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June 25, 2021

**MEMO**

**From:** Irene Gallion, Senior Planner

**Through:** Jill Maclean, AICP, Director

**To:** Michael Levine, Chair, Planning Commission

**Case Number:** AME2018 0004: Alternative Development Overly District (ADOD) – Downtown Juneau

**RE: Post-COVID ADOD Restart**

The Downtown Juneau ADOD **expires on August 1, 2021**. Staff is not proposing an extension. While this proposal continues through the process, Community Development planners will review proposals in accordance with non-ADOD zoning. Since its adoption in 2017, staff has processed 12 ADOD permits for eight properties within the Juneau ADOD boundary; there have been no ADOD permits processed within the Douglas ADOD boundary.

The last time the Commission reviewed the Downtown Juneau ADOD was at the Committee of the Whole (COW) on June 9, 2020. Partial materials from that meeting are attached (**Attachment A**) along with the latest draft ordinance (**Attachment B**), providing a summary of the current proposal.

This proposal is appearing at a Regular Planning Commission meeting in order to give the public an opportunity to weigh in should they choose to. When this topic was last heard, the Commission had decided to keep the ADOD at the COW for further review. However, given the time that has passed since the public has been able to weigh in, the Director saw an advantage in providing the public an opportunity to comment. Past public comments are summarized in **Attachment C**.

**The purpose of the ADOD is development flexibility that is in keeping with current development of the surrounding area.** Nonconformities cannot be expanded, limiting redevelopment and infill options. While improving conformity is a by-product of the ADOD, the primary intention is developmental flexibility.

Items that deserve review based on the last meeting include:

**LOT COVERAGE**

***Does the Commission wish to modify lot coverage standards?***

One Commissioner had questioned why lot coverage was held at 50%, when the current ADOD allows expansion of lot coverage to 60%. They had concerns about how that metric would impact development.

	Proposed	Current			
FEATURE	ADOD	D5	D10	D18	LC
Lot coverage	50%	50%	50%	50%	No Max

60% had been considered but rejected, because:

- Lot coverage mitigated less restrictive three-foot setbacks.
- Seemed inconsistent with current downtown development. With 82 downtown properties sampled, the average lot coverage was approximately 33%.

The Commission may choose to increase lot coverage if:

- Setbacks are increased from three feet.
- Flexibility allowing a denser downtown development is preferred. This would appear to be out of character with the existing development.

**SETBACKS**

***Does the Commission wish to modify proposed minimum setbacks?***

Commissioners questioned why minimum setbacks had been reduced to three feet. A reminder that, while the minimum setback for any lot line is three feet, the total of the setbacks must add to 20 or more. Attachment A includes a discussion of sliding setback boxes that may be helpful.

Of Variances completed since 1987, 80% were for setbacks. Reduced setbacks match the existing built environment. When considering setbacks, staff discussed using a setback formula based on neighboring properties similar to the current ADOD. This was ultimately rejected, because of the percentage of existing structures with no setbacks and the subjectivity of the formula. The Title 49 Committee selected three-foot setbacks in recognition of the form and character of the existing neighborhood. Fire separation also informed this discussion. Structures closer than five feet to one another have additional building code requirements. Six feet (3 on each side) created the flexibility staff was seeking while avoiding this requirement. Since this discussion, the Building Official has recommended against determining separation by fire standards. Staff are encouraged to choose what works for the community, which building standards can adapt to. Recognizing the percentage of existing downtown structures in close proximity to the street or to one another, and the desire to promote flexibility and facilitate new construction that fits within the existing built environment, staff maintains the three-foot setback recommendation.

**VEGETATIVE COVER**

***Given the definitions of “landscaping” and “vegetative cover” recommended to the Assembly, do we still need to discuss standards?***

While the proposed 30% vegetative cover is doable mathematically, one concern voiced was difficulty for multi-family structures to meet the standard.

At the June 22, 2021 regular meeting the Commission recommended that the Assembly approve a text amendment that further define “vegetative cover” and “landscaping.” The proposed purpose of vegetative cover is to control and absorb drainage on the lot before drainage into city sewer. “Vegetative cover” includes Green roof, porous hardscape, and other drainage controls.

Attached are the proposed “landscape” and “vegetative cover” definitions in case they add lucidity to the conversation (**Attachment D**).

**NONCONFORMANCE CLARIFICATION**

***Improved conformity is not the primary purpose of the ADOD.***

Commissioners asked if anything built before a certain date could be called “nonconforming.”

Short answer: that is what the Nonconforming Certification does. Use of the ADOD would reduce the number of properties that would need to pursue a Nonconforming Certification.

Since establishing the Nonconforming Certification process last year, the Commissioners and Staff have been able to see how the Nonconforming Certification process works and develop a better understanding of nonconformity. A more detailed discussion could start with a clarification of terms:

**“Conforming”** means a property meets current zoning requirements.

**“Compliant”** means the property needs a little regulatory help to meet standards, such as a Variance, Conditional Use Permit or ADOD.

**“Non-conforming”** means:

- A property does not meet current regulatory requirements, but the property met requirements when constructed.
- A property developer had explicit approval from CBJ staff to proceed with construction that did not meet current code.

**“Non-compliant”** means that the structure does not meet current code, nor the code when the structure was constructed.

For a Nonconforming Certification, a planner verifies, through records, that a property was developed under previous iterations of code, or that the developer received documented guidance that allowed them to develop contrary to code. In their certification, a planner will call out which elements of the property conform or comply, which are nonconforming, and which are non-compliant.

The idea of “amnesty” has been discussed amongst staff. CBJ Law has noted that amnesty could be considered unequitable to those who have followed the law.

If a structure meets ADOD requirements, the structure is considered “compliant.”

If a property is nonconforming with the underlying zoning, the possibilities for the ADOD developer are:

- Nonconformity under ADOD, and will need a nonconforming certification.
- Compliance under ADOD and want to opt-in to ADOD development standards.
- Compliance under ADOD, but do not want to opt in, in which case they’d need a nonconforming certification. A developer might want to pursue this option if they wanted the lot size or height benefits of an underlying zoning.

**SUBSEQUENT DEVELOPMENT CLARIFICATION**

***Given different compliance and conformity standards, this is how development would work under the proposed ADOD. Are modifications needed?***

With an understanding of the existing status of a property, further development under ADOD standards can be considered.

<b>CONDITION</b>	<b>SUB-CONDITION</b>	<b>DEVELOPMENT</b>
Conforming		Can choose to use ADOD standards or underlying zoning standards
Complaint, non-ADOD	<i>Variance, CUP</i>	Can choose to use ADOD standards or underlying zoning standards
Compliant with ADOD	<i>Opt-in</i>	Subsequent development must meet ADOD standards.
Non-conforming	<i>also nonconforming under ADOD</i>	Needs a Nonconforming Certification (NCC), then can choose to use ADOD standards or underlying zoning standards for subsequent development
Non-conforming	<i>conforming under ADOD but do not want to opt in</i>	Needs a Nonconforming Certification (NCC), then subsequent development must meet underlying zoning standards
Non-compliant		Property must be brought into compliance

**CODE CHANGES SINCE LAST CONSIDERATION**

***What regulatory changes have taken place since the last Commission meeting that may warrant consideration in developing the ADOD?***

On June 22, 2021, the Commission recommended that the Assembly approve two new zoning districts – Neighborhood Commercial (NC) and Mixed Use 3 (MU3). The table below compares dimensional standards of NC and MU3 with the proposed ADOD.

<b>Zoning Regulation</b>	<b>NC</b>	<b>MU3</b>	<b>Proposed ADOD</b>
<b>Minimum lot size</b>	3,000	3,000	3,000
<b>Minimum lot width</b>	40	40	25'
<b>Minimum lot depth</b>	None	None	25 <sup>A</sup>
<b>Height permissible uses</b>	35	35	35
<b>Height accessory uses</b>	25	25	25
<b>Maximum lot coverage</b>	None	75%	50%
<b>Minimum front setback</b>	None	None	3
<b>Maximum front setback</b>	15	20	None
<b>Minimum street side yard setback</b>	None	None	3
<b>Maximum street side yard setback</b>	10	15	None
<b>Minimum rear setback</b>	0 <sup>B</sup>	5	3
<b>Minimum side yard setback</b>	0 <sup>B</sup>	0	3
<b>Vegetative cover</b>	25	10	30

*A: See lot depth discussion below.*

*B: Additional setbacks and vegetative cover standards apply when a lot abuts multi-family or single-family residential zoning district, depends on the height of the structures.*

Note that the maximum setback for structures under the new zoning requires 50 percent of the ground level, street-facing façade to meet minimum front yard setbacks.

At the July 13, 2021 regular meeting, the Commission considered a proposal to eliminate the lot depth requirement in all zoning districts. Staff recommends that ADOD lot depth standards be eliminated if this concept comes to pass. Lot size, lot coverage, and setback standards provide tools to maintain the development feel of Downtown Juneau.

**QUESTIONS AND CONCEPTS BEFORE THE COMMISSION**

***Does the Commission wish to modify lot coverage standards?***

***Does the Commission wish to modify proposed minimum setbacks?***

***Given the definitions of “landscaping” and “vegetative cover” recommended to the Assembly, do we still need to discuss standards?***

***The purpose of the ADOD is development flexibility that is in keeping with current development of the surrounding area. Improved conformity is not the primary purpose of the ADOD.***

***What regulatory changes have taken place since the last Commission meeting that may warrant consideration in developing the ADOD?***

**MEMO ATTACHMENTS**

<b>Item</b>	<b>Description</b>
<b>Attachment A</b>	June 9, 2020 Meeting Materials (Partial) and Minutes
<b>Attachment B</b>	Latest Draft Ordinance
<b>Attachment C</b>	Consolidated Comments, Presented to the June 9, 2020 Regular Planning Commission
<b>Attachment D</b>	Proposed Ordinance: “Landscape” and “Vegetative Cover”



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May 27, 2020

**MEMORANDUM**

**From:** Irene Gallion, Senior Planner

**To:** Planning Commission

**Case Number:** AME2018 0004

**RE: Proposed Revisions to the Downtown Juneau Alternative Development Overlay District (ADOD)**

**REQUESTED ACTION:**

This memo summarizes the history and proposed standards of an updated Downtown Juneau ADOD for review by the Planning Commission Committee of the Whole on June 9, 2020. During this meeting, for each modified standard, staff will review:

- How the standards were developed
- Implementation for the modified standard
- Public comments
- Facilitated discussion

This memo summarizes the Purpose and Need for the ordinance and summarizes proposed standards. **Staff requests that the Planning Commissioners review this memo in preparation for the Committee of the Whole work session. Please review (ATTACHMENTS):**

- ATTACHMENT A: City and Borough of Juneau v. Thibodeau, Supreme Court Opinion, May 11, 1979
- ATTACHMENT B: Olmo, LLC v. CBJ Board of Adjustment, Decision on Appeal, February 14, 2017
- ATTACHMENT C: Existing ADOD boundaries
- ATTACHMENT D: Proposed ADOD boundaries
- ATTACHMENT E: Public comments on dimensional standards
- ATTACHMENT F: Title 49 Committee minutes
- ATTACHMENT G: Draft Ordinance
- ATTACHMENT H: Public comments on elements of the ordinance other than dimensions
- ATTACHMENT I: Variances to Land Use and Platting Regulations, Lee Sharp, 1997

Attachment A - June 9, 2020 Meeting Materials (Partial) & Minutes

## PURPOSE AND NEED

The need for the Downtown Juneau ADOD reflects:

- CBJ v Thibodeau (1979), establishing that variances must be related to features of the land (ATTACHMENT A).
- The “Olmo appeal” (2018), establishing hardship as a “threshold issue” for variances (ATTACHMENT B).

Pre-code downtown neighborhoods are unable to meet variance requirements due to the high thresholds of “hardship.” The need for code to regulate reasonable development advanced the Alternative Development Overlay District (ADOD). The initial ordinance (2017) was developed in haste, has burdensome costs for developers, and outlines methodologies that give well-intentioned interpreters different answers.

Proposed standards and this ordinance will:

- Reduce costs to the homeowner
- Facilitate consistent interpretations of dimensional standards
- Reduce complexity of using the ADOD

To clarify:

- Recently-approved non-conforming code allows residents to rebuild their existing non-conforming structure after destruction within the building’s pre-existing footprint. (Building code elements would have to be modernized.)
- Proposed ADOD facilitates improvements beyond the original structure for residences and commercial buildings within the boundary.

## Background

The existing Downtown Juneau ADOD (2017):

- Acknowledged that existing zoning downtown does not match the built environment.
- Established a process for reducing dimensional standards to allow for the construction, reconstruction, expansion, or rehabilitation of residential buildings. This code:
  - Addresses lot coverage, vegetative cover, and setback requirements.
  - Applies to residential buildings.
- Established Planning Commission review for all ADOD permits.

The existing ADOD has a sunset date of August 2020. The existing ADOD was intended to be temporary, allowing time to establish new zoning regulations for downtown areas.

The existing ADOD code has exhibited some short-comings:

- **Complexity and consistency:** The procedure involves averaging setbacks of properties within a 150-foot radius. What percentage of the property that must be in that radius to be included is unclear. Some properties require use of GIS imagery to establish setbacks, while some properties have much more accurate as-built surveys. Well-intentioned interpreters can come up with different answers to the same question.

- **Expense:** The base price for an ADOD evaluation is \$400 per lot line.
- **Time:** The current ADOD requires a Planning Commission hearing, which compels a staff report and public noticing.

