Agenda

Planning Commission - Title 49 Committee
City and Borough of Juneau

August 16, 2017
Marine View Building, 4th Floor Conference Room
3:15 PM

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. July 19, 2017 Draft Minutes, Title 49 Committee Meeting

IV. AGENDA TOPICS

A. Continuance of a review of Title 49's Nonconforming Development Policies

B. Review of Planned Unit Development code

V. COMMITTEE MEMBER COMMENTS AND QUESTIONS

VI. ADJOURNMENT

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

Wednesday, July 19, 2017
Community Development Department, Large Conference Room
3:15 p.m. to 4:30 p.m.

Members Present:
Dan Miller, Paul Voelckers, Kirsten Shelton, Dan Hickok (Alternate)

Members Absent:
Carl Greene

Staff Present:
Laura Boyce (CDD), Beth McKibben (CDD), Marjorie Hamburger (CDD)

Public Present: Scott Rinkenberger (Airport Superintendent)

Mr. Rinkenberger stated that it seems the airport is under different types of scrutiny regarding tree limbing on anadromous streams. Mr. Rinkenberger wanted to be sure the airport is involved and keeps an ear to the ground regarding this topic. He hopes to be present at Title 49 meetings that address the topic of streamside setbacks. Ms. Boyce assured Mr. Rinkenberger that she would keep him in the loop for when the Committee addresses the topic.

I) Call to Order
Meeting called to order at 3:18 pm.

II) Approval of Minutes
June 28, 2017 Draft Minutes

MOTION: *by Mr. Miller to approve the June 28, 2017 minutes.*

The motion passed with no objection.

III) Old business:
a) Panhandles

Ms. McKibben remembered that she had work to do on panhandles as previously requested by the committee.

Mr. Voelkers reminded her that she was going to share graphics and other adjustments for panhandles with the committee. Then the issue is expected to move on to Committee of the Whole. Ms. McKibben suggested putting this as a discussion item on the August 8th agenda, not for public hearing.

IV) New Business
a) Review of Title 49's Nonconforming Development Policies

Ms. McKibben started by reviewing the memo on nonconforming development policies that she had prepared for the committee. When analyzing non conformities, she stated, it is essential to clarify if the lot, the structure and/or the use is

non-conforming. While it is possible to have all three areas meet the definition of non-conforming, it is better for staff, commissioners and the public to understand these three dimensions as separate entities.

Mr. Voelckers said it is helpful to know if one type or another of non-conformance is of particular concern to lending institutions. Ms. McKibben said she believes that banks are mostly concerned with use. An example is Aurora Arms where the zoning doesn't support the use, at present, she said.

Mr. Voelckers said that another item that got on the community's radar was a parcel with a triplex where zoning only supports a duplex. Ms. McKibben said there are numerous examples of this type of situation in the borough.

For discussion today, Ms. McKibben said she intended to review with the committee the existing code and focus on the simpler things – lot and structure. She suggested leaving the more complicated piece – use – for a second discussion. It will take some time to parse out the question of benign and non- benign uses, she said. Perhaps the non-benign uses are on a case by case basis. Ms. McKibben asked if this was a good approach to the topic.

Mr. Voelckers asked if the whole process of determining benign use was an active or passive decision. Do we want to bring attention when there is a complaint or a problem presented, he asked? Ms. McKibben offered as an example a gas station located in a residential area. If it has been there since 1964, the business gets to continue its operations. Complaints about it would receive the response that it is legally non-conforming and gets to continue. However, she said, the gas station couldn't expand its business under current code. The issue of non-conforming comes up most often when there is a change of ownership. Another question is, can it be rebuilt if it is destroyed? Can it be expanded or moved? Zoning codes historically try to amortize out non-conforming uses to make them go away over time, said Ms. McKibben. That is the concept.

Mr. Voelckers said regarding the gas station example, if a person wants to sell the business but can't get financing from a bank, does this come to the Planning Commission? Ms. McKibben suggested deferring discussion on this question to the committee's next meeting, as it is the more difficult facet of the topic. She said she will collect a variety of tools for the committee to use while considering.

The discussion refocused regarding non-conforming properties. Ms. McKibben noted that in her June 27 memo, the final section is a discussion of work to do as follow up to the recently approved overlay districts to get the work done regarding zoning in historic districts.

