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**DATE:** October 25, 2019

**TO:** Nathaniel Dye, Chair  
Title 49 Committee

**FROM:** Irene Gallion, Senior Planner  
Amy Liu, Planner  
Laurel Christian, Planner

**CASE NO.:** AME2018 0004

**PROPOSAL:** Proposed Rezoning of Downtown Juneau Alternative Development Overlay District (ADOD) Area

#### **Attachments**

Attachment A – Setback Exceptions, 49.25.430

#### **General Overview**

At the October 2, 2019 Title 49 (T49) Committee meeting, staff and the Committee members made several decisions moving the discussion forward, and identified outstanding questions to be answered for the October 30<sup>th</sup> meeting.

#### **Decisions**

- Minimum lot size is 3,000 square feet.
- Commonwall lot size is 3,000 square feet.
- Future subdivisions may use ADOD standards.
- Minimum width and depth are 25 feet each.
- Lot coverage does not change. Vegetative coverage is reduced to 15%.
- Maximum height for primary uses is 35 feet, and for accessory uses is 25 feet.
- Revised ADOD boundary only containing residential zoning districts and Light Commercial

## Outstanding Questions

- *Setback exceptions*: How does the ADOD relate to setback exceptions, more restrictive or less restrictive, in 49.25.430? Does the setback sum include distances between lot lines and the structures listed in this code section?
- *Nonresidential uses*: In addition to residential uses, does the ADOD apply to Mixed Use and Commercial uses? If yes, are there different processes depending on the category of use e.g. Conditional Use Permit?
- *Duplexes*: Should the minimum area for duplexes change?
- *Undersized lots*: Should there be a different setback sum for ADOD lots that do not meet the minimum ADOD lot area?

This memo will also revisit the purpose of the ADOD.

## Purpose of ADOD

At the June 12, 2017 Committee of the Whole meeting, staff discusses the purpose of the ADOD:

*Downtown Juneau and downtown Douglas were built before modern zoning and the current zoning does not "fit" the needs for future development in those areas. **Staff was realizing that many projects in those areas were seeking variances for rebuilding on the properties in both areas. Variances are supposed to be used for a true hardship, and we have come up with a temporary, interim solution, called an "overlay zone," until work can be done to revise the zoning in both areas, based on area plans to be done in the near future. These overlay zones sit "on top" of the existing zoning that exists, to give property owners and the planning commissioners more options. The changes in standards regard setbacks, lot coverage and vegetative coverage. No changes will be made to density, height, and parking. The overlay zones are for use by residential projects in order to preserve the character of the neighborhoods.***

The purpose is more generally stated in the June 24, 2019 City Manager's report:

*The purpose of the alternative development overlay district is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This extension provides adequate time for the review and adoption of new zoning for the downtown neighborhoods.*

The written purpose found in CBJ 49.70.1200 is:

*The purpose of the alternative development overlay district is to provide adequate minimum standards and procedures for the construction of new residential buildings and the expansion, restoration, or repair of existing residential buildings, while providing time to implement new zoning regulations. This article is intended to provide for the development of housing, preserve the character of neighborhoods, and promote the restoration of blighted buildings.*

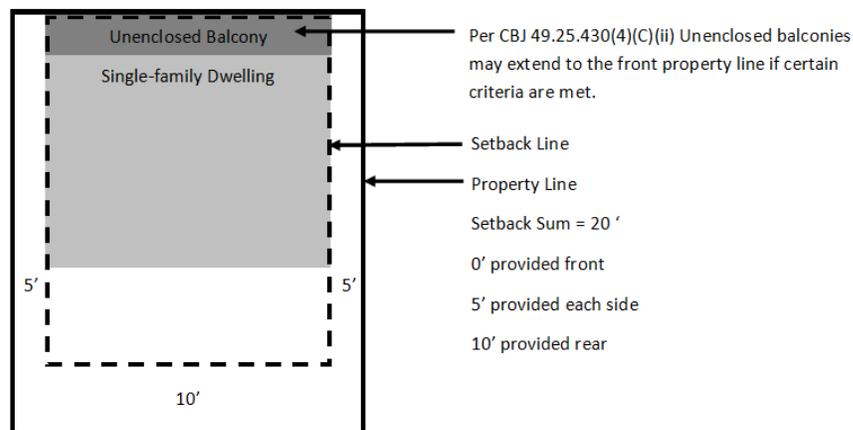
Staff and the Title 49 Committee further discussed the purpose of the ADOD moving forward at the September 4, 2019 Title 49 Committee meeting.

*New zoning should balance the desire to preserve the existing character of the neighborhood with the desire to construct new dwellings that match the existing character of the neighborhood.*

## Setback Exceptions

Please see Attachment A for line by line commentary on how each exception would relate to the ADOD. Generally, less restrictive requirements apply, and more restrictive requirements do not apply. The ADOD would override more restrictive requirements. **Staff recommends that setback exceptions less restrictive than the ADOD be revised and printed specifically in the ADOD code section.**

If a property owner was able to use a less restrictive setback exception than the 3-foot minimum for a side in the ADOD, that reduction does not change the required total setback sum for the lot. In the below example, a property owner can get their front yard setback reduced to zero feet for an unenclosed balcony, but they are still required to come up with 20 feet on all other sides.



## Nonresidential uses

**Staff recommends that residential uses are allowed outright to use the ADOD dimensional standards. Nonresidential uses, including Mixed Use and Commercial, may use the ADOD with a Conditional Use Permit.** Additionally, if a non-residential use “opts-in” to the ADOD dimensional standards, they will be required to use all of the ADOD standards. For example, under current zoning a lot zoned Light Commercial has a maximum height of 45 feet. Under the proposed ADOD, the maximum height would be 35 feet. In order for the Light Commercial lot to utilize the reduced setbacks, their maximum height would now be 35 feet. This opt-in system is all or nothing.

Major or minor development within the ADOD that is Commercial or Mixed Use would require a Conditional Use Permit, if they wish to utilize the ADOD dimensional standards. Requiring a Conditional Use Permit for Mixed Use and Commercial uses that wish to utilize the ADOD dimensional standards would allow the Planning Commission to determine that neighboring properties see no detrimental impacts. The Planning Commission would also be able to place conditions on the development through the Conditional Use Permit process.

