

## ISSUE PAPER

**CHALLENGE:** CBJ Law interprets ADA code to require the number of off-street ADA spaces to be based on code before reductions are applied.

Those spaces must be provided on-site or off-site through written agreement, and cannot be shared or addressed with FIL.

**RAMIFICATIONS:** Limited downtown real estate will be used to build parking with limited use.

- Parking reduces density, and density makes an effective downtown.
- Juneau gets more tax revenue per acre from downtown than any other area.
- ADA spaces can only be used by people with an ADA tag.

**EXAMPLE:** Let's take a larger project, where **104 spaces** are required before PD reductions.

Five ADA spaces are required.

The PD reduction brings them down to **41 spaces**. Five of those must be ADA.

Let's say the owner of this facility successfully lobbies the Commission that their business is primarily tourists, or bureaucrats who already have parking provided by their employers. In the waiver process, the Commission determines that **ten spaces** are needed for the employees. Five of those spaces must be ADA.

At this time, five ADA spaces must be provided on site, regardless of regulations qualifying reduced parking, and regardless of the Commission's judgment on the issue. That is, in this scenario, 935 square feet of parking space that must be accommodated on site if any parking at all is provided.

### DISCUSSION:

Interestingly, Law interprets that, if no parking is required, no ADA spaces are required. Apparently there is no gradient between some parking and no parking?

According to ADA guidance for small businesses, ADA spaces must be provided if "readily achievable." "Readily achievable" means, "Easily accomplishable and able to be carried out without much difficulty or expense."

At this time Law does not interpret PD reductions as criteria for "readily achievable."

### QUESTIONS:

How do other communities do this?

*Anchorage does not have a parking requirement in the downtown core. ADA requirement is based on spaces in the parking lot. They do not allow shared spaces.*

Can we incorporate our reductions into a concept of "readily achievable"? Can the PD define what is "readily achievable"?

Would we have to do a case-by-case analysis of "readily achievable"?

Are we creating an incentive for zero parking requirement?

ARTICLE II: PARKING AND LOADING

49.40.200 General Applicability

Off-street parking spaces for automobiles shall be provided in accordance with the requirements set forth in this section at the time any building or structure is erected or expanded, or when there is a change in the principal use thereof.

(a) *Developer responsibility.* Developer must submit documentation to demonstrate that applicable parking code requirements have been met, in conformance with this chapter.

(b) *Owner/occupant responsibility.* The provision and maintenance of off-street parking and loading spaces required in this chapter is a continuing obligation and joint responsibility of the owner and occupants.

(c) *Determination.* The determination of whether these requirements are met, with or without conditions, and deemed necessary for consistency with this title shall be made by the Director in the case of minor development; the Commission in the case of major development; and the Commission if the application relates to a series of applications for minor developments that, taken together, constitute major development, as determined by the Director. (OK)

(d) *Expansion.* In cases of expansion of a building on or after the effective date of the ordinance codified in this chapter,

(1) The number of additional off-street parking spaces required shall be based only on the gross floor area added.

(2) No additional parking spaces are required if the additional spaces would amount to less than ten percent of the total required for the development and amount to less than three spaces.

(3) For phased expansion, the required off-street parking spaces is the amount required for the completed development.

(e) *Change in use.* In cases of a change in use on or after the effective date of the ordinance codified in this chapter, the number of spaces required will be based on 49.40.210.

(f) *Replacement and reconstruction of certain nonconforming structures.* Off-street parking requirements for the replacement and reconstruction of certain nonconforming structures in residential districts shall be governed by chapter 49.30. (OK)

(g) *Mixed occupancy.* Mixed occupancy is when two or more of the parking uses in 49.40.210 share the same lot(s). For mixed occupancy, the total requirement for off-street parking facilities is the sum of the requirements for the several uses computed separately.

(h) *Uses not specified.* In the case of uses not listed, the requirements for off-street parking are based on the requirements for the most comparable use specified.

