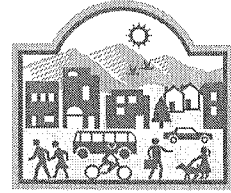




Municipality of Anchorage
Community Development Department
Planning Division



MEMORANDUM

Date: October 19, 2011
To: Mayor Sullivan
Thru: George J. Vakalis, Municipal Manager
From: Jerry T. Weaver, Jr., Director
Subject: Title 21 Rewrite – Mayor’s Decisions on the Consultant’s Report

The Administration directed the Community Development Department to review the amendments proposed by Dan Coffey (consultant) to the provisionally adopted title 21. The Department identified 37 major issues from the consultant’s proposal and provided information and analysis on each of the issues.

This memorandum summarizes your decisions and direction on the 37 major issues, based on discussions between the Administration and the consultant over the last three months.

General Issues

1. Cumulative impact of individual amendments.

Issue: The consultant proposed changing individual words or sentences throughout sections of the code, some of which, if adopted, would have far-reaching impacts. These effects include provisions that are inconsistent with the Comprehensive Plan.

Decision: No changes to the provisionally adopted title 21, except as needed for an identified major policy issue below. Once the code is in place, there will be opportunities for near-term follow-up amendments as needed.

2. Changing the hierarchy for the Comprehensive Plan as a basis for land use decision making.

Issue: The consultant has proposed a suite of amendments throughout the code to focus the individual code sections as pre-eminent over the comprehensive plan. He suggests that title 21 should include all municipal guidance relating to land use decisions—in essence, title 21 code sections should pre-empt the comprehensive plan in the event of conflicts. The Charter requires a plan. Court decisions generally start with the plan as controlling. Title 21 should be interpreted as consistent with the plan or changed so that it is.

Decision: No change to the provisionally adopted title 21.

3. Concern that project costs and site land area requirements will increase under the provisionally adopted code, so due consideration should be given to reducing the minimum development standards.

Issue: The consultant proposes amendments in multiple sections of the provisionally adopted rewrite that reduce or eliminate minimum development standards. The basis for these changes is the concern that the title 21 rewrite would increase project monetary costs and increase the amount of land required for development for both commercial and residential.

Decision: No change to the provisionally adopted title 21 except in response to a major issue identified below. The main finding of the Title 21 Economic Impact Analysis (EIA) is that the overall economic impacts of the title 21 rewrite will be generally positive or neutral, and site development costs and land area requirements will generally be the same or lower.

Chapter 2

4. Urban Design Commission (UDC) (section 21.02.040).

Issue: The consultant has proposed significant changes regarding the role of the UDC. In chapter 21.02 he has proposed reducing its role to one function: reviewing trail projects, which is far less than required under the current code. (In other chapters the UDC is still referenced for other functions, but these comments will be based on the chapter 2 amendments.) While criticism of prior iterations of the UDC may be legitimate, the current UDC is functioning well and handles a significant amount of work that would be ill-suited for other boards.

Decision: No change to the provisionally adopted title 21.

Chapter 3

5. Requiring Community Meetings be conducted through community council meetings only (section 21.03.020C.).

Issue: The consultant's proposed amendments would require those land use cases that require a community meeting to be conducted through the community councils and at their scheduled meetings dates and times.

Decision: Propose amendment to clarify that using a community council meeting for a community meeting is preferred when a community council meeting is available, and only when no community council meeting is available (such as during the summer when many councils do not meet) should an applicant sponsored community meeting be scheduled.

6. Moving PUDs out of Conditional Use section and into Institutional Master Plan section.

Issue: The consultant proposes to move the residential planned unit development (PUD) and the business-industrial park planned unit development (BIP-PUD) sections into section 21.03.110, which he has renamed "Master Plan."

Decision: No change to the provisionally adopted title 21.

