Agenda
Planning Commission, Committee of the Whole
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
July 24, 2018

I. ROLL CALL

Ben Haight, Chairman, called the Planning Commission Committee of the Whole meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:15 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Nathaniel Dye, Dan Miller, Andrew Campbell

Commissioners absent: Michael LeVine, Percy Frisby, Dan Hickok, Carl Greene

Staff present: Jill Maclean, CDD Director; Beth McKibben, Planning Manager; Robert Palmer, Deputy City attorney

Assembly members:

II. REGULAR AGENDA

A. Discussion of proposed Title 49 Land Use Code regarding Alternative Residential Subdivisions.

Commissioner Haight provided a brief recap of the previous Title 49 Committee meeting (see Title 49 Committee minutes).

Open Space
Mr. Miller noted that at the last meeting on page 5 of 14 of the draft ordinance the committee discussed open space. Commenting on this, Mr. Miller noted the draft ordinance stated that open space must be usable. He said he appreciated the open space requirements being reduced to the current level. He said while parking spots were excluded from open space, that it did not exclude roadways or bike paths. He said he said that both of those items would be considered usable space and therefore should be included in the open space calculations.

Mr. Dye said he is assuming that in the PUD (Planned Unit Development), sidewalks and roadways would not be considered open space because they are in the public domain as public right-of-ways. He said he is concerned the ordinance is trying to be too broad by even addressing public-right-of ways with the bonus points. Especially since open space bonus points could be gained without having to dedicate public right of ways, he added. He said he felt it created conflicting themes which made the ordinance more complicated.

Mr. Voelckers asked if wetlands were considered usable property. He said he assumed ponds and water of that nature were not considered usable property.

Mr. Miller said that both wetlands and water such as ponds on property are considered usable property.

Mr. Palmer said there are several layers to the definition(s) of open space:

- *Open Space*
  Open space means any parcel or area of land or water essentially unimproved and set aside dedicated, designated or reserved for public or private use or enjoyment or for use and enjoyment of owners and occupants of land adjoining or in the same neighborhood as open space.

- *Usable Open Space*
  Open space within a proposed development site excluding areas devoted to structures, storage, or recreational vehicles and parking. At least half of all areas designated as usable open space must have a slope of less than 20 percent.

Ms. Maclean said the definition of "structure" which is excluded from usable open space, includes a street, road, sidewalk, driveway, parking area or storage area.

Mr. Voelckers commented that bike paths would seemingly be allowed.

Mr. Miller said the way he interprets this language is that if a recreation or social gathering facility was constructed for the use of the development, that it would not be considered for a bonus because it would not be considered usable open space, considering the definitions. He added that putting in a playground would also not qualify as open space. Those are amenities, that would be very valuable for the residents of the development, said Mr. Miller.

Mr. Voelckers said the problem is that these items are addressed before they ever reach a Planning Commission meeting. He said rather than try to make perfect language to focus on these issues as having discretionary aspects which the Commission can evaluate. There are many unique circumstances which will never be encompassed within the ordinance, said Mr. Voelckers. He added it should be early on in the process so that the developer has feedback from the Commission and knows which direction they can pursue.

Mr. Palmer said what is currently drafted in the ordinance is a requirement for a pre-application conference. The use of the Subdivision Review Committee is awkward, said Mr. Palmer. He said the Subdivision Review Committee is currently used on minor subdivisions which would go before the Director. He said it becomes complicated if the Subdivision Review Committee reviews a PUD or the developments within this ordinance because those three or four members could steer the direction of the development before it ever arrived before the Commission for evaluation. He said reviewing the definitions that are currently in code, the concerns of the commissioners are not currently being addressed. He said this ordinance will need to come back to Commission with another draft after he has addressed their concerns.

Mr. Miller said language could be placed right within the ordinance which states something such as, “common elements can count as open space”.

Mr. Dye said at a Planning Commission conference several years ago, a private land use attorney said every city attorney was way too conservative and that there was a lot more freedom than their opinions would dictate. The attorney also mentioned that commission members should not do site visits because not every Commissioner would have the benefit of the site visit, thus their opinions would be based upon varying information.

Mr. Palmer said if less than three commission members visit a site that creates no problem. However, he said, it cannot become a serial meeting where various small groups of commissioners are visiting the site at different times which would constitute a serial meeting, which could cause problems with the public meeting requirement.

Permitted Uses
Mr. Miller asked where the Commission currently resides in its opinion on accessory apartments in an alternative residential subdivision. Chairman Haight said his understanding is that an accessory apartment would be allowed on a lot which fits the dimensional standards of the underlying zone (parent lot). Mr. Miller said that is what the last sentence under “Permitted Uses” states. He said he is fine with the current version of the draft ordinance pertaining to accessory apartments.

