

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

Wednesday, April 18, 2018
Community Development Department
Small Conference Room, 12:00 pm

Members Present:

Nathaniel Dye, Paul Voelckers, Carl Greene, Dan Miller

Members Absent:

Michael Levine

Staff Present:

Laura Boyce (CDD Planner), Jill Maclean (CDD Planner), Tim Felstead (CDD Planner), Marjorie Hamburger (CDD Admin)

I) Call to Order

Meeting called to order at 12:05 pm.

II) Approval of Minutes

March 21, 2018 Draft Minutes

MOTION: *by Mr. Voelckers to approve the March 21, 2018 minutes*

The motion passed with no objection.

III) Agenda Topics

a) Update on Committee Topics and Actions

Variances are going before the Assembly's Committee of the Whole on April 30, said Ms. Boyce, and she will email details to the committee.

Regarding the mining ordinance, Law is making changes so in order for the ordinance to come before the Title 49 Committee meeting it might not be ready for the May 16 meeting. The ordinance could instead be brought before the whole Planning Commission in order to move it faster. Mr. Voelckers recommended the ordinance go to the Committee of the Whole because there is a high level of interest. Maybe this could happen on May 22, he suggested.

b) Revisions to Title 49: Common Wall Development

Ms. Maclean said there were changes in the Table of Permissible Uses (TPU) in 2010 regarding common wall development, which created discrepancies. Now staff is trying to ensure that these have all been caught. There are two policy questions to discuss before making further recommendations and she planned to go through each section with the committee, inviting questions at the end.

Ms. Maclean said the code has been misapplied consistently since it was adopted. In the TPU and the Table of Dimensional Standards, common walls are allowed but the minimum lot size reduction is supposed to be considered only if building 3 or more units. If only a pair, a reduction in lot size should not be allowed. This makes clear why development in D5 zones did not get the reduction, as only pairs are permissible in D5. However, along the way pairs of common walls have been allowed and the code has been misapplied in this way. Going forward knowing housing is a critical need in Juneau staff suggests drawing a bright line with 3 or more common walls to encourage greater density in order to obtain the reduction in lot size. The alternative would be to rewrite this section to reflect how the code has been interpreted up until now.

A second policy question, said Ms. Maclean, is do we want to allow common walls in MU2 zones and do we want to require first floor commercial use with residential above?

Mr. Voelckers asked, are common walls not allowed in MU at all? Ms. Maclean said they are allowed in MU2 but not in MU. Ms. Maclean clarified that staff was not recommending they be allowed in MU, just MU2. This can serve as more of a transition to residential uses, she said.

Mr. Miller asked if this was allowing for commercial. We will get to that, said Ms. Maclean.

Ms. Maclean stated that currently the TPU has common wall development, 2 dwellings and other discrepancies. There is no superscript directing to some of the uses not allowed in all districts. It is unclear. Another thing she noticed is that 2 dwelling units even if not pairs should be 1's and 3's in the TPU (under Common Wall Development). Common walls are not permitted in RR and D1 but accessory apartments to common walls are allowed, so this language should not have been added, said Ms. Maclean. Do the items highlighted in green mean they should be deleted, asked Mr. Voelckers? Depends on what you want to do, replied Ms. Maclean. What about in a D3 zone, said Mr. Voelckers? This would be special, as in the Bonnie Brae subdivision which has a special density in code, and allows properties platted pre-1987 to be considered conforming. Ms. Maclean referenced this in a note under special density. Likely there is a need for another note to direct to that section of code.

Mr. Dye asked if staff was not proposing to change. No, said Ms. Maclean, just referencing that it is there. There is no recommendation to add common walls in D3. Why, asked Mr. Green? Ms. Maclean said that anecdotally staff has heard that it was not popular when introduced for the D3 zoning district.

Mr. Dye said he doesn't understand why not in D3? Ms. Boyce said D1 and D3 are zone districts outside the urban service boundary. Maybe when talking about common wall we should indicate that D3 properties that have city services should be listed? Should we rezone Bonnie Brae if that is the only problem area, asked Mr. Dye? Ms. Maclean said she can come back to a discussion about this item.

