

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

Wednesday, August 16, 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), Tim Felstead (CDD)

Public Present:

I) Call to Order

Meeting called to order at 3:19 pm.

II) Approval of Minutes

July 19, 2017 Draft Minutes

Mr. Voelckers commented that on page 4, 3rd paragraph add "Commissioners liked the notch infill as not further increasing the encroachment. This sort of infill should not be dismissed outright."

MOTION: *by Mr. Miller to approve as amended the July 19, 2017 minutes.*

The motion passed with no objection.

III) Old business:

a) Review of Title 49's Nonconforming Development Policies

Ms. McKibben is not totally prepared to dive deep into the use discussion. She has an example of nonconforming code from Portland, OR that she thinks represents the direction our code want to go. It has very clear parameters, although it might be more complicated than we want. She said this will help with challenges in this section of code for example to separate use from density. She pointed out other concepts that she finds useful in this example and will share this document with the committee members at a later meeting.

She also recently learned that different lending institutions will take on different amounts of risk. Most strict, for example, is the HUD 180 loaning program. Ms. McKibben talked about Aurora Arms as an example, and she found evidence of a loan that was processed in 2011 and flew through with no problem. If we say the building can be rebuilt to the existing footprint, the loan goes through. Mr. Miller noted that yes, it could be a single-family rebuild.

Mr. Miller said there have been many changes from 2011 to today with housing loans. Now there is much more paperwork and scrutiny and this has been gaining steam since 2008.

Ms. McKibben said the American Planning Association (APA) service told her they had not seen many communities revising their sections of nonconforming code since the Great Recession. Ms. McKibben said we need to focus on the issues to make a code that works for the community and not just focus on the lending institutions. If this is clear, likely it will improve things for the lenders.

Mr. Voelckers asked if committee members want a copy of the Portland model. Ms. McKibben said for her, reading through it gave her a framework for thinking through concepts. She handed paper copies to the attending members. She suggested they read this for homework. The way the language is framed, what is ok to continue and what is not will help to group things into various kinds of uses, she said.

Mr. Voelckers suggested the committee have two weeks to read the document and then give their comments to Ms. McKibben so that the topic can come back at the September committee meeting.

IV) New Business

a) Review of Planned Unit Development Code (PUD)

Mr. Felstead came in to talk about a developer who wants to build in the West Montana Creek PUD. Each plat says 1 dwelling unit per lot. He explained that we don't include accessory apartments counting towards density. There is nothing in the staff reports that says allowed or not allowed, he said, and it was not talked about in the minutes for permits for the PUD.

Ms. McKibben said whether an accessory apartment is allowed or not is one question. Another question is do they need a permit or not. The density of the entire property is a D3 density.

Mr. Voelckers asked what these apartments trigger for parking. One additional space, replied staff. As part of a review we would insure 3 parking spaces for each property with an apartment, said Ms. Boyce. Montana Creek lots are designed like a D5 neighborhood in a D3 zoning area, said Mr. Felstead. Ms. McKibben said housing is clustered in these lots.

Ms. Boyce has no qualms about saying it is an over the counter permit because overall this meets density requirements. But planners are all over the place with this, she said. Mr. Felstead has done forensic planning on this topic, said Ms. McKibben. What we can't discern is whether one dwelling per lot included accessory apartments or not. We don't know the intention from the past, said Ms. McKibben. They count as dwelling units but not density, said Ms. Boyce

Mr. Miller said the reason is we took full acreage and figured out how many lots could fit in there. We were not using zoning as the framework. Then we were blindsided by the flood plain trigger for rezoning and so it was determined that the wetlands there could not be built upon, he said. We were forced into the PUD situation; trying to make the best of it. The question never came up when Mr. Miller built the first houses in that area. No clients wanted an accessory apartment at that time, although he said he thought it would have been allowable, said Mr. Miller.