The proposed ADOD:

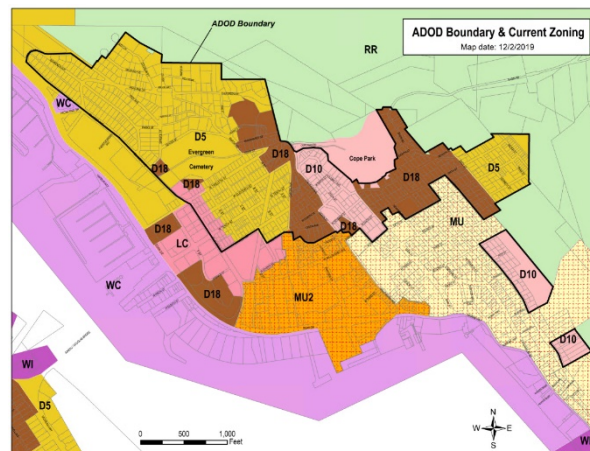
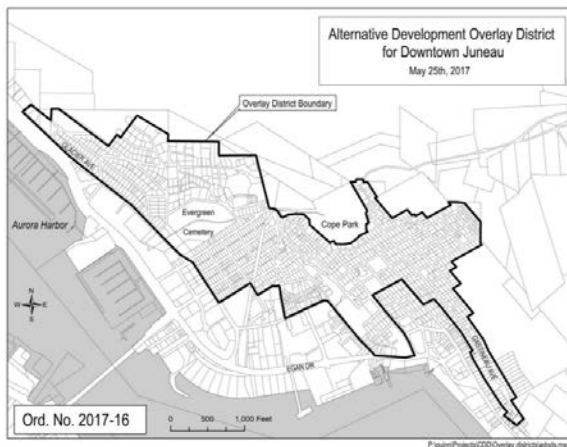
- Establishes dimensional standards, limiting interpretation required.
- Would execute through the Building Permit process, reducing workload for staff and the Planning Commission, and reducing cost and time for the developer.
- Costs of the proposed ADOD have not been established, and will likely be consistent with other permit fees.

## PROPOSED STANDARDS

The proposed standards below are “opt in” modifications to underlying zoning in an overlay boundary. The tables below summarize existing standards and the proposed Downtown Juneau ADOD dimensional standards.

Note that density and use restrictions prevail under proposed ADOD standards – changes are limited to dimensional standards.

Staff and the Title 49 Committee have recommended changes to the proposed boundary of the Downtown Juneau ADOD (see also ATTACHMENTS C and D):



The largest change is the exclusion of the Mixed Use (MU) zoned area in the boundary. MU has more liberal dimensional standards than the Downtown Juneau ADOD is proposing.

Public comments on proposed dimensional standards are included in ATTACHMENT H.

### Minimum Lot Area

The table below compares proposed Downtown Juneau ADOD minimum lot size to existing minimum lot size in the various zoning districts. Lot sizes are shown in square feet.



Note that under current regulation CDD would allow development of an undersized lot that met setback requirements. New standards would be used to:

- Evaluate proposals for subdivision of a lot in the ADOD boundary.
- Approve an accessory apartment without Planning Commission approval, if other parking and dimensional requirements could be met.

Structure	Proposed	Current			
	ADOD	D5	D10	D18	LC
Single Family Home	3,000	7,000	6,000	5,000	2,000*
Common Wall Dwelling	3,000	7,000	5,000	2,500	
Duplex	4,500	10,500	8,712	4,840	

\* Light Commercial has a minimum lot size of 2,000 square feet for permissible uses, which includes residential and commercial development.

### Lot Width, Depth and Coverage

FEATURE	Proposed	Current			
	ADOD	D5	D10	D18	LC
Lot width	25'	70'	50'	50'	20'
<i>Bungalow</i>	25'	35'	25'	25'	
<i>Common wall dwelling</i>	25'	60'	40'	20'	
Lot depth	25'	85'	85'	80'	80'
Vegetative cover	15%	20%	30%	30%	15%
Lot coverage	50%	50%	50%	50%	No Max

Lot coverage is 60% under the existing ADOD. The reduced coverage balances less-restrictive setbacks.

### Structure Height

Height	Proposed	Current	
	ADOD	D5, 10, 18	LC
Permissible uses	35'	35'	45'
Accessory uses	25'	25'	35'
Bungalow		25'	

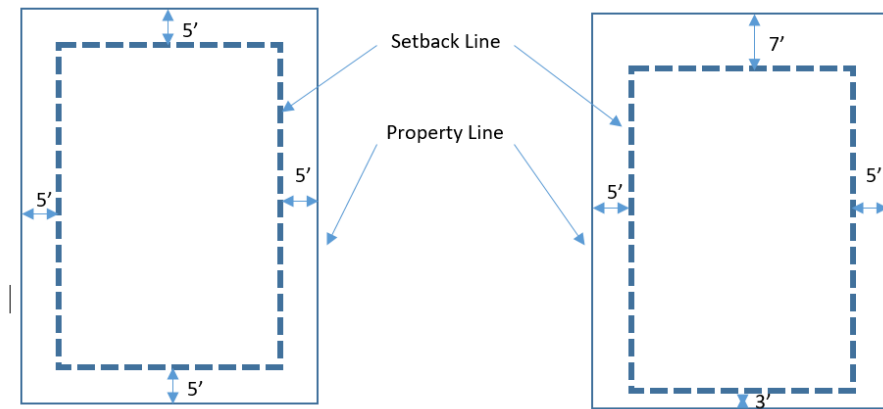
### Structure Setbacks

Current setbacks:

YARD	D5	D10	D18	LC*
Front	20'	20'	20'	25'
Street Side	13'	13'	13'	17'
Side	5'	5'	5'	10'
Common Wall Dwelling Side	10'	3'	5'	
Rear	20'	20'	10'	10'

### Proposed setbacks for all properties in the ADOD:

Staff proposes a 20-foot setback sum with a 3-foot minimum per side. This means that the setbacks of all sides of a lot must equal 20 feet, but no side may be less than 3 feet. This essentially creates a “setback box” that can be moved around the lot to accommodate existing structures. Examples:



### Proposed setbacks for lots less than minimum lot area:

For lots less than the minimum lot area, the required setback sum can be reduced proportionally, but in no case can the setback sum be less than 12 feet and no side can be less than 3 feet.

### Proposed Exemptions to Setbacks:

CBJ 49.25.430 establishes exemptions and reductions to required yard setbacks borough-wide. If the exemption listed in 49.25.430 is less restrictive than the proposed ADOD setbacks, it is shown in the proposed ordinance for clarity. If the exemption is more restrictive than the proposed ADOD setbacks, the ADOD setbacks apply.

**Architectural features and roof eaves** may project into a required yard setback but no closer than two feet from the side and rear lot lines.

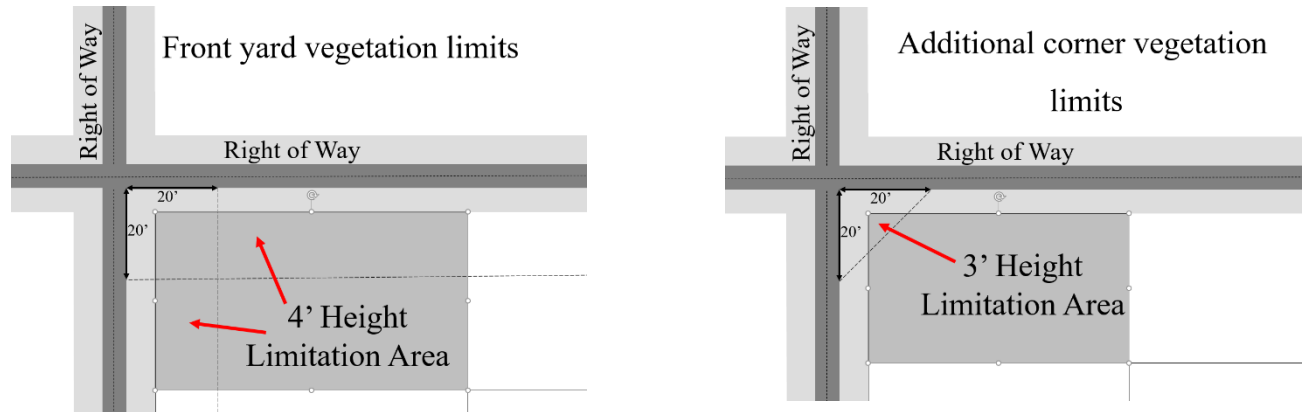
**Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs** may extend to the front lot line or street side lot lines. Structure may not exceed five feet internal width, not counting support structure.

**A parking deck** (which cannot be more than one foot above the level of the adjoining roadway, and can only be used for parking) is exempt from setback requirements. A non-sight-obscuring safety rail up to 42 inches is allowed.

**Fences and vegetation.** For this section, a “travelled way” is defined as the edge of the roadway shoulder or curb closest to the property.

(A) Maximum height of a sight-obscuring fence or vegetation is four feet, within 20 feet of the edge of the traveled way. Trees are allowed if they do not obscure view from four feet to eight feet above ground.

(B) On corner lots, the maximum height of a sight-obscuring fence or vegetation is three feet, within 20 feet of a street intersection. 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, and then connecting the three points. Trees are allowed if they do not obscure view from three to eight feet above the ground.



#### ADDITIONAL SUPPORT MATERIALS

- Title 49 Committee meeting minutes (ATTACHMENT F)
- DRAFT proposed ordinance (ATTACHMENT G)
- Public comments on elements of the ordinance other than dimensional standards (ATTACHMENT H)

#### ADDITIONAL BACKGROUND

“Variances to Land Use and Platting Regulations,” by Lee Sharp (1997, ATTACHMENT I) is attached to provide context on variance case law.

In 2015 Olmo, LLC appealed a Planning Commission decision to deny a variance to the Assembly. The Assembly’s decision to uphold the variance hinged on the Appellant’s ability to demonstrate hardship. While the variance code had multiple criteria for considering a variance, those criteria could not be considered before hardship was established. Hardship was a “threshold issue.”

Under old code, “hardship” was a difficult standard to meet. In new code (established in 2018), the Planning Commission eased the standard from “extraordinary situation or unique physical feature” to “unusual or special” features of the property.

Nonetheless, pre-code downtown neighborhoods in Juneau and Douglas struggle to meet variance criteria. According to case law:

#### Hardship:

- **Denies reasonable use of the property.** Downtown home owners in established homes use the property reasonably.

- **Can only be related to costs in the most extreme conditions.** A homeowner needing to pay more for an improvement is not, in itself, a hardship.
- **Cannot be self-imposed.** A structure is considered “self-imposed” regardless of who built it and when. Nine-hundred-sixteen downtown structures have residences constructed before regulation was established (1956).

**Peculiarities of the land:**

- **Arise when the physical conditions of the land distinguish it from other land in the area.** A distinguishing condition might be a steep slope or meandering waterway that did not impact neighbors. Downtown neighborhoods have similar physical conditions, distinguishing few lots.

Under old variance code, 50% of variances were to setbacks community-wide. When you consider the variances in just Downtown Juneau that percentage rises to 80%.

Agenda  
**Planning Commission**  
***Committee of the Whole***  
CITY AND BOROUGH OF JUNEAU  
*Michael LeVine, Chairman*  
June 9, 2020

**I. ROLL CALL**

Michael LeVine, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:04 p.m.

**Commissioners present:** Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Assistant Clerk; Ken Alper; Dan Hickok; Joshua Winchell; Erik Pedersen

**Commissioners absent:** Weston Eiler

**Staff present:** Jill Maclean, CDD Director; Irene Gallion, Senior Planner; Alexandra Pierce, Planning Manager; Emily Wright, CBJ Law Department; Laurel Christian, Planner

**Assembly members:** None

**II. REGULAR AGENDA**

**AME2018 0004:** Juneau Downtown Zoning – Alternative Development Overlay District  
**Applicant:** City and Borough of Juneau  
**Location:** Downtown Juneau

Due to A possible perceived conflict, Mr. LeVine turned the gavel to Mr. Dye to chair this portion of the meeting.

Irene Gallion, CDD, presented **AME2018 0004**.

Mr. LeVine noted that this has been a long-time work in process and wanted to note the amount of work that has gone into getting the AME to this point.

During the explanation of minimum lot size and percentage of conformity, Ms. Maclean explained if a property is nonconforming, it is more challenging for the property owner to obtain a mortgage loan. By making more properties conforming they think this should help homeowners.

Mr. Voelckers asked does the ADOD zoning supplant other zoning districts? Will this truly make the property conforming or will it just make their nonconformity allowed? Ms. Maclean said depending on how the ADOD is decided it could make them conforming. Later in the meeting, Ms. Wright clarified that this would make them 'more conforming' but they would not be conforming.

Mr. Voelckers had questions regarding subdividing in hazard areas. While they cannot subdivide, would they be allowed to add a kitchen or bedroom? Ms. Maclean answered yes and that is what is allowed today.

Mr. Voelckers asked what is the standard lot size in the Flats? Staff answered it is about 3,600 square feet. Mr. Voelckers asked why the Title 49 committee settled on a 3,000 square foot lot size when there was so much negative public testimony saying that was too small size. Mr. Dye explained the factors the committee considered and how they reached that decision saying that while there were concerns, there were mitigating factors as well.

Mr. Arndt explained that once the properties in hazard areas were removed from eligibility, only a handful of properties were left with subdivision potential. Mr. Winchell added the residential properties impacted by ability to subdivide was small and the intent is more to allow owners to use their land. Ms. Pierce explained that their goal was conformity and not so much subdividability. Mr. LeVine reminded the commission that the ADOD is an option for property owners to opt in to be compliant and it is not a requirement.