(i) *Location.* Off-street parking facilities are located as hereinafter specified; if a distance is specified, such distance is the walking distance measured from the nearest point of the parking facility to the nearest point of the building it is required to serve. Off-street parking facilities for:

(1) Single-family dwellings and duplexes, must be on the same lot as the building served;

(2) Multifamily dwellings, may not be more than 100 feet distant, unless subject to section 49.40.215; and

(2) The developer demonstrates with appropriate analysis or data that there is no substantial conflict in the principal operating hours of the structures or users for which joint use of off-street parking facilities is proposed; and

(3) The developer shall present to the Director a written instrument, executed by the parties concerned, providing for joint use of off-street parking facilities, and approved as to form by the City and Borough attorney. Upon approval by the Director, such instrument shall be filed with the department.

(SEE POSSIBLE NEW TEXT,  
LINE 115)

#### 49.40.220 Reductions

Developer may apply for multiple reductions. Accessible parking spaces shall not be reduced and must be provided in accordance with subsection 49.40.210(b). Loading spaces shall not be reduced and must be provided in accordance with subsection 49.40.210(c), except as provided for in 49.40.220(b)(1).

(a) *Parking waivers.* The required number of parking spaces required by this section may be reduced if the requirements of this subsection are met.

(1) *Standards.* Any waiver granted under this subsection shall be in writing and shall include the following required findings and any conditions, such as public amenities, imposed by the Director or Commission that are consistent with the purpose of this title:

(A) The granting of the waiver would result in more benefits than detriments to the neighboring area and community as a whole as identified by the comprehensive plan; and

(B) The waiver will not materially endanger public health, safety, or welfare.

(2) *Relevant information.* The following information may be relevant for the Director or Commission's review:

(A) Analysis or data relevant to the intended use and related parking.

(B) Provision for alternative transportation or transit improvements vetted through CBJ Capital Transit.

(C) Traffic mitigation measures supported by industry standards.

(D) Bicycle and pedestrian amenities.

(3) *Applications.* Applications for parking waivers shall be on a form specified by the Director and shall be accompanied by a one-time fee as cited in 49.85. If the application is filed in conjunction with a major development permit, the fee shall be reduced by 20 percent.

(4) *Public notice.* The Director shall mail notice of any complete parking waiver application to the owners of record of property located within a 250-foot radius of the site seeking the waiver. If the parking waiver application is filed in conjunction with a major development permit, notice of both applications shall be made concurrently in accordance with CBJ 49.15.230.

(5) *Expiration.* Approved parking waivers expire upon a change in use.

? Off-street loading spaces required in section 49.40.210(c) are reduced by ... 60%.

(b) *Town Center Parking District*. The parking district map was adopted DATE. The parking district map may be amended by the assembly through ordinance.

(1) *Standard Reduction*. Off-street parking spaces required in 49.40.210(a) are reduced by 60 percent for expansion of an existing building, change of use, or the construction of a new building.

(2) *Fee in lieu of off-street parking spaces*. In the Town Center parking district, a developer may pay a one-time fee in lieu of off-street parking spaces in order to meet the minimum parking requirements of this chapter. Fee in lieu can be used in any combination with other parking provisions of this chapter. Fees are cited in 49.85.

(A) *Payment*.

(i) In the case of new development, any fee in lieu due must be paid in full prior to the issuance of a temporary certificate of occupancy.

(ii) In the case of expansions or changes of use, 45 days after the fee in lieu of construction is granted, the fee must be paid in full, or a lien shall be placed upon real property involved and shall be paid in ten equal annual principal payments plus interest.

The lien shall be recorded and shall have the same priority as a City and Borough special assessment lien.

Except as provided herein, the annual payments shall be paid in the same manner and on the same schedule as provided for special assessments, including penalties and interest on delinquent payments, as provided in CBJ 15.10.220. The annual interest rate on unpaid fees shall be one percent above the Wall Street Journal Prime Rate, or similar published rate, on January 2nd of the calendar year the agreement is entered into, rounded to the nearest full percentage point, as determined by the Finance Director.

**49.40.225 Dimensions and signage for Required Off-Street Parking Spaces**

(a) *Standard spaces*.

