Agenda

Planning Commission - Title 49 Committee
City and Borough of Juneau

December 3, 2018
Marine View Building, 4th Floor Conference Room
12:00 PM

I. ROLL CALL

II. APPROVAL OF AGENDA

III. APPROVAL OF MINUTES

A. Draft Minutes - October 9, 2018 Title 49 Committee Meeting

IV. AGENDA TOPICS

A. AME2018 0012: Alternative Residential Subdivisions

B. AME2018 0015: Improvement Standards

V. COMMITTEE MEMBER COMMENTS AND QUESTIONS

VI. ADJOURNMENT

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

Tuesday, October 9, 2018
City Hall Assembly Chambers
5:30 – 7:00 pm

Members Present:
Nathaniel Dye, Michael Levine, Dan Miller, Paul Voelckers, Benjamin Haight

Members Absent:
Carl Green

Staff Present:
Laura Boyce (CDD Planner), Jill Maclean (CDD Director), Jane Mores (CBJ Attorney), Beth McKibben (CDD Planning Manager), Marjorie Hamburger (CDD Admin)

Public Present:
Marna McGonegal

I. Call to Order

Meeting called to order at 5:39 pm.

II. Approval of Agenda

The agenda was approved as is.

III. Approval of Minutes

A. September 17, 2018 Draft Minutes

MOTION: *by Mr. Voelckers to approve the September 17, 2018 minutes.*
The motion passed with no objection.

IV. Agenda Topics

A. <u>AME2018 0009: Proposed amendments to 49.30, Nonconforming Development</u>

Ms. McKibben walked committee members through the memo and said most of the content was to refresh their memories. It was not new information. The nonconforming section in code is not well written, is difficult to use or explain, and does not differentiate between different types of nonconforming situations. Repealing and replacing this section of code is what is proposed, creating processes to evaluate nonconforming uses, nonconforming lots, nonconforming structures and nonconforming density.

Ms. McKibben said that nonconforming density is a category not previously found in code. The language for this was borrowed from Portland, Oregon.

Zoning is a policing power intended to protect public health, safety, and welfare, said Ms. McKibben. Nonconforming is something that was legal when it was created, built, etc. but a zoning change has now made it not legal. This is seen most noticeably in the historic areas of Juneau. Lot sizes have become too small and don't conform to setback requirements in the zoning areas. Also a property may have more dwelling units than the new zoning allows and so has become nonconforming in terms of density. Aurora Arms, a condominium property on Glacier Highway, is one such situation, she said. The city is figuring out how to help them continue to finance sales of these units, since the current nonconforming code makes this difficult. Another example is a 4-plex in the Valley that under current code could not be rebuilt as is.

The language in the draft ordinance provides a process for a property owner to establish that a given nonconforming situation was legal when it was created, which if true may allow for development. This places the burden on the property owner rather than the Community Development Department, said Ms. McKibben. This is a significant change from any process now in place and it helps appraisers to show that a property is legally nonconforming.

Ms. McKibben said that another thing created in this new ordinance is a nonconforming situation review process, to take place in front of the Planning Commission. Nonconforming densities or uses could be reestablished via this process. She said her favorite example was Amerigas on Mendenhall Loop Road which was permitted but is located in a residential zone.

Nonconforming situation review is appealable to the Planning Commission to consider changes of use within the same use category which do not comply with zoning standards or when the director determines that an increase in off-site impacts can reasonably be anticipated. An example might be an office building in a D1 zone that wants to become a 4-plex residence.

Ms. Maclean said she wanted to clarify that what was before the committee was not the ordinance but was draft language. She asked that members look to getting the concepts clear so Law can draft the ordinance. Stick to policy or concept at this point, she cautioned.

Page 4 of the memo includes the key policies for discussion, said Ms. McKibben. The committee needs to resolve the definition of "normal maintenance", and she put some sample language on this page from Anchorage. She pointed out that this language was different from the committee's previous conversation, however it allows for flexibility. She said that the concept about violating setbacks needs to be worked on. Existing code allows reconstruction on an existing footprint when damaged up to 75%. Is that the right number, she asked the committee? Would we want to go to 100% to make it easier for a property owner to reconstruct?

Purpose

Mr. Haight asked if the creation of nonconforming lots which occur when roads are reconstructed should be addressed here or is this situation already incorporated into the concepts? Ms. McKibben said that when a lot becomes nonconforming by an expansion of a right-of-way then it is a legally nonconforming lot and this language would apply. New lots that are created via a subdivision are not allowed to be nonconforming.

Ms. Maclean said that if part of a property is lost that will effect setbacks or lot size and make the situation nonconforming, this might impact density but would be cared for within this ordinance and be legally nonconforming.

Mr. Dye said that Mr. Miller discussed lots becoming nonconforming with the installation of a new road such as Glacier Highway or Fritz Cove Road. There was not a process to address this for the Planning Commission. Ms.

Boyce said that the Department of Transportation gave additional land behind the houses to offset the loss and there should have been a lot consolidation which did not happen. However now there is language that addresses this type of situation.

Mr. Dye said that in Fritz Cove some lots are now nonconforming and asked how these are being utilized? Ms. Maclean said any substandard lot is allowed at to have at least one single family home and Fritz Cove is zoned D1. Ms. McKibben said that this will be preserved with this concept. She also made a note to clarify with Law that this ordinance and right-of-way acquisition methods play nicely together.

Mr. Voelckers said he thought paragraph 3 (lines 16-21) was not useful; there was not a specific utility to it. What are we trying to get at, he asked? Ms. McKibben said it is useful to explain the code to the public and provide some reference to future planners to understand how to read it and what the intent is. It helps the public understand why it is the way it is.

Nonconforming Situations

Mr. Voelckers asked if a "situation" is always just a site rather than a building. Ms. McKibben said that a site could have a nonconforming lot that was too small and could contain a nonconforming structure that did not meet setbacks as well as a nonconforming use or density. The site could have all of these but each would be evaluated independently.

Mr. Miller asked if the ordinance was titled "nonconforming situations". He suggested that Line 24 ought to list all of the types of situations that could be nonconforming. Line 23 says "contains a nonconforming use" but these are not listed one after the other. Line 25 does have them all listed but he suggested starting the paragraph with that sentence. Mr. Voelckers asked if the title is *Nonconforming Situations*. Ms. McKibben said she did not know. Ms. Boyce said the working title is *Nonconforming Development* now. Mr. Voelckers said he felt the word "situation" worked better for use than "development". There was more discussion about the language for the title. Ms. McKibben pointed out that there are other nonconforming situations like signs and vegetative cover.

Applicability

Mr. Voelckers and Mr. Dye asked if the statement "a nonconforming situation may be changed" (Line 35) meant by a Planning Commission hearing? Ms. McKibben said that an example might be if a nonconforming propane store wants to become a childcare facility, a Conditional Use Permit might need to be obtained. Mr. Voelckers asked if they are not appropriate for the zoning as a propane store, why would there be any action for a different use. Ms. Maclean said this could also be the same situation as a 4-plex on Star Hill that wants to become a single family home. Now the property owner just obtains a building permit but this language states that once a situation becomes conforming, nonconforming rights are lost. The property cannot go backwards.

Mr. Dye asked if once a permit is pulled, the property owner loses it all, not just after 365 days. Ms. McKibben said yes, there is no clock; once the change is done it is done. Mr. Dye said that it seemed contrary to him that if someone can cease nonconforming operations but after 200 days decide the new use is not working, they cannot go back to the original use. Ms. Maclean confirmed that no, at that point the owner has relinquished the grandfathered rights. On other hand, she said, if the business were to close up shop for up to 365 days, for example due to personal hardship, but they did not choose to become a different business that was conforming, this would not be abandoning the rights to remain legally nonconforming. Ms. McKibben said that over time the city wants things to become conforming if possible.