Regarding accessory apartments is that the only place in the TPU where they are listed asked Mr. Miller? No, just concerned with common walls in this section, said Ms. Maclean. And you will split this between 2 units and 3 units and above, asked Mr. Voelckers? Ms. Maclean said yes.

Why are accessory apartments listed in multiple places in the TPU, asked Mr. Dye? This will become clear soon, said Ms. Maclean.

When staff went through this section of code knowing they had to clean up the 1's and 3's, they thought it was only pertinent to single family structures and proposed moving them under residential with notes and

superscript so it is made clear that this is a permissible use. There are other places where accessory apartments are permissible and this makes it clear that you can do it regardless of tri- or single use, said Ms. Maclean.

So every reference of accessory apartment is a subset of every category it is in, said Mr. Voelckers. Yes, said Ms. Maclean.

Mr. Miller asked in single family detached (1.130), what does detached mean? Ms. Maclean said that (1.130) in the TPU speaks to accessory apartments, whether attached or detached, from the single-family dwelling. Accessory apartments do not have to be attached to the single-family dwelling.

Ms. Boyce said the definition of accessory apartment has more to do with size, not location, in relationship to the main structure. Therefore, an accessory apartment can be a stand-alone structure on the property. The largest size permissible is 1,000 square feet. Where do duplex accessory apartments live in the TPU, asked Mr. Miller? It was not identified as a priority of the Planning Commission this year, said Ms. Maclean.

Ms. Maclean said another line item proposed for deletion is the Bonnie Brae reference next to the 1's and 3's. It is odd that this is put into the table itself and is not just a superscript with an associated note, she said.

If mixed use development is determined to be permissible within a common wall located in the LC, GC, and MU2 zoning districts, then staff recommends keeping the common wall section of the TPU in its current location (1.900); if mixed use development is not permissible in a common wall in the above mentioned zoning districts, then staff recommends moving the common wall section of the TPU to be located under the single-family dwellings section (1.100).

There are a lot of comments and notes on this draft document but really these represent cleaning it up, said Ms. Maclean. If we do put in MU2, said Mr. Green, we will be saying you can have retail space. The hitch is that you still have to provide setbacks and parking, said Ms. Maclean. Mr. Dye asked what other things in MU2 are not allowed on first floor? He thinks only storage is not allowed.

Are there any other MU2 zones other than downtown, asked Mr. Voelckers? Just the Willoughby district, said Ms. Boyce.

Just because we do not require a commercial use on the first floor doesn't mean we don't allow it, is that correct asked Mr. Miller? We strive to figure out the best use of the area which could be a laundry next to a daycare next to an apartment building. Mr. Voelckers said he likes including a footnote saying commercial use is not required but is allowed. Mr. Dye noted that there are not a lot of spots in code that say what you can do, only what you can't. Mr. Voelckers said he felt it was useful to waste a couple of extra words to explain that this doesn't preclude housing.

Mr. Dye asked if there is a reason to say only non-residential use on first floor. He felt the language should not specify which floor contains non-residential use. Mr. Voelckers said that we should encourage the best use – what about a cool café on the rooftop of a building? Ms. Maclean said she is concerned about trying to encourage mixed use and density. Noise could be a factor that causes issues down the road. Office space above residential is only talking about common wall here. Mr. Dye said MU2 has different setbacks on limited sides. I default to Mr. Voelckers and Mr. Miller about soundproofing, he said, however he doesn't think that concern is a good enough argument. Mr. Voelckers said that building code requirements already have difficult requirements to make sure this would not be objectionable.

Mr. Miller said MU2 is really trying to get that mixed use so requiring some retail/commercial in the building is something he likes. But stating where it all lives within the building seems problematic to him. He suggested a scenario of a retired couple who want to maintain their first floor residence but rent out their second floor as office space for income. Mr. Voelckers suggested the committee might need to require usage by percentage then. Mr. Dye said that looking at lot sizes in the area, requiring specific use discourages development he thinks. He would like to leave this as broad as possible. Mr. Voelckers agreed and likes social engineering this. He wants to keep the incentive for the private sector to develop well. Mr. Dye said his pet peeve is that parking garages are allowed on first floor.