7. Deletion of "Site Condo Ordinance" (Improvements Associated with Land Use Permits—current 21.15.150).

Issue: Proposed deletion of Section 21.03.100E., which allows the Municipality to require commensurate public infrastructure improvements when there is no subdivision. Improvements internal to the development are often critical, while peripheral improvements should be more directly related to the development.

Decision: Propose amendment to provisionally adopted section 21.03.100E. to clearly correlate the requirement for improvements to the impacts of the development application.

8. Deletion of allowance to rezone less than 1.75 acres into B-1A (section 21.03.160B.).

Issue: The consultant proposes to delete this current code provision carried forward in the provisionally adopted rewrite.

Decision: No change to the provisionally adopted title 21.

9. Deletion of requirement that rezone special limitations or modifications be at least as restrictive as proposed in the application (section 21.03.160D.7.a).

Issue: The consultant proposes to delete a requirement on rezone cases that stipulates special limitations (SLs) or modifications be at least as restrictive as proposed in the application. This may unintentionally inhibit participation in the process by adjacent property owners.

Decision: No change to the provisionally adopted title 21.

10. Changing the Street and Trail Review Process (21.03.180).

Issue: The consultant proposes changes to this section to streamline the review process, but at this time collapsing the review steps is not consistent with current practice, including the memorandum of agreement recently signed with the State of Alaska/Department of Transportation & Public Facilities regarding the review process for street projects, and the municipally adopted Context Sensitive Solutions policy.

Decision: No change to the provisionally adopted title 21.

- Issues raised regarding trail projects in Chugiak-Eagle River should be addressed through the Chapter 10 process.

11. Expanding the applicability of the minor modification provision in section 21.03.120.

Issue: The consultant proposes to amend the minor modification provision to expand how many parts of title 21 it applies to, and the tolerance of minor variance allowances. The current tolerances appear adequate to address the vast majority of requests. Increasing the tolerances may have unintended impacts on adjacent property owners.

Decision: No change to the provisionally adopted title 21.

12. Code stability through limitation of title 21 amendments (section 21.03.210).

Issue: The consultant proposed to delete the provision that limits text amendments to title 21 to two times per year, with an exception for amendments necessary for public health, safety, or welfare.

Decision: Propose an amendment to:

- Allow the Director of Community Development to determine if an amendment is needed due to conflicting provisions, inconsistencies, or unintended consequences. Such amendment may be immediately processed to the Assembly without Planning and Zoning Commission review. The Assembly may adopt, reject, or refer to the Planning and Zoning Commission for review; and

- Make this provision in effect for two years after adoption and then be available to be applied two times a year after the first two years.

Chapter 4

13. Deleting the R-2F district (section 21.04.020F.).

Issue: The consultant proposed to delete the provisionally adopted R-2F low-density multifamily district, premised on a misunderstanding that R-2F would become another mixed-use district

Decision: No change to the provisionally adopted title 21.

14. Multifamily building bulk in R-4 and non-residential districts.

Issue: The consultant proposes to double the amount of building bulk allowed in the current and provisionally adopted R-4 multifamily district as well as eliminate the current and proposed limits for multifamily bulk in the RO and B-3 districts.

Decision: No change to the provisionally adopted title 21, except to move forward with proposed staff amendments of May 2010.

15. Commercializing the R-4 residential district (section 21.04.020I.).

Issue: The consultant proposes to change the existing R-4 multifamily residential district into a mixed-use district allowing half-commercial projects, and to delete the provisionally adopted R-4A. Current analysis indicates certain R-4 properties would be well-suited to mixed development, but not all R-4 properties are. (Also see issue 16.)

Decision: No change to the provisionally adopted title 21.

16. Deleting the new R-4A residential mixed-use district (section 21.04.020J.).

Issue: The consultant proposes to delete the provisionally adopted new R-4A residential mixed-use district and insert the R-4A's provisions allowing high intensity mixed-use commercial projects into the existing R-4 district.

Decision: No change to the provisionally adopted title 21.