Mr. Dye asked what happens if a Conditional Use Review is not approved? Mr. Voelckers asked if when there is an application for a change of use does that include the nonconforming review? Ms. McKibben said no, nonconforming review is a new process. If a nonconforming propane store wants to change to a conforming use a nonconforming review is not needed. Mr. Voelckers asked if during a nonconforming situation review someone requests greater density and it is approved, does that become a conforming use thereafter? Ms. McKibben said that if the fundamental status is changed, the density can be a 4-plex into perpetuity. Mr. Dye asked if for something like the nonconforming propane store, can they apply for a Conditional Use Permit for something else which is not allowed in that zoning area? Ms. Maclean said that a nonconforming review is to make a nonconforming situation legally nonconforming. Ms. McKibben said she sensed that the next time this topic was discussed, she needs to walk the committee through these processes using hypothetical examples to help explain.

Mr. Miller asked if something is made legally nonconforming and burns down, can it be rebuilt? Ms. McKibben said yes, if it is rebuilt within 365 days. Mr. Miller asked if there is a nonconforming lot, containing a nonconforming use, taking place in a nonconforming structure is that legally nonconforming? Ms. McKibben said that would trigger two processes. The applicant/owner would need to provide information showing that the situation was legally nonconforming such as a plat created in 1958 when the area was zoned differently. This would prove that the situation was created legally. Mr. Miller asked if the structure is burnt or abandoned can it be rebuilt? Yes, if it is determined to be a legally nonconforming structure, said Ms. McKibben. However, she said, the use happening inside is a different nonconforming situation. Proof would need to be provided to demonstrate that a business had been operating at the location and evidence such as tax returns could prove the length of time of the nonconforming use. In other words, there would need to be proof of each nonconforming situation individually. Mr. Miller asked if the use was abandoned for a year, can it be lost? Yes, said Ms. McKibben. However the building could remain as a nonconforming structure.

Mr. Voelckers asked if the city has powers separate from the ordinance language so that if a use is deemed to be a public hazard that use can be removed. The example of propane in a residential zone is close to that type of situation; should there be a mechanism for this sort of authority, he asked? Ms. McKibben said that some situations are regulated by other agencies for example an asphalt plant is regulated by DEC, however she was not sure of the answer. Mr. Voelckers gave an example of the fuel tanks which were located where the SLAM building is now. He said there was a time when the neighborhood had to be evacuated. He said he felt that this topic should be explored.

Continued Operation

Mr. Dye wondered where the “hours of operation between 11 pm to 6am” came from in this section. Ms. McKibben said that this was open for discussion. The concept is that nonconforming uses in residential zones might need to have limited hours in order to limit impacts on the neighborhood. Mr. Dye wondered how this might work for a use currently operating in the evening. Ms. McKibben said there was flexibility to change this language. Mr. Dye asked if noise was the intent because there is already a noise ordinance elsewhere in code. Ms. McKibben said that it could depend on the use; truck deliveries happening at 5 am might not be appreciated by the neighbors. Mr. Voelckers said he also found this kind of weird and also the phrase “may not extend” is imprecise. He felt that this was in need of clarification.

Mr. Levine noted that there is a possibility that creating this time limit might deprive someone of their use. He felt it was better to phrase it more generally as in “must comport to the neighborhood” because otherwise the language could run afoul. Mr. Miller proposed the idea that nonconforming uses in places where it is benign ought to become legal. There might be a situation where the use only operates from 11 – 6 am and is completely benign. Perhaps the proof is on the owner, he suggested.

Mr. Dye asked for clarification asking if the city cares about a legally nonconforming status if a review process is not initiated? Ms. Maclean said typically there is enforcement, especially if there has been a complaint.

Change in Use

Mr. Levine addressed the issue of a use being "allowed by right" and asked why the language should not include the ability to review it? Mr. Dye asked if this section alluded to the Table of Permissible Uses. Yes, said Ms. McKibben. Mr. Levine said he thought the ordinance should give the Planning Commission the opportunity for review. For Lines 58-62, you want them all to receive that determination, asked Ms. McKibben? Mr. Levine said he thought that if there is an unusual situation or a problem, the language should not surrender the right to have a conversation. Mr. Voelckers said he thought it appropriate to keep the burden of proof on whoever is proposing the changes.

Ms. McKibben asked if the committee members felt the review should be done by the director or the Planning Commission. Should the director review first with the option for an appeal to the Planning Commission or should all come before the Planning Commission? Ms. Maclean said she was in favor of a first review by the director and the second level being the Planning Commission or the Board of Adjustment. Mr. Levine said he thought it should just be the director; he did not see the need to come to the Planning Commission. Ms. McKibben said for changes of use in the same category, the director would review in order to confirm there would be no increase in off-site impacts. If such impacts were discovered, then the issue could come before the Planning Commission.

Mr. Voelckers said that Line 60 included an implied "where".

Change of use in a different category

Ms. McKibben pointed out the new ideas in this section, but Mr. Dye said he did not understand them. Ms. McKibben gave an example of a nonconforming use – a dog grooming business in the middle of a residential neighborhood decides to discontinue the business but does not want to become a single family home. The owner wants the building to be converted to a 4-plex structure. The property owner could be allowed to have more density than the zoning allows. Mr. Dye asked why. Mr. Voelckers said perhaps this might be a way to talk the owner out of a greater nuisance; it may be better to add more density than more commercial activity in the neighborhood. Ms. Maclean said yes. Mr. Levine asked if there was a real-world example of this in Juneau. None that she was aware of, said Ms. McKibben. One goal is to provide more opportunities for more density. Ms. Maclean said that when the NOAA lab closed in the D1 zone is Auke Bay, is it reasonable to tell them they can only have a single family home on the property now that it is not a laboratory? Mr. Miller said he wanted to think about this idea and see it again next time. It is a powerful thing, he said, for a person in a D1 or D3 zone who has a nonconforming use to get an opportunity that no one else in the borough gets. He said he was trying to wrap his head around this type of situation. Mr. Dye said that it brought to his mind the efforts to rezone Auke Bay. This language seemed contrary to that effort, to him. It felt like a get-out-of-jail-free card, and so he was struggling with this paragraph. Mr. Levine said he was not adverse to this idea but felt it may need some limits in terms of increasing density. He suggested that a disincentive might be created so that people would be unlikely to seek out nonconforming situations to take advantage of. There needs to be some sort of sideboards, he felt. Ms. McKibben said she might feel comfortable with a nonconforming review including the consideration of these things.

Expansions

Mr. Dye addressed the phrase "manifestly designed" and asked if there is to be no change to the exterior, does it matter? He asked if CDD would want to argue with people about this. He suggested putting a period after "existing building" and leaving it at that. Mr. Levine asked how much concern is there about this? Ms. McKibben

said the concept is not wanting nonconforming uses to get bigger. Ms. Maclean said that a neighbor might care. Mr. Levine said he could imagine a situation where someone comes in with a great idea involving their shed but is not allowed to do it. Mr. Voelckers suggested chopping "manifestly" to imply junk shed. Ms. McKibben said a situation of this sort is Gastineau Humane Society, which is a nonconforming use and cannot expand their dog runs out back of the building. Mr. Levine said he also wanted sideboards here. Mr. Dye asked about the zoning of the doctor's office which is next door to Gastineau Humane Society? He said his concern is if the nonconforming section is too liberal, it might be better to get a rezone. Ms. McKibben said the best fix is having zoning that works, but over time zoning is how the community changes and becomes the community we want. When Amerigas was permitted, the valley was undeveloped and so it seemed ok, but the plans were for a developed residential area. Mr. Dye said that if there is allowance for too much nonconforming in code, this does not allow the code to fix itself.