Ms. McKibben suggested that the ordinance be repealed and replaced, not amended. But, she said, the committee still needs to review the policies to see what to keep, rework, etc.

Ms. McKibben said that non-conforming lots are the most simple to address. In the case of a non-conforming lot due to width or depth, current code says you can have a single family home on a non-conforming lot, meeting current setback requirements. It is pretty clear and simple except for in the industrial zone where single family homes are not allowed, she said. Ms. McKibben said she was not suggesting this be changed. Mr. Voelckers asked committee members if they agree with this suggestion.

Ms. McKibben stated that for accessory apartments there now is a process to apply with a non-conforming lot and bring the case to the Planning Commission. Mr. Miller asked if in the industrial zone, can someone build a structure with a caretaker apartment. Yes, said Ms. McKibben, if you can comply with setbacks then any use that is allowed in a district can be built provided it can meet current setbacks, parking, lot coverage, vegetative coverage, etc.

There will be challenges in older, historic districts, said Ms. McKibben. Juneau currently has some lots in these districts where the ownership has been fractured. In such situations, in the event one building is destroyed, under current code it can be replaced. Can it be subdivided further, asked a commissioner? No, said Ms. McKibben. She used as an example a lot on Sixth Street which was broken up into 3 lots, sometime in the past.

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Mr. Miller wondered if a person might not want to lock themselves into a property if it is a non-conforming lot with a non-conforming use. In order to fix the mortgage problem, it is not the duplex or triplex that is non-conforming, it is the zoning, he said. Ms. McKibben said it was not quite that simple. For a 1500 square foot lot downtown, we don't want to take away usage by holding to current setbacks, etc., she said. This could make the lot unusable to build a home whereas we said "any use in the district". The zoning in that area requires a larger lot size for a duplex, so an application for this type of development would be denied. But the owner can apply for an accessory apartment in that case, said Ms. McKibben. Mr. Miller said that if he bought a duplex downtown and then discovered that more than 75% of the building needs rehabilitation when he attempts to remodel. If he went to the bank, they would not loan him money to upgrade the duplex because it is non-conforming.

Allowed use and dimensional criteria is the most important policy, said Mr. Voelckers. Ms. Shelton said she understands that for a rebuild but wonders about an initial purchase. The bank says it won't loan to purchase an already existing duplex because that type of structure would not be allowed as a new build, she said. As an example, Ms. Shelton could not get a loan on her house on Sixth Street because of the size of the lot, which has two single-family structures on it. Ms. McKibben said it was not the lot size but the use that prevented the loan.

Ms. McKibben said that non-conforming structures are ones not meeting setbacks, height requirements or parking. She said she would talk about parking later. The variance that was denied recently by the Planning Commission is a great example (VAR2017 0002 on 12th street) because the proposed structure did not have the required setbacks. If a catastrophe happened to destroy the original building, it could be rebuilt on the footprint, but since the applicants wanted to tear down the old structure and replace it, they were required to meet the setbacks. Mr. Miller noted that the house was less expensive to rebuild than to restore/remodel, since it was in such poor shape.

Mr. Voelckers said a slow-roll calamity versus a single event have two different attitudes i.e. slow rot versus an earthquake. Ms. McKibben said the 75% recovery line is for a catastrophic event and lack of maintenance is not such an event. Theoretically termites or something could have been prevented or mitigated with maintenance, she said. This is the way most non-conforming codes are written. Do you like the term in code "involuntary change", asked Mr. Voelckers? Ms. McKibben shrugged.

Ms. McKibben read from code concerning change to a building such as the one on 12th street which continued with a description of catastrophic change. What is the magic with the 75% number, asked Ms. Shelton? Ms. McKibben said it was a policy call and was hard to talk about. There is no magic number; some prior somebody came up with this, she said. Mr. Miller said he thinks the advantage is for people who are trying to rebuild their homes. He would agree with Mr. Voelckers that the intent is to not let people let their building deteriorate and then claim calamity. Mr. Miller agrees with that intent as it offers the possibility to rebuild if there truly is a calamity. Mr. Voelckers suggested the language could include some unknowable calamity that is not a one-time event like a fire. Ms. McKibben read some other examples of code with ideas of changes such as for health and safety. Mr. Voelckers suggested that staff mess around with this language. Ms. Shelton said another wording could be "involuntary change". Ms. McKibben said the code defines that as catastrophic, but staff can work on some draft language.