During discussion of setbacks, Mr. LeVine asked if a dwelling was built to the lot line with zero setback, and they wanted to add to it, could they build on the zero setback or would they have to observe the three-foot requirement. Staff answered, the property was already nonconforming and would not be allowed to add to the nonconformity. They would need to observe the three-foot setback for the addition.

Mr. Voelckers said he appreciates the flexibility the ADOD allows but has concerns with the setbacks as small as three feet and asked how staff came to find three feet acceptable and had concerns regarding the reduced setback requirements for the smaller sized lots. He also found the 50% limitation on lot coverage to be too stringent. He expressed surprise at the proposed reduction in setbacks to the very small lots and suggested the same percentage reduction be applied to the coverage requirement.

Mr. Arndt commented that the focus of the Title 49 Committee was on existing dwellings and not on new construction and explained that the majority of the lots affected by this are already built. Committee members discussed conforming versus more conforming nonconformity and the possibility of grandfathering the existing properties as conforming altogether.

Mr. Arndt reminded the Committee of the August 1 2020 sunset date saying they either need to extend the current ADOD or complete this to bring to the Assembly. Mr. Winchell asked what happens if the deadline is missed and how many properties would be affected. Ms. Maclean said the vast majority are nonconforming. If they cannot meet the sunset deadline, they could ask for an extension or if it is missed altogether, it could just become the standard zoning and there would be no sunset date. Mr. Dye explained the reason for continuing the ADOD is that would allow for additions and other options for the properties that would not be available if the sunset expires.

Mr. LeVine said he likes the postage stamp (setback box) approach but had trouble with the three-foot setbacks. He wondered if they could ask Ms. Wright to investigate other options in code that would allow the properties to become conforming rather than *more conforming* nonconformity without any possibility of unintended consequences that would eliminate the need for the phrase more conforming.

Mr. Winchell and Mr. Voelckers spoke in agreement with Mr. LeVine. Mr. Voelckers also had an issue with the percentages of required vegetative cover.

It was decided to keep this at the Committee of the Whole for further discussion.

Mr. Dye turned the gavel back to Mr. LeVine for the remainder of the meeting.

III. **OTHER BUSINESS** - None

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

V. **ADJOURNMENT** – 6:49 pm

## REVISION RECORD

Version 1-8A were iterative developments.

Version 8A was reviewed by the Planning Commission on June 9, 2020.

Version 9 was reviewed by the Planning Commission on August 27, 2021. Substantive revisions from 8A:

- Per Law, removed 49.70.1410(e), *“When the standards of this section conflict with other parts of code, the more specific code will prevail.”*
- Added clarification 49.70.1410 (h), *“Existing non-conforming lots can participate in other ADOD standards.”*
- Per Planning Commission, removed exemptions for projections onto public land provided under current code, [8A citation 49.70.1440(b)(6)]:

*The Planning Commission, through the conditional use permit process, may allow structural projections exceeding setback standards and exceptions outlined above if:*

*(A) The affected yard adjoins publicly owned land that has been placed in a park, open space, or similarly restrictive land management classification;*

*(B) Projections into the yard are minimized;*

*(C) Projections do not negatively impact health and safety, create neighborhood disharmony, or contradict plans;*

*(D) Projections do not excessively block views or restrict light and air, or infringe on privacy; AND*

*(E) Projections do not have other deleterious impacts.*



Presented by:  
Introduced:  
Drafted by: Gallion

**ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA**

**Serial No. 2019-XX**

**An Ordinance Amending the Land Use Code Relating to the Downtown  
Juneau Alternative Development Overlay District.**

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.** Chapter 70 is amended by adding a new article XIV to read:

**ARTICLE XII. DOWNTOWN JUNEAU ALTERNATIVE DEVELOPMENT OVERLAY  
DISTRICT**

**49.70.1400 Purpose.**

The purpose of this chapter is to establish dimensional standards that suit the built environment in historic neighborhoods and reduce the number of non-conforming properties. Improving conformance reduces the need for variances or conditional use permits, lessening the burden to property owners.

Dimensional standards:

- (a) Set minimum standards and procedures for construction of new structures;
- (b) Set minimum standards and procedures for expansion, restoration or repair of existing structures;
- (c) Establish dimensional standards that support public health, safety and welfare of the neighborhood.

**49.70.1410 Applicability.**

1  
2 (a) This ordinance applies to property within the Downtown Juneau Alternative Development  
3 Overlay District (ADOD) boundary as shown on the map dated August 30, 2019.

4 (b) Participation in the Downtown Juneau ADOD is optional, unless required to make non-  
5 conforming development more conforming.

6 (c) This section specifically modifies certain dimensional standards. Unless noted in this section,  
7 All remaining requirements of the underlying zoning district apply.

8 (d) This ordinance does not modify permissible uses or the processes outlined in 49.15 Article II.

9 (e) When a land owner chooses to use Downtown Juneau ADOD dimensional standards, they  
10 must conform to all the standards outlined in 49.70.1430 and 49.70.1440 below.

11 (f) Downtown Juneau ADOD standards may be applied in development of subdivisions within  
12 the ADOD boundary.

13 (g) Expansion of nonconforming structures must meet ADOD or underlying zoning standards.  
14 The two standards cannot be combined.

15 (h) Existing non-conforming lots can participate in other ADOD standards.

16 **49.70.1420 Downtown Juneau Alternative Development Overlay District procedure.**

17 (a) Developers affirm their participation in the Downtown Juneau Alternative Development  
18 Overlay District by submitting an alternative development permit application with their  
19 development permit application, and any other applications that may be required.

20 (b) The processes will be governed by permit type in accordance with Chapter 49.15.

21 **49.70.1430 Downtown Juneau Alternative Development Overlay District Standards.**

22 (a) Applicability. The following dimensional standards shall apply to lots within the ADOD  
23 boundary regardless of their underlying zoning district designation.

24 (a) Lot size.

25 (1) Minimum lot size is 3,000 square feet.

(2) Minimum lot size for a duplex is 4,500 square feet.

(3) Minimum lot size for a common wall structure is 3,000 square feet.

(4) Lots that do not have minimum lot size may participate in the other dimensional  
modifications of this part.

(b) Lot width and depth.

(1) Minimum lot width is 25 feet.

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(2) Minimum lot depth is 25 feet.

(c) Minimum vegetative cover is 15 percent.

(d) Structure height.

(1) Maximum height for primary uses is 35 feet.

(2) Maximum height for accessory uses is 25 feet.

(e) Setbacks.

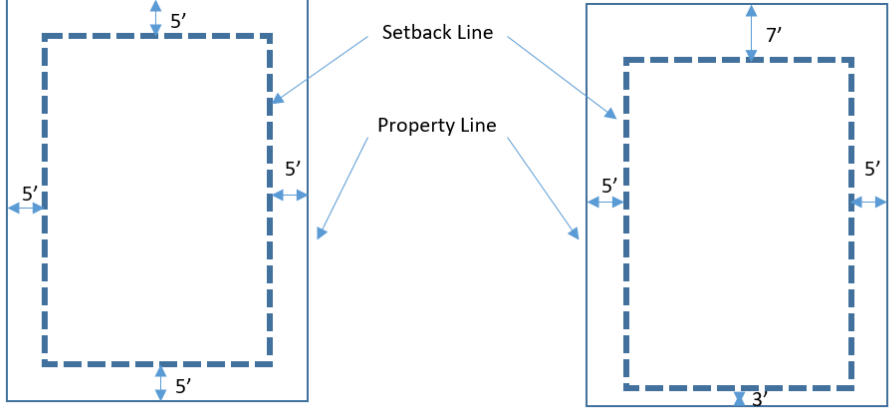
(1) Setbacks will be measured from the structure closest to the lot line.

(2) The minimum setback for any lot line is three feet.

(3) Setback sums

(A) The sum of all setbacks must equal at least 20 feet.

(B) If lot size is less than required in this section, the required setback sum may be reduced proportionally. In no case shall the required setback sum for the lot be less than 12 feet and in no case shall any side setback be less than three feet.



**49.70.1440 Yard Setback Exceptions.**

(a) Purpose. This section clarifies the exceptions that apply in the Downtown Juneau Alternative Development Overlay District. Exempted structures do not count toward the setback total.

(b) Methodology.

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(1) Architectural features and roof eaves may project into a required yard, but can be no closer than two feet from the side and rear lot lines.

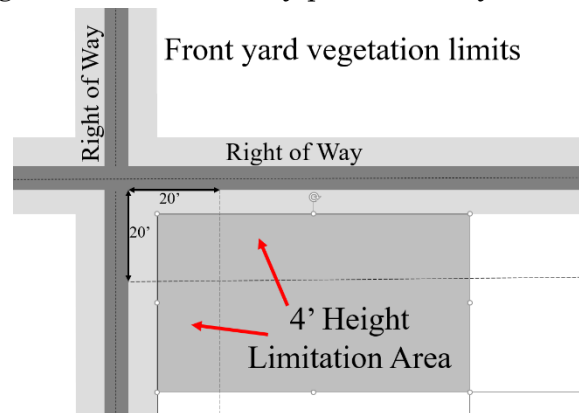
(2) Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs, may extend to an abutting public right-of-way provided the structure does not exceed five feet in internal width exclusive of support structure.

(3) 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.

(4) Energy efficiency improvements that do not increase interior square footage, such as exterior insulation, may project up to eight inches into a required yard.

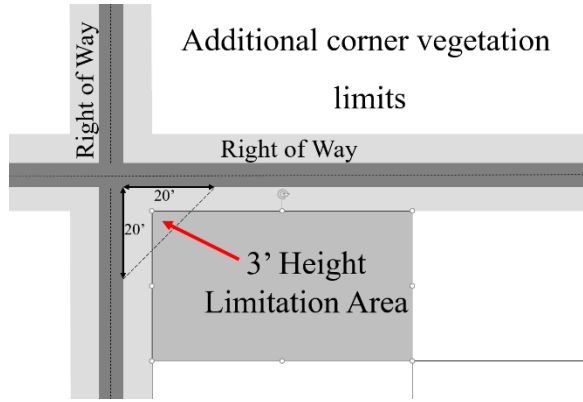
(5) Fences and vegetation. For this section, a “travelled way” is defined as the edge of the roadway shoulder or curb closest to the property.

(A) 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 ground.

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



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14 **Section 4. Effective Date.** This ordinance shall be effective 30 days after its adoption.

15 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

16  
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18 \_\_\_\_\_  
19 Beth A. Weldon, Mayor

20 Attest:

21 \_\_\_\_\_  
22 Elizabeth J. McEwen, Municipal Clerk  
23  
24  
25

# Comments on Dimensions

## 49.70.1430 Downtown Juneau ADOD Standards

### *Lot Size*

Can some expectations (like lot size) be specific to existing structures? Helping any building conform to minimum lot size is existing very different from allowing lot subdivision.

Bigger structures on smaller lots?

Why is common wall lot size the same as SF?

Square foot of the lot size seems small, a dramatic reduction. Under this regime my neighbors could have 14 units instead of 8 (D18)

What is the number of lots that could be subdivided based on lot size?

Concern: Small developable lots. Don't want infill on tiny lots. (at least 2 people had this concern)

Why do we need minimum lot size?

Single family recommend 5,000, 3000 is too small. Minimum 4000.

Lot size. We agree that 7,000 square feet is too large of a lot size for the Casey-Shattuck neighborhood. Many, if not most, lots in the Casey-Shattuck subdivision are 3,600 square feet and when walking around the neighborhood they are the lots that appear to have adequate room for a house, driveway, garage, patio, outbuilding, garden, etc. without everything being squished together. A look at the Casey-Shattuck subdivision map shows a generally consistent lot size and shape that is 60'x90'. Obviously, several of us already live on much smaller lots (ours is 2,400 square feet) but it is very cramped. In our opinion 3,000 square feet is too small to be a standard lot size in the Casey-Shattuck subdivision. At 3,600 square feet conformance would likely be greater than 70%, which is a small difference to the proposed 3,000 sq. ft. (78%) compared to a significant difference in viability for adequate development. This is a good example for establishing specific standards for each of the various neighborhoods in the ADOD. It also begs the question of trying to make conformance for existing situations just for the sake of conformance. In reviewing the Assessor's database, 3,600 square feet is by far the most common lot size in the Casey-Shattuck neighborhood. We see no logical reason to significantly reduce the minimum lot size to 3,000 square feet, which would capture very little additional conformance while creating more challenges for development.

I strongly oppose the reduction in ADOD lot size to 3000sf. I understand that it brings 78% of residences into compliance, but I don't actually agree that achieving a high rate of compliance is the most important goal in maintaining the nature and habitability of downtown Juneau. I think a 60-70% compliance rate is actually preferable than trying to fit "as many properties as possible" into compliance.

I was left wondering why we don't just make the changes to the set back and undeveloped space calculations, but leave the minimum lots sizes as they are until the comprehensive plan and zoning update are done. Is it because being out of compliance with minimum lot size prohibits any increase in the footprint, regardless of compliance with the set back?

Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below: - Proportion of improvements to lot size. There have been a couple of recent developments in the Casey-Shattuck subdivision that appear to have a significantly greater proportion of improvements to lot size than most of the pre-existing Casey-Shattuck subdivision development. They are significantly more imposing than the overall general character of the Casey-Shattuck subdivision. Please refer to our comments on lot sizes, setbacks, etc. below.

**Lot Size, continued**

I understand why the setback and green space changes could give a property owner more buildable space, but I am still not clear why it matters if the minimum lot size shrinks — unless owners want to tear down existing buildings and subdivide, which you all explained they probably won't because parking requirements will prevent construction of two new buildings (or would the legal principle that at least one house must be allowed prevail despite lack of parking?)

