

Agenda

Planning Commission - Committee of the Whole City and Borough of Juneau

April 27, 2021
Virtual Meeting Only
5:30 PM

This virtual meeting will be by video and telephonic participation only. To join the webinar, paste this URL into your browser: <https://juneau.zoom.us/j/91269731818>. To participate telephonically, call: 1-346-248-7799 or 1-669-900-6833 or 1-253-215-8782 or 1-312-626-6799 or 1-929-436-2866 or 1-301-715-8592 and enter Webinar ID: 912 6973 1818.

I. ROLL CALL

II. REGULAR AGENDA

A. Accessory Apartment Ordinance - MOVED TO FULL PLANNING COMMISSION, DATE TO BE DETERMINED

III. OTHER BUSINESS

IV. REPORT OF REGULAR AND SPECIAL COMMITTEES

V. ADJOURNMENT

ADA accommodations available upon request: Please contact the Clerk's office 36 hours prior to any meeting so arrangements can be made for closed captioning or sign language interpreter services depending on the meeting format. The Clerk's office telephone number is 586-5278, TDD 586-5351, e-mail: city.clerk@juneau.org

**PLANNING COMMISSION AGENDA
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Accessory Apartment Ordinance - MOVED TO FULL PLANNING COMMISSION, DATE TO BE DETERMINED

ATTACHMENTS:

	Description	Upload Date	Type
▣	Memo Regarding Accessory Apartment Ordinance	4/21/2021	Miscellaneous
▣	Presentation Regarding Accessory Apartment Ordinance	4/28/2021	Presentation



(907) 586-0715
CDD_Admin@juneau.org
www.juneau.org/CDD
155 S. Seward Street • Juneau, AK 99801

April 21, 2021

MEMO

From: Beth McKibben, Senior Planner, AICP *Beth McKibben*
To: Michael LeVine, Chair, Planning Commission
Through: Jill Maclean, Director, AICP
Case Number: AME2018 0001

RE: A text amendment to Title 49, Land Use Code 49.25.510(k) Accessory Apartments

RECOMMENDED ACTION

Staff recommends the Planning Commission review the proposed changes to the accessory apartments ordinance, and schedule the ordinance for a public hearing before the full Planning Commission.

ATTACHMENTS:

- Attachment A: June 29, 2018 Staff Report, AME2018 0001
- Attachment B: Excerpt of July 10, 2018 Planning Commission Meeting Minutes
- Attachment C: August 10, 2018 Memorandum to Title 49 (without attachments)
- Attachment D: Excerpt of August 27, 2018 Title 49 Committee Meeting Draft Minutes
- Attachment E: Excerpt of July 16, 2018 Title 49 Committee Meeting Minutes

INTRODUCTION

The purpose of this memorandum is to review the proposed changes to the accessory apartment regulations, familiarize the new Commissioners with the topic, and confirm the Commission supports the proposed changes or prefers to make additional changes.

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BACKGROUND

This ordinance would amend Title 49 accessory apartments. The revisions initially were housekeeping in nature without changes to policy or intent. At the July 10, 2018 Planning Commission meeting, the Commission considered the proposed ordinance. Excerpts from those minutes may be found in Attachment B. Concern was raised about the lot size ratios, and the size and number of accessory units. There was desire to examine the concept of allowing accessory apartments with a duplex, which is currently prohibited. The ordinance was referred to the Title 49 Committee for discussion of these items, which met on July 16, 2018 (Attachment B) and August 27, 2018 (Attachment D).

DISCUSSION

Ordinance 2015-07(b)(m) amended CBJ code related to accessory apartments to allow for accessory apartments in multifamily zoning districts on lots meeting the minimum lot size, lots of less than the minimum lot size, and allowed for larger accessory apartments when certain conditions are met. The ordinance clarified parking requirements and made additional housekeeping changes.

The intent of the Assembly in adopting Ordinance 2015-07(b)(m) was to allow for Director and Commission approval for accessory apartments as follows:

Director Approval	Planning Commission Approval
a) Accessory apartments that do not exceed 600 square feet on lots that meet the minimum lot size. b) Accessory apartments up to 1000 square feet on lots that exceed 125% of the minimum lot size. c) Accessory apartments up to 1000 square feet each associated with a single-family residence on a lot that has two single-family dwellings and exceeds 250% of the minimum lot size.	Conditional Use Permit for accessory apartments not to exceed 600 square feet on lots that are less than the minimum lot size.

However, during the adoption of the Ordinance 2015-07(b)(m), changes were made on the floor, which created unintended redundancy. Current code provides for both Director and Commission approval for accessory apartments on oversized lots as described above (items b and c). This proposed amendment removes the portions of code that call for Commission approval, specifying only Director approval for accessory apartments on lots meeting or exceeding the minimum lot size.

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Subsequent work by the Title 49 Committee recommended the following:

- Oversized Lots
 - Current Code:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for up to one accessory apartment - 600 square feet or less and one or fewer bedrooms, and one accessory apartment - up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling, for each single-family dwelling.
 - Proposed Change:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for one accessory apartment for each single family dwelling (up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling).

- Duplexes
 - Current Code:
 - Duplexes are not permitted to have an accessory apartment, as the duplex is considered one single-family dwelling with an accessory unit that mirrors the other unit in size and appearance; a duplex may be either side-by-side units or up-and-down units.
 - Proposed Changes:
 - On lots 150% of the minimum lot size (the minimum needed for a duplex), code provides for one accessory apartment (600 square feet or less and one or fewer bedrooms).
 - On lots larger than 175% of the minimum lot size, a duplex may have up to two accessory apartments (600 square feet or less and one or fewer bedrooms) with an approved Conditional Use Permit.
 - Proposed changes to Definitions (49.80):
 - Amends the definition of accessory apartments to allow them in conjunction with a duplex;
 - Amends the definition of duplex (two to clarify the duplex is the primary dwelling unit;
 - Amends the definition of multi-family dwelling to specify that the accessory apartment unit(s) of a duplex is not considered a multi-family dwelling; and
 - Creates a new dimensional standards table specific to accessory apartments.