Mr. Miller said that on the 12th street property, there was a feeling that the bad shape of the foundation was just cause for a variance, but it turned out not to be.

Ms. Shelton said she was still confused about the purpose of having 75% as the number. Mr. Voelckers and Mr. Miller both felt the 75% number was justifiable. Here in Juneau, the cost of doing business requires being closer to the high end, they said.

Going back to the topic of non-conforming structures, you can put additions on the building if they meet setbacks, said Ms. McKibben. Now we have the Alternative Development Overlay District (ADOD) for this purpose, she noted. Also we have the process of up-fill conditional use; for example if an applicant wants to add height to a building, the conditional use process can be used. This is for a property owner who has a building already encroaching into setback but wants to add another story, for example, she said. Ms. Shelton asked, if you have a non-conforming structure with a non-conforming use, can you add to it? Mr. Voelckers drew a case on the whiteboard showing a situation where a portion of a house stuck out

into a setback and the owner wants to fill in the notch. The narrow interpretation, he said, is that this is not allowed, however other interpretation could be that it just fills in along the line that already exists. In such a case, he said, the structure does not get any closer to the property line than the portion that is already there – it is just an extension of that line. Mr. Voelckers said his own house has a similar situation that was denied by one planning commission and allowed by another.

Mr. Voelckers asked about Ms. McKibben statement on page 3 of her July 27 memo suggesting that additions to non-conforming situations should not aggravate. This was followed by a discussion about aggravated use. Ms. McKibben said that currently if the gas station from the earlier example wanted to add another bay to their business, this would be denied. What about widening the bay they already have, asked Mr. Miller?

Ms. McKibben said that the question before the group is regarding the extension of the front encroachment of the house, creating a greater encroachment. Mr. Voelckers said the code is unclear what "greater" means in this case. Mr. Miller said at some point that house was built legally. So the old setback ought to be considered legal, if it currently is considered legally non-conforming, and therefore that would be a valid reason to extend the house to fill in the notch. Mr. Hickok said he would like to be able to approve something like that. Mr. Voelckers said it is tricky when the design is fine and seems benign yet other times the proposed development seems less desirable because we don't "like" it. "Additions to non-conforming structures that don't add density or don't expand non-allowed uses" could be new language here, suggested Ms. McKibben.

Ms. McKibben said that staff has been working for the last few years to reduce the number of applications coming to the Planning Commission because it takes longer for the applicant and is more of a gamble. For example, applications for accessory apartments used to come to before the Planning Commission. Mr. Voelckers and Ms. Shelton said they felt there needs to be some oversight. Ms. McKibben suggested that the director have some discretion to approve some of applications involving non-conforming situations while others would need to come before the Planning Commission.

Would you want this sort of non-conforming structure in any district, asked Ms. McKibben? We've focused on residential district so far, she said. A good example is the new bank by the Bill Ray Center which required 3 variances for that building, said Ms. McKibben - variances for parking and for the drive-through window. Today this would not have met the unique threshold. That is an example of a building built that is legally non-conforming. Mr. Voelckers asked if the variance lives with the land. Yes, said Ms. McKibben. Why would the triplex not follow, asked Mr. Hickok? Because of the use, said Ms. McKibben.

Committee members felt that a similar event in another district – filling in a notch for example – was the same difference as the residential example. Ms. McKibben said some things come to the Planning Commission, versus the director, because it then becomes a public process with 9 decision makers, and the public can participate.

What is the process to repeal the ordinance, asked Mr. Hickok? Ms. McKibben said it is a repeal and replace action and is fairly easy.

V) Next Meeting

Wednesday, August 16, 3:15 pm

At this meeting, we will dive into discussion about non-conforming uses, said Ms. McKibben, and she will suggest some language. The committee needs to discuss the issue of benign – what is and what is not. Ms. Shelton asked for some examples. Ms. McKibben said she would bring examples from the finance world.