Mr. Voelckers said this needed to be clarified, by right or by situational review. Is the committee happy with it being by right? Situational review is firmer, he said.

Discontinuance

Mr. Dye asked why a year was selected as the amount of time. Isn't the burden of proof on the applicant to convince the city that the nonconforming use should be continued? What if they work 1 day out of a year just to keep this open, he asked? Mr. Miller suggested if the use ceases operation for 365 days, the use can be discontinued but the last sentence says the review must take place within 3 years. He said he did not understand how someone could lose their use in a year but come back in 3 years for review. Does this mean they can get it back? Ms. McKibben said yes. Mr. Miller said the reason to have the 3 years is to allow someone to get back on their feet if they need to close for a year due to illness or something. Mr. Levine said it made sense to him but that he did not like uncertainty with the dates and does not want to fight with the director about that. A better way could be to say the right can be preserved by notice within 365 days instead of arbitrary deadlines, he said. Ms. Maclean asked how people will know that. Mr. Levine asked what the importance was of 3 years, if the business plans to resume when the owner gets back to town. Ms. McKibben said the only nonconforming uses are those that can show they are legally nonconforming but she is not sure that language is in there. In Homer there was a situation where operations ceased for period of time and a complaint was filed when the business reopened. Time was spent to showing it was not closed for 365 days. So, she looks at this as if the nonconforming uses ceases and then neighbors complain, there would be a need to explain that the owners can apply for the use to be reestablished. Ms. McKibben said she did not know how this works in practice in other communities but this draft ordinance asks for documentation in order to move on to review. Mr. Miller said the concern remains that people likely won't know this option. A year later when they start back up they might come up against new neighbors who were not aware of a business operating next door. Had the business owners known about the 365-day drop dead deal, they might have made a different decision. Mr. Voelckers said he thinks this section is well written and is close, philosophically. After a year of non-use the owner does not have the right to continue but there is a reasonable comfort zone to reclaim it by making their case.

Accidental destruction

Mr. Voelckers asked why do we care if the destruction happened by fire or arson or whatever. If there is a need to rebuild why differentiate? Ms. McKibben said we care if something happens which is unintentional. In that case we want them to be able to rebuild. However intentional destruction is different. The list is not intended to be exhaustive. Mr. Voelckers said he did not feel the need to list the causes if the dividing knife blade is unintentional or intentional. Mr. Miller said he did not agree with Mr. Voelckers; some people might not realize what they are looking at in their building, such as rot. He described a job he did where the bottom row of siding was buckling and it turned out that when the crawl space was insulated, the contractor used bad materials and

an incorrect method so all the moisture from the dirt had condensed in the rim joints for 2 years resulting in lots of rot. There was no way to prove intention when the owner hired people to insulate her basement.

Mr. Levine has a comment about the two different categories. It seemed clear to him the situations where the city would not want to allow the owner to rebuild, like in the case of arson, but others seemed to him more difficult to pinpoint. It might help if the default is if it can't be proven to be intentional, then it was not. Ms. McKibben pointed out that this language is for nonconforming use but later in the document there is language that fits. Mr. Levine said that someone has to determine the status – intentional or maybe it could be ordinary lax care of a house resulting in significant damage. Mr. Levine said he was in favor of not letting people rebuild if they have not been taking care of their house at all. Mr. Dye asked what happens when a property changes hands and the previous owner was the culprit. Mr. Levine said a buyer would need to figure out the condition of a building before buying.

Mr. Miller pointed out that the percentage of 75% keeps coming up. He said he thought this was too low a number because people can't rebuild at that percentage. Ms. Maclean said there were important distinctions to point out. This is section about uses and so 75 % is appropriate here, she said. Ms. McKibben said that in the example of the propane store if a fire destroyed 50% of the store, under this section the owner could rebuild and continue this nonconforming use. Ms. Maclean said that nonconforming uses are the things the city really wants to make conforming. It is not so much the size of a lot that is egregious to neighbors, rather uses are. If it costs more than 75% to reconstruct for a nonconforming use, it might be better to relocate the nonconforming use to an appropriate zoning area. Mr. Levine asked if the whole thing blows up and leaves an empty property, does this mean the owner cannot rebuild the business there. Yes, said Ms. Maclean. Mr. Dye said the owner could get a density bonus and rebuild apartments instead, but he has heartache about this thinking that due to a catastrophic incident an owner would not be able to rebuild his/her livelihood. Mr. Haight suggested moving on saying it might make more sense as the discussion plays through the other categories. Mr. Levine said 75% makes less sense; he felt there was a cost inequality. Ms. McKibben said that 50% is common, and she has not seen more than 75%. Mr. Levine said it was worthwhile to think about the cost of making the site useful for other purposes.

Nonconforming residential densities

Ms. McKibben said this was a brand-new concept and a new nonconforming situation. An example is a 4-plex in a D5 zone that could be reconstructed even though the current zoning only allows for a duplex; even if the structure was vacant for 5 years the nonconforming density would not be lost. Mr. Dye asked why nonconforming density should run with the land. Ms. Maclean said the city created quite a few nonconforming situations through applied zoning which might not have been appropriate. Valley zoning placed downtown does not work. Aurora Arms was a conforming density when it was built but after valley zoning was in place it became nonconforming. To add to that, housing is needed so this is an easy way to keep housing in a neighborhood without getting complaints about the density. Mr. Dye asked why, if Aurora Arms were to be abandoned for a number of years, can the property resume that density later? Nonconforming density runs with the land, said Ms. Maclean. If a property owner can prove that the land once had a higher density, they can reclaim that density, but if it becomes conforming, then they cannot go back to nonconforming. The current situation is that many places cannot get mortgages and can't sell or rebuild which is why there is this attempt to address these situations. There are little to no complaints about residential uses, she said. Mr. Levine said that there was an inconsistency between lines 99 and 108. This is the section that needs a guarantee that the property owner can rebuild, he said.

Ms. Maclean said that a property such as Aurora Arms could come in the day after the adoption of this ordinance and apply for a nonconforming review. Mr. Levine said that made sense but was not what he read

here. He said he likes the concept but it is not understood via the language in this section. Ms. McKibben said she assumed tighter lending practices have caused trouble but the APA service has not heard about this problem which indicates it might not be a national lending challenge. She is interested to hear about Portland's practice. Mr. Levine said that the situation had more to do with words in the code rather than interpretation and practice, so the words need to be totally clear in order to assist people who are trying to get financing. Ms. McKibben said that the nonconforming code is pretty generous, so it is interesting that this problem exists. Ms. Maclean said that the number of 75% is a trigger on mortgages; people don't have the absolute assurance that they can rebuild. Mr. Dye asked why nonconforming density is not sunseted? How does this help? Lending practices are about rebuilding in the event of a catastrophic and have nothing to do with keeping density in perpetuity. Why is nonconforming use valued differently than nonconforming density? Why limit the code in shaping the future, he asked?

Ms. Maclean said that the reason may be the need for housing and zoning that does not fit the area or has been misapplied like downtown. Some locations have not been up-zoned even if sewer/water has been extended. The Comprehensive Plan has not caught up. Mr. Miller said that fixing this is not shaping future; it is fixing the past and trying to make it all legal because it once was. He said that he likes the density part of it but he was confused about lines 111-117 where it says more than 1 dwelling unit, but line 118 says one dwelling unit then returns to the 75% figure. He said he thinks that ought to go away. If a building is destroyed by fire, lending institutions need to know the structure can be rebuilt. In 2009, it cost 115% of appraised value to build a new home, after the 2008 crash. He felt that the percentage in this section should be deleted. Ms. McKibben said this only applies to buildings in WI and I zoning. All other zones get at least a single family home, she said. Ms. Maclean said if a single family home in an Industrial district burns down, this is the only time it applies because the city wants to transition away from residential uses in an industrial zone. Mr. Miller asked why can't an owner rebuild a family house? Mr. Levine asked what does it matter about the costs? The language says an owner can only rebuild if more than 75% of the cost to rebuild? If the city wants to make it more difficult to rebuild a family home, there should be reasons listed, like to save WI zones for other uses. He said he felt the language included the wrong criterion. He said he was inclined to go the other way and say if a cabin in WI burns down, that is too bad but now the owner must use that parcel for something else. He felt this was a better way to achieve the zoning aims, rather than the 75% figure; it would be more direct. Maybe the issue is more about harmony in a location, rather than cost.