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The following table is representative of the proposed dimensional standards table:

	ZONING DISTRICT*				
	RR	D1	D3	D5	D10SF
MINIMUM LOT SIZE					
Detached single-family dwelling and one accessory apartment up to 600 square feet	36,000	36,000	12,000	7,000	3,600
Detached single-family dwelling and one accessory apartment up to 1000 square feet	45,000	45,000	15,000	8,750	4,500
Duplex and one accessory apartment up to 600 square feet	54,000	54,000	18,000	10,500	
Duplex and two accessory apartments up to 600 square feet with Conditional Use Permit	63,000	63,000	21,000	12,250	
Common wall unit and one accessory apartment up to 600 square feet**				10,500	3,600
Detached two single-family dwelling units per lot, and one accessory apartment up to 600 square feet	36,000	36,000	12,000		
Detached two single-family dwelling units per lot, and one accessory apartment up to 1,000 square feet	45,000	45,000	15,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 600 square feet	72,000	72,000	24,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 1,000 square feet	90,000	90,000	30,000		

*In multi-family and commercial zoning districts, unless on a duplex, units are considered another multi-family unit, not an accessory apartment. Caretaker units are permissible in industrial zoning districts; accessory apartments are not permissible.

**Each common wall lot may be permitted to have one accessory apartment up to 600 square feet



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155 S. Seward Street • Juneau, AK 99801

DATE: June 29, 2018

TO: Planning Commission

FROM: Beth McKibben, AICP, Planning Manager
BME
Community Development Department

CASE NO.: AME2018 0001

PROPOSAL: A text amendment to Title 49, Land Use Code 49.25.510(k) Accessory Apartments

The City and Borough of Juneau Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings, and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

ATTACHMENTS:

Attachment A: Draft Ordinance – Amending CBJ 49.25.510(k) Accessory Apartments

BACKGROUND/DISCUSSION

This ordinance would amend Title 49 with respect to accessory apartments. The revisions are “housekeeping” in nature and do not change policy or intent.

Ordinance 2015-07(b)(m) amended CBJ code related to accessory apartments to allow for accessory apartments in multifamily zoning districts on lots meeting the minimum lot size, lots of less than the minimum lot size, and to allow for larger accessory apartments when certain conditions are met. The ordinance also clarified the parking requirements and made additional housekeeping changes.

The intent of the Assembly in adopting that ordinance was to allow for Director and Planning Commission approval for accessory apartments as follows:

Director Approval

- a) Accessory apartments that do not exceed 600 square feet on lots that meet the minimum lot size.
- b) Accessory apartments up to 1000 square feet on lots that exceed 125% of the minimum lot size.
- c) Accessory apartments up to 1000 square feet each associated with a single family residence on a lot that has two single-family dwellings and exceeds 250% of the minimum lot size.

Planning Commission Approval

- d) Conditional Use Permit for accessory apartments not to exceed 600 square feet on lots that are less than the minimum lot size.

However, during the adoption of the Ordinance 2015-07(b)(m) changes were made on the floor that created unintended redundancy. Current code provides for both Director and Planning Commission approval for accessory apartments on oversized lots as described above (items b and c). The proposed amendment would remove the portions of code that call for Planning Commission approval, specifying only Director approval for these types of accessory apartments. This amendment would only change requirements relating to the approval of accessory apartments up to 1000 square feet on oversized lots.

Changes to CBJ 49.25.510(k)(2)(E) (Single-family detached accessory apartment approval):

(ii) The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section are met and the application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size. ~~the following are met:~~

- ~~(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or~~
- ~~(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.~~

Changes to CBJ 49.25.510(k)(2)(F) (Single-family detached, two dwellings per lot, accessory apartment approval):

(iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area. ~~the following are met:~~

Attachment A - June 29, 2018 Staff Report, AME2018 0001

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- ~~(a) The application is for an efficiency, or one bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;~~
- ~~(b) The application is for an efficiency, one bedroom, or two bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

The table below clarifies the discussion above.

49.25.510(k)(2)(E) One single family dwelling per lot	less than min lot size	100-124% min lot size	exceeds 125% min lot size	
One apartment up to 1000 sq. ft.	No change	No change	Director and Planning Commission Approval	Current Code
One apartment up to 1000 sq. ft.	No change	No change	Director Approval	Amended Code

49.25.510(k)(2)(F) Two single-family dwellings per lot	less than 2x min lot size	200-250% min lot size	exceeds 250% min lot size	
One apartment up to 1000 sq. ft.	No change	No change	Director and Planning Commission Approval	Current Code
One apartment up to 1000 sq. ft.	No change	No change	Director Approval	Amended Code

This amendment was initially scheduled to come before the Commission in February. However CDD, working with Law, wanted to explore revising the code further to incorporate a table, with the goal of making this section of code easier to use. However, integrating a table into the ordinance would result in a much larger and complicated revision than was intended by this amendment. CDD will instead use a table as an informational item for the public and staff.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

This housekeeping amendment does not establish new policies. The code that it clarifies has been found previously to be consistent with the Comprehensive Plan.

Planning Commission

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June 29, 2018

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COMPLIANCE WITH CBJ LAND USE CODE

The amendment is housekeeping in nature and provides needed clarification.

FINDINGS

Based upon the above analysis, staff finds that the proposed text amendment to Title 49 is consistent with the goals and policies of the Comprehensive Plan, the Juneau Economic Development Plan, the Housing Action Plan, and Title 49. Additionally, this change would not create any internal inconsistencies within any plans or codes.

STAFF RECOMMENDATION

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation for approval to the Assembly.

Presented by: The Manager
Introduced:
Drafted by: A. G. Mead

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-03

An Ordinance Amending the Land Use Code Relating to the Approval Process for Certain Accessory Apartments.

BE IT ENACTED BY THE ASSEMBLY OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City and Borough of Juneau Municipal Code.

Section 2. Amendment of Section. CBJ 49.25.510 Special density considerations, is amended to read:

49.25.510 Special density considerations.

...

(k) *Accessory apartments.* No person shall construct or maintain an accessory apartment except in accordance with a permit issued under this section.

...

(2) *Approval standards.*

(A) Unless otherwise provided, the accessory apartment shall be a one-bedroom or efficiency unit not exceeding 600 square feet in net floor area.