## Duplexes

The minimum lot size for a duplex currently exists for D5 zoning, and not D10 or D18 zoning, where such structures would be considered multifamily.

Provided that certain conditions are met, a D5 zoned lot could have two dwelling units, either in the form of a duplex or a single-family home with an accessory apartment. In D5, the minimum lot size for a duplex is 10,500 square feet, while the standard lot size is 7,000 square feet. A D5 lot less than 10,500 square feet may still have a single-family dwelling with an accessory apartment, either allowed outright or with a Conditional Use Permit.

Duplexes and single-family dwellings with an accessory apartment are similar in that they both involve two distinct dwelling units. Duplexes, however, are not restricted to a square footage, while accessory apartments on a standard or substandard lot must be no more than 600 square feet in living space. Duplexes count toward density while accessory apartments do not.

PIN	Zoning	Address	Neighborhood	Acreage	Square Footage	CDD Use Code	Housing Types	Housing Category	Property Use Code	Property Type
1C040G02	D5	527 Nelson	Starr	0.03	1306.8	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C070B0C	D10	157 Gastin	Gastineau	0.0469	2042.964	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A07	D18	425 Harris	Starr	0.05	2178	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A13	D5	508 Kenne	Starr	0.06	2613.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C060C12	D5	542 W Eight	Flats	0.09	3920.4	TRIPLEX	Multifamily	Multifamily	Duplex	Duplex
1C040A08	D18	526 East St	Starr	0.11	4791.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C040A26	D18	634 Harris	Starr	0.1123	4891.788	MULTIFAM	Multifamily	Multifamily	Duplex	Duplex
1C040A40	D18	863 Basin	Starr	0.12	5227.2	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C030J11C	D5	425 Judy L	Highlands	0.16	6969.6	DUPLEX	Duplex	Single Fan	Duplex	Duplex
1C030D05	D5	1754 Ever	Highlands	0.42	18295.2	DUPLEX	Duplex	Single Fan	Duplex	Duplex

**Reducing the current minimum area for a duplex will not significantly improve conformity for existing duplexes or the ADOD area as a whole.** Reduction still involves inconsistent logic with other minimum areas. There are up to five existing duplexes in D5 zoning within the ADOD. The number of duplexes in all zoning districts is less than 1% of the total number of dwellings in the ADOD.

**Staff recommends option 1: do nothing.** A comparison of three options is below.

	<b>Option 1: Do nothing</b>	<b>Option 2: Reduce according to existing ratio; 5,250 sf*</b>	<b>Option 3: Reduce to twice the standard area; 6,000 sf</b>
Pro(s)	<ul style="list-style-type: none"> <li>• Simplifies the ADOD revision</li> <li>• Avoids possibility that changing density per lot will conflict with future Comp Plan recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• May incentivize duplexes within the ADOD area</li> </ul>	<ul style="list-style-type: none"> <li>• May incentivize duplexes within the ADOD area</li> </ul>
Con(s)	<ul style="list-style-type: none"> <li>• Does not positively or negatively affect conformity for the ADOD as a whole</li> <li>• Does not incentivize duplex development downtown</li> </ul>	<ul style="list-style-type: none"> <li>• Does not positively or negatively affect conformity for the ADOD as a whole; most D5 duplex lots are less than 5,250 sf</li> <li>• Contradicts the logic of D10 zoning, which requires 8,712 sf for two units</li> <li>• Changing density per lot may conflict with future Comp Plan recommendation</li> </ul>	<ul style="list-style-type: none"> <li>• Does not positively or negatively affect conformity for the ADOD as a whole; most D5 duplex lots are less than 5,250 sf</li> <li>• Changing density per lot may conflict with future Comp Plan recommendation</li> </ul>

\*  $3500 \times 10500 / 7000 = 5250$

\* Minimum lot size for a single-family dwelling is reduced by 50%. Minimum lot size for a duplex should also be reduced by 50%.

Staff recommends Option 1 for the following reasons:

- The purpose of the ADOD is to allow new residential structures (or expansions) which fit the existing character of the neighborhood and to increase conformity for existing structures. Less than 1% of properties within the ADOD boundary have duplexes within the D5 zone, so there would not be a significant increase in conformity for existing duplexes.
- A lot that measured 3,000 square feet will now be allowed to have a single-family dwelling and accessory apartment without a Conditional Use Permit, so downtown residents will have more options for adding dwelling units downtown.
- Neighborhood density should be reviewed with a possible future zone change and Comprehensive Plan rewrite. Reducing the minimum lot size for single-family dwellings changes the density for an individual lot, but not at a neighborhood scale.
- Reducing the minimum lot size for a duplex in D5 would not be consistent with the D10 and D18 zone districts, where density is measured by units per acre not minimum lot size. This would be confusing and difficult to explain/justify to customers.

**Undersized lots**

Staff recommends that lots smaller in area than the minimum 3,000 square feet be eligible for a reduced setback sum. Staff recommends the following language:

*Substandard lots. If lot size is nonconforming to the requirements set forth in the ADOD overlay dimensional standards, the required setback sum may be reduced to the same percentage that the lot size bears to the ADOD overlay dimensional requirements. In no case shall the required setback sum for the lot be less than 12 feet and in no case shall any side be less than 3 feet.*

For example, if a lot remains nonconforming in lot size, the setback sum required could be reduced to the same percentage. If the minimum lot size is 3,000 square feet, and my lot is 2,000 square feet, my setback sum could be reduced to 66% required (13.33 feet).

49.25.430 - Yard setbacks.

No portion of any of the items listed in subsection (1) of this section may be located on any lot closer to any lot line or to the street right-of-way line or centerline than is authorized in the table of dimensional standards in table 49.25.400, except as otherwise noted in this section. An alley or walkway is not subject to front setbacks unless it is the primary access to the lot.