17. Retaining the B-1B District (section 21.04.030).

Issue: The consultant proposes to retain all existing zoning districts, including bringing back the B-1B community business district (instead of moving forward with the new NMU Neighborhood mixed-use district as provisionally adopted).

Decision: No change to the provisionally adopted title 21.

18. Deleting the mixed-use districts (section 21.04.050).

Issue: The consultant proposes to delete all of the new mixed-use zoning districts from the provisionally adopted title 21, premised on the concept that individual property owners or areas of town will develop mixed use as the market may demand. However, not all properties are good candidates for mixed-use, as conflicts with adjacent properties and a lack of adequate infrastructure can doom a mixed-use project or unduly burden taxpayer resources (roads, drainage, traffic circulation, utilities, etc. Striking the right balance is critical. Mixed-use districts implement the Comprehensive Plan. They differentiate commercial areas by level of intensity and function, and facilitate compatibility and access between properties. They provide a new zoning option for the choice of property owners, and will allow the same range of commercial uses as allowed in today.

Decision: Move forward with adoption of the three (3) mixed-use districts, and propose the following amendments and clarifications:

- Delete the MT-1 and MT-2 Midtown districts;
- Implement the NMU, CMU, and RMU mixed-use districts as a new zoning option for the choice of property owners, and facilitate rezonings to mixed-use through rezoning fee waivers, administrative assistance, and expedited review procedures;
- Amend the rewrite to waive the minimum area requirement for rezonings to mixed-use;
- Delete the site perimeter landscaping requirement for lots zoned to mixed-use next to B-3 or RO lots, in order to save space and costs for individual lots that rezone to mixed-use;
- Amend the RMU district intent statement to make it available as an option for Midtown B-3 property owners who want to rezone to a mixed-use district; and
- Amend the B-3 and RMU districts to allow unlimited height in the Midtown major employment center as designated on the Comprehensive Plan – bounded by the Seward Highway, Tudor Road, Arctic Boulevard, and Fireweed Lane. (Also see issue 25.)

19. Applying standards for mixed-use districts onto mixed-use development in commercial zones (section 21.04.030).

Issue: Rather than move forward with the provisionally adopted mixed-use districts, the consultant proposes to address mixed-use development by taking the standards in the mixed-use districts (district-specific standards), and grafting them into certain zoning districts that allow mixed-use developments (use-specific standards). Mixed-use development in B-3 would have different height limits, setbacks, and other development standards than adjacent single-use retail, office, or residential developments. (Also see issue 18.)

Decision: No change to the provisionally adopted title 21.

20. Airport zoning district (section 21.04.070).

Issue: The consultant recommends eliminating the proposed airport zoning district, without maintaining one (the Transition district) of the current three districts that exist on airport lands.

Decision: Retain the T district for the Ted Stevens Anchorage International Airport and continue using the PLI, I-1, and T districts until an airport district is adopted.

Chapter 5

21. Rearranging and merging use categories and use types.

Issue: The consultant proposed a series of amendments to the organization and number of use types that affect the link between the uses in chapter 5 and the parking requirements in chapter 7, and would combine uses that have greatly different parking needs. The consultant also made other changes to the use definitions and use-specific standards, as well as to what uses are allowed in districts.

Decision: No change to the provisionally adopted title 21.

22. Allowing single-family homes in the R-3 multifamily district.

Issue: The consultant has proposed to allow single family homes in the R-3 medium density multifamily district. This idea makes good sense for certain parts of town.

Decision: Propose an amendment to allow single-family uses in Mountain View, Fairview, and other areas currently zoned R-3 but which the Anchorage Bowl Land Use Plan Map designates as low-medium density residential, as follows:

- Single-family detached homes, at densities of at least six dwelling units per acre on the lot;

- Single-family attached (ie., zero lot line) homes on narrow lots; and
- Implement the Anchorage Bowl Land Use Plan Map, which in draft form already designates the areas of concern as “low-medium” density residential, providing the basis for rezonings to a lower density multifamily district such as R-2M or R-2F.