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2 (B) Areas common to more than one dwelling unit - including entry ways, furnace
3 rooms, laundry rooms, and interior stairways - shall not be included in the
4 computation of the net floor area for the accessory apartment.

5 (C) The minimum lot size as used in this section refers to the minimum lot size
6 for permissible uses listed in the table of dimensional standards, CBJ 49.25.200.

7 (D) A permit under this subsection may be issued if the applicant establishes:

8 (i) The development meets all setback requirements;

9 (ii) The total building footprint does not exceed the maximum lot coverage
10 allowable under section 49.25.400, the table of dimensional standards, or, in
11 the case of nonconforming structures, the total building footprint does not
12 increase with the proposed accessory apartment;

13 (iii) The development does not violate the vegetative cover requirements
14 imposed by section 49.50.300; or, in the case of nonconforming structures,
15 the proposed accessory apartment does not decrease the existing vegetative
16 cover;

17 (iv) The development meets the parking standards required by chapter
18 49.40; and

19 (v) The development is connected to public sewer or the existing
20 wastewater disposal system has adequate capacity for the development,
21 including the proposed accessory apartment.
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23 (E) Single-family detached accessory apartment approval.
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(i) The director may approve a 49.25.300.1.130 accessory apartment application if all of the requirements of this section and the following are met:

(a) The application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area and is on a lot that exceeds the minimum lot size; or

(b) The application is for an efficiency, one-bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, and is on a lot that exceeds 125 percent of the minimum lot size.

(ii) The commission may approve, with a conditional use permit, a 49.25.300.1.130 accessory apartment application if all of the requirements of this section are met and the application is for an efficiency or one-bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size. ~~the following are met:~~

~~(a) The application is for an efficiency or one bedroom unit that does not exceed 600 square feet in net floor area, and is on a lot that is less than the minimum lot size; or~~

~~(b) The application is for an efficiency, one bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed~~

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2 1,000 square feet, and is on a lot that exceeds 125 percent of the
3 minimum lot size.

4 (iii) An application for an accessory apartment with a net floor area that
5 exceeds 600 square feet shall not be approved on a lot that is less than 125
6 percent of the minimum lot size.

7
8 (F) Single-family detached, two dwellings per lot, accessory apartment approval.

9 (i) When a lot has two primary dwelling units, each primary dwelling unit
10 may have up to one accessory apartment that is consistent with the
11 requirements of this section. The lot shall not have more than two accessory
12 apartments.

13 (ii) An application for an accessory apartment with a net floor area that
14 exceeds 600 square feet shall not be approved on a lot that is less than 250
15 percent of the minimum lot size.

16 (iii) The director may approve a 49.25.300.1.140 accessory apartment
17 application if all of the requirements of this section and the following are
18 met:

19 (a) The application is for an efficiency, or one-bedroom unit that
20 does not exceed 600 square feet in net floor area, is on a double sized
21 lot (two times the minimum lot size), and the lot does not have
22 another accessory apartment in excess of 600 square feet in net floor
23 area; or
24 (b) The application is for an efficiency, one-bedroom, or two-

25 bedroom unit that has a net floor area equal to or less than 50

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percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, on a lot that exceeds 250 percent of the minimum lot size, and the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.

(iv) The commission may approve, with a conditional use permit, a 49.25.300.1.140 accessory apartment application if all of the requirements of this section and the application is for an efficiency, or one-bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area. the following are met:

(a) ~~The application is for an efficiency, or one bedroom unit that does not exceed 600 square feet in net floor area, is on a lot that is less than the minimum lot size, and the lot does not have another accessory apartment in excess of 600 square feet in net floor area;~~

(b) ~~The application is for an efficiency, one bedroom, or two-bedroom unit that has a net floor area equal to or less than 50 percent of the primary dwelling unit's net floor area but not to exceed 1,000 square feet, is on a lot that exceeds 250 percent of the minimum lot size, and where the lot does not have more than one other accessory apartment in excess of 600 square feet in net floor area.~~

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2 **Section 3. Effective Date.** This ordinance shall be effective 30 days after its
3 adoption.

4 Adopted this _____ day of _____, 2018.

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6
7 Attest:

Kendell D. Koelsch, Mayor

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9
10 _____
Laurie J. Sica, Municipal Clerk

DRAFT

EXCERPT FROM MINUTES
Planning Commission
Regular Meeting
July 10, 2018

AME2018 0001: A text amendment to Title 49, Land Use Code 49.25.510(k), Accessory Apartments

Staff Recommendation

Staff recommends that the Planning Commission review and consider the proposed ordinance and forward a recommendation for approval to the Assembly.

Ms. McKibben explained that this ordinance review involves no changes to policy. She said when the Planning Commission proposed amendments to the accessory apartment code that when the Assembly adopted the ordinance it created some redundancy. This amendment to the code provides the opportunity for larger accessory apartments up to 1,000 square feet and up to two bedrooms, said Ms. McKibben.

For example, in the current code one apartment at 1,000 square feet allows both the Planning Commission and the Planning Director to have approval, she said. That was not the initial intent, she noted. One apartment is Director approval, clarified Ms. McKibben. It is the same situation for two single-family dwellings per lot, she noted. The code has been amended to state that it is Director approval, she said.

Commissioner Comments and Questions

Mr. Miller reviewed the ordinance. He noted there is a gap where the Planning Commission can approve one 600 square foot apartment on a lot less than minimum size. On a lot twice the minimum size there could be two 600 square foot apartments, said Mr. Miller. He said perhaps a 1,000 square foot accessory apartment could be made to fit along those lines within the ordinance. Mr. Miller prefaced his next statement by saying that he does own a duplex, that he consulted with the City Attorney and that he wanted to bring this up before the Commission as a potential conflict.

The Commission found there was no conflict.

Mr. Miller said he has long been an advocate of having accessory apartments for duplexes. He said he thought he found a place on the chart where this would fit very nicely. He said it could fit into the code as a single family dwelling if it met the minimum lot size, then there could be one 600 square foot apartment with director's approval, and if it was 125 percent over the minimum lot size, then there could be a 1,000 square foot accessory apartment with Director's approval. If it was less than the minimum lot size, then the Planning Commission could approve a 600 square foot accessory apartment, said Mr. Miller.