- (1) *Buildings, as building is defined in 49.80.120, and the following items:*
  - (A) Motor vehicle fuel dispensing pumps and associated overhead canopies or roofs;
  - (B) Carports;
  - (C) Radio and television antennas, masts and towers (including telecommunications towers), any of which are 25 feet or greater in height or 25 square feet or greater in area at the base or foundation; and dishes greater than five feet in diameter; and
  - (D) Above ground fuel and water storage tanks with a volume greater than 660 gallons.
- (2) *Street right-of-way line determined.* The street right-of-way line shall be determined by reference to a recorded map, monuments, right-of-way easements, right-of-way maps, or other means. The setback shall be measured from such right-of-way line.
- (3) *Multiple Frontage lots.* Buildings on lots bordered by two or more rights-of-way must meet the front yard setback from one lot line adjoining the rights-of-way. Setbacks from the remaining lot lines adjoining rights-of-way will be considered street side yards.

On undeveloped corner lots or corner lots on which existing buildings conform to required setbacks, the owner may establish the rear yard opposite either right-of-way frontage. The remaining yard(s) not fronting on a street right-of-way will be considered a side yard(s).

On lots with existing buildings that have nonconforming setbacks, setbacks for yards shall be established based on the yard that most closely meets the respective setback requirement.

Lots bordered by three or more rights-of-way shall not be required to provide a rear yard setback.

A front yard for a lot not bordered by a right-of-way shall be established on the lot line where access is provided to the lot.

- (4) *Projections into required yards.*
  - (A) *Architectural features.* Architectural features and roof eaves may project into a required yard four inches for each foot of yard setback required but no closer than two feet to the side and rear lot lines.

AL- Though the new setback system doesn't make a distinction for front, rear, etc, would we still assign sides so that a setback exception like this could be applied?

LC – I'm okay with this exception being allowed, so long as any fire code requirements were met for the building division. I'm also fine assigning a side.

ADOD will get you closer to the property line than most of these setback exceptions, there are not very many that would apply. I think that it would be easier to create a section in the ADOD chapter with it's own exceptions, and say this chapter doesn't apply. I know that it sucks to have duplicated code, but it might be easier that saying A,B,&C apply but X,Y,&Z don't apply. If there is a section in the ADOD code which lists the allowed exceptions, we also avoid the opt in/opt out conversation, because they're listed in code and their own thing. Thoughts?

IG- So, if the side or rear yard is 3', the projection could be 12' or one foot. So, in line with Laurel's EXCELLENT idea to skuttle Section K and incorporate the exceptions into this

area of code, maybe we reword it to say, "Architectural features and roof eaves may project into the required yard setback but can be no closer than two feet from the side and rear lot lines." Leave math out of it?

AL- Agreed, less cross referencing please!

- (i) In the MU2 zoning district, architectural features, roof eaves, and canopies may project into a required front or street side yard setback to the front or street side yard property line.
- (B) *Enclosures.* Bay windows, garden windows, chimney and ventilation shafts, and other similar enclosed structures that do not increase the building's floor area may project four feet into any required yard provided that the maximum length of projection along the building does not exceed 15 lineal feet for any one yard. In no instance shall the projecting structure be closer than three feet to a lot line.

AL- This fits into new ADOD seamlessly. To be sure, do we want these enclosures to count toward the setback sum? My thought is yes.

IG- Yes.

LC – Yes. We can measure from the exterior finish of the building, which could include a chimney shaft.

- (C) *Structures unheated.* The following unheated structures are allowed in required yard setbacks, as provided below, and provided that roof eaves associated with these structures may be no closer than two feet to any side or rear lot line.
  - (i) Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs, may extend to the front lot line or street side lot lines provided the structure does not exceed five feet in internal width exclusive of support structure and is no closer than three feet to a side or rear lot line;

AL- I think this exception should override the ADOD minimum. Should they count toward the sum?

IG- Also, if someone has already taken advantage of this waiver, does that obligate them to opt out of the ADOD? Would this be a sort of double-dipping that makes things too squished?

LC – I think it's okay to allow this to continue and override the 3 foot minimum. If the intent of the 3 foot minimum is for fire separation reasons, there would be no neighbor on the front of the house to consider, and there is a 3' side yard minimum. I also think that a 5 foot wide landing is not very intense of a structure, and in some situations necessary to enter a dwelling. There are many of these existing and I wouldn't want to see them become non-conforming.

- (ii) Arctic entries not exceeding 65 square feet gross floor area, and no closer than five feet to any property line;

AL- ADOD should override this exception. Lot coverage might rein in the size of these structures.

IG- Agreed in theory.

LC – Agreed, if I can building my house 3' from the property line using the ADOD, that should include an arctic entry. As long as it's no closer than 3'.

- (iii) Enclosures for outdoor fuel tanks, detached storage sheds, greenhouses, playhouses, refuse containers, woodsheds, and similar accessory buildings, if less than four feet high in a front or street side yard and ten feet high in a side yard, and 12 feet high in a rear yard. The total encroachment into a yard, regardless of the number

of encroaching buildings, shall be no more than 40 square feet in a front yard, 65 feet in a side yard, and 120 square feet in a rear yard. Where a structure is located in more than one setback, the more restrictive standards shall prevail. In no instance shall the enclosure be closer than three feet to a lot line;

AL- ADOD should override this exception. Lot coverage might rein in the size of these structures.

LC- agreed – use the 3' minimum to the property line.

IG- Because ADOD overrides, we would not include it in our exemptions at all, correct?

AL- Correct.

- (iv) Temporary boat or recreational vehicle shelters consisting of a plastic, canvas or similar cover material applied to a frame for winter storage provided that the cover and associated framework are removed during the period of April 15 through September 30 and provided that the shelter is no closer than three feet to a lot line; iv.

AL- This exception doesn't conflict with ADOD.

IG- Agreed.

- (v) Other enclosures, devices, structures or accessories deemed by the director to be similar to a building or to those other items listed in this subsection. AL- No comment.

- (D) *Uncovered porch, terrace, or patio.* An uncovered porch, terrace, or patio extending no more than 30 inches above the finished grade may be no closer than three feet to a side lot line and no closer than ten feet to a front, street side or rear lot line.