Mr. Voelckers said he felt that we are dancing around the big issue, which is the sudden, instantaneous change of ownership. This is when the bank suddenly refuses to loan and owners did not even know they had an issue. When the appraiser pulls up info on a property which says it is non-conforming, said Mr. Miller, there needs to be a way to say that it is legally non-conforming or have some sort of a process to make it legal and satisfy the lender.

Ms. McKibben used the example of Homer where the burden of proof is on the owner to show that the non-conforming use is rooted in history. Mr. Voelckers said it is more than just the owner proving it was legal back in the day; they also have to prove it continues to be in the public interest to remain so. Mr. Miller said once the designation is set, he thinks it should be done. The bank loans for 30 years. Mr. Voelckers said that there are tons of properties in Juneau that are non-conforming but that get loans all the time. The bank asks can this building be rebuilt, said Ms. McKibben. Yes, we say, a single family can be rebuilt, but not the triplex as it stands today.

Ms. McKibben said that conversation needs to be had concerning Aurora Arms. Is it OK to have such a building here for 50 years but now is not conforming to zoning, remain in place as such, asked Ms. McKibben?

VII. Adjournment

The meeting adjourned at 4: 35pm.

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CITY AND BOROUGH OF JUNEAU
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COMMUNITY DEVELOPMENT

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June 27, 2017

Memorandum

To: Title 49 Committee

From: Beth McKibben, AICP, Planning Manager

RE: Proposed amendments to 49.30 – Nonconforming Development.

Attachments:
A – June 21, 2017 memorandum
B – CBJ 49.30 – with policy questions highlighted

Introduction

At the June 27, 2017 Planning Commission meeting the Commission referred the consideration of amendments to CBJ 49.30, Nonconforming Development, to the Title 49 Committee.

As discussed in the June memorandum, staff has previously identified this section of code as needing revisions to provide clarity. Additionally, recently prospective buyers have encountered challenges in financing non-conforming developments that previously have been financed, which has raised the level of urgency to improve this chapter.

Discussion

The stated purpose of the non-conforming section of code is to provide standards for the continued use of property made non-conforming by adoption of revisions to Title 49. Four categories of nonconformity are identified in 49.80.120, Definitions:

> **Nonconforming lot** means a lot, the area, dimensions or location of which was lawful prior to the adoption, revision, or amendment of this Code, but which fails by reason of such adoption, revision or amendment to conform to present requirements.
>
> **Nonconforming situation** means a nonconforming lot, use or structure, or any combination thereof.
>
> **Nonconforming structure** means a structure, the size, dimensions or location of which was lawful prior to the adoption, revision, or amendment of this Code, but which fails by reason of such

adoption, revision, or amendment, to conform to present requirements.

Nonconforming use means a use or activity which was lawful prior to the adoption, revision or amendment of a zoning ordinance, but which fails, by reason of such adoption, revision or amendment, to conform to the present requirements of the zoning district.

Zoning nonconformities are existing uses, structures or lots that were legally established prior to a change in zoning provisions and which do not comply with new ordinance standards. As communities revise land use policies and zoning regulations they are faced with questions regarding the continued use, replacement or expansion of such nonconformities. How they answer these questions will affect political acceptance of new zoning standards and whether local land use objectives can be fully realized. Communities implement land use plans using a variety of strategies including regulations, public investment, education, incentives. Zoning is one of the regulatory tools available. Zoning is a valid use of police power intended to protect public health, safety and welfare. Some specific reasons for zoning include:

- ensuring that new development and redevelopment are located according to the community plan;
- matching development to the environmental limitations of the landscape;
- promoting quality development to maintain property values and the quality of life by stabilizing the character of neighborhoods and business districts;
- controlling densities to avoid overcrowding, develop housing and promote land conservation;
- providing predictability for property owners and efficiency related to demands for public services and facilities; and
- moving traffic safely and efficiently based on road standards and layout.

As you may recall from the 2016 Planning Commission training, the Alaska Constitution and Alaska State Statutes provide maximum jurisdiction to municipalities to adopt and implement planning and zoning powers to protect public health, safety, and general welfare. The use of zoning police power must be reasonable and fair.

