Mr. Voelckers suggestion, even more explicitly call it director's discretion to award full density. Mr. Voelckers said in the past the Commission and the Assembly have increased LC and GC zones to outstrip density. LC might be the scary one, he said.

Mr. Dye asked for proposed language for a sliding scale. Mr. Miller said he agrees that 30% is not scary. If all these things are done by a developer to make a project better, the 30% mitigates for that. At a Planning Commission meeting we can think of the ramifications.

Mr. Levine said in (3)(F) we should give more. Either make it the same in all those zones or flip the 5 and 10 percent, if giving 30%. Mr. Dye said he liked the idea of flipping 5 and 10%. Ms. Maclean said after the last meeting the percentages were flipped because it was thought to be more important for other densities.

Mr. Palmer said it would be a big lift to think about a sliding scale right now. Mr. Dye said he would like to have something proposed. Mr. Levine suggested asking staff to come up with language or require the Planning Commission to make some sort of finding before the 30% is awarded, rather than having the Commission vote up or down on something. Mr. Voelckers said lower density districts might want to have a kicker. Mr. Dye said he is still concerned that lower densities need a weighted advantage. Mr. Voelckers said he thinks 90% or more of the people interested in this type of development will be people looking at D10 or D18 zoning. Mr. Dye said the urban service boundary is on his mind; D1 and D3 areas might be used well. Mr. Levine said D1 can't get this, useless on a single lot. The committee continued with more discussion about what could be obtained on different zoned lots – D1 to D5 verses the higher densities – as well as discussed lots being rezoned and adding that to the hoops for developers to jump through.

Mr. Voelckers said he wants to drag this ordinance across the finish line and avoid a heavy lift.

Mr. Miller suggested asking staff to provide a sliding scale to show to the committee. If a developer comes up with these things, he thinks the Planning Commission ought to be able to allow it. Neighborhood harmony is tough, if just one neighbor objects.

(3) (A) Mr. Dye stated that a suggested 15% cap is on the table and asked if staff is concerned. Ms. McKibben said if there is a significant amount of wetlands or steep areas, that land should be left open. Mr. Voelckers said it would be best to densify the utilities, etc. on the land.

(3) (B) Mr. Voelckers said 10% for 10 more feet seems generous. Mr. Miller suggested 5% for 60 feet is as good as it gets. Mr. Voelckers agreed. Ms. Maclean asked if it is being suggested to get rid of the first 50 feet. Yes, said Mr. Miller. To clarify, if a creek goes through the middle of a lot, is there to be bonus if there is a 60 foot buffer on both sides? Mr. Dye questioned if it is appropriate or intended to double count. Mr. Miller said yes, he wants to allow bonuses for both sides. Mr. Dye asked how does staff would interpret this. Ms. Maclean said she understands the sentiment to say that if there is open space with a creek running through it, the developer would get points for setbacks on both sides. Mr. Levine asked what if there are three creeks on the lot. Mr. Miller said maybe a maximum bonus is needed? Ms. Maclean pointed out that a developer is going to max out on density whatever is decided. If there is an anadromous creek that needs to be protected and the lot has three creeks, this will max out the density bonus so she suggested 5 bonus points for each side. Mr. Levine said maybe there is a way to put in a calculation for per-linear yard. Mr. Dye said that seemed too complicated. Mr. Voelckers said it won't work to delineate frontage feet. Mr. Dye said he is happy with what Ms. Maclean suggested. The Planning Commission still has discretion not to award the bonus, said Mr. Miller, if a creek only cuts through one small corner, for example. Mr. Levine asked if the words "may award" allow Planning Commission discretion. Yes, said Mr. Palmer.

Ms. Maclean said it becomes difficult for a developer to make plans not knowing what they will get from the Commission.

(3) (C) Mr. Voelckers said he likes this item.