AL- ADOD should override this exception. IG- Agreed. LC - Agreed

- (E) *Unenclosed porches or decks.* Unenclosed first story porches or decks, with or without roof, and with or without non-sight obscuring safety rails less than 44 inches in height, may project no more than six feet into any yard setback, provided, however, such projection is no closer than five feet to a lot line. Eaves may project a maximum of three feet from these structures. AL- ADOD should override this exception. IG- Agreed. LC - agreed

- (F) *Sloping lots.* If the natural gradient of a sloping lot, from front to rear, exceeds 25 percent, the front yard setback shall not be less than the established yard of a dwelling, not including accessory structures, such as garages and storage buildings, which occupies an adjoining lot. In no instance shall the setback be less than five feet.

ADOD should override this exception. LC - Agreed NA to ADOD IG- Agreed.

- (G) *Shoreline properties.* In any zoning district, yard setbacks are not required from tidewater lot lines.

AL- Not really applicable in Juneau ADOD area, but maybe Douglas ADOD area.

LC – agreed, this should override ADOD

IG- If we are listing exemptions, this is another one we would not include because it is not applicable, but we WOULD include for Douglas. Right?

- (H) *Carports and garages.* A minimum setback of five feet from any property line shall apply to carports and garages in any residential zoning district if:

AL- ADOD should override this exception. LC – agreed IG- Agreed.

- (i) The topography of the lot makes construction a hardship;

- (ii) The carport or garage has a maximum height of 17 feet measured from the finished garage floor level, instead of from the datum established in 49.25.420(b), and a maximum gross floor area of 600 square feet;
  - (iii) Sight distance is approved by the director; and
  - (iv) Enclosed space directly under the garage shall be subject to the above setback exception, and no additional stories are allowed on top of the garage.
- (I) *Parking decks.* A parking deck, no part of which exceeds one foot above the level of the adjoining roadway, and which does not include other uses, is exempt from the setback requirements of this chapter; provided a non-sight-obscuring safety rail not more than 42 inches in height is allowed.

AL- Probably not relevant, but should still apply to ADOD. We should check Douglas ADOD for this later.

LC – this probably won't be applicable in most of the ADOD area, but I think people should be allowed to use it.

IG- Agreed.

- (J) *Substandard lots.* If the lot width, lot depth, or both are less than required, the corresponding side or rear setbacks may be reduced to the same percentage that the lot width, depth, or both, bear to the zoning district requirements, except that in no case shall the side and rear yard setbacks be less than half those required by this chapter, or five feet, whichever is greater. AL- Not relevant.
- (K) *Existing substandard setbacks.* A new building may have a front yard setback equal to the average front yard setback of the three closest adjacent buildings, or a street side yard setback equal to the average street side yard setback of the three closest adjacent buildings. The average calculation shall be made using one building per lot. If any of the three buildings used in the averaging calculation is located a greater distance from the required setback, then the required front yard setback or street side yard setback shall be used to calculate the average.

AL- ADOD should override this exception. LC- agreed. IG-Agreed.

An existing building located on the subject lot may be used as one of the three buildings to calculate the setback determination.

For purposes of this section, the buildings used in averaging must be either conforming or legally nonconforming enclosed buildings or carports and have a wall or column height of at least seven feet measured from the finished grade. Porches, bay windows and temporary buildings allowed to project into setbacks cannot be used for averaging. In no instance shall the required setback be less than half that required by this chapter or ten feet, whichever is greater.

If there are fewer than three buildings within 500 feet of the subject property, then the required setback shall be the average of front yard setbacks, or street side yard setbacks, of such fewer buildings, using a maximum of one building per lot.

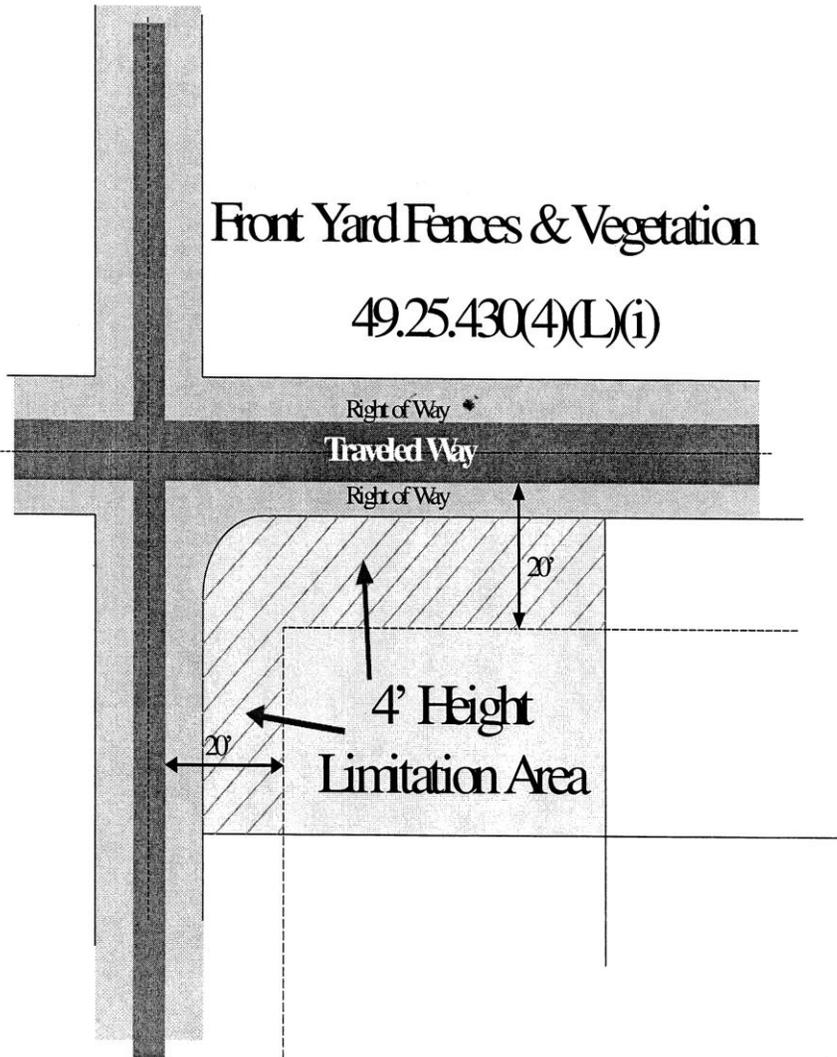
- (L) *Fences and vegetation.* For this section a "traveled way" is defined as the edge of the roadway shoulder or the curb closest to property.