We believe minimum lot size should be 3,600 square feet for the Casey-Shattuck subdivision

I recommend the ADOD lot size requirements remain at 5000sf, but if necessary, reduce with an absolute minimum of 3500-4000sf. That would bring more properties into compliance, but retain more of the current neighborhood character.

Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below: - Landscaping. Many, if not most, homeowners in the Casey-Shattuck subdivision take pride in the appearance of their house and landscaping. With the small lots and minimal green space, residents can afford to put a little extra energy in what they do have. Most houses have their green space facing the paved street, which we consider to be the front of the house, regardless of the lot's access point. Street side green spaces add to the overall sense of a long established, well-cared for neighborhood.

I got distracted by being exposed first to the map showing lots that could be subdivided, making me think subdivision opportunity was an important motivation (or risk) of the ADOD change. Other meeting participants thought the lot size change would allow new multi-family or apartment buildings.

Also, perhaps explain why it helps if the ADOD makes more existing/grandfathered construction comply with minimum lot size.

**Lot Width**

I also recommend lot width and depth not be reduced past 30' except where currently less than that measurement.

***Lot width, depth, and vegetative cover** Width and depth. We believe a 25' lot width is far out of character with the Casey-Shattuck neighborhood. There are very few, if any, lots in the Casey-Shattuck subdivision with such a narrow width. Further, with the proposed 3,000 sq. ft. minimum lot size, a 25' wide lot would have to be 120' long and there are few, if any, lots in the Casey-Shattuck subdivision 120' long. A 25' width does not maintain the character of the Casey-Shattuck subdivision and is much too narrow to accommodate compatible development in the neighborhood. With the proposed minimum 3' side yard setbacks, 19' would be the maximum width for a house. Below we advocate minimum 5' side yard setbacks, which would result in a maximum 15' wide structure.*

We believe the minimum lot width should be 35' for the Casey-Shattuck subdivision.

**Lot Depth**

Recommend 50' not 25'

I also recommend lot width and depth not be reduced past 30' except where currently less than that measurement.

<b>Minimum Vegetative Cover</b>
15% minimum vegetative coverage seems too low - especially after seeing your graphic!
Would like to keep more veg, your change is too much.
Why so low on vegetative cover? Do not see the justification (common concern).
Please make vegetative cover higher.
What is vegetative cover?
Please do not require less than 15% vegetative cover.
In regards to vegetative cover, I recommend retaining at least 20% vegetative cover or more, rather than reducing to 15%. As with lot size, this is related to maintaining the character of downtown properties.
Love to see sight-obscuring regs (vegetation) applied to existing properties.
3' minimum height for vegetation is too high. Some children are less than 3'. If you are in a small car, 3' is still obscuring.
Vegetation is a key esthetic and decreasing requirements would impact sense of green space.
<b>Structure Height</b>
<b>Lot Coverage</b>
Bigger structures on smaller lots?
Will this allow large structures on small lots?
<b>Setbacks</b>
I both dislike and like the proposed setbacks. As stated above, our setbacks concern me. I do like that this will increase the minimum side setback from two feet to three feet.
I like the idea of having a "moveable" setback box for where you can build.
Consider different, smaller set backs against access easement that have become part of property - i.e. paths between buildings owned by 3rd party.
Setbacks should not be impacted by structure size. The coverage on the lot would still seem greater with smaller setbacks.
Discussion of relationship between 3' setback and fire code - person's neighbor has a "no construct" agreement - she thinks 3' to the lot line is too close.
3' separation seems small to some (multiple comments)
Reduced setbacks for non-conforming properties. Round to the nearest foot? Maybe a portion of a foot? (tenth or hundredth?)
Concerns about eaves and agreements between neighboring properties if one neighbor has to use the other neighbor's property for maintenance access.
Why a 5' width on excepted access?
Why is 5' a maximum internal width for excepted access rather than a minimum internal width?
Love to see sight-obscuring regs (vegetation) applied to existing properties.
3' minimum height for vegetation is too high. Some children are less than 3'. If you are in a small car, 3' is still obscuring.
Starr Hill - one foot won't help us.
3' cannot be reduced with the setback sum reduction, correct?
Reduced setbacks will make a tremendous difference for remodels and additions. These are the most common construction projects in the overlay district.
I really like the new standards and thank you for your efforts. However, this effort will not help those of us with encroaching/non-conforming properties on Starr Hill, etc. Thank you.
Minimum 5' per side, 20' total. Otherwise it is a set up for neighbor conflicts for air/light/maintenance



### ***Setbacks, continued***

Reducing setbacks on smaller lots concerns me because of the increased fire hazards and noise and light pollution. This will also increase insurance risks when performing routine house maintenance.

Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below: - Friendliness. One important characteristic of the Casey-Shattuck neighborhood is its friendliness. People generally walk on the sidewalks (which is another unique characteristic of the Casey-Shattuck subdivision) and often will stop and chat with residents about their landscaping, local news, the weather, or whatever. One reason they stop is that there is generally a vacant comfortable distance from the sidewalk to the resident, which tends to encourage casual conversations. It's also because residents are spending time in their yard. Similar to the concept of personal space when talking with an acquaintance, the personal space in the outdoor neighborhood setting is generally much greater. When a house is three feet from the sidewalk such interactions are less likely to occur. The resident is less likely to spending time in such a small yard and walkers may be self-conscious about looking towards the house. More people would tend to walk in the street to avoid the feeling of invading privacy, increasing pedestrian/driving hazards, making the neighborhood a little less personal.

*Structure height, Street-side (front yard) setbacks:* While walking around the Casey-Shattuck subdivision with a tape measure we have found that nearly all houses (not including entry ways) are at least seven feet from the inside edge of the sidewalk, which we assume is a reasonable proxy for the property line. This includes at least one side of corner lots. We identified only one house less than seven feet from the sidewalk south of B Street. We did not investigate north of B Street but we believe there would be very few, if any exceptions there, as well. As discussed above, the space between the sidewalk and the houses is a desirable characteristic of the Casey-Shattuck subdivision. That front yard space is integral to the desirability and character of the neighborhood and should not be compromised. Allowances could be made for entry-ways and decks.

We believe developments in the Casey-Shattuck subdivision should have a minimum 7' front yard setback, not including entryways.

Side yard setbacks: We believe that no side yard setback should be less than 5' in any portion of the proposed ADOD zone for two reasons: Safety, and creating potential conflict with neighbors. Anyone who builds their house within three feet of the property line cannot perform the usual and customary maintenance on their house (sanding, painting, staining, cleaning windows, clearing gutters, replacing windows, replacing siding, etc.) on that side without trespassing onto their neighbor's properties. Most of these tasks require a ladder to accomplish the work. OSHA guidelines (attached) specify for safety that the proper angle for setting up a ladder is to figure one-quarter of the working length of the ladder and placing the foot of the ladder that distance away from the wall. A 12 foot ladder (which might be long enough to wash windows but not long enough for any of the other tasks above) would require 3 feet away from the wall. If the structure is a two story building and the ladder is 24 feet it would need 6 feet to be safe which is still an issue with 5' setbacks. Perhaps setback distance should be based on the height of the structure?

We believe that no side yard setback should be less than 5'.

*Exceptions to setbacks:* Please refer to our comments on side yard setbacks above. Roof eaves two feet from the property line is inadequate for rain gutter access and maintenance without having to encroach on the neighbor's property. We support expanding the proposed setback for eaves to be three feet (3').

How would the ADOD apply when the property has a deficient setback (less than 3 feet) on one side, but "excess" setbacks elsewhere? The documents are clear whether a setback less than 3 feet on one side would preclude application of the ADOD. My home on 521 W 9th has a substandard set back on one side, but "excess setbacks elsewhere of the proposed 20 foot requirement. Would The ADOD allow for an expansion given other requirements are met?

***Setbacks, continued***

I really like the simplicity of the "formula" of 20' to 12' for total setbacks. However, I do think that the exceptions to setbacks should eliminate references to Front/Side/Rear.

I am strongly against any changes that allow a setback of less than ten feet.

We believe that no side yard setback should be less than 5' in any portion of the proposed ADOD zone for two reasons: Safety, and creating potential conflict with neighbors. In a perfect world all neighbors would get along and would work cooperatively but we all know that this is often not the case. We're sure Community Development can attest to that. Ladder placement can be a pretty site-specific requirement for the required task. If a neighbor asks permission to put their ladder on their neighbor's property and it would land in the middle of the neighbor's prize vegetable or flower garden they may rightfully choose to say no, which could lead to hard feelings. Or one neighbor may decide to construct a tall privacy fence along the property line and preclude the other neighbor from being able to use a ladder at all. The 3' setback seems to be setting up potential conflict situations or unsafe situations as people try to do what they need to do within a 3' setback. We have personal experience with this situation. Our neighbor's side yard setback is 2'7". He has to seek our permission any time he wants to do any maintenance and upkeep on the back wall of his house. Ours is a congenial relationship but if it wasn't and we refused that permission he would be hard-pressed to be able to do anything for maintenance and upkeep there. It seems like the CBJ would be institutionalizing inevitable neighbor conflict with this unrealistic and impractical side yard distance.

**49.70.1440 Yard Setback Exceptions**

Why is access to the rear lot line not included in the exemption? (there seemed to be multiple individuals interested in this)

Are arctic entries included in the setback exceptions?

Attachment H: Public comments on  
elements of the ordinance other than dimensions

**Comments on Other Elements**

**49.70.1400 Purpose**

General concern for the look and feel of Casey Shattuck. Worry about "quaint" character of the neighborhood (multiple people)

***ADOD Process***

Why not just update zoning? (1 person doesn't like ADOD as band aid)

Why not extend for another year?

Why not a new zoning district?

To my mind the whole standard review and revision seems rather rushed. I know you were given direction, but it's OK to push back if the direction doesn't seem reasonable, and I think it would be better to extend the current expiring standards for a year to give enough time to finish working through the revisions. Having two standards (and allowing owners to choose) sacrifices consistency for ambiguous expediency, which is a choice I've encountered before, and learned--by bitter experience--to regret.

***Conformity***

Describe non-conforming better

How many buildings currently conform? Would be good to see more spread on lot size vs. Conformance

We should decide as a community what percentage of zoning conformity we want. Present a wider range of lot sizes and per cent conformity.

Why is non-conforming so important?

Why do we care about conformity for lot size?

How does this interact with non-conforming ordinance?

***Neighborhood Standards***

These comments are based on the ADOD slide show and proposed development standards presented at the December 5 meeting. We reside in the Casey-Shattuck subdivision (also known as "The Flats") and our comments come from what we consider to be appropriate for that particular neighborhood. These comments may not apply to other neighborhoods, which is why we strongly support some unique standards for each neighborhood. We interpret the "What does this do?" slide as describing two goals: 1. "More flexibility for improvements and development" Flexibility can be a two-edge sword. We agree that situations arise that require innovative solutions that may not fit within set standards. However, such exceptions should only be allowed if they can be made consistent with the overall character of the specific neighborhood (Goal 2). Universal standards for the entire ADOD area would by necessity need to be generalized and loosely written to meet a wide variety of circumstances that likely apply to certain neighborhoods. This would likely lead to inappropriate application of exceptions in other neighborhoods, diminishing the effectiveness of this whole ADOD effort. Such an approach in turn seems to work directly against goal #2 below. We believe that having neighborhood-specific standards would reduce the need for exceptions because the standards could be written better to fit a particular neighborhood.

Attachment H: Public comments on  
elements of the ordinance other than dimensions

***Neighborhood Standards, continued***

We interpret the “What does this do?” slide as describing two goals: 2. “Maintain character of the neighborhoods” We fully support this goal. Using the plural in “neighborhoods” implies there are neighborhoods that have different characteristics. The logical conclusion would be that, where appropriate, there should be different development standards among the ADOD neighborhoods in order to maintain each neighborhood’s particular character. Providing uniform standards to all neighborhoods would tend to result in all the neighborhoods having similar characteristics, which would diminish the existing unique characteristics of each neighborhood. As well, “Character” is a subjective term and the qualities of a neighborhood’s character are not described. Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below:

Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below: - Historic Neighborhood. Please refer to our separately submitted comments about how we believe the proposed ADOD standards are not consistent with existing Historic Neighborhood characteristics and the CBJ Comprehensive Plan.

I understand the need for more housing and working with properties, but the recent “maxi-buildings” in the federal flats are a bit alarming and I believe they are the precedent that the new ADOD would encourage. Maintaining a smaller ADOD lot size requirement continues the critical role of the Planning Commission in maintaining the character of our community.

***Overlay v Zoning***

As currently zoned, only 36% of the buildings are in compliance. This indicates that the current zoning is inappropriate.

To my mind the whole standard review and revision seems rather rushed. I know you were given direction, but it's OK to push back if the direction doesn't seem reasonable, and I think it would be better to extend the current expiring standards for a year to give enough time to finish working through the revisions. Having two standards (and allowing owners to choose) sacrifices consistency for ambiguous expediency, which is a choice I've encountered before, and learned--by bitter experience--to regret.

I was left wondering why we don’t just make the changes to the set back and undeveloped space calculations, but leave the minimum lots sizes as they are until the comprehensive plan and zoning update are done. Is it because being out of compliance with minimum lot size prohibits any increase in the footprint, regardless of compliance with the set back?

**49.70.1410 Applicability**

My strong preference is to leave Willow Drive lots out of the Overlay as all of our lots meet current zoning (D-5) standards. If the purpose is to bring 80% of the lots within the overlay into compliance, then that was already exceeded in our neighborhood. Please make a slight revision in your map so that we can keep our current zoning standards. *Staff note: One of the ADOD applications completed was on Willow Drive.*

How can someone be nonconforming to ADOD? I want to use ADOD but am non-conforming for lot size - can I?  
How does this fit with the historic plan?