(3) (D) Mr. Levine and Mr. Dye said they did not understand this item. Mr. Voelckers said the idea of excellence needs discretion; it is a know-it-when-see-it kind of thing. He thinks there should be some for opportunity to get a bonus when a project done right and suggested a 10% bonus here. Mr. Dye said he doesn't like this section because of the language about excellence. Should the Planning Commission be legislating excellence? Mr. Palmer pointed out an important provision on the end of the sentence on lines 20-21 but should be "or additional" instead of "and additional". "Unusual enhancement" is the squishy thing in this sentence, he said. Mr. Miller said he thinks the developer is obligated to convince the commission about excellence. For example, a view corridor can clearly be seen as well as additional amenities that are concrete such as putting in a childcare facility for the neighborhood or a recreational area. These areas of excellence are easy for commissioners to see and if a developer is willing to do that, s/he should get a bonus. Mr. Voelckers agreed. This is an incentive to work with the Planning Commission on things that are above average for the community. He said he agrees with Mr. Palmer that all these steps work together although there is lots of subjectivity.

Mr. Greene said he thinks this is way too subjective. The benefit comes when a developer sells the homes and gets higher rates because of proximity to childcare. Mr. Voelckers said there is one catch; the developer isn't getting the benefit of 30% to make these improvements. Mr. Miller said in a better housing market, this is correct. But in a market where you can buy a 1970 house for same price as one built in 2018, things are different. If you are really good developer, you should be able to make a 10% profit. If dedicating land or

buildings for “excellent design”, a developer needs to have additional units to sell to make the profit. The Planning Commission needs to create incentives to get the desired results. Mr. Greene pointed out that a developer can get bonus points other ways without being “excellent”. Mr. Levine said he feels convinced regarding amenities and other excellence items. We ought to be facilitating things that are quantifiable, he said, and he has heartache about the things that are not quantifiable. Mr. Dye said he agreed with Mr. Levine. If a developer is doing all the other things to make project great, how is that not excellent?

Mr. Voelckers said landscaping is left in there for buffers. Mr. Levine gave a language suggestion “such as landscaping and view corridor” to be put in as a reference for other excellent things as well as common space amenities that are costing the developer something without a direct return. The committee suggested raising the bonus here to 10%.

(3) (E) Mr. Voelckers said he wanted to drop to 5% but staff likes right of ways. Mr. Dye asked if this puts it closer to a PUD. Mr. Voelckers asked if creating more right-of-way is a good policy. Ms. Maclean said it depends on who you ask. Mr. Miller said he doesn’t know anyone who wants to give land to the city, so a developer should get some percentage as incentive. Mr. Voelckers said he thinks reducing from 10% to 5% makes sense.

(3) (F) Mr. Voelckers said line 25 should read “and/or bicycle”. Mr. Levine suggested going back to 5% for all zoning areas; however he said he did not have a strong feeling about this. Mr. Voelckers said the argument for properties with higher densities is that it is good to have these pedestrian and bike lanes; they should be encouraged. Ms. Maclean said with higher densities, a developer might not get points for other amenities so this is a lower bar they might reach. Ms. McKibben said the city wants to encourage pathways for walking to school, etc.

(3) (G) Mr. Levine asked how many of the dwellings need to be separated to get this bonus. Mr. Voelckers said it should say all of them. Mr. Miller said he thought this section was deleted when siting and design were added since separating dwellings is a subset of that. Ms. Maclean said now that the other has been tweaked, they might not be saying the same thing. Mr. Miller said he remembers Mr. Voelckers saying that 2 to 3 feet apart might sometimes be nicer than 10 feet, depending on the overall design. Mr. Voelckers said he thinks 3G should be struck from the list.