AL- ADOD should override this? If we're fine with buildings, arguably more visually obtrusive than fences, to be closer to a ROW, then we might consider allowing fences to do the same. However, if we want to reduce fence height because of a *desired streetscape*, e.g. one that has a more friendly than gated, then fences could stay low.

LC – I can go either way. We should ensure that the 20' setback sum does not apply to fences.

IG- I hate this corner lot part, because 3' is still hard to see over if you are in a little car. But, these areas have sidewalks so I guess it works out, it is not like it comes right up to the edge of the road.

- (i) The maximum height of a sight obscuring fence or vegetation shall not exceed four feet within 20 feet of the edge of the traveled way. Trees are allowed within 20 feet of the edge of the traveled way provided they do not obscure view from a height of four feet to a height of eight feet above the ground;



- (ii) On corner lots the maximum height of a sight-obscuring fence or vegetation located within 20 feet of a street intersection shall not exceed three feet. The area in which sight-obscuring fences and vegetation is restricted shall be determined by extending the edge of the traveled ways to a point of intersection, then measuring back 20 feet, then connecting the points. In this area, vegetation shall be maintained to a maximum height of three feet. Trees are allowed in this area provided the trees do not obscure view from a height of three to eight feet above the ground.

- (M) *Additional stories.* The commission, through the conditional use permit process, may allow the addition of a second or third story atop or below an existing enclosed structure which projects into a required yard setback if the structure is either lawfully nonconforming or if a variance was previously granted for the structure. The commission may deny such

request if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.

**AL- This does not conflict with ADOD.**

- (N) *Parcels adjoining publicly owned land.* The commission, through the conditional use permit process, may allow structural projections into required side or rear yard setbacks if the affected yard adjoins publicly owned land which has been placed in a park, open space, or similarly restrictive land management classification; provided such projections are minimized and are necessary to prevent substantial hardship to the applicant. The commission may deny such requests if it finds that the structure, with the addition, would result in excessive blockage of views, excessive restriction of light and air, or other deleterious impacts.

**AL- This should override ADOD.**

- (O) *Energy efficiency.* Energy efficiency improvements that do not increase interior square footage, such as exterior insulation, may project up to eight inches into a required yard. An energy efficiency improvement may not be approved under this section if it projects into the right-of-way or across a property line.

**AL- This should override ADOD.**

- (5) *Replacement and reconstruction of certain nonconforming buildings.* The replacement and reconstruction of certain nonconforming buildings in residential districts shall be governed by subsection 49.30.500(b).

(Serial No. 87-49, § 2, 1987; Serial No. 89-05, § 2, 1989; Serial No. 91-03, § 3, 1991; Serial No. 95-33, § 7, 1995; Serial No. 97-49, § 2, 1998; Serial No. 2004-13, § 3, 9-27-2004; Serial No. 2006-15, § 4, 6-5-2006; Serial No. 2007-40, § 3, 6-25-2007; [Serial No. 2012-36, § 2, 9-17-2012](#); [Serial No. 2015-03\(c\)\(am\), § 20, 8-31-2015](#); [Serial No. 2018-06, § 2, 3-5-2018, eff. 4-5-2018](#))

**Cross reference—** Right-of-way encroachment permits, CBJ Code ch. 62.55.

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

Friday, November 1, 2019  
Community Development Department  
Large Conference Room, 12:00 pm

**Members Present:**

Nathaniel Dye, Travis Arndt, Ken Alper

**Members Absent:**

Shannon Crossley

**Staff Present:**

Jill Maclean (CDD Director), Alexandra Pierce (CDD Planning Manager), Irene Gallion (CDD Senior Planner), Laurel Christian (CDD Planner), Amy Liu (CDD Planner), Chelsea Wallace (CDD Admin)

**I. Call to Order**

The meeting was called to order at 12:05pm.

**II. Approval of Agenda**

**III. Approval of Minutes**

**IV. Agenda Topics**

**A. Proposed Rezoning of Downtown Juneau Alternative Development Overlay District Area**

Ms. Christian informed the Committee that Staff had prepared a memo with discussion points to go over at this meeting. To summarize from past meetings, the Committee and Staff had made some decisions on the Alternative Development Overlay District (ADOD) standards, including a minimum lot size requirement of 3,000 square feet; allow future subdivisions to use the ADOD standards; minimum lot depth will be 25 feet; lot coverage is not changing; vegetative coverage is being reduced to 15% across the board for all zoning districts. Other decisions made include a maximum height for primary uses is 35 feet and accessory use is 25 feet; if someone is in the Light Commercial Zoning District, the current height is 45 feet, but if they wish to utilize the ADOD standards, it will be reduced to 35 feet. Staff revised the boundary line of the ADOD, as well.

Mr. Arndt recalled discussion regarding changes in lot coverage and developers being allowed to use larger setbacks. He asked if this was decided on, as well.

Mr. Dye recalled that the requirements would remain the same.

Mr. Arndt didn't recall this being an issue and thought it may be good to have the requirements remain the same, but thought there had been some discussion on adjusting them.

Ms. Christian recalled that the decision had been made to keep the requirements for lot coverage as is, because the setback box allows almost all of the lot to become developable, so the lot coverage helps restrict that a little

bit. Moving forward, Ms. Christian stated that Staff was hoping to discuss the outstanding questions. The first question was regarding setback exceptions and how the ADOD relates to the current setback exceptions in Code. Some current Code exceptions are more restrictive than the ADOD exceptions and some are less restrictive. Generally, Staff thinks the less restrictive exceptions should apply, but the more restrictive exceptions should not. Another question Staff is hoping to have answered is how residential uses are treated; Mixed Use (MU), as well as Commercial Uses, and if a different process is needed, such as a Conditional Use Permit if someone wishes to utilize the ADOD dimensional standards.

Mr. Arndt asked if the MU zones were taken out of the ADOD boundary.

Mr. Dye replied that MU had been removed from the boundary, but Light Commercial zones still allow for mixed-use development.