(1) Subject to subsections (b)(2) and (3) of this section, each standard parking space shall consist of a generally rectangular area at least 8½ feet by 17 feet. Lines demarcating parking spaces may be drawn at any angle to curbs or aisles so long as the parking spaces so created contain within them the rectangular area required by this section.

(2) Spaces parallel to the curb shall be no less than 22 feet by 6½ feet.

(b) *Accessible spaces*.

(1) Each accessible parking space shall consist of a generally rectangular area at least 13 feet by 17 feet, including an access aisle of at least five feet by 17 feet. Two accessible parking spaces may share a common access aisle.

(d) *Public improvements required.* As a condition of plan approval, the department may require a bond approved as to form by the city attorney for the purpose of ensuring the installation of off-site public improvements. As a condition of plan approval, the applicant shall be required to pay the pro rata share of the cost of providing reasonable and necessary public improvements located outside the property limits of the development but necessitated by construction or improvements within such development.

**49.40.240 - Parking and circulation standards.** *(defined. ??!)*

(a) *Purpose.* Provisions for pedestrian and vehicular traffic movement within and adjacent to the site shall address layout of parking areas, off-street loading and unloading needs, and the movement of people, goods, and vehicles from access roads, within the site, and between buildings and vehicles. Parking areas shall be landscaped and shall feature safely-arranged parking spaces.

*(c)* (b) *Off-street parking and loading spaces; design standards.*

(1) *Access.* There shall be adequate ingress and egress from parking spaces. The required width of access drives for driveways shall be determined as part of plan review depending on use, topography and similar considerations.

(2) *Size of aisles.* The width of aisles providing direct access to individual parking stalls shall be in accordance with the following table. Logical interpolation to other angles may be approved by the Director:

	Parking Angle				
Aisle width	0°	30°	45°	60°	90°
One-way traffic	13	11	13	18	24
Two-way traffic	19	20	21	23	24

(3) *Location in different zones.* No access drive, driveway or other means of ingress or egress shall be located in any residential zone if it provides access to uses other than those permitted in such residential zone.

(4) *Sidewalks and curbing.* Sidewalks shall be provided with a minimum width of four feet of passable area and shall be raised six inches or more above the parking area except when crossing streets or driveways. Guardrails and wheel stops permanently anchored to the ground shall be provided in appropriate locations. Parked vehicles shall not overhang or extend over sidewalk areas, unless an additional sidewalk width of two feet is provided to accommodate such overhang.

(5) *Stacked parking.* Stacked parking spaces may only be counted as required parking spaces for single-family residences, duplexes, and as otherwise specified for specific uses. In the case of single-family residences and duplexes with or without accessory uses and child care homes in a residential district, only a single parking space per dwelling unit may be a stacked parking space.

(6) *Back-out parking.* Parking space aisles must provide adequate space for turning and maneuvering on-site to prevent back-out parking onto a right-of-way. If the Director or the

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

Thursday, June 10, 2021  
Community Development Department  
Virtual & Telephonic Meeting, 12:00 P.M.

**Members Present:** Nathaniel Dye, Travis Arndt, Mandy Cole, Erik Pedersen

**Members Absent:** Joshua Winchell

**Commissioners Present:** None

**Staff Present:** Jill Maclean (CDD Director), Alexandra Pierce (CDD Planning Manager), Irene Gallion (CDD Senior Planner), Allison Eddins (CDD Planner), Laurel Christian (CDD Planner), Sherri Layne (CBJ Law)

**I. Call to Order**

The meeting was called to order at 12:04 P.M.

**II. Approval of Agenda**

**MOTION:** *by Ms. Cole to approve the agenda as written.*

**The motion passed with no objections.**

**III. Approval of Minutes – None**

**IV. Agenda Topics**

**A. Parking**

Ms. Gallion explained that staff is still working on the ADA parking issues. She said an issue paper was posted on line and included in the packet and summarized that the Law Department is working on the current interpretation and that the current interrelation is the number of ADA spaces required must be before reductions.