(3) (H) Mr. Miller said no one should be rewarded for building a 5-star house as this is standard these days. It might be fine with a 5-star plus, but he thinks developers should be given 10% for a 6 star rating. This is not easy to do. Ms. McKibben asked if HFC gives energy ratings for 5 star homes. Mr. Miller said when the program was developed the interest rate reduction bought a whole house however now the reduction just buys half a house. Ms. McKibben asked if they recognize the 6 stars. Mr. Miller said yes, they do the rating. Mr. Levine asked if a 6 star rating requires heat pumps or can the home have an oil boiler? Mr. Miller said it can but the building has to go way above with insulation levels, etc. Heat pumps are considered electric and in Juneau we get penalized for that, which is stupid. Mr. Dye said so is the will to increase to 10% for a 6 star? Mr. Levine said it makes sense but he also wants a way to incentivize sustainability goals. He doesn’t want to create a disincentive to put in heat pumps. Ms. McKibben said building to 6 star would use less oil heat so that is better. But maybe add a (3) (I) in the ordinance giving an incentive to add ground source heat pumps. Mr. Voelckers suggested splitting the bonus into 5% and 5%, one for a 6 star rating and another for heat pumps or similar things.

Mr. Miller said (3)(D) could include incentives for sustainable energy building. Mr. Levine suggested adding a separate section for this incentive. Mr. Dye summarized that the committee is inclined to add 10% for a 6 star rating and add (3)(I) for energy efficiency.

Page 4, (4) (D) Mr. Voelckers said it makes him nervous that growth on a bus line should penalize the development. Usually development creates a burden on infrastructure such as schools, but then school boundaries get rearranged to accommodate. Growth always stretches infrastructure. Mr. Palmer said this language is currently the same as the PUD language. Mr. Voelckers said he has seen good projects that impinge on infrastructure but should still go forward. Mr. Dye said sewer and water seems more important here. Mr. Levine said “excessive” seems to be the key word. There would have to be a strong finding to consider a burden excessive so he suggested leaving it as is.

Page 4, (f)(3) Mr. Voelckers asked why allow access to “improve to comply”? Either you can get there with a fire truck or you can’t. Ms. McKibben suggested “access will comply”.

(f)(4) Mr. Dye said he would prefer to say that access will be paved and leave it at that. Mr. Miller asked if this would include parking spots for each unit. Ms. McKibben said if there is enough unpaved access and the air quality is poor as a result, this could be a problem. Unpaved access is the same language as shared private access; it is consistent. Mr. Voelckers suggested it should say “to each unit lot”. Mr. Levine felt the sentence should be rearranged. Mr. Dye pointed out that a developer can only build this type of project if there is access to sewer and water, so it should be paved because it is in the Urban Service Boundary.

Page 5, (f)(6) Mr. Levine had a question about this item. Ms. Maclean said it comes back to why the language left in right-of-way earlier. Can a developer do this subdivision if the parcel behind is landlocked. Mr. Levine said it would need to say that a right-of-way (ROW) needs to be provided. Mr. Voelckers said since stub streets are not done yet, something is needed here. Mr. Miller said a right-of-way has to be platted but not built to full standards. Mr. Levine said if Mr. Palmer feels ok about this being covered he is good with it but wants to note that the language is not clear to him. Mr. Palmer said right now the language says you have to dedicate a public ROW and build to city standards unless the project meets 1-6. “Access within the development may be exempted” (page 4, line 15) is important language. Mr. Voelckers said he believes there are two different issues here. Mr. Dye said Mr. Miller says you plat the ROW but don’t build it unless needed. Mr. Miller said he is fine with platting but the ROW should be able to be privately maintained. How would that work, he asked? Mr. Dye asked if the language from shared access is used, can that work? Mr. Levine said yes, that is what he is after. There just needs to be a way to get back there in case. Mr. Miller suggested maybe a platted easement OR a platted ROW. Mr. Palmer said this IS the language from shared access. Mr. Levine asked if this could be defined to indicate that the ROW does not have to be built.

At this point in the discussion the committee lost its quorum and halted discussion.

B. Accessory Apartments

To be taken up at another meeting.

IV. Next Meetings

- Monday, August 20, 12:30 – 2 pm, continuation of Alternative Residential Subdivisions
- Monday August 27, 12:00 – 1:30 pm, Accessory Apartments and Commonwalls

VI) Adjournment

The meeting adjourned at 1:44 pm.