Ms. Christian agreed with Mr. Dye and stated that other questions needing to be answered were regarding how duplexes will be treated and if a separate setback exception needs to be created for lots that are still nonconforming to the new ADOD standards. Ms. Christian suggested working through the memo and noted that Ms. Liu had pulled some purposes from past ADOD discussions and put them in the memo, to help keep the Committee and Staff grounded on what they were originally intended for and how things have changed. The original purpose of the ADOD was to change setbacks, lot coverage, and vegetative coverage; there would be no changes to height, density, or parking.

Mr. Dye clarified where the original intent was spelled out – the bottom of page two of the memo.

Ms. Christian stated he was correct and that new purpose says “New zoning should balance the desire to preserve the existing character of the neighborhood with the desire to construct new dwellings that match the existing character of the neighborhood.” It is balancing new development that matches the current character. That is more what purpose has been morphed into from the original ADOD.

Mr. Dye recalled that it had been decided that the ADOD would be a new overlay and not a rezoning, so it may be better not to say “new zoning”.

Ms. Christian said the language could be adjusted, because the intent is not to change the zoning.

Ms. Maclean and Mr. Dye made some suggestions for adjusting the language.

Mr. Arndt asked if this would be the purpose statement at the beginning of the Code section, or where this information would be used.

Ms. Pierce stated that it could be the purpose statement used in Code; however, it is not the statement they have been working with. She believes it has good language that distills the concept down in a very straightforward way as the Committee moves forward to try to communicate everything to the public and the Assembly.

Mr. Dye stated it could end up being the premise for the purpose statement in the new ordinance.

Ms. Christian stated that Staff didn’t necessarily intend to write the purpose statement at this meeting. Staff included this information to show where they are coming from and what is being aimed towards with the decisions being made. It is more so background information, but the language can be adjusted. Ms. Christian

then moved forward to discuss setback exceptions. She directed attention to a diagram in the memo that shows one of the setback exceptions that would allow someone to have a balcony that is not more than 5 feet wide, which could extend to the front property line. Staff is recommending that less restrictive setback exceptions apply and exceptions that are more restrictive do not. In this case, it is saying the setback can be zero, where the minimum is 3 feet. Staff is not saying that the total sum is reduced; they are saying that the one line can be reduced.

While Mr. Arndt agreed with Staff's idea behind this example, he felt the wording should be adjusted. He thought the dimension and the number is still to the front of the house. He then gave an example of how he thought it should be looked at.

Mr. Alper asked if this example would work for an enclosed structure, as well.

Ms. Christian stated that was not intended for this example. However, there are exceptions for sheds. She asked if the Committee would not want a shed to be included in setback sum, or only the primary structure.

Mr. Arndt asked if a shed could normally fall within the setbacks.

Ms. Christian replied that there were some parameters for things like that.

Mr. Arndt thought that if a shed is allowed under the current guidelines, then it shouldn't be counted. He then gave an example of what he thought the Code could allow for.

Ms. Maclean understood what Mr. Arndt was portraying; however, she did not completely agree that the regulations should follow his suggestion. She thought that even if there is an exception, sometimes where the setback is dropped all the way to zero feet, then the setback is zero and the other 20 feet in setbacks should have to be made up on the other sides of the property. Otherwise, it might be considered "double dipping."

Mr. Arndt felt that it would not be considered double dipping, because the part of the single-family dwelling would not be able to get any closer to the perimeter than 3 feet.

Mr. Dye agreed with Mr. Arndt, but felt it would be best to hear more from Ms. Christian.

Ms. Christian stated these regulations wouldn't just be in regard to balconies, but would also include arctic entries, which would appear to be like a single-family home. She thought that would make it more difficult in a Staff review to make that distinction and didn't necessarily agree with Mr. Arndt either.

Ms. Maclean agreed with Ms. Christian. She understood that Mr. Arndt was looking to only allow the single-family structure, or the primary structure, to receive the reduction in setbacks, but she thought the regulation should be looser than that. She felt the regulation should allow for anything, even an accessory apartment, to receive the setback reduction, but if that is the case, it sort of is double dipping.

Mr. Arndt clarified that he was stating that anything that would normally need to meet the setback, is where the setback should be measured to. Anything that is exempt, doesn't actually happen.

Ms. Maclean stated that the problem is not that they don't have to meet a setback. They are meeting setback of some sort and it varies, depending on what it is and where it is. She gave some examples to explain what she meant.

Mr. Arndt stated that what he was trying to have remain the same is that if something required a setback currently, then those items should add up to the 20 feet in setback requirements. The other exceptions should not have to add into the 20-foot requirement.

Ms. Christian stated that Code was not saying that there is no setback, it is saying that it is reducing the setback. There are other exceptions, but they still have setbacks, it's just less than what is generally required.

For the example being shown, Mr. Arndt asked if the house could be placed 3 feet back, if the deck was removed.

Ms. Christian stated this was correct.

Mr. Arndt felt that if the deck is added, it should not affect where the house is allowed to be, because the deck is the exception. The deck can extend in, but none of the uses that normally would be limited to 3 feet should be able to go past 3 feet.

Ms. Pierce asked if Mr. Arndt would use the same reasoning for an arctic entry.

Mr. Arndt asked if the arctic entry is a current exemption.

Ms. Christian and Ms. Maclean replied that it is

Mr. Arndt stated that he would apply the same reasoning, then.

Ms. Christian asked if he would also apply the reasoning to a garage exception.

Mr. Arndt stated that he is not trying to change the current exemptions. He just believes that if something would normally have the 3-foot limit, then it should remain that way and the 3 feet should be counted in the sum of the setback.

Ms. Maclean felt that she was not following correctly. She clarified her understanding of what Mr. Arndt was trying to say.

Mr. Arndt felt that Ms. Christian's example being shown was drawn correctly, but the difference in what he was saying is that she didn't include the number from the front lot line to the part where the setback would be measured.

Mr. Dye clarified that the number should have been subtracted from the other 10 feet in setbacks.

Mr. Alper clarified that the exception wouldn't be counted toward the setback sum total. The whole idea is that the house is the house and it is 3 feet off the line and that is not an exception.