Mr. Voelckers said Mr. Miller has made a compelling case where extra attention may need to be paid within the ordinance. He asked if Mr. Miller had a motion he would like to make or language supporting the issue which has just been raised. He said he thought it may be best to hold this tonight and put this ordinance through the Title 49 Committee to address these issues that Mr. Miller has just raised within this ordinance.

Ms. McKibben said the intent with presenting this amendment to the Commission this evening was simply as a housekeeping issue, to eliminate the inconsistency within the code. She said Mr. Miller's suggestions deserve some attention by the Commission. She said her suggestion would be that this ordinance be moved to the Assembly for approval and that Mr. Miller's suggestions be added to the Title 49 committee's list for more consideration. The staff could then bring forward a researched and polished amendment after they make sure they were no inconsistencies elsewhere in the code to be added to the ordinance.

Mr. Miller said somewhere on the chart from 125 percent 150 percent of the minimum lot size that the Commission should be able to grant a 1,000 square foot apartment.

Ms. McKibben said:

- If there is an undersized lot Planning Commission approval is necessary for a 600 square foot accessory apartment.
- A single family home on a lot at 125 percent of the minimum lot size can have one, 600 square foot apartment with Director's approval.
- If the lot is more than 125 percent of the minimum lot size an accessory apartment of up to 1,000 square feet is allowed with Director's approval.
- Two accessory apartments are allowed when there are two single-family homes on a double-sized lot. Each single-family home on this lot could have up to one accessory apartment at 600 feet.
- If there are two single-family homes on a lot less than the minimum lot size, with Commission approval they can have one small accessory apartment. This is a quirk in the code, noted Ms. McKibben.
- If there are two single-family homes on a double-sized lot one of those homes can have up to a 1,000 square foot accessory apartment. They could also have one small accessory apartment and one 1,000 square foot accessory apartment.
- In a multi-family and commercial zoning district if there is a single family home on an undersized lot they could apply for a regular sized accessory apartment with Planning Commission approval. It would be the same for common wall dwellings, she noted.

Mr. Miller asked when two single-family homes detached would be allowed on a lot.

Ms. McKibben said that would be allowed when the homes were on a lot twice the minimum lot size in RR, D-1 and D-3 zones.

Mr. Miller clarified that minimum lot size for two single-family homes is actually twice the minimum lot size.

Attachment B - Excerpt of July 10, 2018 Planning Commission Meeting Minutes

When a lot is 250 percent of the minimum lot size there could be one 600 square foot accessory apartment on one home and a 1,000 square foot accessory apartment on the other home, said Mr. Miller. He asked why two 1,000 square foot accessory apartments would not be allowed on a lot that is 250 percent of the minimum lot size. If a single-family home is on a lot that is 125 percent of the minimum lot size, a 1,000 square foot accessory apartment is allowed. Then why wouldn't two 1,000 square foot accessory apartments be allowed on a lot that is 250 percent the minimum lot size, asked Mr. Miller.

Ms. McKibben said she does not recall where the language originated as this was quite a few years ago, but this is for the language fell down, she said.

Mr. Dye noted that on page five, line six of the proposed ordinance, that if the accessory apartment was changed from 600 square feet to 1,000 square feet in this section, then it would reflect what Mr. Miller just suggested.

Mr. LeVine said his preference is to look at the entire ordinance holistically and not just make piecemeal changes. He said he would prefer to see that the staff provides them with evaluations of all proposed changes. He said he is fully confident they will end up exactly where Mr. Miller and Mr. Dye suggested, but that he would like it to be reviewed in one piece.

Mr. Dye noted that several times in the past changes by the Commission have been put off with the thought that it would be addressed more thoroughly at a later time, and that list seems to grow all the time, he commented. If one 1,000 square foot accessory apartment can be added to a home that is located on a lot with the minimum size of 125 percent, then it logically tracks that two 1,000 square foot accessory apartments should be allowed on each home located on one lot of 250 percent of the minimum lot size or larger.

Mr. Miller said section F of the ordinance tells him that when you have two residences on a lot that is 250 percent of the minimum lot size that there can be two 1,000 square foot accessory apartments, but that subsequent language within the ordinance contradicts this language. He said he felt the Commission could move forward with cleaning up this language and the current contradictions within the ordinance.

Agreeing with the previous statements, Mr. Voelckers said that he did not feel the Commission should deal with these changes at this point. He said he felt they should schedule dealing with this ordinance at the earliest possible opportunity to rectify the inconsistencies within the ordinance.

Mr. Dye asked Mr. Voelckers and Mr. LeVine if their intent was to approve the draft ordinance as it stands tonight to be sent to the Assembly and then subsequently deal with changes to the ordinance, or if their intention was to first deal with the changes and then forward the ordinance to the Assembly.

Mr. Voelckers said he did not think they should send the current draft ordinance to the Assembly. He said he felt they should first deal with the inconsistencies and then forward the ordinance to the Assembly.

Mr. Campbell asked if he could be given some idea of how many of these actual situations existed within the community. He said he is not familiar with any single lots that have two separate single-family dwellings on them where this would apply.

Ms. McKibben said she could not tell Mr. Campbell the answer to his question at this time. She said she did know when they provided the opportunity to add the larger accessory apartments up to 1,000 square feet on larger lots that there were a number of what were previously illegal accessory apartments that could then be properly permitted and could then come on the market.

Mr. LeVine said it is pretty clear to him that this is not a dire emergency since it has been in development since February. He said at this point he agrees with Mr. Voelckers that they not forward this draft ordinance to the Assembly since they know it has areas which need to be addressed. He said he felt it should first go to the Title 49 Committee as soon as possible for review.

MOTION: *by Mr. Miller that this draft ordinance be forwarded to the Title 49 Committee for housekeeping and for other possible changes.*

Mr. Campbell asked Ms. McKibben what the negative effect would be if this ordinance is delayed.

Ms. McKibben said they have been using the code as it exists and making it work. They can continue to do so, she added.