With this background in mind, CBJ 49.30 is in sorely in need of revision. The various non-conforming situations are discussed and combined into single paragraphs, the reconstruction section is poorly written and combines many ideas and concepts in a way that is challenging to understand. Staff proposes a complete rewrite of the chapter rather than attempting to edit the existing code. Additionally, policy direction will be needed from the Committee.

Zoning ordinances vary considerably in how they treat nonconformities. There are four general options:

- Phase them out over time.
- Maintain the status quo.
- Allow limited modification and expansion.
- Change zoning standards to make certain uses, structures or lots conforming.

The American Planning Association Planning Advisory Service Quick Notes attached to the June 2017 memorandum to the Planning Commission discusses the management of non-conformities. The article suggests, and staff agrees, that not all nonconformities have negative effects on adjacent properties or the larger community or do not further the long term land use objectives. In fact, in some instances, continuance or expansion of nonconformity does not threaten public health or safety, have no impact on the long term land use objectives and may even be preferable to the alternative of disinvestment. For this

reason, it makes sense for communities to treat nonconformities that are relatively benign differently than those likely to have significant detrimental effects. Therefore, staff recommends an approach that mixes the phasing out of those non-conformities that have negative effects on adjacent properties or the larger community, and perhaps maintaining the status quo, or allowing limited modification and expansion to those nonconformities that do not threaten public health or safety. Additionally, over time, and separate from this project, the Commission and staff will work to review and revise zoning standards throughout the borough and will continue to consider the impacts of those proposed changes on various non-conforming situations. Additionally, staff recommends a process for a property owner to establish that a given non-conforming situation was legal when it was created. This places the burden on the property owner rather than the Community Development Department. The determination could be made by the Commission or staff and will be spelled out in the ordinance.

The current code language is attached and I have highlighted the areas that I have identified as policy, where discussion is needed. I have not yet attempted to identify "benign" uses or "non-benign" uses. I have not yet attempted to create policy that will address the current challenges potential buyers are having in obtaining financing on non-conforming properties. I recommend that each non-conforming situation have an independent section of code; non-conforming lots and their use will be addressed in one section; non-conforming structures, their expansion/continuation/replacement addressed in one section; non-conforming uses, their expansion/continuation/replacement addressed in one section. This will provide clarity and will assist in the evaluation of those non-conformities that include more than one non-conforming situation, for example a non-conforming lot (too small) with a non-conforming structure (encroaching into setbacks) with a non-conforming use (something not currently allowed in that zoning district).

Key policies for discussion:

- A substandard lot may be used in conformity with applicable use regulations, provided that no use, including duplexes and multifamily dwellings that require a lot size greater than the minimum for that zone shall be permitted except as provided elsewhere in the non-conforming code.
- When an undeveloped nonconforming lot adjoins and has continuous frontage with one or more other undeveloped lots under the same ownership, each lot may be developed with single-family dwellings if community or approved individual waste systems are provided.
- Nonconforming situations may not be aggravated. As used herein, "aggravate" includes the physical alteration of structures or the placement of new structures on open land if such results in:

  (1)An increase in the total amount of space devoted to a nonconforming use; or

  (2) A greater invasion in any dimension of setback requirements or height limitations, a further violation of density requirements or further deficiencies in parking or other requirements.

  (b) A non-conforming use may be extended into any portion of a completed building intended for that use, but may not, except as provided in section 49.30.800, be extended to other buildings on the site or to other lots.
- If a building is damaged by any change so that the cost of renewal of the damaged parts exceeds 75 percent the building cannot be rebuilt, unless the building **and** its intended use comply with this title.
- Single-family dwelling, duplex, or multifamily dwellings damaged by involuntary change so that the cost of renewal of the damaged parts exceeds 75 percent of the cost of the replacement then such building may be rebuilt on the same footprint except that it cannot have any encroachments into public rights-of-way or adjacent property. This reconstruction is allowed if the intended use of the building is the same as, or less intensive than, the prior use **and** is a permissible use in the district. It can have the same number of parking spaces as the original building (use?).