23. Allowing all types of telecommunications towers in all residential zones as permitted uses.

Issue: The consultant proposed to allow all types of telecommunications towers to be permitted as a by-right use in residential zones. After further discussion, however, he has indicated that this was a mistake and there was no intention of changing the section.

Decision: No change to the provisionally adopted title 21.

24. Unlimited commercial uses in Industrial districts (section 21.04.060 and in Ch. 21.05).

Issue: The consultant recommends allowing all commercial uses and a wide range of other non-industrial uses in both the I-1 and I-2 industrial districts, as is allowed in the current title 21. While certain Industrial properties are underutilized and would benefit from more allowed uses, retaining the future ability to develop industrial activities without undue conflicts with adjacent properties is also an important long-term economic and land use goal.

Decision: Propose amending the provisionally adopted title 21 industrial zoning to allow more commercial uses, while remaining in conformance with the Comprehensive Plan, as follows:

- Amend to allow the additional commercial uses and accessory retail sales already proposed in the staff proposed draft amendments of May 2010;
- Further amend I-1 to allow all commercial uses that are allowed in the provisionally adopted B-3 general commercial district, with two exceptions: Grocery and General Retail uses that are large commercial establishments (more than 20,000 sq. ft.). These two uses tend to create commercial centers, and should not be allowed in industrial zones;
- Move forward with the provisionally adopted I-2 industrial district without an allowance of additional non-industrial uses, so that Anchorage retains at least one industrial reserve zone consistent with Comprehensive Plan; and
- The issue of allowing additional non-industrial uses within the I-2 zoning district can be reexamined upon completion of the Anchorage Commercial Land Study and adoption of the Anchorage Bowl Land Use Plan Map.

Chapter 6

25. Unlimited building height in most commercial and industrial areas (section 21.06.020).

Issue: The consultant proposes to allow unlimited building height in the B-3, RO, and I-1 districts.

Decision: Propose an amendment to the provisionally adopted title 21 to allow for tall buildings in Midtown. Retain provisionally adopted building heights elsewhere in outlying commercial and industrial areas of the Bowl. Specifically:

- Make the RMU district available as a mixed-use zoning option for Midtown commercial property owners, until such time as a Midtown Plan and its zoning districts are adopted;
- Allow unlimited building heights in Midtown, until such time as a Midtown Plan is adopted that evaluates appropriate building heights, by exempting buildings from the height limits of the B-3 and RMU districts in the Midtown Major Employment Center and Redevelopment / Mixed-use Area designated in the Comprehensive Plan, as bounded by the Seward Highway, Tudor Road, Arctic Boulevard, and Fireweed Lane;
- Waive rezoning fees and provide administrative assistance for Midtown property owners that elect to rezone to RMU; and
- Retain the provisionally adopted title 21 height limits for the B-3 (outside of Midtown), RO, and I-1 districts.

26. Proposed deletion of provisions in the “Setbacks from Projected Rights-of-Way” (section 21.06.030C.7).

Issue: The consultant proposes to delete provisions which guide what can be placed within projected rights-of-way and where to measure building setbacks or required landscape areas.

Decision: Retain the provisionally adopted code.

27. Deletion of neighborhood protection height transitions (section 21.06.030D.8.)

Issue: The consultant proposes to delete the provisionally adopted “Height Transitions for Neighborhood Compatibility”.

Decision: Propose to amend the height transition provision to improve the flexibility of site design, as follows:

- Amend to describe the different methods and examples for achieving an appropriate height transition;

- Amend to allow the applicant more discretion for how to achieve the height transition; and
- Delete the illustration from the section.

Chapter 7

28. Stream setbacks and natural resource protection (section 21.07.020).

Issue: The consultant proposes an amendment to lower the provisionally adopted stream protection setback from 50-feet to 25-feet and increase the number of allowed uses, i.e., trails and lawns, closer to the streams (to within 10-feet).