Mr. Miller commented that he did not understand until just now that the only zones not conforming are WI and I, and he has been on the Planning Commission for 11 years. This indicated to him that the language is not clear. If the language states that it applies only to WI or I where residential uses are not allowed, that takes the ambiguity out. Ms. Maclean said that this might be true for today at least, but it could change.

Mr. Levine asked why on line 105 is it stating just that one way something can be illegal when there are more ways to be illegal? Ms. McKibben said maybe it was not self-evident when she was writing it and suggested this be crossed out.

Mr. Levine suggested including "damaged by owner", because it could be damaged by someone else.

Mr. Miller said he liked the way lines 132-135 were written, but on page 4 he wanted to use similar language as on page 5.

<u>Nonconforming structures</u>
Ms. McKibben said that a lot of this section is already in current code.

One concept not in here, said Ms. McKibben, is nonconforming structures with residential uses and allowing them to be reconstructed on the existing footprint. She asked the committee members what they wanted to do about that. Mr. Miller said yes, these should be allowed. In Anchorage, he said, there is flat land everywhere and in Portland too but here we need to make every piece of buildable land count. Ms. McKibben said this would not allow encroachments into ROWs and adjacent property, and she will work on incorporating that language. Mr. Dye said he sees references to other code sections and was concerned about that if those other sections change. Mr. Levine said he wanted to incentivize creating more conformance on a lot.

Mr. Miller asked where the maintenance discussion comes in. Ms. McKibben said it is in here somewhere, and this was talked about quite a bit before.

Mr. Miller said that the non-bearing part needs more definition. Ten percent is normal maintenance. Mr. Dye asked about the purpose of defining "maintenance". Ms. McKibben said there is a distinction between maintenance and reconstruction. Ms. Maclean said an example is an historic building where all but one wall is demolished but the project is labeled "maintenance" when, in fact, it was demolition. Having a definition of normal is useful. Ms. McKibben said more work is needed in this section.

Nonconforming lots and lot fragments

Ms. McKibben said that any nonconforming lot can have a single family home. There are situations of two nonconforming lots under the same ownership existing side-by-side, but one home is vacant and so this is treated as one property. The proposed language provides some options, lines 171-184. If there is a house on one lot with a vacant lot next to it, together they become conforming or almost so and shall be treated as one lot. The language says that in order to be treated as separate lots, the owner would have to go through the director process. Mr. Levine said he lived on exactly this situation in the Casey Shattuck neighborhood; he had a giant lot in the middle of the flats. He did not think this criteria should have been used to determine if he could put a second house on his front lawn since having two dwellings on these parcels would be in harmony with the neighborhood. Why put these criteria here, he asked? He said he was not adverse to the director process but thought these were not the right conditions, especially when the city wants to incentivize housing, especially small, affordable housing.

Ms. McKibben said if an owner wanted to build separate detached garage they would be asked to consolidate the lots or make the garage be attached to the house. Mr. Miller said he felt the potential should not be taken away. Mr. Levine said his vote was to allow this with director approval and other conditions like neighborhood harmony. Ms. Maclean said the idea is striving to get to conformity and so unless someone can prove there is intention to keeping the lots separate, the lots should be combined to be conforming. Mr. Dye said that if the argument is that density should remain in perpetuity, slap it right on here. Ms. Maclean said this has to do with property tax. Mr. Dye asked what this has to do with Title 49 or density. Mr. Miller said that in Mr. Levine's situation, he knew the potential for building a second structure which could be money in the bank to sell later. If a platted as a separate lot, he shouldn't have to prove that. Mr. Levine pointed out that he should not be able to build a nonconforming house on the second lot; he should meet legal setbacks even if it is a legally nonconforming lot. Ms. McKibben said that under current code, he could build a second house on that lot, but how would an appraiser give it second tax ID number? This language provides a process so an owner can have the choice to consolidate or keep as two separate lots and go through a process to establish the intent to keep as two separate. Mr. Levine said that this only comes up when the owner wants to sell and separate them. Mr. Miller said if I own 3 lots, who cares if there is one tax bill or 3? I can sell at any time I want, he said. These are platted lots, and I cannot be prevented from selling. Mr. Levine said if an addition to the house were to be built, the owner would have had to consolidate to conform.

Ms. McKibben asked if the committee wanted to go through the conceptual language again or see a draft ordinance. Mr. Dye said he needed to go through the remaining section and understand about percentages of the cost of rebuilding, so he wanted to see it again. Mr. Levine and Mr. Miller agreed.

B. <u>Alternative Residential Subdivision (ARS)</u>

Ms. Maclean reminded the commissioners that it was left to staff to work on the language in this ordinance, but a minimum was never set. It cannot be zero. She said she proposed 25% of the setback. Mr. Miller asked if the minimum should be 5 feet. Ms. Maclean said the base starting point is the underlying zoning but asked what should be the absolute minimum? Mr. Dye said he liked the idea of 25% of street side setback on all sides. Ms. Maclean said that might be more than the underlying zoning setback in some areas, but 25% across all works. Mr. Miller asked if all four sides could be different minimums. Yes, said Ms. Maclean. This might not be approved, but that would be the absolute minimum. Mr. Levine asked if 2 feet should be a minimum? Ms. Maclean said she did not think it should be zero. Mr. Dye said he did not care.

V. Next Meeting

- Monday, October 15, 2018, 12:00 – 1:30 pm, Urban Agriculture

VI) Adjournment

The meeting adjourned at 8:03 pm.

Presented by: The Manager
Introduced:
Drafted by: R. Palmer III

ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2018-41

An Ordinance Amending the Land Use Code Relating to Alternative Residential Subdivisions.

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 Chapter. Title 49, Chapter 15 is amended to by adding a new article IX, to read:

ARTICLE IX. ALTERNATIVE RESIDENTIAL SUBDIVISIONS

49.15.900 Purpose.

The general purpose of this article is to provide reasonable minimum standards and procedures for unit-lot residential communities in which all or some of the lots do not substantially conform to the minimum requirements for a traditional subdivided lot. This article provides a housing option to allow dwellings on unit-lots to be conveyed by long-term leases, less than fee-simple ownership, or fee-simple ownership, including condominium and other common-interest communities. The specific purpose of this article is to permit flexibility in the regulation and use of land in order to promote its most appropriate use for unit-lot residential communities; to encourage residential developments that are planned, designed and

developed to function as integral units with common facilities; to encourage developments that provide different types of housing options; to encourage development of quality affordable housing; to facilitate the adequate and economical provisions of access and utilities; and to encourage developments that are in harmony with the surrounding area.

49.15.910 Application.

The provisions of this article apply when a parent lot is subdivided into developable unit-lots and where a portion of the parent lot remains.

49.15.920 General provisions.

(a) *General*. The requirements of this title apply except as provided in this article.

(b) *Zoning districts*. An alternative residential subdivision is only allowed in the following zoning districts: RR, D-1, D-3, D-5, D-10SF, D-10, D-15, D-18, and LC.

(c) *Lot size*. The parent lot shall be at least 150 percent of the minimum lot size for the zoning district in which it is located. There is no minimum size for the unit-lots.