One thing bothers me: Owners will be able to decide which standard they want to follow, but what if a property changes hands and the new owner wants to do a new project under the other standard? Do you let them? Or are they stuck with the previous owner's choice?

I got distracted by being exposed first to the map showing lots that could be subdivided, making me think subdivision opportunity was an important motivation (or risk) of the ADOD change. Other meeting participants thought the lot size change would allow new multi-family or apartment buildings.

Attachment H: Public comments on  
elements of the ordinance other than dimensions

<b>49.70.1420 Downtown Juneau ADOD procedure</b>
I think it's actually preferable for folks to get variances when they are proposing to build beyond the 4000sf limit, and helps maintain an appropriate level of government/planning commission oversight on buildings that maximize the space on their lots. The cost is high, but is appropriate for many of the proposals that result in new revenue streams for owners such as small rental apartments, B&B's, etc.
What if you have an existing structure on a 2,000 square foot lot, but you decide you want to participate in ADOD for the 3' setbacks? Can you do that without conforming lot size?
I will state what I noted at the public meeting, which is that this makes an already complex code even more complicated.
Zoning codes should be addressed separately from building codes. Zoning codes should establish look, feel and function. Building codes can adapt to zoning restrictions.
How does this impact accessory apartments?
Do not wait until a building permit to decide on if you will participate in ADOD or not. That is too late in the process.
What if we are "grandfathered" in to some things? How to balance.
Avoid design reviews.
More predictability please! (positive toward proposal)
<b><i>Variances</i></b>
How does ADOD affect ability to get a variance?
How does this relate to variances?
<b>Other Topics</b>
<b><i>General</i></b>
The only other comment I would suggest at this time is that the restrictions on fence height at corners should not apply to lots adjacent to platted ROWs that are not used by vehicles. My house is adjacent to the 5th Street stairs; a tall fence would not impede visibility for motorists.
Qualities of the Casey-Shattuck neighborhood that we consider important to maintain during this process are described below: - Sidewalks. We believe the Casey-Shattuck subdivision is unique from other nearby neighborhoods in that both sides of the streets have sidewalks. Sidewalks help provide a buffer between the house and the vehicles on the roadway, enhancing the feeling of space for the typically small lots in the Casey-Shattuck subdivision. Sidewalks also enhance the feeling of friendliness as described above.
The reduced lot sizes are a big step in the right direction, as are the width, depth, and coverage--I'd like to see 90% of the lots conforming; what would that require?
I generally support the proposal, but have a question about the modified set back requirements.
I am a homeowner in Juneau, and have been in Juneau since 1989. I have owned (including current properties) three properties in Juneau including a 4-plex, duplex, and townhouse. I have had to get easement agreements and permits to meet building/zoning requirements, so I understand working with property boundary issues. I support the need for a new ADOD to replace the expiring ADOD, and appreciate the efforts the team has put into the new proposal.
Thank you for considering these comments, and please consider reducing the proposed ADOD requirements to closer to "half" of what you are proposing.
More flexible where not how tall (....?)
Lots vs. city streets

Attachment H: Public comments on  
elements of the ordinance other than dimensions

<b><i>Accessory Issues</i></b>
Keep parking for AAP. Stop providing waivers.
This will help improve conformance and the ability to get a bank loan.
Avalanche and mass wasting concerns should be worked into this ADOD. (One-on-one comment)
Zone for GROWTH (one-on-one comment)
How does this affect parking?
"Zoning people are crazy"
My address is on one street but my access is on another, how does that impact "front"?
Does this change frontage?
How to deal with disputed property lines?
Would access be limited for raised garages?
How does this interact with avalanche zones?
Parking downtown is an issue.
<b><i>Miscellaneous</i></b>
Clarification: Survey costs in addition to ADOD costs
Discussion of relationship between 3' setback and fire code - person's neighbor has a "no construct" agreement - she thinks 3' to the lot line is too close.
<b><i>Meeting Presentation</i></b>
Confusion re current ADOD and new ADOD
Define duplex vs common wall vs single family
Clarify that bungalows exist now - not changing
What if houses is not parallel to the lot line? Would be good to show a house that is not parallel in the example.
Definitions need more clarity.
Purpose needs more clarity.
Provide meeting materials ahead of time and on line.
Would like to know how many variances we've had since 1987.
3D models would be very helpful.
Describe difference between existing zoning districts.
Remove Capital Park from map of sub dividable properties (next to Terry Miller building)
How many unbuilt lots do we have in the ADOD?
What is the number of lots that could be subdivided based on lot size?
Describe non-conforming better
Better distinguish between the existing process and the proposed process
Also, perhaps explain why it helps if the ADOD makes more existing/grandfathered construction comply with minimum lot size.
I appreciated the public meeting and came away with better understanding and greater comfort with the proposal.
My observation is that many of us - even those with sufficient interest to attend a meeting- don't know what current downtown zoning allows and prohibits, so it is easy to jump to incorrect conclusions about the effects of the ADOD

Attachment H: Public comments on  
elements of the ordinance other than dimensions

***Meeting Presentation, continued***

In future presentations, it could help to spend the first 10 minutes setting the stage by explaining the basics of D5/10/18 zoning and the effects of being out of compliance, which you ended up having to do intermittently as a result of questions. (References to variances for repairs were confusing because repairs don't usually affect the building footprint.)

Beyond these questions and suggestions, my primary message is that the meeting was helpful and I appreciated you giving us your evening and Saturday afternoon.

# Attachment D - Proposed Ordinance: "Landscape" & "Vegetative Cover"

Presented by: The Manager

Presented: 06/08/2021

Drafted by:

## ORDINANCE OF THE CITY AND BOROUGH OF JUNEAU, ALASKA

Serial No. 2021-XX

### An Ordinance Amending the Land Use Code Relating to Landscaping and Vegetative Cover.

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

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

**Section 2. Amendment of Section.** Article III. Vegetative Cover is amended to read:

#### **49.50.300 Purpose.**

The purpose of this section is to provide minimum vegetative cover requirements in order to minimize the risk of flooding and erosion, and to slow the speed and volume of storm water runoff onto surrounding lands. Vegetative cover shall be met with non-invasive plant species. Green infrastructure, including but not limited to green roofs, bioswales, rain gardens, and similar features, shall count toward vegetative cover requirements. Additionally, porous concrete used on site shall count toward vegetative cover requirements.

#### **49.50.310 Minimum vegetative cover.**

A minimum percent by area of each development site shall be maintained with live vegetative cover according to the following table. In the event of a conflict between district and area standards, the greater shall apply.

Zoning District	Percentage of Lot in Vegetation
D-1, D-3, and D-5, residential districts	20
D-10 SF residential districts	15
D-10, D-15, and D-18 multifamily residential districts	30
MU2, mixed use district	5
LC, light commercial district	15
GC, general commercial district	10
WC, waterfront commercial district	10



## Attachment D - Proposed Ordinance: "Landscape" & "Vegetative Cover"

WI, waterfront industrial district	5
I, industrial district	5
Convenience store, outside a commercial district	20

### **49.50.320 Plan Submittal.**

The areas to be maintained with vegetative cover shall be shown on the plans submitted for a development permit.

### **49.50.330 Areas included.**

The required percentage of area maintained with vegetative cover may include required landscaping, sensitive area open space, or any other required natural areas.

### **Section 3. Addition of Section. Article IV. Landscaping**

#### **49.50.400 Purpose.**

The purpose of this section is to provide minimum decorative vegetation requirements in order to minimize the visual and noise impacts of a development, provide visual separation between pedestrian and traffic movements, increase compatibility between different intensities of land use by providing visual barriers, and to visually unify a development and the surrounding neighborhood. Landscaping shall mean an area developed and maintained with non-invasive plantings, lawn, ground cover, gardens, trees, shrubs, and other plant materials, decorative outdoor landscaping elements, paved or decorated surfaces of rock, stone, brick, block or similar material (excluding driveways, parking, loading or storage areas), and sculptural elements.

Section 4. Effective Date. This ordinance shall be effective 30 days after its adoption. Adopted this XX day of July 2021.

---

Beth A. Weldon, Mayor

Attest:

---

Elizabeth J. McEwen, Municipal Clerk



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

**June 22, 2021**

**MEMO**

**From: Irene Gallion, Senior Planner**

**To: Downtown Neighbors and Interested Members of the Public**

**Case Number: AME2018 0004: Alternative Development Overlay District**

**RE: Preparation for the July 13<sup>th</sup> meeting**

Perhaps you will recall that about a year ago we were on our way to developing new Alternative Development Overlay District (ADOD) standards for downtown when we got derailed by a pandemic.

The Planning Commission will be revisiting the proposal at their meeting on July 13, 2021. As we get a little closer, meeting materials will be posted here: <https://juneau.org/assembly/assembly-minutes-and-agendas>

To get folks back into the mindset, I've attached:

- The last memo that went to the Commission on May 27, 2020. Note there are no attachments, if you are interested in those let me know and I'll send them your way (they bring the packet up to 138 pages).
- Minutes from the last Committee of the Whole that reviewed the proposal.

If you would like to be included on a project e mail list, you can e mail me at [Irene.Gallion@juneau.org](mailto:Irene.Gallion@juneau.org)



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May 27, 2020

**MEMORANDUM**

**From:** Irene Gallion, Senior Planner

**To:** Planning Commission

**Case Number:** AME2018 0004

**RE: Proposed Revisions to the Downtown Juneau Alternative Development Overlay District (ADOD)**

**REQUESTED ACTION:**

This memo summarizes the history and proposed standards of an updated Downtown Juneau ADOD for review by the Planning Commission Committee of the Whole on June 9, 2020. During this meeting, for each modified standard, staff will review:

- How the standards were developed
- Implementation for the modified standard
- Public comments
- Facilitated discussion

This memo summarizes the Purpose and Need for the ordinance and summarizes proposed standards. **Staff requests that the Planning Commissioners review this memo in preparation for the Committee of the Whole work session. Please review (ATTACHMENTS):**

- ATTACHMENT A: City and Borough of Juneau v. Thibodeau, Supreme Court Opinion, May 11, 1979
- ATTACHMENT B: Olmo, LLC v. CBJ Board of Adjustment, Decision on Appeal, February 14, 2017
- ATTACHMENT C: Existing ADOD boundaries
- ATTACHMENT D: Proposed ADOD boundaries
- ATTACHMENT E: Public comments on dimensional standards
- ATTACHMENT F: Title 49 Committee minutes
- ATTACHMENT G: Draft Ordinance
- ATTACHMENT H: Public comments on elements of the ordinance other than dimensions
- ATTACHMENT I: Variances to Land Use and Platting Regulations, Lee Sharp, 1997

## PURPOSE AND NEED

The need for the Downtown Juneau ADOD reflects:

- CBJ v Thibodeau (1979), establishing that variances must be related to features of the land (ATTACHMENT A).
- The “Olmo appeal” (2018), establishing hardship as a “threshold issue” for variances (ATTACHMENT B).

Pre-code downtown neighborhoods are unable to meet variance requirements due to the high thresholds of “hardship.” The need for code to regulate reasonable development advanced the Alternative Development Overlay District (ADOD). The initial ordinance (2017) was developed in haste, has burdensome costs for developers, and outlines methodologies that give well-intentioned interpreters different answers.

Proposed standards and this ordinance will:

- Reduce costs to the homeowner
- Facilitate consistent interpretations of dimensional standards
- Reduce complexity of using the ADOD

To clarify:

- Recently-approved non-conforming code allows residents to rebuild their existing non-conforming structure after destruction within the building’s pre-existing footprint. (Building code elements would have to be modernized.)
- Proposed ADOD facilitates improvements beyond the original structure for residences and commercial buildings within the boundary.

## Background

The existing Downtown Juneau ADOD (2017):

- Acknowledged that existing zoning downtown does not match the built environment.
- Established a process for reducing dimensional standards to allow for the construction, reconstruction, expansion, or rehabilitation of residential buildings. This code:
  - Addresses lot coverage, vegetative cover, and setback requirements.
  - Applies to residential buildings.
- Established Planning Commission review for all ADOD permits.

The existing ADOD has a sunset date of August 2020. The existing ADOD was intended to be temporary, allowing time to establish new zoning regulations for downtown areas.

The existing ADOD code has exhibited some short-comings:

- **Complexity and consistency:** The procedure involves averaging setbacks of properties within a 150-foot radius. What percentage of the property that must be in that radius to be included is unclear. Some properties require use of GIS imagery to establish setbacks, while some properties have much more accurate as-built surveys. Well-intentioned interpreters can come up with different answers to the same question.

- **Expense:** The base price for an ADOD evaluation is \$400 per lot line.
- **Time:** The current ADOD requires a Planning Commission hearing, which compels a staff report and public noticing.