Mr. Campbell said then he speaks in favor of the motion.

The motion passed with no objection.



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155 S. Seward Street • Juneau, AK 99801

August 10, 2018

MEMO

To: Nathaniel Dye, Chair Title 49 Committee

From: Beth McKibben, AICP, Planning Manager
Community Development Department

RE: AME2018-01 Accessory Apartments

A handwritten signature in black ink, appearing to be 'BM', is located to the right of the 'From:' field.

ATTACHMENTS

- A- Excerpt of July 10, 2018 Planning Commission minutes
- B- Excerpt of July 16, 2018 Title 49 Committee draft minutes
- C- October 15, 2014 Memorandum to the Planning Commission
- D- Excerpt of October 28, 2014 Planning Commission minutes

BACKGROUND

Recently, staff initiated an amendment to the Accessory Apartment regulations that were "housekeeping" in nature and did not propose changes, policy, or intent. At the Planning Commission meeting of July 10, 2018, the Commission considered the proposed ordinance. Excerpts from those minutes are found in Attachment A. Concern was raised about the lot size ratios and the size and number of accessory units. There was also a desire to examine the concept of allowing accessory apartments with a duplex, which is currently prohibited. The ordinance was referred to the Title 49 Committee for discussion of these items. The Title 49 Committee discussed accessory apartments at the July 16, 2018 meeting (Attachment B).

DISCUSSION

Prior to amending the accessory apartment section of code in 2014, extensive research was done by staff. A copy of the October 15, 2014 memorandum to the Planning Commission is found in Attachment C. This memorandum contains most of the research CDD completed, a draft "white paper," and a recommendation from the Affordable Housing Commission. This document provides the back ground on how the lot size and apartment size and the ratios. The Planning Commission minutes from October 28, 2014, (Attachment D) reflect the Commission's decision. At that time the Commission indicated that a future discussion on accessory units and duplexes would be appropriate, but did not direct when, and no further action was taken.

In the May 13, 2014, Memorandum to the Planning Commission (within Attachment C), CDD staff Ben Lyman suggested that if accessory apartments were allowed in conjunction with a duplex that they be allowed on lots that are 175% of the minimum lot size. A duplex is required to have a lot that is 150% of the minimum lot size in RR, D1, D3 and D5 zoning districts. As mentioned above, in 2014 the Commission was not ready to consider accessory apartments with duplexes.

Accessory apartments do not count towards density in the RR, D1, D3, D5 and D10SF zoning districts. They are considered incidental and subordinate to the primary use of a single family dwelling. This is why the size and number of bedrooms is important when considering accessory apartments. Larger apartments are no longer incidental and subordinate to the primary dwelling, generally have more residents, create more vehicle trips and other impacts to the neighborhood.

In order to consider accessory apartments with duplexes, amendments are required to CBJ 49.80.120, Definitions. The amendments below are concepts only and that final wording will have to be developed with the Law Department.

Duplex means a building on a single lot containing two attached **primary** dwelling units, each of which, except for a common stairwell exterior to both dwelling units, is separated from the other by an unpierced wall extending from floor to roof or an unpierced ceiling and floor extending from exterior wall to exterior wall.

Accessory apartment means one or more rooms with private bath and kitchen facilities comprising an independent, self-contained dwelling unit within or attached to a single-family dwelling **or duplex** or in a detached building on the same lot as the primary dwelling unit(s). An accessory apartment is distinguishable from a duplex in that, unlike a duplex, it is clearly subordinate to the primary dwelling unit, both in use and appearance.

Dwelling means a building or portion thereof, used exclusively for human habitation.

Dwelling, detached, means a dwelling which is not attached to any other dwelling by any means.

Dwelling, single-family, means a detached dwelling which is designed for and occupied by not more than one family.

Dwelling, multifamily, means a building designed for or occupied by three or more families. **A duplex with an approved accessory apartment(s) is not considered a multifamily dwelling.**

There is no minimum or maximum square foot floor area requirement for duplexes, but there is a minimum lot size requirement of at least 150 percent of the required square footage required for a single family dwelling in that zoning district. After reviewing available data staff proposes that a duplex in D1, D3 or D5 on a lot of at 150% the minimum lot size be allowed a 600 square foot or smaller, one or fewer bedrooms, accessory apartment with a building permit only. Two 600 square feet or smaller, one or fewer bedrooms accessory apartment could be approved through the conditional use permit process when a duplex is located on a lot of at least 175% of the minimum lot size.

Zoning District	Single Family	Duplex Lot	Common Wall Lot	Proposed Common Wall Lot	Single Family, Detached, Two Dwellings Per Lot	ONE 600	ONE 1000	TWO 600	ONE 1000 + One 600	Duplex and ONE 600	Duplex and TWO 600
RR	100% 36,000	150% 54,000	NA	NA	200% 72,000	100% 36,000	125% 45,000	200% 72,000	250% 90,000	150% 54,000	175% 63,000
D1	100% 36,000	150% 54,000	NA	NA	200% 72,000	100% 36,000	125% 45,000	200% 72,000	250% 90,000	150% 54,000	175% 63,000
D3	100% 12,000	150% 18,000	NA	92% 11,000	200% 24,000	100% 12,000	125% 15,000	200% 24,000	250% 30,000	150% 18,000	175% 21,000
D5	100% 7,000	150% 10,500	100% 7,000	85% 6,000 (5,800?)	NA	100% 7,000	125% 10,500	NA	NA	150% 10,500	175% 12,250

Duplexes and single family homes, as well as more than one single family home, and in some cases up to two accessory apartments are permitted in the RR zoning district, however; these provisions seem contradictory to the purpose of the zoning district.

49.25.200 - RR, rural reserve district. *The RR, rural reserve zoning district, is intended for lands primarily in public ownership managed for the conservation and development of natural resources and for future community growth. In addition, recreation cabins, lodges and small seasonal recreational facilities may be allowed.*

		Less than permissible use minimum lot size	100-124% permissible use minimum lot size	Exceeds 125% permissible minimum lot size	Exceeds 150% permissible use minimum lot size	Exceeds 175% of permissible use minimum lot size
One duplex dwelling per lot	1 apt up to 600 sq ft	NA	NA	NA	1	1
	2 apt up to 600 sq ft				NA	3

Review of parcel data shows that 29% of existing duplexes in the D1, D3 and D5 zoning districts do not meet the current lot size requirement of 150% of the minimum lot size. However, approximately 3,126 lots in the D1, D3 and D5 zoning districts exceed the 150% of the minimum lot size required for a duplex and therefore could develop with a duplex and at least one accessory apartment.