Mr. Green asked if a common wall definition would allow a property owner to sell off part of the building. Ms. Maclean said this is a single family use, one lot. The leasing gets tricky if more than a residential use. We could condo-ize this, said Ms. Boyce, but it is not a city issue. It depends on the land, not the building division. Mr. Miller said he is someone who wants to turn Walmart into a bunch of common walls. Someone would have to construct the common wall feature that is a fire-rated wall, and then it could be subdivided.

What is staff's concern about not requiring commercial use only on the first floor, asked Mr. Dye? Mr. Voelckers said he has seen beautiful examples in Europe where commercial use is above the ground floor and does not agree with Ms. Maclean's assessment that first floor commercial only is the best development model.

Ms. Maclean stated that a main concern is allowing common walls in MU. Everyone agreed that they should not be allowed in MU.

Staff changed the word "dwelling" to "lot" on 49.65.725, said Ms. Maclean. This would be except for multiple use districts or something like that, said Mr. Voelckers. But in LC or GC it can be whatever, said Mr. Miller. We have three districts with same enabling language in all, said Mr. Voelckers.

Recently, there was a residential common wall in a D18 zone with an accessory apartment but the owner wanted to add a third unit, said Ms. Maclean. The properties were built for a pair of common walls and the buyer would most likely not have been aware that the other "half" of the common wall could add an additional unit to their property. Property owners may not be aware that because they are in a multi-family zoning district, the lots could be developed to a greater density.

Regarding 49.65.730, Separate utilities, are any common walls in CBJ not on water/sewer, asked Mr. Dye? If not, he said, just allow in D3. He suggested getting rid of all the sub-notes and cleaning it up.

Ms. Maclean said 49.65.740, Density, is crossed out for this section of code because the TPU addresses that already.

For zoning districts (49.65.745), Mr. Miller said he thinks if allowed in D3 and D5 it should say that. Ms. Maclean said she will fix the wording. It might be simpler to split this into three sections, suggested Mr. Dye. Mr. Miller pointed out that a lot of lots remaining for development in Juneau are odd shaped or tiny. It might not be possible to build 3 units. In a D10SF you cannot do a common wall unless 3 units or more. No, said Ms. Maclean, this says that in D5 you cannot do more than 2, at least this is what it is supposed to say. Mr. Dye said this reinforces his idea to split into three sections; it would be much easier to read.

Ms. Maclean said for the parking and access section (49.65.735) staff would like to change "may" to "shall" but give a developer an flexibility by saying "unless the director determines it impractical". Things are getting tighter

for developable land. Law will have to wordsmith this section, placing the burden on the applicant to provide evidence. Most cases in larger zoning districts already have a shared driveway, she said.

Ms. Maclean said that dimensional standards (49.65.750) is missing the note referencing the reduction in lot size only if 3 or more units are built. Staff has deleted the MU minimum lot size line. Mr. Voelckers asked what D10 is without reduction. Ms. Maclean shared current info for context. What is the rationale, asked Mr. Voelckers, for dropping D18 by so much? Ms. Maclean said it is supposed to be dense zoning and developers only get that lot size if 3 or more units. Ms. Boyce said if we determine 2500 sq. ft., it brings it closer to maximum density. Ms. Maclean said the Planning Commission should make a decision if they want to do this or not although staff recommends more than just pairs.

Mr. Green asked how this will fit. Ms. Boyce said 18 units per acre footprint-wise is a 2500 square foot lot. Discussion ensued about building on lot sizes and fitting dwellings and roads in a development. Mr. Dye made the suggestion to change D10 to 4,500 sq. ft. This keeps the same ratio across the zoning types, said Mr. Voelckers. Mr. Miller suggested D15 be reduced to 3,000 sq. ft. and keep D18 at 2,500.