The proposed ADOD:

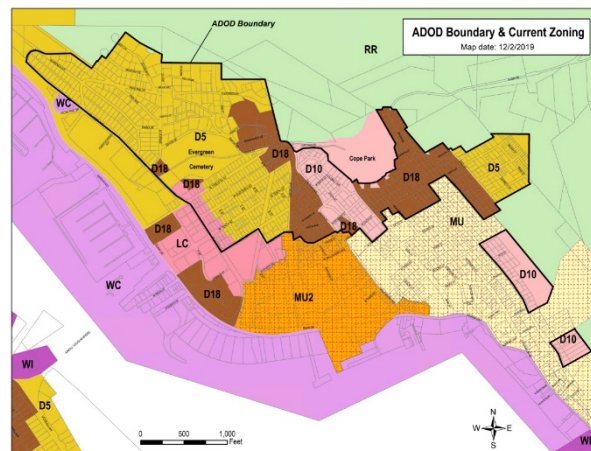
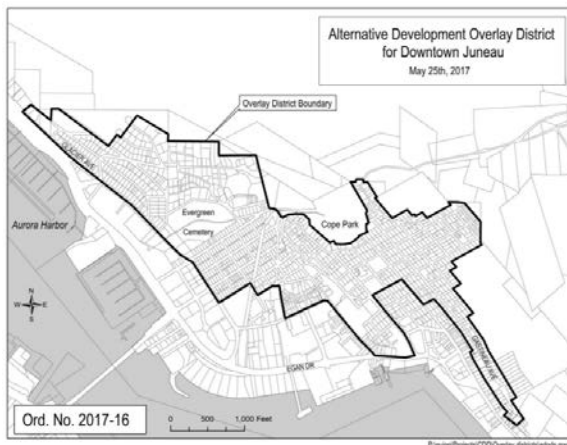
- Establishes dimensional standards, limiting interpretation required.
- Would execute through the Building Permit process, reducing workload for staff and the Planning Commission, and reducing cost and time for the developer.
- Costs of the proposed ADOD have not been established, and will likely be consistent with other permit fees.

## PROPOSED STANDARDS

The proposed standards below are “opt in” modifications to underlying zoning in an overlay boundary. The tables below summarize existing standards and the proposed Downtown Juneau ADOD dimensional standards.

Note that density and use restrictions prevail under proposed ADOD standards – changes are limited to dimensional standards.

Staff and the Title 49 Committee have recommended changes to the proposed boundary of the Downtown Juneau ADOD (see also ATTACHMENTS C and D):



The largest change is the exclusion of the Mixed Use (MU) zoned area in the boundary. MU has more liberal dimensional standards than the Downtown Juneau ADOD is proposing.

Public comments on proposed dimensional standards are included in ATTACHMENT H.

### Minimum Lot Area

The table below compares proposed Downtown Juneau ADOD minimum lot size to existing minimum lot size in the various zoning districts. Lot sizes are shown in square feet.

Note that under current regulation CDD would allow development of an undersized lot that met setback requirements. New standards would be used to:

- Evaluate proposals for subdivision of a lot in the ADOD boundary.
- Approve an accessory apartment without Planning Commission approval, if other parking and dimensional requirements could be met.

	Proposed	Current			
Structure	ADOD	D5	D10	D18	LC
Single Family Home	3,000	7,000	6,000	5,000	2,000*
Common Wall Dwelling	3,000	7,000	5,000	2,500	
Duplex	4,500	10,500	8,712	4,840	

\* Light Commercial has a minimum lot size of 2,000 square feet for permissible uses, which includes residential and commercial development.

### Lot Width, Depth and Coverage

	Proposed	Current			
FEATURE	ADOD	D5	D10	D18	LC
Lot width	25'	70'	50'	50'	20'
<i>Bungalow</i>	25'	35'	25'	25'	
<i>Common wall dwelling</i>	25'	60'	40'	20'	
Lot depth	25'	85'	85'	80'	80'
Vegetative cover	15%	20%	30%	30%	15%
Lot coverage	50%	50%	50%	50%	No Max

Lot coverage is 60% under the existing ADOD. The reduced coverage balances less-restrictive setbacks.

### Structure Height

	Proposed	Current	
Height	ADOD	D5, 10, 18	LC
Permissible uses	35'	35'	45'
Accessory uses	25'	25'	35'
Bungalow		25'	

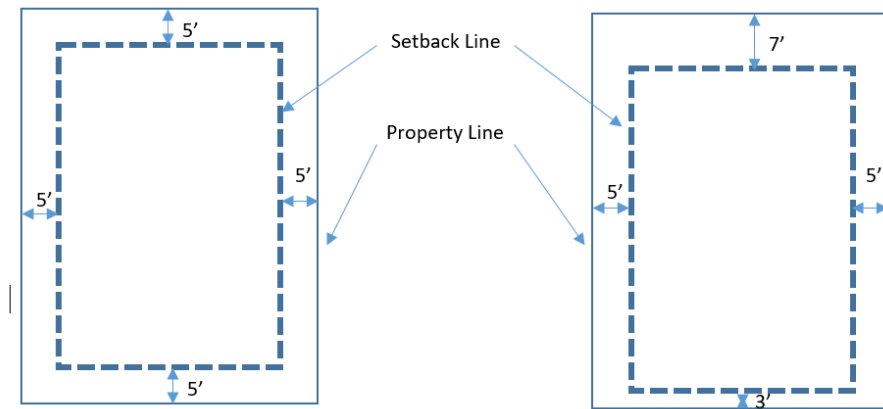
### Structure Setbacks

Current setbacks:

YARD	D5	D10	D18	LC*
Front	20'	20'	20'	25'
Street Side	13'	13'	13'	17'
Side	5'	5'	5'	10'
Common Wall Dwelling Side	10'	3'	5'	
Rear	20'	20'	10'	10'

### Proposed setbacks for all properties in the ADOD:

Staff proposes a 20-foot setback sum with a 3-foot minimum per side. This means that the setbacks of all sides of a lot must equal 20 feet, but no side may be less than 3 feet. This essentially creates a “setback box” that can be moved around the lot to accommodate existing structures. Examples:



### Proposed setbacks for lots less than minimum lot area:

For lots less than the minimum lot area, the required setback sum can be reduced proportionally, but in no case can the setback sum be less than 12 feet and no side can be less than 3 feet.

### Proposed Exemptions to Setbacks:

CBJ 49.25.430 establishes exemptions and reductions to required yard setbacks borough-wide. If the exemption listed in 49.25.430 is less restrictive than the proposed ADOD setbacks, it is shown in the proposed ordinance for clarity. If the exemption is more restrictive than the proposed ADOD setbacks, the ADOD setbacks apply.

**Architectural features and roof eaves** may project into a required yard setback but no closer than two feet from the side and rear lot lines.

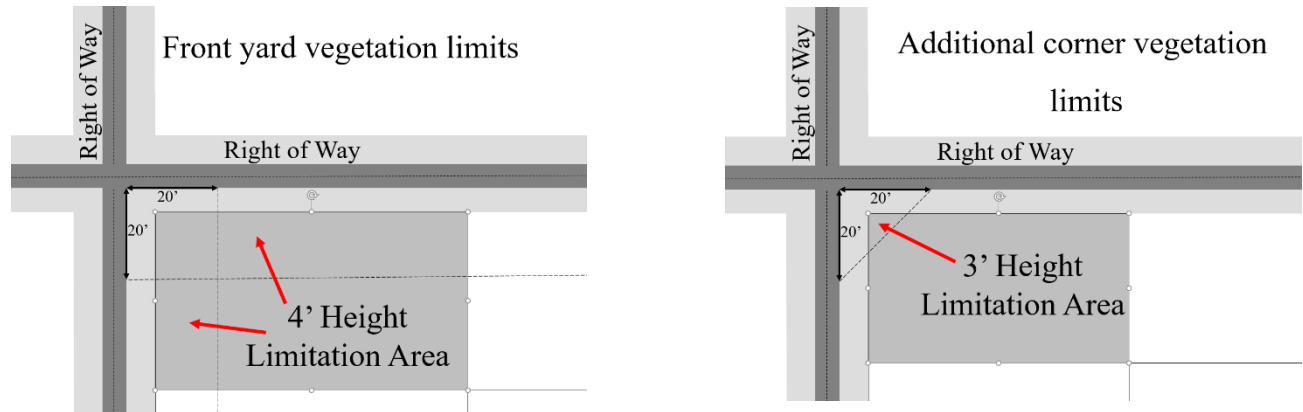
**Unenclosed balconies, connecting deck stairways, walkways, ramps and landings with or without roofs** may extend to the front lot line or street side lot lines. Structure may not exceed five feet internal width, not counting support structure.

**A parking deck** (which cannot be more than one foot above the level of the adjoining roadway, and can only be used for parking) is exempt from setback requirements. A non-sight-obscuring safety rail up to 42 inches is allowed.

**Fences and vegetation.** For this section, a “travelled way” is defined as the edge of the roadway shoulder or curb closest to the property.

(A) Maximum height of a sight-obscuring fence or vegetation is four feet, within 20 feet of the edge of the traveled way. Trees are allowed if they do not obscure view from four feet to eight feet above ground.

(B) On corner lots, the maximum height of a sight-obscuring fence or vegetation is three feet, within 20 feet of a street intersection. 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, and then connecting the three points. Trees are allowed if they do not obscure view from three to eight feet above the ground.



#### ADDITIONAL SUPPORT MATERIALS

- Title 49 Committee meeting minutes (ATTACHMENT F)
- DRAFT proposed ordinance (ATTACHMENT G)
- Public comments on elements of the ordinance other than dimensional standards (ATTACHMENT H)

#### ADDITIONAL BACKGROUND

“Variances to Land Use and Platting Regulations,” by Lee Sharp (1997, ATTACHMENT I) is attached to provide context on variance case law.

In 2015 Olmo, LLC appealed a Planning Commission decision to deny a variance to the Assembly. The Assembly’s decision to uphold the variance hinged on the Appellant’s ability to demonstrate hardship. While the variance code had multiple criteria for considering a variance, those criteria could not be considered before hardship was established. Hardship was a “threshold issue.”

Under old code, “hardship” was a difficult standard to meet. In new code (established in 2018), the Planning Commission eased the standard from “extraordinary situation or unique physical feature” to “unusual or special” features of the property.

Nonetheless, pre-code downtown neighborhoods in Juneau and Douglas struggle to meet variance criteria. According to case law:

#### Hardship:

- **Denies reasonable use of the property.** Downtown home owners in established homes use the property reasonably.



- **Can only be related to costs in the most extreme conditions.** A homeowner needing to pay more for an improvement is not, in itself, a hardship.
- **Cannot be self-imposed.** A structure is considered “self-imposed” regardless of who built it and when. Nine-hundred-sixteen downtown structures have residences constructed before regulation was established (1956).

**Peculiarities of the land:**

- **Arise when the physical conditions of the land distinguish it from other land in the area.** A distinguishing condition might be a steep slope or meandering waterway that did not impact neighbors. Downtown neighborhoods have similar physical conditions, distinguishing few lots.

Under old variance code, 50% of variances were to setbacks community-wide. When you consider the variances in just Downtown Juneau that percentage rises to 80%.

Agenda  
**Planning Commission**  
***Committee of the Whole***  
CITY AND BOROUGH OF JUNEAU  
*Michael LeVine, Chairman*  
June 9, 2020

**I. ROLL CALL**

Michael LeVine, Chairman, called the Committee of the Whole Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:04 p.m.

**Commissioners present:** Michael LeVine, Chairman; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Assistant Clerk; Ken Alper; Dan Hickok; Joshua Winchell; Erik Pedersen

**Commissioners absent:** Weston Eiler

**Staff present:** Jill Maclean, CDD Director; Irene Gallion, Senior Planner; Alexandra Pierce, Planning Manager; Emily Wright, CBJ Law Department; Laurel Christian, Planner

**Assembly members:** None

**II. REGULAR AGENDA**

**AME2018 0004:** Juneau Downtown Zoning – Alternative Development Overlay District  
**Applicant:** City and Borough of Juneau  
**Location:** Downtown Juneau

Due to A possible perceived conflict, Mr. LeVine turned the gavel to Mr. Dye to chair this portion of the meeting.

Irene Gallion, CDD, presented **AME2018 0004**.

Mr. LeVine noted that this has been a long-time work in process and wanted to note the amount of work that has gone into getting the AME to this point.

During the explanation of minimum lot size and percentage of conformity, Ms. Maclean explained if a property is nonconforming, it is more challenging for the property owner to obtain a mortgage loan. By making more properties conforming they think this should help homeowners.

Mr. Voelckers asked does the ADOD zoning supplant other zoning districts? Will this truly make the property conforming or will it just make their nonconformity allowed? Ms. Maclean said depending on how the ADOD is decided it could make them conforming. Later in the meeting, Ms. Wright clarified that this would make them 'more conforming' but they would not be conforming.

Mr. Voelckers had questions regarding subdividing in hazard areas. While they cannot subdivide, would they be allowed to add a kitchen or bedroom? Ms. Maclean answered yes and that is what is allowed today.

Mr. Voelckers asked what is the standard lot size in the Flats? Staff answered it is about 3,600 square feet. Mr. Voelckers asked why the Title 49 committee settled on a 3,000 square foot lot size when there was so much negative public testimony saying that was too small size. Mr. Dye explained the factors the committee considered and how they reached that decision saying that while there were concerns, there were mitigating factors as well.

Mr. Arndt explained that once the properties in hazard areas were removed from eligibility, only a handful of properties were left with subdivision potential. Mr. Winchell added the residential properties impacted by ability to subdivide was small and the intent is more to allow owners to use their land. Ms. Pierce explained that their goal was conformity and not so much subdividability. Mr. LeVine reminded the commission that the ADOD is an option for property owners to opt in to be compliant and it is not a requirement.

During discussion of setbacks, Mr. LeVine asked if a dwelling was built to the lot line with zero setback, and they wanted to add to it, could they build on the zero setback or would they have to observe the three-foot requirement. Staff answered, the property was already nonconforming and would not be allowed to add to the nonconformity. They would need to observe the three-foot setback for the addition.

Mr. Voelckers said he appreciates the flexibility the ADOD allows but has concerns with the setbacks as small as three feet and asked how staff came to find three feet acceptable and had concerns regarding the reduced setback requirements for the smaller sized lots. He also found the 50% limitation on lot coverage to be too stringent. He expressed surprise at the proposed reduction in setbacks to the very small lots and suggested the same percentage reduction be applied to the coverage requirement.