Ms. Gallion added that this creates systemic challenges in the downtown core. She said there was a gap between providing none and some. If any parking is provided, ADA must be provided. If no parking were provided on site, ADA would not be required. There doesn't seem to be any gray areas in the federal guidelines. She further described "readily achievable" and read the definition from the memo. She noted that we might be able to say all properties in the parking district cannot readily achieve ADA due to their constraints. This may be a way to not require ADA parking downtown. Ms. Gallion also described the research on Anchorage's requirements. There is no requirement for parking

downtown; ADA is based on the number in the parking lot and off-site ADA spaces were not allowed. Ms. Gallion also noted Mr. Voelckers comments in the packet.

Mr. Dye asked for clarification on the Anchorage requirements.

Ms. Gallion clarified that ADA parking spaces cannot be shared off-site, according to Anchorage's code.

Mr. Arndt asked about loading zones, and wondered if the Committee would be working on loading zones. Mr. Arndt said that it was his understanding that loading zones would not be reduced and asked if staff was okay with that.

Ms. Gallion said Mr. Voelckers was interested in reducing loading zones in the downtown area so it was still up for discussion.

Ms. Cole asked about the Anchorage requirements, and if there are any parking requirements in the downtown core.

Ms. Gallion said there are no parking requirements in the downtown core and that if a parking lot were constructed, then ADA would be provided.

Ms. Pierce added that the discretion of how many parking spaces to build was placed on the owner.

Mr. Dye asked if this is the direction staff wanted to go.

Ms. Gallion replied that it is not really a solution for Juneau at this time.

Ms. Maclean added that when staff started the discussion last year, they looked at a no-parking requirement downtown and it was decided that would not work for Juneau.

Mr. Dye asked if staff could create a separate use and requirement table for downtown. If there were a separate table, it would be a standard and not a 60% reduction.

Mr. Arndt asked what that solves.

Mr. Dye replied that ADA is required before the reductions. So, if staff started at the reduction, the ADA would begin at that number. It wouldn't be a reduction; it would be a different requirement within the Parking District.

Ms. Gallion replied staff would review that as a possible strategy.

Ms. Layne replied that she liked that line of thinking. The ADA requirement is based on the total number of what is required. The ADA doesn't say what the requirement needs to be for a use, but if

there were a separate requirement for downtown, the ADA would be based on that requirement. She agreed with the route.

Mr. Dye said the ADA would then be capped at the requirement. He said staff can't waive ADA. He wondered how it would be to get to the 60 percent reduction, and if that was achievable.

Ms. Gallion replied that staff could review it.

Ms. Cole asked if staff were reducing the table to 60 percent and making everyone go through the waiver process, or if the table could be reduced borough-wide.

Mr. Dye replied that originally, staff and the Committee did not want to talk about the table borough-wide, but that could be a side product. He thought it may need to be addressed at this point also and that someone could get a waiver on top of it.

Mr. Arndt said that it was a creative solution to get around ADA downtown, but he thought the table would look odd.

Mr. Pedersen replied that in the example in the memo, if the reduction was in the table, could staff waive all but the ADA? Staff could waive everything on top of the reduction and always provide ADA.

Ms. Pierce said if there was no parking requirement, there was no ADA requirement.

Mr. Dye asked for clarification.

Ms. Layne replied that the guides say "where parking is available" you must provide ADA. There is no guidance on how you get to zero. However, if you construct parking, you must provide ADA. As long as it is readily achievable, there may be wiggle room there.

Ms. Cole added that the Commission should not determine readily achievable for every individual project. It would be better to reduce the requirement rather than make a subjective determination on what readily achievable means.

Ms. Pierce agreed. She added that there were some situations where it's obvious. Topography does not lend to allowing ADA or if there was not an ADA accessible route from the parking lot to the business. A hybrid model may be needed.

Ms. Gallion added that staff may come up with code language that defines readily achievable.

Mr. Arndt said he did not want to get sidetracked because of the ADA issue. He thought reducing the requirement would be speedy. He asked what could be done to move this forward and maybe come back to ADA later and stick with the status quo.