- The commission, through the conditional use permit process, may allow the replacement or reconstruction of a multifamily dwelling in any multifamily residential, general commercial, light commercial, mixed use, or waterfront commercial district when the dwelling is damaged by any involuntary change and the cost of renewal exceeds 75 percent of the cost of the replacement building with same number of off-street parking spaces as were provided for the original building.
- The director may allow a building in the MU zoning district which has been converted from residential to nonresidential use to revert to residential use at the original density and parking requirement, if there is no additional floor space. (Density for MU has changed to no cap but parking can be limiting to the number of units)
- Substantial change to a nonconforming use may be made only after review and approval according to the procedures applicable to an initial use. Meaning if the use needed a conditional use permit to be allowed the substantial change requires a conditional use permit. A use permitted by this process may not revert to its nonconforming status.
- When a nonconforming use is discontinued for 365 consecutive days, or discontinued for any period of time without intention to reinstate the nonconforming use, the property can only be used in conformance with the current code.

I have a collection of non-conforming codes from other communities. Additionally, I have reached out the American Planning Association for a "PAS" report. This will be a collection of codes and information on non-conforming situations. I have not yet received this report. As mentioned at the June 27th Planning Commission meeting, I have reached to representatives in the finance community, but we have not yet had an opportunity to have a discussion.

For this first meeting, there are many policies and concepts that we can discuss as well and other overall structure of the code. The focus of the discussion should be on concepts and policy, not language. It will most efficient if the discussion focuses on each non-conforming situation independently – lot, structure and use. The discussion on non-conforming lots and structures is anticipated to be fairly straightforward. The discussion on non-conforming uses will be more challenging.

Beth:

We have not seen evidence of a rash of recent zoning updates to nonconformity provisions in response to tighter financing requirements. Many (if not most) contemporary zoning codes permit the reconstruction and reestablishment of nonconforming uses and structures following damage or destruction (not caused by property owner negligence), provided the damages do not exceed some ratio of assessed value and the reconstruction is initiated within a certain time period.

Common thresholds for damage ratios range from 50 to 75 percent. Common time periods range from 6 months to 2 years. Beyond this, some localities have also established administrative or discretionary permit processes for reconstruction that does not satisfy these thresholds.

Below, I've compiled links to nonconformity regulations from a number of cities and counties that overhauled their zoning codes following the Great Recession. We have not noticed substantive differences (as a class) between these recently adopted codes and codes adopted before the Great Recession in terms of their treatment of nonconformities.

Locality	State	Code Adopted	Nonconformity	Damage Value Threshold for Repairs or Reconstruction	Process to Rebuild if Damage Exceeds Threshold	Discontinuance / Reconstruction Initiation Threshold	Code Citation
			lot	NA	NA	NA	
Albany	NY	2017	use	50%	NA	1 year	§375-5(F)
			structure	75%	NA	NA	
			lot	NA	NA	NA	§21.12.050
Anchorage	AK	2013	use	50%	administrative permit	1 year	§21.12.030
			structure	50%	administrative permit	1 year	§21.12.040
Arlington	VA	2013	lot	NA	NA	NA	§16.1

Locality	State	Code Adopted	Nonconformity	Damage Value Threshold for Repairs or Reconstruction	Process to Rebuild if Damage Exceeds Threshold	Discontinuance / Reconstruction Initiation Threshold	Code Citation
County			use	NA	NA	2 years	§16.3
			structure	no limit	NA	2 years (4 years for declared natural disaster	§16.2
			lot	NA	NA	NA	§12.3
Davidson	NC	2015	use	50%	NA	180 days	§12.12.1
			structure	50%	NA	180 days	§12.12.2
			lot	NA	NA	NA	§8.1.3
DeKalb County	GA	2015	use	NA	NA	6 months	§8.1.5
			structure	60%	NA	2 years	§8.1.15
			lot	NA	NA	NA	§50-38.5
Duluth	MN	2010	use	NA	NA	1 year	§50-38.4
			structure	60%	NA	180 days	§50-38.3
Flagstaff	AZ	2011	lots	NA	NA	NA	§10-20.60.090
			uses	50%	NA	180 days	§10-20.60.030.A