Mr. Arndt stated that, that is what he was suggesting.

Mr. Dye and Mr. Alper agreed with Mr. Arndt's suggestion.

Mr. Arndt felt the exceptions are good and should be allowed as they currently are, but felt developers should not be penalized somewhere else by using one of the exceptions.

Mr. Dye asked if Staff's intention was to "penalize" someone for using this method.

Ms. Christian stated it could be taken that way.

With that interpretation, Mr. Dye asked why this was Staff's intent.

Ms. Christian stated that Staff was okay with reducing the 3-foot minimum items, but wanted to keep the 20-foot regulation. She thought it wasn't as straightforward.

As an example, Mr. Dye asked if there were no sliding setbacks and plans were brought in showing the arctic entry exception, forcing the arctic entry past the setback line, if Staff would just make sure that the setbacks are actually there.

Ms. Christian stated he was correct.

Mr. Dye asked if what is being relied on for Staff analysis is what the plans show what will be used for setbacks.

Ms. Maclean asked if someone was to build a single-family home without a balcony today and they barely meet the 20-foot regulation, would they be able to build a balcony later on and if so, how would that work.

Mr. Arndt stated in that situation a Variance Permit would be required, but for his suggestion, a Variance Permit would not be needed. He then drew an example of what he was suggesting.

Mr. Dye stated that for Ms. Maclean's example, they have already maxed the 20-foot sliding scale, so they couldn't get a balcony. However, if they use the exception and don't have to use the sliding 20-feet for the balcony, then they would be able to get the balcony without the Variance Permit. Therefore, Staff is recommending a more restrictive regulation.

Mr. Arndt explained his suggestion with the example he had drawn. After some deliberation, the Committee and Staff concluded the suggestion was that the setback requirement would be 20 feet on a sliding scale, in addition to any specified uses that have exceptions.

Ms. Christian stated that language would need to be crafted carefully for this, because a definition of a structure also determines what the setback requirements are.

Ms. Pierce suggested using a current, real scenario to better understand the regulations. Using a property in the Starr Hill area as an example, the Committee and Staff worked through the requirements and decided that the property would still be conforming if they developed in the way Mr. Arndt had proposed.

The Committee and Staff agreed that these requirements would work well and Ms. Maclean noted that the language used in Code would need to be very precise for these regulations to avoid misinterpretations.

Ms. Christian moved the conversation forward to nonresidential uses. Since there are some Light Commercial (LC) and D18 zones allow some commercial uses, Staff recommends that commercial or mixed use, as in commercial and residential in one building, be allowed to use the ADOD dimensional standards with a Conditional Use Permit.

Mr. Dye asked if all current uses were opt-in.

Ms. Gallion stated that residential uses would be allowed by right, and commercial and mixed uses would be allowed with a Conditional Use Permit. It was not clarified if both were opt-in to use this process.

Ms. Maclean stated the option would be opt-in. However, if the property is a commercial or mixed use type of building, the owner would not be able to use both regulations. They would have to fully opt-in and agree to use all of those regulations only.

Mr. Dye suggested being very clear with this language in Code and using "mixed use development" for these types of situations, so they are not confused with Mixed Use zoning regulations. He asked if there would be a need for the Conditional Use Permit, if this is an opt-in option, instead of just Staff review.

Ms. Maclean stated that it really had to do with the area of where these developments would occur. Some expansion should have a public hearing. Opting into the new regulations could also give owners less restrictive regulations, as well. There aren't many properties that would need a Conditional Use Permit, but here should be some type of public process for the ones that do.

Mr. Arndt stated that it may be better to move away from requiring Conditional Use Permits and move more towards allowing for Staff to decide. He believes this to be more streamlined for the people who want to develop their land and comply with the regulations. He doesn't see where the Planning Commission would have grounds to deny a Conditional Use Permit if someone were to opt-in, comply with the regulations, and apply for a Conditional Use Permit.

Ms. Maclean agreed, but noted that the intent in Code is to make it very difficult for Conditional Use Permits to be denied. There just needs to be the option for conditions to be added to the permit to make sure the property owners are staying harmonious with the neighborhood. She also noted that having a Conditional Use Permit come before the Planning Commission could attempt to reduce the chance of an appeal and would reduce the chance in a longer delay if only the Director's decision was appealed.

Using the Capital Brew Coffee situation as an example, Mr. Dye asked if the problem had been with the setbacks and driving lanes, or the land use.

Ms. Maclean stated that the problem had been with traffic, circulation, and hours of operation, which are items that the Director does not have discretion to condition. However, the Planning Commission does have the discretion to condition on these items.

Mr. Arndt stated that if they property had been in an LC zone, then the hours of operation would not have been of concern and they wouldn't have needed a Conditional Use Permit. In this type of situation, if they opted in, they would now have more regulations to comply with.

Ms. Maclean stated that the vast majority of uses in the LC zone already require a Conditional Use Permit. It's supposed to work like a buffer between residential and commercial zones.

Mr. Dye asked if this section of Code could be more precise on if a Conditional Use Permit is required or not, and how things would be looked at based on if a Conditional Use Permit was required or not.

Ms. Christian stated that it could be written so minor development wouldn't need the Conditional Use Permit review, but major development would.

The Committee agreed this would work well.

Moving forward to duplexes, Ms. Liu recalled that Staff had been asked if any inconsistency and logic with the existing lot size of duplex needed to be reconciled, as the standard lot size is reduced. She stated that Staff has looked at existing duplexes and areas of the lots where they are located. Staff recommends not changing the minimum area for duplexes. This comes back to the purpose of the ADOD and other information that is outlined in the memo previously presented to the Committee.

Ms. Maclean asked if there were only 8 duplexes in the whole area.

Ms. Liu stated that in the D5 zoning district there are only 5-8 duplexes. There may be other two dwelling unit properties, but they are likely considered multifamily.

Mr. Arndt gave an example and asked why a benefit would be given to going from 7,000 square feet for a single family, but 10,500 square feet for a duplex, instead of 14,000 square feet.

Ms. Maclean stated this was due to the lot not having separate ownership. This also relates to why a duplex is not allowed to have ~~one-a~~ accessory apartment, whereas a common wall could each have one, because they are on separate lots.