Ms. Pierce understood Mr. Arndt's point, but thought staff could spend a bit of time researching the ADA issue so there is a clear path forward. If they get stuck, they may move forward without the ADA being addressed.

Mr. Dye replied that parking reductions were the quick way; the parking table is a larger issue. He said even if there was a second table, there is still a borough-wide issue if parking is waived for a property elsewhere. He thought the entire table needed to be dealt with, so the ADA issue was addressed borough-wide.

Mr. Arndt agreed staff and the Committee should work on the existing table. He replied that the original idea was not to waive ADA so they don't create an issue.

Ms. Pierce said this is not how everything is currently operating and staff weren't aware this was an issue until recently, so it is a new issue.

Mr. Arndt replied that the draft was pretty explicit to say ADA spaces cannot be reduced because that's how it was currently being applied in code.

Mr. Dye asked what the next step was.

Ms. Gallion replied that she would provide an update at the next meeting. Ms. Gallion asked about loading spaces and what the direction was.

Mr. Pedersen asked why federal requirement for ADA had to be followed.

Ms. Layne replied that the ADA is a civil rights law that all must follow. CBJ could open themselves up to lawsuits for civil rights violations if it is ignored.

Mr. Dye replied that loading zones should not be reduced. He added that there could be a separate loading zone table for downtown and it needs to tailor to loading zones downtown where space is limited.

Ms. Maclean added that the table could use updating, but it comes to a matter of staff capacity and priorities.

Mr. Dye replied that they have tried to take a quick route for a Band-Aid, but it doesn't seem that the ADA allows options to go this way.

Ms. Pierce replied that staff needed a bit more time to look at the ADA requirements, then they could make a plan of action. She thought it needed to be done right once.

## **B. Lot Depth**

Ms. Eddins summarized the memo from staff on wanting to remove the lot depth requirements for all new lots. She added that in 1987, the zoning code was majorly rewritten and we adopted a code from down south. This worked when there was a boom of development. Around that time, Variances were easier to get if you couldn't meet a dimensional standard.

Ms. Eddins added that currently, staff are trying to achieve more infill development. The Variance criteria have changed to be more difficult. The developable lands that are left have development challenges. A solution is to remove the lot depth requirement. Lot width and lot size would be maintained. Minimum setback requirements would remain to preserve light, air, and space.

Ms. Cole asked if lot width would become an issue in the future.

Ms. Maclean replied that the Lands Committee also asked this question. Staff think there is more improvement that could be made to dimensions. She added that Ms. Eddins would look at the minimum rectangle, which would allow you to prove you have a buildable area and the other dimensions could be waived. The access must be through the frontage under current code, so if that remains we can allow some more flexibility. Ms. Maclean wanted to move along lot depth now, because it is a need and people can use it.

Ms. Pierce added that the idea would be to move lot depth as an immediate fix and we could do more research on other dimensions.

Mr. Dye said that minimum lot depth multiplied by minimum lot width is less than minimum lot size. He asked if there is ramification in code that needs to be addressed and if there were any unintended consequences.

Ms. Maclean replied that staff will need to make sure applicants are aware that even without a lot depth requirement, the minimum lot size and lot width will need to be met.

Mr. Pedersen looked at the table; MU is the only zoning district where lot width times lot depth equals square footage. He supports the amendment and it would allow for a lot more flexibility in platting lots. He has seen lot depth requirements preclude a lot from being used to its fullest extent.

Mr. Dye asked if too many lots could be subdivided.

Ms. Eddins replied that staff doesn't have the perspective that it would be a consequence. She added that housing is a goal of the assembly, and this creates more opportunities for development. Increased traffic could be a consequence, but this is an issue borough-wide. The City invests a lot of money in infrastructure and the lots cannot meet lot depth, so they cannot create infill where they have significant investments in infrastructure.

Mr. Pedersen asked about setback reductions on Page 7, Line 18 of the ordinance. He proposed “side, street-side, or rear”.

Mr. Arndt asked how this would be calculated for the rear.

Mr. Pedersen replied that if the lot width is less, the side or rear could be reduced.