Mr. Arndt commented that the focus of the Title 49 Committee was on existing dwellings and not on new construction and explained that the majority of the lots affected by this are already built. Committee members discussed conforming versus more conforming nonconformity and the possibility of grandfathering the existing properties as conforming altogether.

Mr. Arndt reminded the Committee of the August 1 2020 sunset date saying they either need to extend the current ADOD or complete this to bring to the Assembly. Mr. Winchell asked what happens if the deadline is missed and how many properties would be affected. Ms. Maclean said the vast majority are nonconforming. If they cannot meet the sunset deadline, they could ask for an extension or if it is missed altogether, it could just become the standard zoning and there would be no sunset date. Mr. Dye explained the reason for continuing the ADOD is that would allow for additions and other options for the properties that would not be available if the sunset expires.

Mr. LeVine said he likes the postage stamp (setback box) approach but had trouble with the three-foot setbacks. He wondered if they could ask Ms. Wright to investigate other options in code that would allow the properties to become conforming rather than *more conforming* nonconformity without any possibility of unintended consequences that would eliminate the need for the phrase more conforming.

Mr. Winchell and Mr. Voelckers spoke in agreement with Mr. LeVine. Mr. Voelckers also had an issue with the percentages of required vegetative cover.

It was decided to keep this at the Committee of the Whole for further discussion.

Mr. Dye turned the gavel back to Mr. LeVine for the remainder of the meeting.

III. **OTHER BUSINESS** - None

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

V. **ADJOURNMENT** – 6:49 pm

# AME2018 0004

Revisions to the Alternative Development Overlay District standards for Downtown Juneau

PURPOSE: Development Flexibility

## Brief Evolution

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- Modern zoning ≠ downtown development
- Changed how variances used
- Rezone detailed and time consuming
- ADOD was a band-aid
- Make a better band-aid

# Work so far

Date	Meeting
6/12/2017	ASSM COW - Ord for ADOD forwarded to full Assembly
1/30/2019	Downtown Informational Meeting
2/5/2019	Downtown Informational Meeting
2/7/2019	Downtown Informational Meeting
4/11/2019	T49: ADOD proposal
4/18/2019	T49: ADOD proposal, additional info
6/24/2019	Assembly, ADOD ord introduced, extending date to August 2020
7/10/2019	T49: Modify setbacks, new boundary, min lot size, sliding setbacks
8/7/2019	T49: Continued discussion
9/4/2019	T49: Continued discussion
10/2/2019	T49: Continued discussion
11/1/2019	T49: Summary and continued discussion
12/5/2019	Neighborhood Meeting
12/7/2019	Neighborhood Meeting
12/12/2019	T49: Debrief on public meeting
3/5/2020	T49: Comments and proposed ordinance
6/9/2020	PC COW
7/27/2021	PC: Revive ADOD

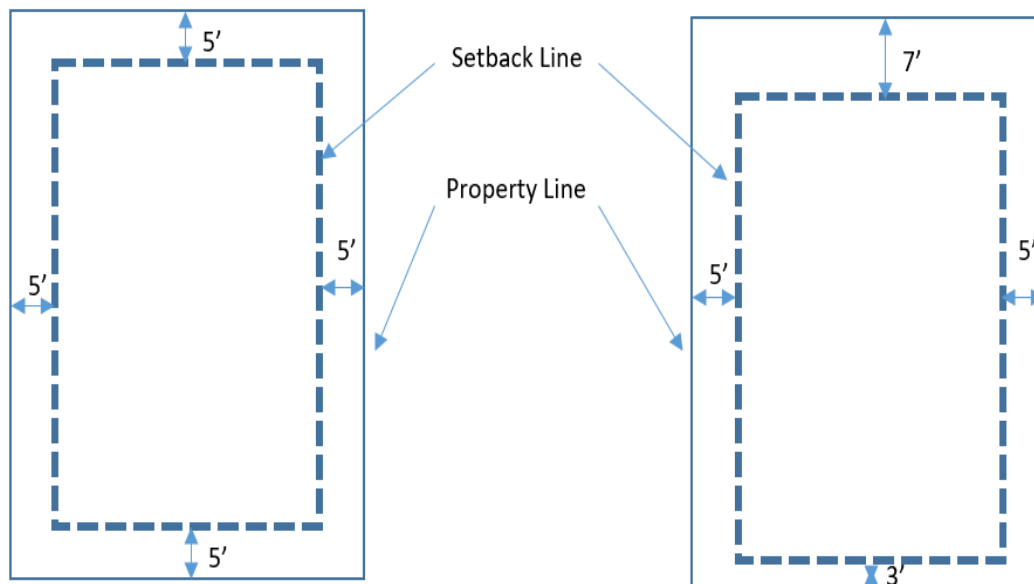
## What is proposed

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- Minimum lot area – 3,000 square feet
- Lot width and **depth** – 25 feet
- **Lot coverage** – 50%
- **Vegetative cover** – 15%
- Structure height – 35'/25'
- Allow commercial properties to participate

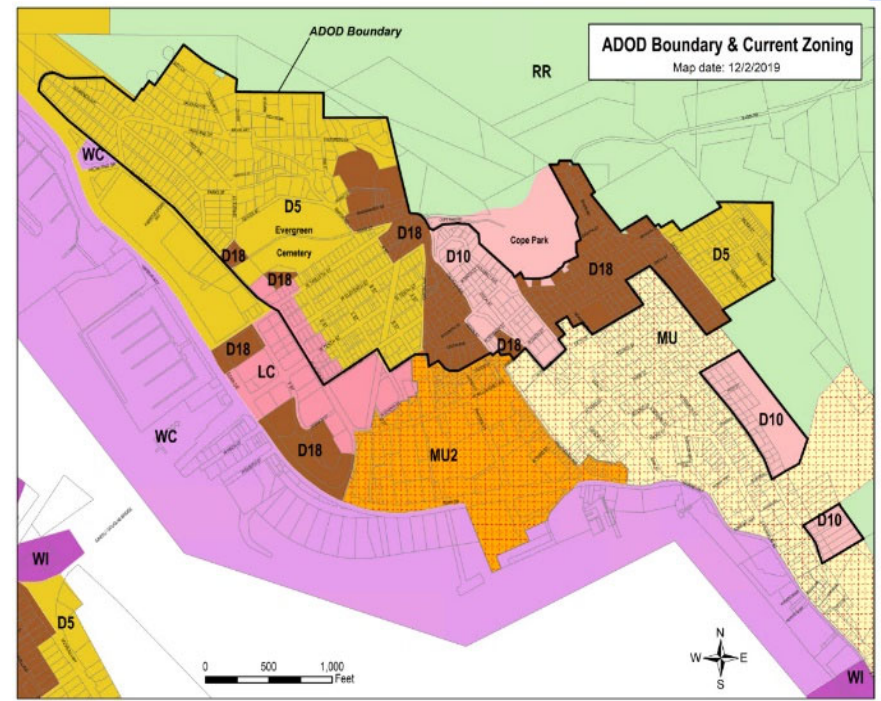
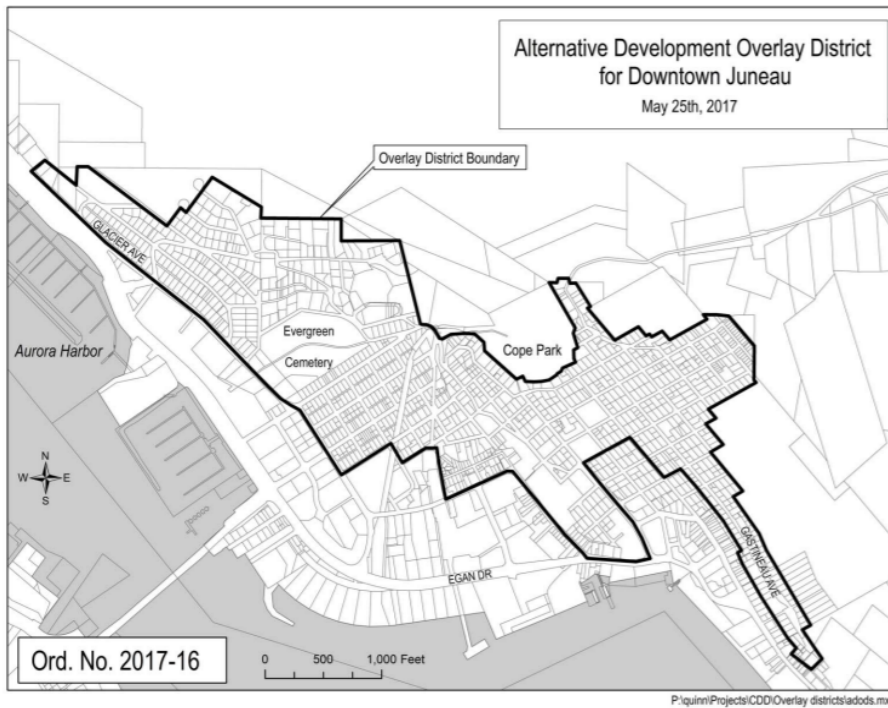


# Proposed Setbacks



- Minimum setback 3 feet
- Sum of setbacks – 20'

# Where



## Questions the Commission had

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- Is 50% lot coverage too restrictive?
- Should we modify the proposed three foot setback?
- Do we still need to discuss vegetative cover?
- How does this work for properties that are still nonconforming?
  
- Code developments since last meeting

## Lot Coverage – 50% proposed

- Balances setbacks
- Consistent with current development

	Proposed	Current			
FEATURE	ADOD	D5	D10	D18	LC
Lot coverage	50%	50%	50%	50%	No Max

- Increasing setbacks?
- Prefer denser downtown development?

## Setbacks – modify proposal?

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- Since 1987, 80% of variances
- Based on fire separation + balance of maintaining community character

## Vegetative Cover – 15%

FEATURE	Proposed	Current			
	ADOD	D5	D10	D18	LC
Vegetative cover	15%	20%	30%	30%	15%

### Proposed Text Amendment

- Purpose – control and absorb drainage
- Includes green roof, porous hardscape, and other controls

## Nonconformance/Compliance

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Compliance under ADOD – want to opt-in to development standards

- Further development IAW ADOD standards

Compliance under ADOD BUT don't want to opt in

- Nonconforming certification
- Further development IAW underlying zoning

## Code changes since last discussed

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- Neighborhood Commercial (NC) and Mixed Use 3 (MU#) recommended to the Assembly
- Elimination of lot depth



## Questions for the Commission

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- *Modify lot coverage standards?*
- *Modify proposed minimum setbacks?*
- *Vegetative cover OK if definitions pass?*
- *The purpose is development flexibility that is in keeping with current development of surrounding area.*
- *Changes based on regulations passed in the interim?*

*Thank You!*

Minutes  
**Planning Commission**  
***Regular Meeting***  
CITY AND BOROUGH OF JUNEAU  
*Nathaniel Dye, Acting Chairman*  
July 27, 2021

**I. ROLL CALL**

Nathaniel Dye, Acting Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held virtually via Zoom Webinar and telephonically, to order at 7:05 P.M.

**Commissioners present:** All Commissioners present via video conferencing –; Nathaniel Dye, Vice Chairman; Paul Voelckers, Clerk; Travis Arndt, Deputy Clerk; Dan Hickok; Mandy Cole; Erik Pedersen

**Commissioners absent:** Michael LeVine, Chairman; Josh Winchell; Ken Alper

**Staff present:** Jill Maclean, CDD Director; Alix Pierce, CDD Planning Manager; Irene Gallion, CDD Planner; Sherri Layne, Law

**Assembly members:** Loren Jones

**II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA** – At CDD’s request, **PWP2021 0003** postponed to August 24, 2021.

**III. APPROVAL OF MINUTES**

A. Draft Minutes May 11, 2021 Planning Commission Regular Meeting

**MOTION:** *by Mr. Arndt to approve the Planning Commission Regular Meeting May 11, 2021 minutes with a correction to item **XVI: Planning Commission Comments and Questions** to note the comments by Mr. Arndt and Mr. Voelckers were referring to the issue of Variances.*

B. Draft Minutes June 22, 2021 Planning Commission Special Meeting

**MOTION:** *by Mr. Arndt to approve the Planning Commission Special Meeting June 22, 2021 minutes.*

C. Draft Minutes June 22, 2021 Planning Commission Regular Meeting

**MOTION:** *by Mr. Arndt to approve the Planning Commission Regular Meeting June 22, 2021 minutes.*

- IV. **BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION** – Acting Chairman Dye briefly explained the rules for participating via Zoom format
- V. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** – None
- VI. **ITEMS FOR RECONSIDERATION**- None
- VII. **CONSENT AGENDA** – None
- VIII. **UNFINISHED BUSINESS** – None
- IX. **REGULAR AGENDA**

~~**PWP2021 0003:** A reduction from 14 required off street parking spaces to 9 to serve a daycare expansion~~

~~**Applicant:** Kayla Svinicki~~

~~**Location:** 4341 Windfall Avenue~~

**Staff Recommendation**

~~Staff recommends the Planning Commission adopt the Director's analysis and findings and **APPROVE** the requested Parking Waiver. The permit would provide a parking reduction from 14 required off street parking spaces to nine to serve a child care expansion at 4341 Windfall Avenue in a D3 Zone.~~

~~**MOTION:** *by Mr./Ms. ... to accept staff's findings, analysis and recommendations and approve PWP2021 0003.*~~

~~***The motion passed with no objection.***~~

**AME2018 0001:** A text amendment to revise and update Title 49 Section 49.25.510(k) Accessory Apartments and other related sections of the Land Use Code

**Applicant:** Larry Johansen

**Location:** 275 Irwin Street

**Staff Recommendation**

Staff recommends the Planning Commission ADOPT the Director's analysis and findings and make

a recommendation to the Assembly to APPROVE the proposed text amendment to amend CBJ 49.25.300, Table of Permissible Uses (TPU); CBJ 49.25.400, Table of Dimensional Standards; CBJ 49.25.510(k) Special Density considerations – Accessory Apartments; and CBJ 49.80.120, Definitions in regard to accessory apartments.