Decision: Propose an amendment to retain the current title 21 stream setback regulations except to reduce stream setbacks from 100 ft. to 50 ft. in the R-10 district, until concerns regarding nonconformities and setback widths can be addressed in a separate stream setbacks amendment.

29. Private open space – significantly reduced and modified (section 21.07.030).

Issue: The consultant proposes several changes to the private open space requirements in the residential districts: reduction or elimination of the open space requirements; to count indoor rooms without windows for up to half of the required open space area; and to allow 10'x10' sized spaces to count as the common open space serving multiple dwellings.

The amendment proposes to eliminate the provisionally adopted standard for non-residential uses in commercial and mixed-use districts to provide usable space for pedestrians (e.g., entry plaza).

Decision: No change to the provisionally adopted title 21, except for the following amendments to provide clarifications and reduce several private open space requirements:

- Reduce the minimum width of non-residential private open space from 25 to 18 feet (i.e., to what Sagaya City Market provides in the photograph in issue #29 narrative of the August 23 *Major Issues* memorandum;
- Amend to exempt non-residential development from having to provide any additional private open space in return for any reductions to the parking requirement. This change will measurably reduce costs while still achieving the rewrite objectives;
- Amend to clarify confusion as to when common open space is allowed/required versus when open space for individual residential units is required/allowed;
- Amend to clarify that in no case will more than 2,000 square feet of private open space area be required of non-residential uses, regardless of

the size of the development. This is consistent with the standards for large retail establishments; and

- Move forward with staff-proposed amendments of May 2010 which provide further clarifications and increase flexibility.

30. Deletion of connectivity requirements (section 21.07.060D.).

Issue: The consultant proposes to delete the connectivity index requirements for future plats.

Decision: No change to the provisionally adopted title 21 except for the following amendment:

- Delete the connectivity index and create a standard to provide for vehicular and pedestrian connectivity.

31. Reducing requirements for pedestrian connections and facilities (section 21.07.060E.).

Issue: The consultant has proposed revisions which reduce the number and location of pedestrian sidewalks and walkways, and standards for on-site pedestrian connections, including: only require sidewalks along streets in new residential and commercial developments; increase the block length threshold to 1300 feet before a through-block pedestrian connection is required; and, removal of standards which protect pedestrian walkways within parking lots such as upright curbs and bollards.

Decision: No change to the provisionally adopted title 21 except for the following amendment:

- Sidewalks are not required on the bulb portion of cul-de-sacs.

32. Rewrite of Landscaping section with diminished requirements (section 21.07.080).

Issue: The consultant has proposed deleting most of the provisionally adopted landscaping section and replacing it with new language which in some respects requires less landscaping than in the current title 21 landscaping standards.

Decision: The Planning Division will hold several meetings in the next 30 days with the landscape architects who advised the consultant in the proposed rewrite of the landscaping section. Based on these meetings, the Division will review and recommend possible revisions to the provisionally adopted section.

33. Deletion of dumpster screening amortization (section 21.07.080G.).

Issue: The consultant has proposed removing the amortization provisions for dumpsters from the provisionally adopted title 21. The first part of these amortization provisions from the provisionally adopted draft apply an 18-month period to remove dumpsters from single-family,

two-family, and three-family residential uses (unless the dumpster is located along an alley). The consultant's revisions would require these residential uses to remove dumpsters upon the effective date of title 21 adoption.

The consultant is also proposing to delete the second part of the amortization provisions in the provisionally adopted draft which requires all other uses to screen dumpsters within five years. The consultant would also delete administrative variance provisions which allow owners of existing sites with dimensional constraints to apply for a variance to locate the dumpster and its screening structure within a required landscaping bed and/or within several parking spaces. The consultant only kept dumpster screening requirements for new development sites.