Locality	State	Code Adopted	Nonconformity	Damage Value Threshold for Repairs or Reconstruction	Process to Rebuild if Damage Exceeds Threshold	Discontinuance / Reconstruction Initiation Threshold	Code Citation
							& §10-20.60.050
			structure	50%	NA	180 days	§10-20.60.030.B & §10-20.60.050
			lot	NA	NA	NA	§21.08.050
Grand Junction	CO	2010	use	no limit (but administrative permit required)	NA	2 years	§21.08.020
			structure	50%	NA	1 year	§21.08.030
			lot	NA	NA	NA	§1.5.2
Hartford	CT	2016	use	60%	NA	6 months	§1.5.3
			structure	60%	NA	6 months	§1.5.3 & §1.5.4
			lot	NA	NA	NA	§15.22.010
Laramie	WY	2010	use	NA	NA	18 months	§15.22.020
			structure	no limit	NA	18 months	§15.22.030
Merced	CA	2016	lot	NA	NA	NA	§20.52.040

Locality	State	Code Adopted	Nonconformity	Damage Value Threshold for Repairs or Reconstruction	Process to Rebuild if Damage Exceeds Threshold	Discontinuance / Reconstruction Initiation Threshold	Code Citation
			use	NA	administrative permit for single- and two-family dwellings	6 months (or 18 months in any 3 year period)	§§20.52.050–060
			structure	no limit	NA	1 year	§20.52.070
			lot	NA	NA	NA	§20.64.050
Mundelein	IL	2012	use	50%	NA	1 year	§20.64.030
			structure	50%	NA	1 year	§20.64.040
			lot	NA	NA	NA	§18.60.040
Olathe	KS	2014	use	NA	NA	180 days	§18.60.030
			structure	50% (administrative permit required)	NA	NA	§18.60.050
			lot	NA	NA	NA	
			use	60%	NA	1 year	
Ruston	LA	2012					§7.5
			structure	60% (no limit for single- and two-family dwellings)	NA	1 year	

Locality	State	Code Adopted	Nonconformity	Damage Value Threshold for Repairs or Reconstruction	Process to Rebuild if Damage Exceeds Threshold	Discontinuance / Reconstruction Initiation Threshold	Code Citation
			lot	NA	NA	NA	
Sioux Falls	SD	2013	use	60% (100% for single-family dwellings)	discretionary permit	1 year	§160.460 et seq.
			structure	NA	discretionary permit	NA	
			lot	NA	NA	NA	§20.06.004
Sparks	NV	2015	use	no limit	NA	2 years (no time limit for damages of less than 50%)	§20.06.006
			structure				
			lot	NA	NA	NA	§80.020
Tulsa	OK	2015	use	50%	discretionary permit	3 years	§80.040
			structure	50%	discretionary permit	2 years	§80.030

Upload	Resource Type	Description

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Reviewers

David Morley, AICP

dmorley@planning.org

one practical building site that may be reasonably developed. The commission may condition its approval.

(b) *Application requirements.*

(1) Signatures of the owners or lessees of the subject parcels are not required.

(2) The owner of land subject to a right-of-way acquisition may offer to sell or enter into a contract to sell land to the state or City and Borough before a final plat of the subdivision has been prepared, approved, filed, and recorded in accordance with this chapter.

(3) Applications for preliminary right-of-way acquisition plat approval shall comply with the requirements of CBJ 49.15.411, provided, however, that the following subsections are not applicable:

(A) CBJ 49.15.411(i)(3), unless the director determines that the proposed reduction in lot area of an existing parcel without public sewer access causes it to become unsuitable for on-lot waste disposal.

(B) CBJ 49.15.411(i)(5), Water.

(C) CBJ 49.15.411(i)(7), Traffic study.

(D) CBJ 49.15.411(i)(8), Shadow plats.

(c) *Final plat submittal.*

(1) All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15.412, provided, however, that the following sections are not applicable:

(A) CBJ 49.15.412(e)(5), Proof of construction plan approval.

(B) CBJ 49.15.412(e)(3), Utility statements.

(C) CBJ 49.15.412(e)(6), Improvement guarantee draft.

(D) CBJ 49.15.412(f)(2), Improvement guarantee final.

(E) CBJ 49.15.412(f)(3), Deeds, easements, or rights-of-way.

(d) *Design.* Right-of-way acquisition plats must comply with the design requirements of this title, provided, however, that the following sections are not applicable:

(1) CBJ 49.15.420, Lots.