As the background research from 2014 indicates, Juneau is a leader when it comes to regulating accessory apartments. Since 2014 staff have attended national conferences focused on housing and Juneau is still a pioneer in the area of regulating accessory apartments. The Housing Action Plan was adopted since the last revision to the accessory apartment regulations. A few of the key concepts in that document are that Juneau should focus on in-fill development, and find ways to increase density to “unstick” the housing market. The Plan encourages “out of the box” thinking as a way to address housing needs. Allowing for accessory apartments in conjunction with a duplex is one way to further advance these small infill developments.

Two Single Family Dwellings Per Lot

At both the July 10, 2018, Planning Commission meeting and the July 16, 2018, Title 49 meeting members expressed interest in changing current regulations that allow for lots that are more than 250% of the minimum lot size to have one large (up to 1000 sq. ft.) and one small (up to 600 sq.ft.) apartment. This is illustrated in the table below.

Two single-family dwellings per lot 49.25.510(k)(2)(F) 1.140	less than 2x min lot size	200-250% min lot size	exceeds 250% min lot size
One apartment up to 600 sq. ft.	3	1	1
Two apartments up to 600 sq. ft.	3	1	1
One apartment up to 1000 sq. ft.	NA	NA	1
One apartment up to 600 sq. ft. AND one apartment up to 1000 sq. ft.	NA	NA	1

The record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size. However, the record is clear that this was intentional. The presentation to the Assembly states “Only 1 larger accessory apartment & 1 smaller accessory apartment, or 2 smaller accessory apartment—never 2 larger accessory apartments.”

RECOMMENDATION

Staff recommends that the Title 49 Committee review and discuss the information above, provide direction in regard to accessory apartments with duplexes and accessory apartments on large lots. Staff will work with the Law department to draft an ordinance. The Committee should indicate whether the draft ordinance should go to the full Commission or through the Committee.

III. Agenda Topics

A. Accessory Apartments

Ms. McKibben said that a lot of work was done to this in the last major code revision, adopted in 2015. At that time, the community was greatly concerned about having these apartments in their neighborhoods but they have become more familiar now. She went through her PowerPoint presentation (this can be found with the meeting packet) which provided information on permitting and walked through the code. She pointed out that there is no inconsistency in the code as it stands.

Mr. Voelckers asked about Mr. Miller's issue of concern about the inconsistency of the code allowing for different sizes. Ms. McKibben pointed to page 4 of her memo regarding two single family dwelling per lot and reiterated that "the record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size." However, she said, it seems clear that the decision was intentional.

The table in the staff report needs to be looked at, said Ms. McKibben, when Commissioners are thinking if they want to include duplexes.

Mr. Levine asked why the community should care how big the apartments are. He said he felt the community concern is mostly just about who lives there. The apartments are accessory to the primary use of the property, said Ms. McKibben. On the scale of small to large, the CBJ code settled on these numbers: 600 sq. ft., 2 or fewer bedrooms, 50% of overall lot size. So size was capped at 50% of the primary dwelling up to 1,000 sq. ft, she said. Why asked Mr. Levine? The apartment is intended to be incidental to the primary use and subordinate, so those working on the code in 2015 came up with those figures. Density means units - more bedrooms equals more people and more traffic. Mr. Levine said isn't the concern more about how many people are in there and what the apartment looks like? Why else should the community be concerned, he asked? The only thing that matters is density, so limiting the apartment to two bedrooms makes sense to him, also scale.

Mr. Voelckers said the threshold is to get to two bedrooms. Mr. Levine said it makes sense to him why the code is limiting in that way. Ms. McKibben said it is less about what it looks like and more about scale and trying to keep the apartment accessory to the primary use. Mr. Levine said 1,000 square feet is a nice size.

Ms. McKibben directed members to look at the table (page 3 in memo) showing the range of what could be allowed in the various zoning districts. Mr. Voelckers asked if something like this table will be included in the new, amended code. It seems useful, he said. Ms. McKibben said a separate table of dimensions could be created, maybe, or there could be other ideas, but she agreed that this table is a good concept.

Ms. McKibben threw in the idea of the proposed common wall for context. In 2014 when work was done on the code, a staff conversation discussed if an accessory apartment should be allowed with a duplex. Ms. McKibben proposed they consider a small apartment or a duplex on a lot 150% or larger of minimum lot size. She suggested the Commission could consider allowing two small accessory apartments with a Conditional Use Permit (CUP).

Mr. Voelckers asked for explanation of the graphic showing common wall lots with accessory apartments (see PowerPoint, slide 8). Ms. McKibben said this was a proposal for the committee to consider. The suggestion is to consider one duplex with one small apartment and consider allowing 2 small accessory apartments with a CUP. What is the advantage to having the CUP, asked Mr. Levine? Ms. McKibben said it is consistent with the philosophy about requiring CUPs – the process provides notice to neighborhoods and includes Planning Commission review. Mr. Voelckers said it felt right to him. Two more on each side of duplex begs the question if they are the same thing. Mr. Levine said he agreed with requiring a CUP for the second apartment, then.

Ms. Maclean asked what would be the reason the commission might deny this. What findings would need to be there to lead to denial? Ms. McKibben said it would have to be about neighborhood harmony, safety, and parking. Each full size unit needs 2 parking spaces, and the geography of Juneau doesn't always provide for that. These things should be reviewed through the building process. So it falls down on allowing the neighborhood to comment. Ms. Maclean asked what if someone doesn't like one neighbor but likes another, so s/he only protests against the one due to personal issues. Ms. McKibben said there have been situations with neighborhood opposition and lot which was undersized but the Planning Commission still approved, although that was rare. Most of the concern is in downtown Juneau and Douglas.