There is a plat note that says zoning allowances allowed for the entire PUD parcel can be transferred over to the smaller sub lots, said Mr. Felstead. This means each small PUD lot is effectively bigger in terms of zoning allowance since it can 'borrow' lot area from the large conservation lot. Each lot is effectively 12,000sq ft. in size in terms of zoning rights. This was my interpretation as well, said Ms. Boyce. This was the first PUD I took from start to finish, said Mr. Miller, so not every eventuality was thought through.

When we changed the code so that accessory apartments could be permitted over the counter if conventionally conforming, I noticed Low Pete offering these options to clients, said Ms. McKibben.

About PUD, is the only issue regarding setbacks is that they only have to stay within 10 feet from another building, asked Mr. Voelckers? Montana Creek subdivision is a little different, said Ms. McKibben. So, I think we can do it as a single blob with 8 units. A subdivision within a PUD is not the same, said Ms. McKibben. Mr. Voelckers argued that setbacks are still minimal.

I threw my hat into the ring to be a commissioner after this experience and seeing how tough it was, said Mr. Miller. Forty percent is a big huge number and stops a lot of PUDs, said Mr. Miller. Land is priceless in Juneau. He said it only can work if there are so many wetlands that already can't be built on, for example.

What if a PUD was four 8-plexes, asked Mr. Voelckers? Montana Creek West has something like that, said Mr. Miller. But then, said Mr. Voelckers, this may color our perception of accessory apartments. Multi-family can't have them, said Ms. Boyce, only a single-family dwelling. A 12-unit PUD on North Douglas collectively owns the land; dwellings are not sitting on their own lots, so they can't have accessory apartments.

Mr. Miller stated that common wall dwellings are single-family and duplexes are not. This has to do with the situation of the structure on the lot and where the lot line runs. Mr. Miller asked, if there is a single owner and the lot is big enough, why not allow an accessory for a duplex?

Changes made for these apartments has been great these past years, said Ms. McKibben

Mr. Voelckers asked committee members if they have enough info about PUDs and accessory apartments to make some suggestions.

Plat notes added to Montana Creek were required by the Planning Commission, said Mr. Felstead. Ms. Boyce pointed out that 49.15.12 talks about number of dwellings in a PUD. Mr. Voelckers asked if it was the thought to amend PUDs with some language that would help clarify something like Montana Creek. We probably want to deal fast with this particular question, said Mr. Voelckers. Ms. McKibben said that staff at CDD hopes to find an answer but planners are not all of one mind. The hope is that someone would have history in order to help clarify the intent.

Mr. Miller hopes to fix PUD code to make it friendlier. Mr. Voelckers said he thinks we should allow accessory apartments because this quacks like D5 zoning in terms of lot size. Who knows where the note came from as this was started some years ago, he said. Ms. Shelton said her gut tells her it makes sense to allow accessory apartments. Allowed outright or with a Conditional Use Permit (CUP), asked Ms. McKibben. It would be so for anyone else with the minimum lot size to receive a permit over the counter, said Ms. McKibben. Mr. Voelckers clarified that this is a single case we are approving now, but not setting precedent. Yes, however this means the next time someone in Montana Creek West asks, we would say yes to that as well said Ms. McKibben.

Mr. Felstead said planners would look at lot size in combination with the common space of the entire development - this is still at D3 density. Mr. Miller examined the comparison of D3 and D5 and overall density. Ms. Boyce is concerned that people who bought into the development might have thought that it would only be a single-family community, not understanding the situation that accessory apartments would not be considered adding density.

If we brought this to the Planning Commission, we could notice everyone in the PUD about this, said Ms. Boyce. PUDs are the beginning of a subdivision, is this correct asked Mr. Hickok? A clustered subdivision, said Ms. Boyce. Give some flexibility suggested Mr. Miller. Ms. McKibben gave examples of how the zoning flexes under a PUD such as putting 4-plexes in a D3 zone. Mr. Voelckers said it is a progressive way to work with difficult lots or afford residents more green space.