(2) CBJ 49.35.210, Streets.

(e) *Improvements.* The requirement to construct public improvements according to CBJ 49.35 is waived except where the acquisition of right-of-way and subsequent change to property boundaries results in the loss of access to public utilities or street frontage for an existing lot necessitating replacement of these public improvements.

(f) *Survey and monumentation standards.* All applications for right-of-way acquisition plats must comply with the requirements of CBJ 49.15, article IV, division 6, except CBJ 49.15.453 is modified to require that only corners located along the new right-of-way line be monumented.

(g) *Right-of-way maps.* After completion of a right-of-way project, a final right-of-way map that identifies all required survey and monumentation information shall be submitted. The final right-of-way map will be reviewed by the director of the engineering and public works department for completeness and then recorded at the State Recorder's Office at Juneau at the applicant's expense.
(Serial No. 2015-03(c)(am), § 13, 8-31-2015)

ARTICLE VI. PLANNED UNIT DEVELOPMENTS

49.15.600 Purpose.

The general purpose of the planned unit development code is to permit flexibility in the regulation and use of land in order to promote its most appropriate use; to facilitate the adequate and economical provisions of streets and utilities; to preserve the natural and scenic qualities of open space; and to encourage, consistent with the goals and objectives of the comprehensive plan, residential developments that are planned,

designed and developed to function as integral units. The specific purposes of the planned unit development code are to:

(a) Encourage uses of land that are efficient, aesthetic, in harmony with the surrounding area, and consistent with the comprehensive plan and available public services;

(b) Encourage innovation in site design and building layout, pedestrian and vehicular circulation, parking facilities and streets, configuration and use of open space, and mixing of housing types and compatible land uses;

(c) Encourage economy and efficiency in common facilities;

(d) Preserve and protect natural features, streams, lakes, wetlands, natural drainage channels, vegetation, and vistas;

(e) Avoid avalanche, landslide, and flood hazard areas; and

(f) Encourage development of quality housing at a reasonable price.

(Serial No. 97-12, § 2, 1997)

49.15.610 General provisions.

(a) *Zoning districts.* A residential planned unit development is allowed in zoning districts RR, D-1, D-3, D-5, D-10 SF, D-10, D-15, D-18, and LC.

(b) *Permitted uses.* The uses allowed in the underlying zoning district, according to section 49.25.300, table of permissible uses, are permitted in all planned unit developments. The following additional uses are permitted in a residential planned unit development:

(1) A mixture of single-family, two-family, and multifamily housing; and

(2) A recreational facility or a planned unit development community center.

(Serial No. 97-12, § 2, 1997; Serial No. 2007-39, § 2, 6-25-2007, eff. 6-25-2007)

49.15.620 Planned unit development review process.

(a) *General procedure.* A proposed planned unit development shall be reviewed according to the requirements of section 49.15.330, conditional use permit, and in the case of an application proposing a change in the number or boundaries of lots, section 49.15.402, major subdivisions, except as otherwise provided in this article. Approval shall be a two-step process, preliminary plan approval and final plan approval. In cases involving a change in the number or boundaries of lots, the preliminary and final plat submissions required by section 49.14.430 shall be included with the preliminary and final plan submissions required by this chapter.

(b) *Preapplication conference.* Prior to submission of an application, the director shall conduct an informal preapplication conference with the developer to discuss the proposed planned unit development. The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues. The developer may discuss project plans and the director may provide an informal assessment of project permit eligibility, but no statement made by either party shall be regarded as binding, and the result of the conference shall not constitute preliminary approval by the department. The conference shall include a discussion of the zoning, size, topography, accessibility, and adjacent uses of the development site; the uses, density and layout of buildings, parking areas, the open space and landscaping proposed for the development; the common facilities; the street layout and the vehicle and pedestrian circulation; the development schedule and the planned unit development permit procedures. The developer shall provide a sketch of the proposed planned unit development.

(Serial No. 97-12, § 2, 1997)

49.15.630 Preliminary planned unit development plan approval.

(a) *Application.* The developer shall submit to the department one copy of a complete planned unit development application, which shall include

an application form, the required fee, any infor-