Mr. Arndt felt like this still gives a benefit to duplexes over common walls, because you don't need as large of a lot for a duplex as you do a common wall lot. He asked for the reasoning behind this.

Ms. Maclean stated that when the common wall ordinance was adopted, there was a desire for the lots to be even. However, the common wall ordinance is being worked on currently and there is a recommendation for a decrease in the lot size.

Ms. Pierce stated that this topic had come up a number of times, recently, and it is being worked on. For the purposes here on duplexes, Staff is saying that there are so few in this area, that making changes to them within the Overlay District are not going to benefit duplexes that already exist and Staff does not see a major benefit in incentivizing duplexes for the purpose of this process.

To clarify, Mr. Arndt gave an example and asked what the minimum lot size of the duplex would be.

Ms. Liu stated it would need to be 10,500 square feet.

With that lot size, Mr. Arndt asked if they would then be able to use the ADOD dimension setbacks.

Ms. Christian stated they could use the ADOD dimension setbacks, Staff would just adjust the lot size to 10,500 square feet. If it were multifamily, it would just be what the density lot size is. Staff is not propose a change to density. She stated that 10,500 square feet could be put into the ADOD dimensional standards table, if that would help clarify things.

Ms. Pierce stated that Staff is not trying to make a full rezone here. Duplexes are such a small part of this and it doesn't seem like providing incentives for duplexes would accomplish much.

Mr. Arndt asked how a property owner should know that they can get more out of a 10,500 square-foot lot, if it isn't made clean and incentivized.

Ms. Maclean stated that everything outside of the D5 zone would consider it multifamily, instead of a duplex, so they would have clear options.

Ms. Arndt asked if the same density math should be used in the table.

Ms. Maclean stated that that math wasn't used for the single-family residential zoning districts.

Ms. Pierce stated there was an option in the table to reduce based on the existing ratio, though.

Mr. Arndt asked if this duplex information work with the new proposals they are making in updating the ordinance.

Ms. Maclean stated that the changes were being proposed in the common wall ordinance, not for duplexes.

Mr. Arndt asked what the parent lot size for the common wall ordinance is and what size the lots could be subdivided into.

Mr. Dye stated that they could be subdivided into two 6,000 square foot lots.

Mr. Arndt felt the duplex regulations should match that of the common wall regulations.

Ms. Pierce stated this could be done with option 2 in keeping the common ratio. However, this could start a cascade effect. She noted that this isn't a problem that CDD sees very often, so that is why Staff recommended no changes.

Mr. Alper felt there shouldn't be such a contradiction between the common walls and duplexes. He noted that going down the Option 2 track may also result in some issues.

Ms. Maclean pointed out that one missing aspect is that a common wall is its own lot and can have an accessory apartment, but an accessory apartment does not count towards density. She asked if a duplex doesn't count towards density either.

Ms. Christian stated that a duplex is two dwelling units.

Mr. Alper noted that in the end this could result in a common wall having accessory apartments for both units resulting in four total units, whereas a duplex with an accessory apartment would only have 3 units total and parking likely wouldn't be much different.

Ms. Maclean stated that the parking actually would be different. Each common wall unit requires two parking spaces and one for the accessory apartment. Whereas, duplexes would be two spaces for the single family and one for the duplex.

Ms. Liu pointed out that calculating Option 2 would still contradict the logic of the D10 zone, because it would be stating that you need a bigger lot in D10 to achieve the same outcome in D5.

Ms. Maclean agreed, and noted that Staff is not trying to change D5 dimensional standards, but trying to change the Overlay District standards. This makes things less uncomfortable, because this won't make D5 contradict with D10, it will only adjust things in the Overlay District standards.

Ms. Christian gave an example of what Option 2 could give a property owner.

The Committee agreed with Ms. Christian's interpretation and felt this would work well.

Ms. Liu gave an example and asked if it would work in the Overlay. After some deliberation the Committee agreed that this example resulted in some problems.

Ms. Pierce pointed out that CDD really sees very few duplexes, so this topic could be tackled when the time came with the Land Use maps in the new Comprehensive Plan. There weren't many problems that could be solved by changing regulations through the ADOD.

Mr. Dye stated he was okay with Option 2 and not altering D10 or D18 would help lay the work for when a rezone came to be to solve more issues. He asked if the Committee was okay with Option 2 and 4,500 square feet for only D5. The Committee agreed this was a good option.

Ms. Christian moved the conversation forward to setback exceptions. Staff proposed that a new setback exception be created to live in the Overlay District for lots that don't meet the minimum lot size, so they can get their sum of setback reduced. She gave an example of how this would work. She stated this would be similar to how the sides and rear are regulated in current practice; Staff is just proposing to expand that.

Mr. Arndt spoke in favor of the ratio idea with a minimum of 12 feet, 3 feet on side.

Mr. Alper like that this created a hard minimum.

Mr. Arndt agreed, but noted that it would be important to do the nonconforming situation review work, before deciding that this regulation could be used.

Ms. Christian stated that work would be required for any building permit, so the review would be done.

Mr. Dye asked if Staff needed language for Code regarding becoming legally nonconforming.

Ms. Maclean stated that was not necessary right now. Language would be worked on, but Staff did not want to add to any confusion on nonconforming.

Ms. Christian asked if the Committee had any outstanding questions for Staff.

Hearing none, Ms. Pierce stated that Ms. Gallion has been working on draft ordinance language.

Ms. Maclean asked if the Committee would like to see the draft ordinance after the Law department made revisions, or if they preferred it go to the Committee of the Whole.

The Committee stated they would like to see it first.

Mr. Alper asked if that would be draft ordinance would be what is before the Committee now in Appendix A.

Ms. Pierce stated that Appendix A was included, because setbacks were being discussed, but it was just part of the thought process.

Ms. Maclean stated that the ordinance would be brought back to the Committee after Law reviewed it. She asked when the Committee would like to meet again, noting some travel coming up. She also noted some topics the Committee needed to discuss and when those items may be ready for discussion.

After some discussion, the Committee decided to meet again on December 12.

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

#### **VI. Adjournment**

The meeting adjourned at 1:31 P.M.