Decision: No change to the provisionally adopted title 21 except to propose an amendment to extend the amortization to seven years.

34. Lessening the minimum standards for multifamily developments (section 21.07.110).

Issue: The consultant proposes to reduce some of the minimum development standards for residential multifamily and townhouse developments to the point at which the residential design standards may no longer achieve the original objectives of the section. Among the proposed amendments:

- Reducing a minimum standard that windows and/or entry doors comprise at least 15 percent of the façade wall area facing neighborhood streets down to 7 percent, which would require the community to implement a new regulation which would have little practical effect because the 7 percent threshold is too low;
- Eliminating minimum spacing for day lighting between multifamily buildings, while reducing the spacing to lowest common denominator business-as-usual for townhouses;
- Lessening individual design feature menu choices, such as converting a tree planting menu choice intended to visually break up large blank building façade walls, into a strip of grass;
- Converting a four-part requirement to make townhouse entries accessible into a menu of four choices which builders must choose only two; and
- Amending a requirement to screen mechanical equipment such as large banks of utility meters in residential neighborhoods to less than that required in commercial districts.

Decision: Propose the following amendments to the provisionally adopted multifamily and townhouse standards:

- Amend multifamily and townhouse windows requirement on multi-story buildings to be more flexible, as suggested by written comments provided to the Municipality and the consultant in 2010;

- Clarify that the provisionally adopted street-facing windows requirement does not apply on alleys or rear access driveways (reviewers from a housing provider may have misinterpreted the standard in a way that influenced the consultant's proposal);
- Amend to reduce the number of sides of a multifamily or townhouse building that would need to comply with the building design features menu, including building modulation;
- Amend to make the wall modulation dimensional standard more lenient, as proposed in the May 2010 staff amendments;
- Amend to clarify that front entrances are not required to face a street;
- Amend to reduce the size of the covered entrance requirement on multifamily buildings, as proposed by staff in May 2010; and
- The Planning Division will contact Cook Inlet Housing Authority to discuss concerns (provided in writing to the Municipality during the 2010 public review period) regarding the multifamily and townhouse design standards. Based on the discussions, the Division will review and recommend possible additional amendments.

35. Deletion of townhouse landscaping standards (section 21.07.110D.).

Issue: The consultant proposes to eliminate townhouse landscaping requirements specific to providing landscaped breaks between driveways for individual townhouse units.

Decision: Retain the provisionally adopted townhouse landscaping standards, except for an amendment to delete the last sentence in subsection 21.07.110D.9.d., to address the concern of the Anchorage Homebuilders regarding vertical curbs.

Chapter 8

36. Changes to the definition of improvement areas.

Issue: The level of required public improvements (in a subdivision) is determined by the improvement area, which in turn is determined by the zoning district. The consultant's amendments change the definition of the improvement areas.

Decision: No change to the provisionally adopted title 21.

Chapter 12

37. Perpetuating Nonconformities.

Issue: The consultant has proposed changes to Chapter 21.12 – Nonconformities. These changes would significantly change the regulations. Many nonconformities would be unduly perpetuated. Enforcement would be hampered because the standards are less clear and the overall change will be using standards unfamiliar with and different from current court decisions.

Decision: No change to the provisionally adopted title 21.

Response to Concerns from Homebuilders

Issue: During the 2010 public review process which was used as input to the consultant's review, the Anchorage Homebuilders Association provided written comments to the Municipality that identified a "Top 10" list of changes it would most like to see in the provisionally adopted title 21, and documented the reasons for its concerns.

Decision: Propose amendments that resolve seven (7) out of their 10 issues, as follows:

- Amend the driveways provisions to be more flexible, particularly allow driveways to be 40% of a lot's frontage, as allowed in current code;
- Delete the design standards for single-family homes (sections 21.07.110E. and F.), which will resolve five of the ten stated concerns; and
- Delete the requirement for vertical curbs in the townhouse landscaping standards, as discussed in Major Issue #35.