Will we continue to talk about 3 or 2 units, asked Mr. Dye? Mr. Miller said he likes two contiguous. Ms. Maclean said staff is not recommending this because it does not encourage density. Can you show us a scenario, asked Mr. Voelckers? The Ridgeview Subdivision should have been a development with 3 or more, said Ms. Maclean. They put in 24 units on about 2 acres, the entire site is approximately 20 acres, but could have provided a greater number of units. This needs more parsing. Mr. Dye suggested that if it is a minor subdivision, allow a reduction for two, and if it is a major, allow for three.

Is the committee okay with people finding a way to skirt development rules by phasing their projects? Mr. Voelckers thinks this one is trickier. He would like to give staff discretion to fudge this a bit and come back to the committee. Mr. Dye said when the committee was talking about shared access they talked about parent lots. Can we phrase something similar for someone with one lot to allow for more infill development, he asked? Ms. Maclean said she has concerns about the size of a lot.

Mr. Miller said the 5,000 versus 7,500 sq. ft. lot doesn't work. With 5,000 sq. ft. you can build two; with 7,500 sq. ft. you might have to subdivide because of wetlands or other unusable land or if someone wants to park six boats or something.

Ms. Maclean pointed out that the text about minimum lot width is strangely worded. In the draft she has changed the terms. This comes into play at a location like Lee Court where the road curvature made it difficult to measure. Staff has replaced "as defined by code" with the code words – "yard setback, street side yard setback".

Ms. Maclean pointed out other clarifying language in the draft put in to maintain consistency.

The Table of Dimensional Standards (TDS) needs updating, said Ms. Maclean. Staff recommends adding a note to D3 to reference the Bonnie Brae Subdivision specifically. Mr. Dye said he thinks the sewer and water will clear this up. Ms. Boyce said that 5 dwelling units per acre is interesting in that we have a lot size that allows more density. In D5, there are 640 existing common walls with an average lot size of 6,288 due to one huge outlier. The medium lot size is 5,800. Mr. Miller was incredulous. This is likely pre-1987, said Ms. Boyce. You have the ability to change a duplex to a common wall over time, said Ms. Maclean. That likely also contributed in this situation.

Mr. Miller said that in his development in GC zoning, he had to create a funky lot line to get to 2,000. Those were small lots. But it worked, said Ms. Maclean. Okay, Mr. Miller conceded.

Under notes pertaining to setbacks, Ms. Maclean called attention to some changes for Note 6 a-c. It is proposed that rather than repeating the sentence, keep the first two parts of the sentence and add 6a through 6c. D5 would be 6a, for example.

For the definition (49.80) Ms. Maclean said it depends on what is done with mixed use development. If mixed use is permissible then we need to change from single family dwelling to "unit". Staff also recommends changing so that the definition includes common walls that share two walls, not just one, as is the case with 3 or more common wall units (essentially, the middle common wall units). Mr. Dye said there is the need to make sure that at least one unit is a dwelling. But he suggested not getting rid of the word somehow. Mr. Voelckers said that we also want to make sure to give flexibility for non-residential use. We might need to retitle this, said Ms. Maclean, so as to make sure the definition is very accurate. "Common Wall Mixed Use Development", suggested Mr. Dye.

c) Non Agenda Item

Mr. Miller wanted to share something he learned when he was in Spokane, WA. In a situation he encountered there a duplex on a corner lot wanted to build a shed. In a case like this, setback requirements will make this difficult, he said, so he went to talk to the city and learned how they do things. Here in Juneau due to setbacks the owner would not have been able to put the shed far enough from the house. Ms. Boyce noted that there are exceptions for unheated structures in Title 49. In Spokane the new building (the shed) would have its own setbacks which will allow it to be placed closer to the lot line. The shed is 12 x 24; it is a little garage. For a separate building, the front/back/side can change with its own setback rules. These are not determined by the original structure.

Mr. Voelckers said this might not make sense to the neighbors who could be aggrieved. Ms. Boyce said she thinks this is very interesting. The point here is if an accessory structure has to meet the same setbacks as the original structure.

d) Review of Bonding for Stub Streets

Time ran out so this discussion will be addressed at a later date.

IV) Next Meeting

Wednesday, May 16, 12:00 pm.

VI) Adjournment

The meeting adjourned at 1:30 pm.