STAFF PRESENTATION – Ms. Pierce presented **AME2018 0001** Text amendment to revise and update Title 49 Section 49.25.510(k)

COMMISSIONER QUESTIONS -

Mr. Voelckers asked if Planning Commission would be involved on any accessory apartment permits or if it would be at the department level. Ms. Pierce said it would be at the department level.

Mr. Arndt noted Ms. Pierce’s presentation showed an accessory apartment with a parking waiver would still have to come before the PC. He asked if it would be the parking waiver alone or both the accessory apartment and parking waiver permits that would be before them at that point. Ms. Pierce explained it would be just the parking waiver but if the parking waiver was not approved then the accessory apartment would not meet its parking requirement and the Director would not approve the accessory apartment either.

Mr. Arndt expressed concern that an accessory apartment creating an additional dwelling unit would then make the building a common wall dwelling on what could be a very small lot. Ms. Pierce clarified the accessory apartment would make it a multi-unit development rather than a common wall dwelling. Ms. Pierce explained that currently accessory apartments on undersized lots often come before the PC as Conditional Use Permits (CUP). CDD is looking to add language to the Ordinance to allow Director approval in these situations.

Mr. Hickok asked if a duplex with an accessory apartment would then be a triplex. Ms. Pierce said it would be a duplex with an accessory apartment.

Mr. Pedersen asked if staff had considered how adding an accessory apartment would affect financing options for banks and property owners. Ms. Pierce said the purpose and intent of the ordinance is to make it easier to add accessory apartments but she is not sure how lenders treat a unit that is clearly subordinate to a larger unit but she thought it would be treated as an accessory apartment for lending purposes.

Mr. Voelckers noted that he had understood the PC could give CDD and LAW direction but the proposed motion is to send it directly to the assembly. He asked if the PC suggestions would be added before reaching the Assembly or if CDD would need more time to finalize it. Ms. Pierce said with the intent that clarification would be provided in ordinance language, they could vote to forward it to the Assembly and the language could be drafted in the meantime. She added it is common for LAW to make small changes to ordinance language between the Commission and

the Assembly.

Mr. Dye understands the current process allows for an accessory apartment in a single-family dwelling in a multi-family zone district through a CUP. He asked if the proposal before them maintains that CUP process for accessory apartments or if that is what they are trying to codify. Ms. Pierce said the intent is to make accessory apartment approval at the department level and remove the need for a CUP.

Mr. Arndt suggested adding verbiage to the proposal to clarify the process for adding an accessory apartment to a single-family dwelling unit on a lot not large enough to accommodate a second dwelling unit. Mr. Dye agreed with Mr. Arndt's suggestion and asked if accessory apartments are included in the TPU. Ms. Pierce confirmed it is part of the TPU.

Mr. Voelckers agreed with Mr. Arndt and Mr. Dye and suggested changing the working to something like, "An accessory apartment is allowed in D10, D15, D18, etc., on those lots too small to otherwise provide a second dwelling unit," and establishing a minimum lot size to keep it practical and not deleterious to the neighborhood.

Mr. Dye asked if this is needed since it is covered in the TPU already. Ms. Layne said that would be up to the PC and CDD. Ms. Pierce explained that Staff intent was to clarify in the ordinance that an accessory apartment is allowed in a single-family home in a multi-family district because if it is not clear to the planner working on the ordinance then it may not be clear to others reading the Code.

**MOTION:** *by Mr. Voelckers to ADOPT the Director's analysis and findings and make a recommendation to the Assembly to APPROVE AME2018 0001 proposed text amendment to amend CBJ 49.25.300, Table of Permissible Uses (TPU); CBJ 49.25.400, Table of Dimensional Standards; CBJ 49.25.510(k) Special Density considerations – Accessory Apartments; and CBJ 49.80.120, Definitions in regard to accessory apartments with an amendment to Staff findings and analysis to include a sentence that clarifies an accessory apartment is permissible in D10, D15, D18 MU, MU2, LC, GC, and WC when the lot is not large enough to accommodate a second dwelling unit per standard density requirements above a lot size of 3000 square feet.*

Mr. Arndt noted according to the Staff report, an accessory apartment would be counted as regular density if the lot was large enough and on an undersized lot. It would only apply if the use were a single-family home and not a multi-family dwelling. He asked if Mr. Voelckers' amendment meant to combine the two so it would not matter whether there is a multi-family or single-family use on an undersized lot.

To clarify, Mr. Dye asked if Mr. Arndt's intent was to ask is it okay when there are two units currently on a smaller lot and an accessory apartment is squeezed in to make three versus if there is already one dwelling unit and an accessory is added to the one.

Mr. Voelckers responded saying it was not his intent to increase nonconformance. He intended to increase density. He thought LAW might have to work on that wording.

***The motion passed with no objection.***

**AME2018 0004:** Proposed revisions to the Alternative Development Overlay District, which affects setbacks, minimum lot area, and other issues related to development. The Overlay covers both downtown Juneau and downtown Douglas, but revisions only concern Juneau at this time.

**Applicant:** City & Borough of Juneau

**Location:** Downtown Juneau

STAFF PRESENTATION – Ms. Gallion presented **AME2018 0004** Proposed revisions to the Alternative Development Overlay District (ADOD)

COMMISSIONER QUESTIONS -

Mr. Arndt asked what happens when the current ADOD expires in a few days noting it will likely take months to get this finalized and enacted. Will this be a problem in the interim? Ms. Gallion said it will take some time to get this finished but staff is very close and it is worth it to finish the process rather than just extending the ADOD again.

Mr. Voelckers asked about how this would affect existing structures that may not meet the proposed minimum required setbacks. The owners are concerned that with the proposed new ADOD they might not be able to rebuild if there was an earthquake or some other event that destroyed their building. Ms. Gallion explained that is covered in the nonconforming code. If they have a nonconforming certification, they can rebuild. If they do not have a nonconforming certification and the cost to replace the structure (not including foundation) is less than 75% of the assessed value of the building, then it can be rebuilt. If it is more than 75%, they lose the nonconforming rights.

COMMISSIONER COMMENTS-

Mr. Voelckers suggested going through the ordinance line by line saying they could agree on changes along the way and make a combined motion at the end.

Ms. Gallion displayed a copy of the ordinance with Mr. Voelckers' suggested edits.

Page 1

- Lines 18-20

Mr. Voelckers proposed:

49.70.1400 Purpose: Edit to read: *The purpose of this chapter is to establish **optional alternative dimensional standards** that suit the built environment in ~~historic~~ **established** neighborhoods and reduce the number of non-conforming properties. ~~Improving conformance reduces the need for variances or conditional use permits, lessening the burden to property owners.~~*

**Page 2**

- Lines 3-4

Mr. Voelckers proposed:

(b) Edit to read: *Participation in the Downtown Juneau ADOD is optional, unless required ~~to make non-conforming development more conforming~~ **to establish conforming development.***

Mr. Arndt asked if participation in ADOD were optional, when would the ‘unless required’ apply. Ms. Gallion said if it was the will of the PC to make it truly an opt-in option, they could modify it to remove that ‘unless required’.

Ms. Cole asked if the CDD would ever deny a nonconforming situation because of ADOD. Ms. Gallion answered property owners should be allowed to choose to participate or not in the ADOD. Ms. Gallion would prefer not to deny anybody the ability to opt out of ADOD.

Mr. Dye asked if it would make sense to strike item (b). Mr. Arndt suggested keeping the first portion and deleting ‘unless required.’ Mr. Voelckers explained his intent with the phrasing he had suggested was to facilitate or allow permission for a property owner to make a modification that might otherwise not be conforming.

- Line 13

Mr. Voelckers proposed:

(h) Existing non-conforming lots ~~can participate in other~~ **can be developed following** ADOD standards.

- Line 21

Mr. Voelckers proposed:

(1) Minimum lot size is 3,000 square feet **for new construction.**

Mr. Dye cited Title 49 discussions and said it would be for existing as well as new construction and said he thought it was meant to read:

(1) Minimum lot size **for single-family use** is 3,000 square feet.

Mr. Arndt added his recollection of the Title 49 discussions were clear about the minimum lot size and anything less than the minimum would be non-conforming.

Mr. Voelckers asked how item (4) ties with the rest of the section as he had thought it was to allow renovations on lots smaller than 3,000 square feet.

Ms. Gallion explained her recollection was the minimum lot sizes were for new lots. Lots that are smaller than 3,000 square feet can still participate in other dimensional standards of ADOD.

- Line 24

Mr. Arndt suggested:

(4) **Existing** lots that do not ~~have~~ **meet** minimum lot size ...

Mr. Voelckers suggested:

(4) ... may ~~participate in~~ **be modified or renovated using** the other dimensional modifications of this ~~part~~ **article**.

Mr. Arndt suggested

(4) ... may ~~participate in the other dimensional modifications of this part~~ **be allowed to opt in**.

Ms. Gallion agreed and pointed out this is saying the same thing as (h) and could be combined and left either in item (h) or in item (4) depending on what makes most sense for developers. Mr. Voelckers thought it made sense to leave it in both places.

Ms. Gallion recapped to confirm (h) will now read: *Existing non-conforming lots can be developed following ADOD standards* and (4) will read: *Existing lots that do not meet minimum lot size can be developed following the other dimensional standards of this article*.

### **Page 3**

- Line 2

Mr. Voelckers proposed:

~~(2) Minimum lot depth is 25 feet.~~

Mr. Arndt asked if there is no minimum lot depth, would it then default to the underlying zoning district. He suggested if the Assembly does not pass lot depth when it comes up next week, then he would propose:

(2) **There is no** ~~Minimum lot depth is 25 feet.~~

- Line 13

Mr. Voelckers proposed:

*12 feet and in no case shall any ~~side~~ setback be less than three feet.*

- Line 12

Mr. Voelckers proposed:

(B) If lot size is less than required in this section, the required setback sum **for additions or alterations** may be



Mr. Dye suggested that change would be better if added earlier on the page at line 7 or 8.

- Line 25

Mr. Voelckers proposed:

(b) ~~Methodology~~ **Exception Categories**

**Page 4**

- Line 9

Mr. Dye proposed:

(4) Energy efficiency improvements that do not increase interior square footage, such as exterior insulation, may **reduce** ~~project up to eight inches into a required yard~~ **setbacks by (number of) inches.**

Mr. Arndt agreed pointing out this dimension verbiage is consistent with Title 49.25.430.

Mr. Pedersen proposed:

(4) ... such as exterior insulation **and associated siding materials,** ...

Mr. Arndt proposed:

(4) Energy efficiency improvements that do not increase interior square footage, ~~such as exterior insulation,~~ may project up to eight inches into a required ~~yard~~ **setback.**

**MOTION:** by Mr. Voelckers to move **AME2018 0004** ADOD language to the Assembly for consideration and adoption subject to the working amendments to the text that were developed tonight

***The motion passed with no objection.***

**MOTION:** by Mr. Arndt to recommend to the Assembly to extend and continue existing ADOD regulations as currently written as quickly as possible to extend it to August 1, 2022.

Ms. Gallion reminded the PC that last time this came before the Assembly, the Assembly said they did not want to see another extension. She suggested adding some language to help the Assembly understand why this extension is being requested. Mr. Dye said the assembly has full access to the record and assembly liaison Jones is aware of this discussion and can inform the assembly.

***The motion passed with no objection.***

***At ease 8:45 p.m.-8:50 p.m.***

X. **BOARD OF ADJUSTMENT** – None

**XI. OTHER BUSINESS – None**

**XII. STAFF REPORTS**

Ms. Pierce reported Lot Depth, Board of Adjustment repeal and the proposed North Douglas rezone are on the Assembly Agenda Monday

**XIII. COMMITTEE REPORTS**

Mr. Dye reported Blue Print met but could not maintain quorum and had to schedule another meeting.

Mr. Voelckers reported Public Works & Facilities met last Monday. Topics discussed centered around waste reduction, landfill, organic and compost waste, and junk vehicles.

Mr. Hickok reported Lands Committee met last Monday and approved to send the assembly a request by Norwegian Cruise Line to lease tidelands.

Mr. Pedersen reported Douglas/West Juneau steering committee is on hiatus until Mid-August.

Mr. Dye reported Title 49 work continues on many topics.

**XIV. LIAISON REPORTS**

Mr. Jones reported on recent Assembly activities

- Joint PC/Assembly meeting is scheduled for August 30.
- Assembly has meetings August 2, August 23 and one meeting in September and then no meetings until October 25
- Committee of the Whole also only has 3 meetings between now and November
- Systemic racism committee will begin reviewing legislation on September 13

Ms. Cole asked if there is any role for the PC during the Assembly meeting regarding PC proposals for Douglas. Mr. Jones answered that the PC would not have direct involvement but members are welcome to testify under public testimony.

Mr. Voelckers asked if the joint meeting on Aug 30 would be an in person/virtual hybrid and does he see a problem logistically with that. Mr. Jones said it would likely be a hybrid.

**XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None**

**XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Mr. Dye said members are allowed to consult Ms. Layne regarding specific questions about how to engage with the Assembly and reminded them they are always allowed to attend as a member of the public.

**XVII. EXECUTIVE SESSION** – None

**XVIII. ADJOURNMENT** – 9:06 P.M.