(d) *Other dimensional standards*. The minimum lot dimensions, lot coverage, vegetative coverage shall be applied to the parent lot and not the unit-lots.

(e) *Density*.

(1) The number of dwelling units permitted in the development shall be calculated by multiplying the maximum number of dwelling units per gross acre permitted in the underlying zoning district by the number of acres in the alternative residential subdivision and rounding to the nearest whole number.

(2) Land and water bodies used in calculating the number of dwelling units permitted shall be delineated on the preliminary and final plans in a manner allowing confirmation of acreage and density computations.

(3) The commission may award a density bonus as an incentive for enhancements to the development. The total bonus shall not exceed 50 percent in the RR, D1, D3, D5, D10 zoning districts, and 25 percent in the D-10SF, D15, D18 and LC zoning districts of the density provided in subsection (e)(1) of this section and rounded to the nearest whole number and shall be the sum of individual density bonuses as follows:

(A) Five percent for each ten percent increment of open space in excess of that required in the zoning district to a maximum bonus of fifteen percent for open space in excess of that required;

(B) Five percent for a continuous setback greater than 50 feet or ten percent for a continuous setback greater than 50 feet on both sides of a stream, if applicable, designated in the plan as undisturbed open space along important natural water bodies, including anadromous fish streams, lakes, and wetlands;

(C) Fifteen percent for a mixture of housing units restricted by a recorded document for a period of 30 years from the first sale (i) in which ten percent of the dwelling units are set aside for lower income households earning no more than 80 percent of the area median income; or (ii) in which twenty percent of the dwelling units are set aside for workforce households earning no more than 120 percent of the area median income.

at least 15 percent of which are restricted by a recorded document for purchase via a monthly mortgage payment of no more than 30 percent of the median income in the City and Borough, as calculated by the Alaska Department of Labor;

(D) Up to ten percent for excellence in design, or provision of common facilities and additional amenities that provide an unusual enhancement to the general area, such as siting, landscaped buffers, or the creation or preservation of view corridors;

(E) Ten percent for dedication of a public right-of-way accessible to all unit-lots consistent with Chapter 49.35;

(F) Five percent in the RR, D-1, D-3, D-5, and D-10SF zoning districts, and ten percent in the D-10, D-15, D-18 and LC zoning districts for providing shared use pathways to facilitate pedestrian and bicycle movement within the development and to ensure non-vehicular access to open space, common facilities and to public services;

(G) Five percent for designing all dwelling structures to a five-star plus energy efficiency rating; ten percent for designing all dwelling structures to a six-star energy efficiency rating; and

(H) Up to ten percent for using high-efficiency primary heating methods, such as heat pumps, in all dwelling structures.

(4) A density bonus may be limited or denied if it will more probably than not:

(A) Materially endanger public health or safety;

(B) Substantially be out of harmony with property in the neighboring area;

(C) Lack general conformity with the comprehensive plan or another adopted plan; or

(D) Create an excessive burden on roads, sewer, water, schools, or other existing or proposed public facilities.

(f) *Frontage and access*. The parent lot shall front on and be accessed by a publically maintained right-of-way. Access within the development may be exempted from 49.35 and be privately owned and maintained if it complies with the following requirements:

(1) The access shall be located completely on the parent lot;

(2) The access does not endanger public safety or welfare;

(3) The access complies with or can be improved to comply with the emergency service access requirements of CBJ 19.10;

(4) Access to and within the development is paved;

(5) The developer submits adequate evidence that upon approval of the development, a homeowners' association will be formed, can obtain liability insurance, and is solely responsible for maintaining the private access—including winter maintenance; and

(6) The alternative residential subdivision does not abut a developable parcel that lacks alternative and practical frontage on a publically maintained right-of-way.

(g) *Utilities*. An alternative subdivision is required to connect each dwelling unit to public sewer and water. A master meter for water shall be installed by the developer.

(h) *Parking*. Parking required for each dwelling unit may be located on either the parent lot or the unit-lot.

(i) *Open Space*. Open space is required as follows: 25 percent in the RR and D-1 zoning districts; 20 percent in the D-5 and D-10 zoning districts; 15 percent in the D-10SF district. Open space is not required in the D-15, D-18, or LC zoning districts.

(j) *Buffer*. There are no setback requirements on the unit-lots. A perimeter buffer is required in lieu of the setback requirements of this title on the parent lot. The presumptive buffer width shall not be less than the setback set by the underlying zoning district to ensure neighborhood harmony and minimize off-site impacts. The commission may enlarge a buffer or a portion of a buffer up to 25 feet in total width, and the commission may reduce a buffer or a portion of a buffer by 75 percent of the setback for the underlying zoning district. The commission may only enlarge or reduce the buffer width upon considering, but not limited to: type of buffer, location of the subdivision structures and uses therein; the location and type of surrounding uses or development; topography; and the presence of existing visual and sound buffers. A buffer shall be vegetated unless the commission requires non-vegetated screening. A buffer may include fencing, natural berm, or other similar features. No parking areas, dwelling units, unit-lots, or permissible uses may be located within the perimeter buffer. Access to the development may cross a portion of the buffer.

(k) *Parent lot*. Portions of the parent lot not subdivided into unit-lots shall be owned in common by a homeowners' association, or similar entity, comprised of the owners of the unit-lots located within the parent lot.

(l) *Stormwater management*. Facilities for the control and disposal of stormwater must be adequate to serve the development and areas draining through the development. Management shall be in accordance with the Stormwater Best Management Practices manual. Where appropriate, natural drainage channels, swales, or other similar areas within the open space may be used for stormwater management at the development. The developer shall provide the CBJ Engineering and Public Works Department with an evaluation of offsite drainage outfalls for the additional runoff contributed by the alternative residential subdivision. The commission

may require construction of offsite drainage improvements necessary to accommodate additional runoff from the development.

(m) *Permitted uses.* No primary uses are permitted on the parent lot except a recreational center, community facility, or a child care center. Consistent with the Table of Permissible Uses, 49.25.300, only residential uses and associated accessory structures are allowed on the unit-lots. Accessory dwelling units are prohibited on the parent lot and on any unit-lots. A home occupation or a child care home is permissible on the unit-lots. If an alternative residential subdivision creates a lot that complies with the Table of Dimensional Standards, 49.25.400, for the underlying zoning district, the accessory dwelling unit prohibition of this subsection does not apply.

(n) *Street sign*. Street signage is required. The developer shall install a street sign provided by the City and Borough of Juneau at the developer's expense. The director shall determine the type of street sign—addresses or street name—upon considering public health, safety, and welfare given the size of the subdivision.

(o) *Mailboxes.* Upon consultation with the United States Postal Service, the director shall determine the placement location of mailboxes. The director may require additional improvements and design changes to enable efficient mail delivery and to minimize traffic interferences and compliance with CBJ standard details.

49.15.930 Alternative residential subdivision review process.

(a) *General procedure.* A proposed alternative residential subdivision 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 unit-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 unit-lots, the preliminary and final plat submissions required by section 49.15.402 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 alternative residential subdivision. The purpose of the preapplication conference shall be to exchange general and preliminary information and to identify potential issues and bonuses. 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; provision of utilities, including solid waste and recycling collection; the access, the vehicle and pedestrian circulation, and winter maintenance including snow removal locations; the development schedule and the alternative residential subdivision permit procedures. The developer shall provide a sketch of the proposed alternative residential subdivision.

49.15.940 Preliminary alternative residential subdivision plan approval.

(a) *Application*. The developer shall submit to the department one copy of a complete alternative residential subdivision application, which shall include an application form, the

required fee, any information required in subsection 49.15.402, the information required by this section, and any other information specified by the director.