Mr. Voelckers said he likes the current verbiage as well. He said the intent of this ordinance is to achieve a certain density goal for a certain type of development. He said changing accessory apartment language would just create confusion. He said he would like to talk about possible language regarding child care in alternative residential subdivisions. He said they may want to take care that they don’t preclude something that could be very beneficial to the subdivision; especially child care.

Mr. Dye said he agreed. He said in-home childcare could prove to be very beneficial to these residential subdivisions.

Mr. Miller asked for a brief review of home child care that was discussed during the previous Title 49 committee meeting. (Home child care centers are for 12 or fewer children, with various requirements for staff and parking which includes two parking spaces for the dwelling unit and one parking space for each on-shift employee. It would probably require a Conditional Use Permit. Specific language within the ordinance mentioning child care may be beneficial.)

Mr. Miller said he would like to see child care for 12 or fewer children allowable within the alternative residential subdivision stipulating that it has to be addressed within the HOA (Home Owners Association). The HOA would decide how it would deal with the required parking for that business, he added.

The Commission concurred with Mr. Miller's suggestion. The staff will work this language into the ordinance under "Permissible Uses".

Mr. Voelckers asked if this could be part of the predevelopment meeting.

Mr. Miller said it would have to be allowed by the Homeowners' Association along with its specific recommendations.

Mr. Voelckers said he did not understand the first sentence under "Permitted Uses".
(No primary uses are permitted on the parent lot except a residential center or community facility.)

A child care center could be a primary use that could be allowed in the common area that is not a residential use, said Ms. McKibben.

Mr. Campbell said it appeared that Mr. Miller would like the child care center added to the primary use is permitted on the parent lot as well as a note about it being allowed in the small lots.

Mr. Miller concurred with Mr. Campbell's assessment.

Pre-application Conference
Mr. Voelckers said he felt it should be stated specifically that it is at this pre-application conference where discussion such as bonus points would ensue.
Mr. Palmer said they will add that language under the "Pre-application Conference".

Mr. Miller asked if the home owners Association could be for condominiums.

Mr. Palmer said an HOA could be for condominiums. He referred the Commission to language on page 11 of the ordinance which refers to a "Homeowners' Association, or a similar entity, is required".

Mr. Miller said the Homeowner's Association cannot consider this until the first phase is complete and there is a certificate of occupancy for all of the units, for a condominium.

Mr. Voelckers said if a Homeowners' Association happens at this later stage in the process, then it would not be available to make a decision on items such as a child care home at an earlier stage.

Mr. Palmer said one of the nuances to contemplate is that a condo declaration or a Homeowners' Association declaration can be amended after the Community Development Department (CDD) reviews it.

Mr. Palmer said if the facility is on the parent lot such as a community center, that would work much easier in the process. If it is a child care business within the individual home, that would be harder to come up with closer to the beginning of the process, he said.

Parent Lot
Mr. Voelckers said he felt there should be clarification on the definition of parent lot. He said in his mind the parent lot is the initial piece of property before any development takes place. He said it was also referred to as the residual property from which the small lots are developed.

Mr. Palmer said they could add that to the definition of "parent lot" if Mr. Voelckers felt it provided more clarity.

Mr. Dye asked if these lots carved out of the parent lot will be considered lots or not. He asked if the Homeowners' Association would hold the property in common and pay a common property tax or if the lots would be considered individual lots and taxed as such.

Mr. Palmer said the lots carved out of the parent lot would be individually taxed. However, he said, a multi-unit development would be taxed as proposed by the Homeowners' Association. It would be whatever the developer wanted to do, he added.
Mr. Miller asked if it would be easier to get financing for a fee simple piece of property as opposed to a condominium.

Mr. Palmer said it was easier, even though they both paid dues. He said that is because it is a model that banks and investors are comfortable with.

Mr. Voelckers asked what does "less than fee simple ownership" mean.

The classic type of ownership when one purchases property is that the purchaser owns the entire piece of property, said Mr. Palmer. The old Walmart land was sold for "less than fee simple" for a term of years. The purchase was only for 17 years, said Mr. Palmer.

Expiration
Mr. Dye asked if it would be more difficult for the developer if they lessened the 18 month period given prior to the time the project would expire after the Commission notice of decision.

Mr. Miller said he has had several Conditional Use Permits during his time in Juneau and one expired after 18 months so they needed to file for an extension. He said he felt in most cases 18 months is enough time for developer.

Mr. Dye said he was asking about the preliminary plan, not the final plan. He clarified his question and asked if it would be too hard on the developer to give them perhaps 12 months for the preliminary plan rather than the 18 months.

Mr. Miller said he felt 18 months was the appropriate amount of time.

Commission Action
Mr. Voelckers questioned the word "may" in the language "The commission 'may' approve the final plan…." He said he would expect that word to be "shall".