So, this should go before the Planning Commission, asked Ms. Boyce? Mr. Miller said it will probably be the residents immediately outside of the Montana Creek PUD who will be most concerned; that was the biggest meeting I've ever seen. But he thinks this is the best way to go nevertheless. Maybe beginning with a public hearing would have an eye towards moving to an over the counter permit process, but for this first time let the public have their say, said Mr. Voelckers. This would then say this new rule would apply to existing PUDs, said Mr. Miller. One option is to go through a CUP for this one and have the Commission say that the CUP is not necessary, said Mr. Felstead. Have a public hearing and have the Commission make an interpretation, he suggested. Commissioners in attendance nodded their heads, and Ms. Boyce stated she liked this idea. We should err on the side of over-noticing and explaining at this point. Who pays for the CUP, asked Mr. Felstead? We will need to talk to Mr. Steedle (Department Director), said Ms. McKibben. We will vet that option, she said. So it appears we are of a mind to get to a process that involves the Planning Commission, stated Mr. Voelckers. Staff can game it out, he said.

Ms. Boyce brought up another situation related to PUDs. Rich Harris has a condo project with units owned individually but the land is owned collectively, she said, sort of a cottage housing concept. The project is under construction already, but the developer wants to make it a PUD. However he can't make the 25-foot greenbelt requirement and a few others requirements, yet Ms. Boyce wants help reviewing the project to see if the developer can make this work somehow. There is some "shall" language in the code that makes it hard to modify, she said.

Mr. Voelckers said that the Planning Commission should figure out what is right for PUDs first and then see if Mr. Harris' project can be accommodated.

Mr. Miller stated that he has a laundry list of modifications concerning PUDs. There should be discussion about prioritizing things to be fixed in code from the builders' perspective, he said.

- 40% common open space is fine if underlying D1 zoning but 30% for D3 – Mr. Miller feels the code ought to start lessening the percentage sooner than it does at present. Once the developer gets into planning a multi-family project, it gets easier to set aside more land again. There ought to be some scale to make PUDs a more useful option for development.
- 25 foot buffer – ought to be more flexibility with this requirement.

Mr. Voelckers asked if the PUD is in a D3 or D5 zone, can it be developed as though it were D18. Yes, said Ms. Boyce. It is the underlying district that sets the tone, said Mr. Miller. If D1 and 10 acres, a developer would need a 25 foot buffer all around and 40% greenspace, leaving 6 acres to build the 10 dwellings. A developer buys land, pays for road, sewer, etc. and then gives this to the city to maintain, said Mr. Miller. It becomes unfriendly for the developer to lose all that land to recoup expenses. Ms. Boyce thinks the sliding scale is an interesting idea.

Mr. Miller said when he did Montana Creek West, the selling point was having less road to build and he could save development costs with the same amount of lots and houses because it was more dense. The level of difficulty for the construction went up, however. Also the design was more difficult.

What about the requirement for building separation of 10 or 6 feet, asked Mr. Voelckers, side setback for D10-SF is 3 feet in code, why not here?

We are hoping there is enough existing language to make a process flexible but now with the “shalls” this makes it less so, said Ms. Boyce. There is a need for language to be clearer between PUD and subdivisions, she said. PUD talks about a density bonus up to 15 %, but another section of code offers a 50% bonus. On the to-do list is work on the bonus section, said Ms. McKibben.

Maybe there is opportunity for mitigated judgements like a fence. Probably we will have to address the utility hook ups, said Ms. McKibben. The high school house-build is an example of a lot with multiple units owned by a Land Trust and with only a master water meter for all the properties. Housing Trust doesn’t want to function that way and allow for individual meters. There needs to be an avenue to have a discussion with utilities to see what flexibility there can be in such a situation. When not subdividing, what are options for utilities, asked Ms. McKibben?

V) Next Meeting

Wednesday, September 20, 3:15 pm

VI) Adjournment

The meeting adjourned at 4:34 pm.