(b) *Required submissions*. The application shall include the following material:

(1) *Ownership*. The application shall identify, and shall be signed by or upon, the included written authorization of, all owners, lessees, and optionees of land within the boundaries of all phases of the alternative residential subdivision.

(2) *Preliminary development plan*. The application shall include a preliminary development plan, explaining how the proposed alternative residential subdivision will achieve the purposes set forth in section 49.15.900. The preliminary development plan shall summarize the different land uses proposed, including the amount of land for housing, open space, buffer, access, and parking; the number and types of housing units and proposed density; the natural features to be protected and hazards to be avoided; and the public, if any, and private services to be provided.

(3) *Design*. The application shall describe the design of the alternative residential subdivision, with particular attention to building siting, massing, access, parking, and architectural features; provision of utilities including drainage and trash collection; provision of winter maintenance for access and parking areas; and the circulation of traffic and pedestrians.

(4) *Open space, common facilities, and general landscaping*. The preliminary plat shall show and describe common facilities, open space, buffers, landscaping, and similar features.

(5) *Request for density bonuses*. If a density bonus is being applied for, the application shall include a narrative describing the justification for the requested bonus, and the application shall show the nature and extent of the requested bonus.

(6) *Description of phased development*. The preliminary development plan for a phased alternative residential subdivision shall include:

(A) A drawing and development schedule for each phase and for the entire alternative residential subdivision;

(B) The size and general location of proposed land uses for each phase at the maximum level of density, including maximum allotment of density bonuses;

(C) A description of the access connecting all the phases and where they will connect at the alternative residential subdivision boundaries;

(D) A description of how the developer will address the cumulative impacts of the phased development on the neighborhood and the natural environment;

(E) A description of the overall design theme unifying the phases;

(F) An analysis of how each phase in the project will meet the requirements of subsection 49.15.960(b); and

(G) A sketch plat consistent with 49.15.410.

(c) *Department review*. The director shall advise the developer whether the alternative residential subdivision application is complete, and, if not, what the developer must do to make it complete. Within 45 days after determining an application is complete, the director shall schedule the preliminary plan for a public hearing before the commission. The director shall give notice to the developer and the public according to section 49.15.230.

(d) *Commission action*. The commission may approve an alternative residential subdivision preliminary plan if it meets the following requirements:

(1) The design provides for effective housing;

(2) The development protects natural features and avoids natural hazards by reserving them as open space;

(3) The development is consistent with the land use code;

(4) The development incorporates perimeter buffers sufficient to minimize off-site impacts of the subdivision and to maximize harmony with the neighborhood;

(5) Utilities proposed for connection to the City and Borough system meet City and Borough standards, and all others are consistent with sound engineering practices, as determined by the City and Borough Engineering and Public Works Department;

(6) The configuration of the development provides for economy and efficiency in utilities, housing construction, access, parking and circulation;

(7) If the approval is for a phased development, that each phase is consistent with the preliminary development plan and design of the entire alternative residential subdivision;

(8) Adequately addresses the cumulative impacts of the phased development on the neighborhood and the natural environment; and

(9) If the approval includes an allotment of a density bonus, the density bonus complies with section 49.15.920(e)(4).

(e) *Expiration*. Approval of a preliminary plan shall expire 18 months after the commission notice of decision unless a final plan for the entire project or, in the case of a phased development, the first phase thereof, is submitted to the department for commission action. An

application for extension of a preliminary plan shall be according to section 49.15.250, development permit extension.

49.15.950 Final alternative residential subdivision plan approval.

(a) *Application*. Upon completion of all conditions of the preliminary plan, the developer shall submit an application, fee, and a final plan for commission approval.

(b) *Homeowners' association*. The formation of a homeowners' association, or similar entity, is required.

(1) The articles of incorporation and bylaws of the homeowners' association, required under A.S. 34.08 or this chapter, shall be prepared by a lawyer licensed to practice in the state.

(2) The homeowners' association shall be responsible for the maintenance of open space, water and sewer utilities, and stormwater control features and drainages. The association documents shall specify how any other common facilities shall be operated and maintained. The association documents shall require homeowners to pay periodic assessments for the operation, maintenance and repair of common facilities. The documents shall require that the governing body of the association adequately maintain common facilities.

(3) If the alternative residential subdivision is phased, the association documents shall specify how the cost to build, operate, and maintain improved open space and common facilities shall be apportioned among homeowners of the initial phase and homeowners of later phases.

(4) The homeowners' association documents shall be recorded with the approved final plat.

(c) *Commission action*. The commission may approve the final plan if it substantially conforms to the approved preliminary plan and all requirements of this article.

(d) *Expiration*. An approved final plan shall expire 18 months after recording if the applicant fails to obtain an associated building permit and make substantial construction progress. An application for extension of a final plan shall be according to section 49.15.250, development permit extension.

49.15.960 Phased development.

(a) *Phasing allowed*. An applicant may develop an alternative residential subdivision in phases, provided the initial application includes a preliminary development plan sufficient to assess the cumulative effects of the entire alternative residential subdivision on the neighborhood and the environment according to the standards in subsection 49.15.940.

(b) *Completion of an individual phase*. Each phase shall be so designed and implemented that, when considered with reference to any previously constructed phases but without reference to any subsequent phases, it meets the design and density standards applicable to the entire alternative residential subdivision. Construction and completion of open space and common facilities serving each phase in an alternative residential subdivision shall proceed at a rate no slower than that of other structures in that phase. No phase shall be eligible for final plan approval until all components of all preceding phases are substantially complete and homeowners' association documents have been approved.

(c) *Standards for phases*. Each phase of an alternative residential subdivision shall be reviewed according to the provisions of this chapter then current. Each phase of an alternative residential subdivision shall maintain design continuity with earlier phases. At no point during a phased development shall the cumulative density exceed that established in the approved preliminary plan.

49.15.970 Amendments to approved alternative residential subdivision plan.

(a) *Request for amendment*. The developer of an alternative residential subdivision may request an amendment to an approved preliminary or final alternative residential subdivision plan. The request shall state the reasons for the amendment and shall be submitted in writing to the director, who shall inform the developer within 15 days whether the request shall be processed as a minor amendment or major amendment.

(b) *Minor amendment*. A minor amendment may be submitted without a filing fee and may be approved by the director. For purposes of this section, a minor amendment is a change consistent with the conditions of the original plan approval, and would result in:

(1) Insignificant change in the outward appearance of the development;

(2) Insignificant impacts on surrounding properties;

(3) Insignificant modification in the location or siting of buildings or open space;

(4) No reduction in the number of parking spaces below that required;

(5) A delay of no more than one year in the construction or completion schedule for the project or, in the case of a phased project, the phase for which the amendment is requested.

(c) *Major amendment*. All other amendments shall be reviewed by the commission upon payment of a filing fee and in accordance with the requirements of the original plan approval.

Section 3. Amendment of Section. CBJ 49.80.120 Definitions, is amended by adding the following new definitions in alphabetical order, to read:

Parent lot means the original lot and the residual area from which unit-lots are created through an alternative residential subdivision.

Unit-lot means any lot, site, parcel, unit-site, and similar geographically defined property that is created through an alternative residential subdivision and that is substantially smaller than the minimum lot size required for the zoning district.

Section 4. Amendment of Section. CBJ 49.85.100 Generally [Chapter 49.85 Fees for Land Use Actions], is amended by adding a new fee for Alternative Residential Subdivisions, to read:

49.85.100 Generally.

...

(8) Special use or area.

...

(G) Alternative Residential Subdivisions.

(i) Preliminary plan application approval, $400.00 plus $80.00 per residential unit;

(ii) Final plan approval, $300.00 plus $60.00 per residential unit.

...

Section 5. Effective Date. This ordinance shall be effective 30 days after its adoption.

Adopted this _____ day of _____, 2018.