Mr. Arndt replied that for a full width lot, the ability to reduce the rear for substandard lot depth is lost.

Mr. Pedersen said it should only be for substandard lots.

Ms. Eddins said that as the code is currently written the reduction would only be for lot width if lot depth was repealed. The proposed ordinance would no longer allow the setbacks to be reduced for the rear, because there is no requirement. Ms. Eddins asked if the Committee still wanted an avenue for rear yard setbacks to be reduced.

Mr. Pedersen said that front and rear setbacks drive lot depth. He replied that an applicant would need to at least create a buildable area within the setbacks.

Ms. Eddins replied that staff would need to look at setbacks and buildable area. She wondered if the Committee wanted to provide flexibility in reducing the rear yard setbacks.

Mr. Arndt said topography plays a large part and wanted a reduction for that.

Ms. Maclean replied that the section of code only applies to existing substandard lots. New subdivisions could not use this exception. She added that staff may need to see how many substandard lots exist outside of downtown and ADOD areas.

Mr. Dye asked if staff could come up with a different setback exception, using a ratio from lot width.

Mr. Arndt asked about preserving the neighboring properties and using an average.

Ms. Eddins replied that could be an option. There is an existing exception for that already in certain areas, and this could be expanded.

Mr. Pedersen said the proposed change to Line 18 should include street side.

Mr. Dye agreed with the change.

Ms. Maclean said she wanted to explore the minimum rectangle and move this forward as proposed.

Mr. Arndt replied that the minimum rectangle was an arbitrary size and structures weren't being constructed to reflect the rectangle.

Mr. Dye also added that many lots are oddballs and not straight lines, so it can get complicated.

Mr. Dye said on Page 3 of the ordinance, panhandle dimensions, he didn't agree with the number using half of a foot and requested rounding to a whole number.

Mr. Arndt said longer would be more generous.

Ms. Eddins said that number comes from lot depth in current code.

Ms. Maclean asked to round to 128.

Mr. Arndt asked why staff cared about the length of the panhandle.

Ms. Maclean replied that it is tied to fire access and how long a private driveway should be for public safety.

Mr. Dye asked if 300 is okay here, why is it not okay for all?

Ms. Maclean said she wasn't sure why this is the standard.

Mr. Arndt asked for 300 for all.

Ms. Eddins replied that it is tied to emergency access and she could ask CCFR if they have a preference.

Ms. Maclean said increasing it could encourage larger lots in denser areas, which is not ideal in the multifamily and higher density areas. Ms. Maclean also said she wanted to come back to shared access regarding this issue. The driveway in multi-family shouldn't be allowed to be that long, because it discourages density.

Mr. Arndt said he wasn't sure about the density implications; in multi-family zoning districts density is by acre, so that won't change.

Mr. Dye agreed with Ms. Maclean, but noted that it was not limiting density, but providing more of an example for what staff and the Committee wanted the subdivision to look like. He added common wall development in General Commercial and Light Commercial were allowed to have one unit on a lot. He said it could expand the ability to use land differently. He added the CBJ doesn't really like to acquire Right-of-Way, so this may not necessarily be a bad thing.

Ms. Maclean noted that Ms. Eddins needed to check on Industrial zoning districts to see if they needed to be included.

Mr. Dye said minimum lot width is 20 feet in Industrial zones, so panhandle isn't necessary.

**Motion: By Ms. Cole to take AME20210007 to the full planning commission for approval noting comments from today's meeting.**

## **V. Committee Member Comments and Questions**

Mr. Pedersen asked what items would be on the next meeting.

Ms. Pierce said streams and parking would come back. The next meeting was set for June 24, 2021 at 12 noon to discuss parking.

Mr. Dye said he received an email from Ms. Gladyszewski and they wanted to have a joint meeting with the Title 49 Committee and the Assembly Lands Committee on July 19, 2021 or August 9, 2021.

The next meeting to discuss streams was set for July 1, 2021 to talk about streams.

## **VI. Adjournment**

The meeting adjourned at 1:21 P.M.