Mr. Levine said he is sympathetic to the idea that the Commission is not in the business of having things come to the consent agenda and be a waste of people's money. Ms. McKibben agreed with having more in-house approval. As the community becomes more accepting of this apartment idea, approval becomes easier. Mr. Voelckers said he hears Ms. Maclean's point. Mr. Levine pointed out that sometimes the process of airing grievances in a public meeting helps to resolve them.

Ms. McKibben said if the committee is in favor of the idea of 2 small apartments, the question then becomes how to approve them, over the counter or before the Planning Commission. Mr. Dye asked if the property is 250% over lot size, why can't someone get two 1,000 sq. ft. apartments approved over the counter; that is Mr. Miller's, he said.

Mr. Voelckers said a basic numeric fairness is the concern. Ms. McKibben said she doesn't know why the code fell down there but it is clear it was intentional.

Mr. Voelckers said in conclusion he likes the three for the two apartments as it gives the chance for that forum. Mr. Levine said he does not feel strongly one way or another and defers to others who think more holistically. Why not have this as an option when the goal is to create more housing, he asked?

Ms. McKibben asked the committee to again look at page 3 of the staff report. Mr. Voelckers said in the definition of RR (Rural Reserve), a house is not mentioned, only cabins and such. Ms. McKibben said RR is treated like D1. It is a question to be asked, if the city continues to allow these other things in a RR zone, is whether or not to allow common walls but allow for 2 single family dwellings and 2 accessory apartments. Mr. Voelckers asked if this was an abstract idea or are there cases like this? It is abstract, said Ms. McKibben, but worth thinking about.

Ms. McKibben summarized and said she is hearing that the committee is in favor of going ahead with making changes to allow for duplexes as presented in the table. Does the committee want to talk about 600 and 1000 sq. ft. on a super large lot, she asked? How many, asked Mr. Dye? Ms. McKibben showed data included in the PowerPoint. Yes, then, we should look at that, said Mr. Dye. Why can't there be two 1,000 sq. ft. apartments? Mr. Levine said there would have to be a rule that you can't subdivide the property. Ms. Maclean said for each detached, single family dwellings each could have one apartment and the property could be subdivided if it can meet standards. Ms. McKibben said the chart shows lots, but not all are developed. Mr. Dye suggested pursuing this as option for in-fill development. He said he assumes someone would be thinking about design and parking.

Mr. Dye said what is the actual question needing an answer? Mr. Levine said it is about RR zones. Mr. Dye said it seems to need a whole other meeting to address that question. Do we need RR at all, he asked? Ms. McKibben said currently if a lot is in a RR zone and meets these requirements it can have an accessory apartment. Rural Reserve has not been looked at in relation to the purpose of the zoning district. Mr. Levine said basically D1 and RR have been treated as the same. If we want to change this, we need another meeting, said Mr. Dye. Maybe this could be reviewed after the Comprehensive Plan revision. Mr. Levine said if we want to have an RR zone, what are the rules that need to be applied? But, he said, there is not enough of a good reason to do this work at this time. Mr. Voelckers said he is also happy to talk about this in the future.

Mr. Levine said he doesn't see a compelling reason for there being a difference between 600 and 1000 sq. ft. apartments on big lots.

Ms. McKibben asked if the committee wanted this topic to come back to them or go directly to the full commission? Mr. Voelckers, Mr. Dye and Mr. Levine all said they were happy for it to go to commission. It can go on the October 9 agenda, said Ms. Maclean. Mr. Voelckers said please include the cool graphic.

EXCERPT FROM MINUTES

Title 49 Committee of the Planning Commission

Monday July 16, 2018

a) Accessory Apartments

Ms. McKibben said she was not prepared with new material for the committee but could bring an analysis and suggestions to the next meeting. If there are new questions, please send them to her.

Mr. Miller felt there was conflicting information in the proposed code changes in regards to a lot that is twice the minimum size.

Ms. McKibben admitted it is a challenge to make the information clear and this is why she wanted table included because that reflects the code which is challenging to read. We have to make a decision tree for this, she said. She recalls policy fell down on lots more than 200% the minimum size, you have to have twice the minimum lot size, enough for two single family homes, and each one can have an apartment of 600 feet with departmental approval. On a lot 250% of minimum size, you can have a 1,000 foot apartment or two each being 600 square feet.

Mr. Miller said he thinks there is a problem with the language on page 3 making good sense but not on page 4. Two 1,000 square foot apartments seem to make sense to him.

Mr. Voelckers suggested Mr. Miller work with Ms. McKibben to make the language and ratios consistent.

Mr. Levine said in theory it makes total sense so he wonders why it was done the other way. He wants this to be checked. Ms. McKibben said she can double check. If this is all that is needed, said Ms. McKibben, she can work with Mr. Palmer and bring it back to the committee.

Mr. Miller said he thinks duplexes ought to be allowed and this fits in with the math. Ms. McKibben said it would require a change in the definition and the committee might want to give more thought to that idea. For policy discussion about accessory units, the math works out but it is not so simple with the framework of Title 49. Mr. Voelckers said there was stuff on the left page that was not consistent with simple math. Everyone in room nodded that the lack of clarity was about the ratio of sizes. If this is made clear, the case can be calendared for the next PC meeting.

Ms. McKibben asked if that includes duplexes. Yes, said Mr. Voelckers.

**AME2018-0001 – Amending CBJ Land Use Code Title
49, Land Use Code 49.25.510(k) Accessory
Apartments**

**Planning Commission
Committee of the Whole
April 27, 2021**

Recommended Action

Staff recommends the Planning Commission review the proposed changes to the accessory apartments ordinance, and schedule the ordinance for a public hearing before the full Planning Commission.

Housekeeping - The intent of the Assembly in adopting Ordinance 2015-07(b)(m) was to allow for Director and Commission approval for accessory apartments as follows:

Director Approval	Planning Commission Approval
a) Accessory apartments that do not exceed 600 square feet on lots that meet the minimum lot size. b) Accessory apartments up to 1000 square feet on lots that exceed 125% of the minimum lot size. c) Accessory apartments up to 1000 square feet each associated with a single-family residence on a lot that has two single-family dwellings and exceeds 250% of the minimum lot size.	Conditional Use Permit for accessory apartments not to exceed 600 square feet on lots that are less than the minimum lot size.