_____
Beth A. Weldon, Mayor

Attest:

_____
Elizabeth J. McEwen, Municipal Clerk

CITY AND BOROUGH OF JUNEAU
ALASKA'S CAPITAL CITY
COMMUNITY DEVELOPMENT

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

November 30, 2018

MEMO

To: **Title 49 Committee**

From: **Tim Felstead, Planner II, Community Development Department**

RE: **Review of temporary cul-de-sac requirements in the context of a review of financial guarantee requirements for unconstructed stub streets and temporary cul-de-sacs within a subdivision**

Attachments

Attachment A – Proposed amendment to temporary cul-de-sac and stub street code language

At the Planning Commission regular meeting on November 27, 2018, the Planning Commission requested that there be more discussion with CBJ Engineering and Public Works at the next Commission meeting regarding temporary cul-de-sacs.

Later in that meeting, the Director arranged a Title 49 Committee meeting. The opportunity is being taken to have the requested discussion at this Title 49 meeting instead with a view to having Title 49 Committee agreement prior to further review of the draft ordinance by the full Commission. Below is an extract from the staff report presented to the Commission on November 27, 2018; this highlights the differing thoughts on the issue.

> *On September 17, 2018 Title 49 reviewed the issue again with a more in-depth examination of the temporary cul-de-sac requirements. The committee agreed on the following:*
>
> - *A ROW can be platted beyond the temporary turnaround to allow for future street connectivity and should be considered a stub street (i.e. may not need to be constructed provided it did not provide access to any lots within the subdivision.)*
> - *There should be no financial guarantee requirement for the construction of stub streets. Any construction costs would be borne by the developer of adjoining property.*

- *All cul-de-sacs should be considered permanent. This removes the need for there to be a 5 year financial guarantee requirement for temporary cul-de-sac removal.*
- *Cul-de-sacs should be built no further from the exterior boundary of the subdivision than the minimum lot width for the zoning district.*
- *There should be no criteria that dictate when a cul-de-sac is allowed for a subdivision if all cul-de-sacs are permanent.*

During that meeting it was recognized that the proposal should be reviewed by CBJ Engineering and Public Works (E&PW), which includes the CBJ Streets Division. In response to the CDD request for comment, Mike Vigue, Director of CBJ E&PW stated that keeping temporary cul-de-sac requirements in the Title 49 would be preferred for the following reasons:

- *Snow removal is complicated by leaving the temporary cul-de-sac in place. This is from a Streets perspective and a homeowner perspective. If Streets makes additional plow passes to move all the snow to the side, larger berms will result for those homeowners. This already is a source of complaint as it is frequently cast as a fairness issue between neighbors. If the snow plowing follows the straight line and leaves snow in the ROW at the edges of the "temporary" cul-de-sac, homeowners will be required to remove snow in the CBJ ROW to access the road from their driveways. This will not be a happy situation for most homeowners.*
- *Leaving the temporary cul-de-sac in place after the road has been extended will complicate ditch drain function.*
- *Vacating the ROW strip that was once the edge curve of the cul-de-sac to the adjacent homeowner slightly increases lot size and could result in slightly higher property values.*
- *Leaving the temporary cul-de-sac in place with the expectation that it could be used as an intermediate turnaround for emergency vehicles probably is a false hope. Inevitably, the wide spot in the road will become a desired parking spot and will frequently not be available for turnaround use.*

49.35.240 - Improvement standards.

(g) *Cul-de-sacs.*

(1) *Length.* Streets designed to have one end permanently closed shall be no more than 600 feet and not less than 150 feet in length measured from the center of the intersection to the radius point of the turnaround. The director for minor subdivisions, and the commission for major subdivisions, may authorize a longer or shorter cul-de-sac if it is found that the unique characteristics of the site warrant modification to the length.

(2) *Temporary cul-de-sacs.* Temporary cul-de-sacs will be allowed where a street can practicably be extended in the future. They provide for connecting streets into a subdivision of adjoining unsubdivided lands. In addition the following shall apply:

(A) The temporary portions of the cul-de-sac turnaround shall be shown as easements on the plat rather than as dedicated right-of-way. Such easements shall allow for public access and maintenance as if it were dedicated right-of-way until such time the easements are vacated.

(B) All of the turnaround must be constructed to permanent street construction standards except as noted in (G) below.

(C) The CBJ will record a release of the easements for the temporary portions of the turnaround at the state recorder's office at Juneau at the time the turnaround is removed and the street improvements have been extended.

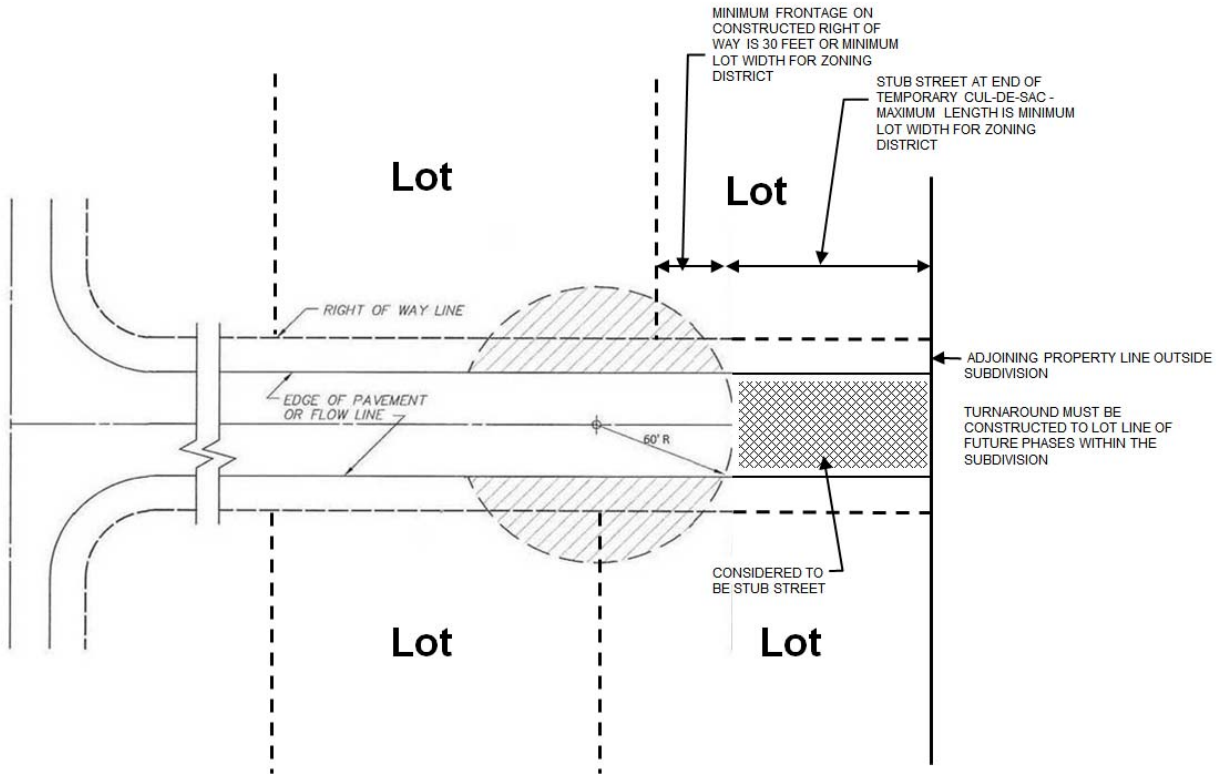
(D) Easement lines for the temporary turnaround will be considered front property lines for determining building setbacks.

(E) All improvements, including utilities, must be designed to accommodate the eventual extension of the street and reversion of the temporary turnaround to adjoining properties.