Mr. Palmer said if the Commission wants to limit its discretion to "shall approve" it could do so. The word "may" gives the Commission more discretion, he said. Mr. Palmer said there is an Alaska Supreme Court case in which the court was asked if a planning commission reviews a Conditional Use Permit that says it "may" approve the permit, that it leaves the Commission the option to deny the permit even if all of the permit requirements have been met.

Completion of an Individual Phase
Mr. Miller said this could be a time when the Homeowners' Association plan could be reviewed to make sure it is in compliance with what is needed for the development.
Minor Amendment
Mr. Voelckers commented that the elements of a minor amendment seemed rather insignificant.

Amendment of Section
Mr. Dye asked if the fees listed in this section have been pulled from other pieces of the code so that they are consistent.

Ms. McKibben said a PUD or a cottage housing development have a preliminary plat application of $400 plus $800 per unit. The final plan is $300 plus $60 per unit, she added. She said the fees in this ordinance are the same.

Mr. Miller asked what the fees were for a major subdivision.

Preliminary plats are $110 per lot, said Ms. McKibben, and final plats are $70 per lot, she said. A plat amendment is $110 plus $25 per lot, she said. A minor subdivision is $425 for each resulting lot, said Ms. McKibben.

Mr. Campbell said he recalls a memo from the chief housing officer in which he mentions that financing will be available for these type of lots through either USDA or FHA financing. He said that is substantially different from financing that is typically available for condominiums. That type of that financing is not available, he said. Mr. Campbell said he thinks that is a very positive aspect of this ordinance.

Second Review of the Ordinance
Parent Lot Size
Mr. Miller said he liked Mr. Dye's idea of the 150 percent of the minimum lot size.

Mr. Voelckers said he likes the flexibility that gives.

Chairman Haight said he felt it would be valuable for this to go back to the staff for evaluation and to write up some alternative language.

Mr. Voelckers asked the staff if they felt the 150 percent of the minimum lot size was feasible.

Ms. Maclean said she thought it would work.

Density Bonus
Mr. Miller said he felt the total bonus should not exceed 25 percent rather than the 15 percent stated. He said rather than a three percent bonus for a setback of greater than 50 feet, that perhaps it should be a scale starting at a certain percentage for 50 to 55 feet, a larger percentage for more than that, etc. Mr. Miller said perhaps it could be something like five percent for a 50 to 55 foot setback and 70 percent for setback larger than that.

Mr. Miller said he felt excellent siding, design, and landscaping could easily be a 10 percent bonus, instead of the five percent currently within the draft ordinance. Walking trails and things of that nature would be a very nice addition for residential developments, he said.

Mr. Voelckers said he would support a 10 percent bonus for excellence in design, amenities, etc. He said this would also be a good place within the draft ordinance to give bonus points for amenities such as preserving a view corridor within the development.

The bonus points for dedication of a public right-of-way within the development should be given a much larger bonus than the five percent listed within the draft ordinance, said Mr. Miller.

Mr. Miller said he felt the items listed providing pedestrian or bicycle pathways within the development could fit under the (D) in the bonus section.

Mr. Dye said he agreed with Mr. Miller that the items providing pedestrian or bicycle pathways within the development could easily fit under (D) in the bonus section, especially if they were going to change the five percent bonus to 10 percent. He suggested that (F) be deleted from the ordinance.

Mr. Miller said perhaps the five percent bonus for separating dwelling structures by at least 10 feet could be increased to 10 percent for those dwellings set further apart than 10 feet.

Mr. Dye said this section of the ordinance particularly bothers him because it is also a scaling issue. He said instead of measurements, perhaps they could connect the separation of dwellings to what an established street-side setback would be within the parent Lot.

Mr. Voelckers said he did not like this particular portion of the ordinance. He said he has seen very attractive and successful developments in which the dwellings which are clustered very close together and yet also share a very large common space which works really well.

Mr. Miller said they could eliminate (F) and (G) from the ordinance, and place a 15 percent bonus in (D) instead of a five percent bonus.

Mr. Voelckers said in (D) they could also add the term “pathways”.

Chairman Haight said it may be a good idea to take these new numbers listed by the Commission and play them out in actual scenarios, to see how they work.

The Commission agreed that having a new chart with the new numbers could be discussed in another Title 49 meeting.

Mr. Dye said he did not understand the purpose of including a public right-of-way within the ordinance. He said he could not really think of a scenario in which a developer would put in a public right-of-way in this type of development.

III. <u>OTHER BUSINESS</u>

IV. <u>REPORT OF REGULAR AND SPECIAL COMMITTEES</u>

V. <u>ADJOURNMENT</u>

The meeting was adjourned at 8:29 p.m.