Unintended redundancy –

Current code provides for both Director and Commission approval for accessory apartments on oversized lots.

Subsequent work by the Title 49 Committee recommended the following:

- Oversized Lots
 - Current Code:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for up to one accessory apartment - 600 square feet or less and one or fewer bedrooms, and one accessory apartment - up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling, for each single-family dwelling.
 - Proposed Change:
 - On lots equal to or larger than 250% of the minimum lot size, with two single-family dwellings, code provides for one accessory apartment for each single family dwelling (up to 1,000 square foot and 2 bedrooms, not to exceed 50% of area of the primary dwelling).

- Duplexes
 - Current Code:
 - Duplexes are not permitted to have an accessory apartment, as the duplex is considered one single-family dwelling with an accessory unit that mirrors the other unit in size and appearance; a duplex may be either side-by-side units or up-and-down units.
 - Proposed Changes:
 - On lots 150% of the minimum lot size (the minimum needed for a duplex), code provides for one accessory apartment (600 square feet or less and one or fewer bedrooms).
 - On lots larger than 175% of the minimum lot size, a duplex may have up to two accessory apartments (600 square feet or less and one or fewer bedrooms) with an approved Conditional Use Permit.

- Proposed changes to Definitions (49.80):
 - Amends the definition of accessory apartments to allow them in conjunction with a duplex;
 - Amends the definition of duplex (two to clarify the duplex is the primary dwelling unit;
 - Amends the definition of multi-family dwelling to specify that the accessory apartment unit(s) of a duplex is not considered a multi-family dwelling; and
 - Creates a new dimensional standards table specific to accessory apartments.

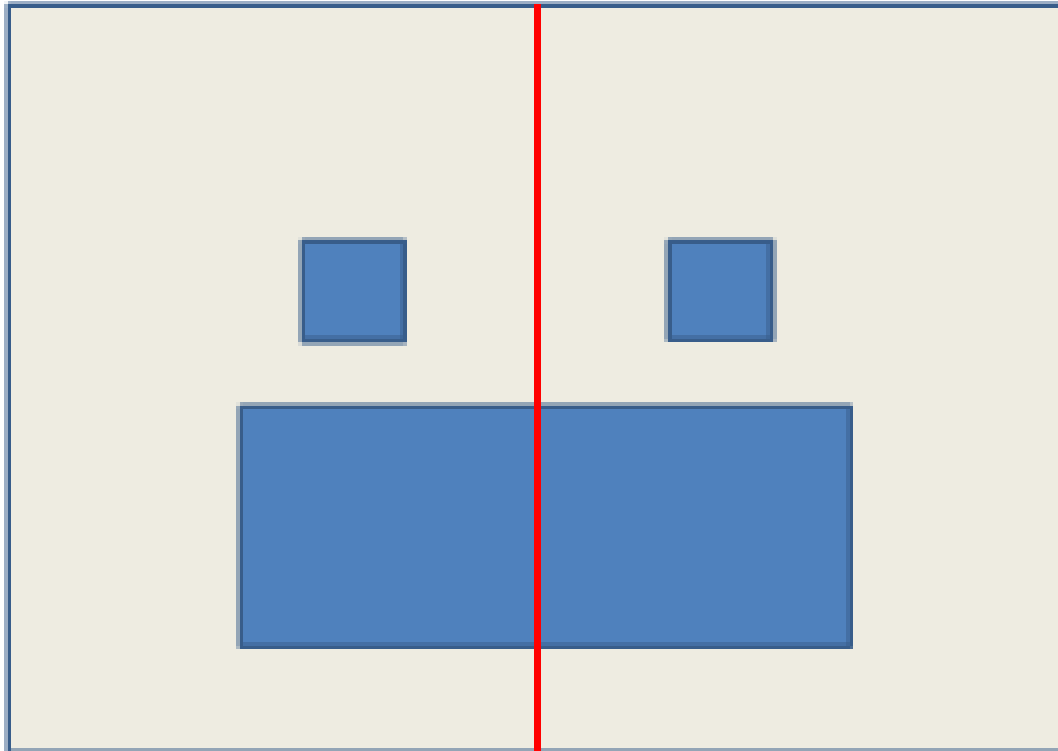
AME2018-0001

	ZONING DISTRICT*				
	RR	D1	D3	D5	D10SF
MINIMUM LOT SIZE					
Detached single-family dwelling and one accessory apartment up to 600 square feet	36,000	36,000	12,000	7,000	3,600
Detached single-family dwelling and one accessory apartment up to 1000 square feet	45,000	45,000	15,000	8,750	4,500
Duplex and one accessory apartment up to 600 square feet	54,000	54,000	18,000	10,500	
Duplex and two accessory apartments up to 600 square feet with Conditional Use Permit	63,000	63,000	21,000	12,250	
Common wall unit and one accessory apartment up to 600 square feet**				10,500	3,600
Detached two single-family dwelling units per lot, and one accessory apartment up to 600 square feet	36,000	36,000	12,000		
Detached two single-family dwelling units per lot, and one accessory apartment up to 1,000 square feet	45,000	45,000	15,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 600 square feet	72,000	72,000	24,000		
Detached two single-family dwelling units per lot, and two accessory apartments up to 1,000 square feet	90,000	90,000	30,000		

*In multi-family and commercial zoning districts, unless on a duplex, units are considered another multi-family unit, not an accessory apartment. Caretaker units are permissible in industrial zoning districts; accessory apartments are not permissible.

**Each common wall lot may be permitted to have one accessory apartment up to 600 square feet

Visualize the Logic:



2 common wall lots each with an accessory apartment. The lots are each 100% the minimum lot size for their zoning district.

These lots could legally be consolidated because together they would exceed the minimum lot size for a duplex in their zoning district (150%), but under the current code, the accessory apartments would not be allowed.

Proposed code amendments would allow for a duplex to have 2 accessory apartments on a lot that is greater than 175% the minimum lot size, so in this case, the apartments would be allowed.