(F) Temporary turnaround locations provide required access and minimum frontage on a publically maintained right-of-way to <u>all</u> lots <u>within</u> the subdivision including lots identified for a future phase of the subdivision except as otherwise allowed by 49.35.250.

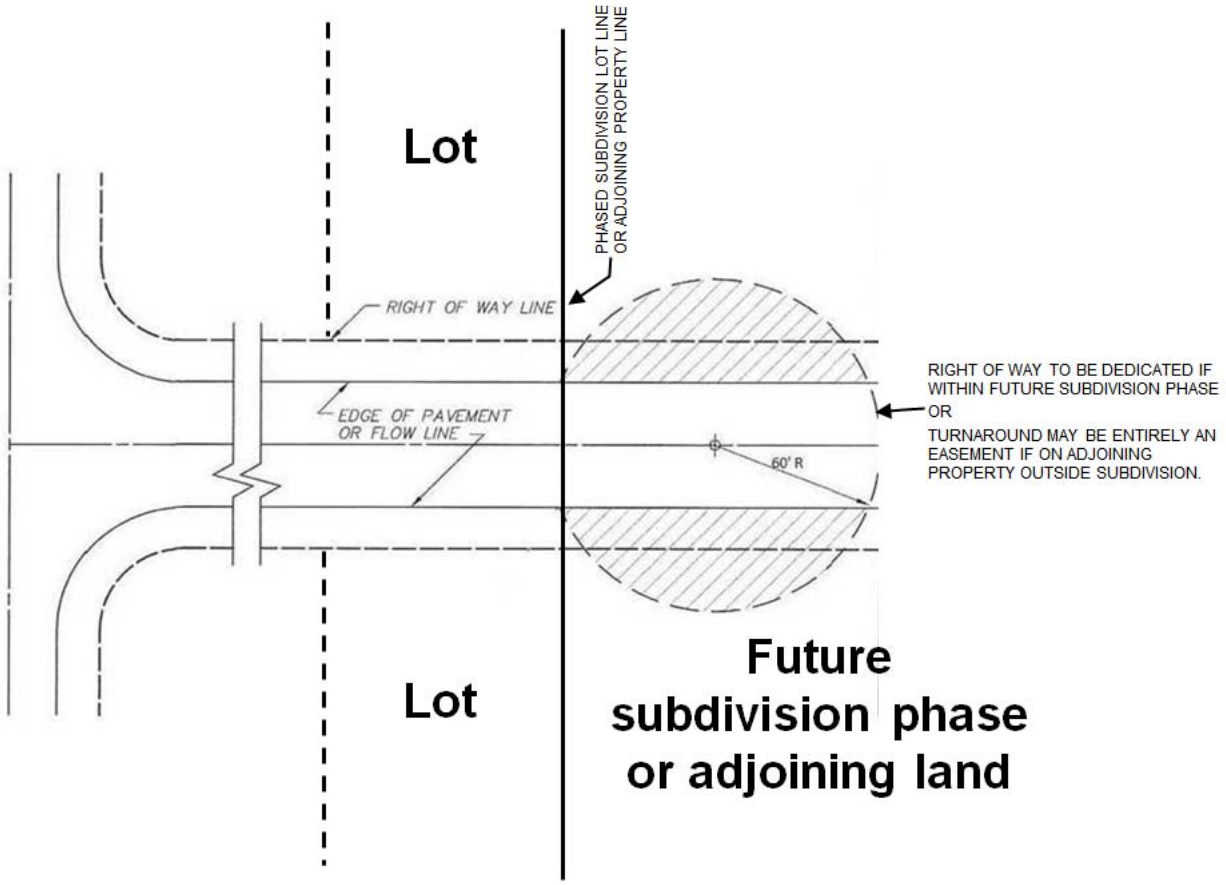
The maximum length of unconstructed roadway between the temporary turnaround and the adjoining property shall be the minimum lot width for the zoning district in which the right-of-way is located. Where a right-of-way is situated in more than one zoning district the shortest minimum lot width for those zoning districts shall be used. See Figure 3 – Option A.

Deleted OLD SHOWN ABOVE



Option A

Or



Option B

NEW FIGURE 3

(G) The temporary turnaround may be located on property within the subdivision intended for future subdivision phases in conjunction with a platted right-of-way. It may also be located outside the subdivision boundary entirely within an easement. See Figure 3 – Option B. For temporary turnarounds located in this way curb, gutter, and sidewalks are not required for the temporary turnaround.

(H) Right-of-way between the constructed temporary turnaround within the subdivision and the adjoining property shall be subject to the stub street requirements in 49.35.240(i)(2).

(I) When the developer of adjoining property is required to connect to the temporary cul-de-sac, then the adjoining developer must remove the temporary portions of the turnaround and reconstruct and extend the street to CBJ standards which may include relocating the turnaround.

(3) *Hammerhead turnarounds.* Hammerhead turnarounds may be built in lieu of a temporary cul-de-sac, upon approval by the director of engineering and public works.

(h) *Streets construction standards.*

(1) *Arterials.* The subdivider is not responsible for the construction of arterial streets, but may be required to dedicate the necessary right-of-way during the platting process.

(2) *Other streets.* Other than arterials, street shall comply with the following:

(i) *Street waivers.* The director, after considering the recommendations of the director of the engineering and public works department and of the fire marshal, may waive the following and no other street improvement requirements:

(1) *Right-of-way relocation.* If a plat is submitted for the purpose of relocating a right-of-way, the director may waive all or some of the construction requirements under the following conditions:

(A) The proposed relocation will improve access to abutting or neighboring property not otherwise adequately served.

(B) The subdivider has provided sufficient engineering information to demonstrate to the director of engineering and public works the feasibility of constructing a public street at the location of the relocated right-of-way.

(C) The relocated right-of-way and the resulting subdivision layout will conform to all the other standards of this chapter.

(D) The improvements required in the new right-of-way will not be less than those in the existing right-of-way.

(E) No additional lots are being platted.

(2) *Stub streets.*

(A) The director for minor subdivisions and the commission for major subdivisions may waive the full construction of a roadway within a right-of-way that is required to provide access to a bordering property, and does not provide required access to any lot within the subdivision. It shall be demonstrated that the unconstructed roadway can be constructed to CBJ standards. The commission or director may require provision of a roadbed, utility line extensions, or other appropriate improvements (See Figure 4).

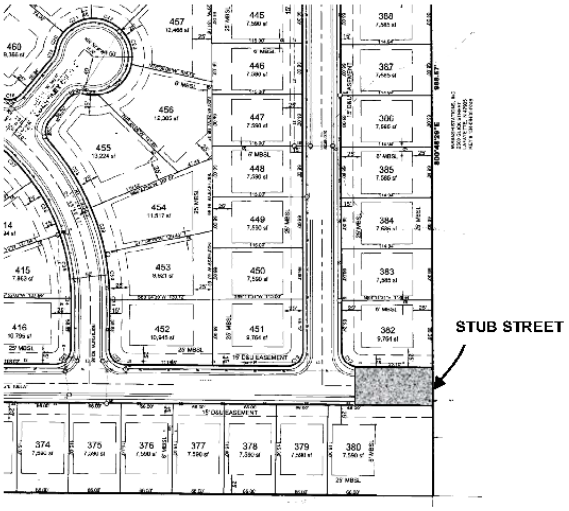


Figure 4

(B) RESERVED

(C) When the developer of adjoining property is required to connect to the stub street, then the developer of the adjoining property will be required to construct the stub street to City and Borough standards at the time.

Definition:

Cul-de-sac is a dead-end street that provides for a required vehicle turnaround

Temporary cul-de-sac is a cul-de-sac that may be practicably extended in the future. The required vehicle turnaround of a temporary cul-de-sac shall be located partially or entirely in a public access and maintenance easement that shall be vacated upon future street extension.