Real Estate Task Force Testing Workshop Report
November 30, 2004 to December 4, 2004
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Review of Title 21, Module 3

The following comments have been prepared based on a review of Module 3 of the Municipality of Anchorage Title 21 Update and a three-day testing workshop of that Module. As a landscape architect, I have focused much of my effort on those sections of Title 21 with which I am most actively involved. I have specifically not made comments on the Development and Design Standards for residential, public, and retail development as this is not my area of expertise. The Architects who participated in the workshop made a number of excellent suggestions on how these sections might be improved.

The workshop tested the new draft Title 21 by comparing the impacts of the new requirements to those of our existing Title 21 requirements. Five recently completed projects and one open parcel were examined to determine the design and economic impacts of implementing the new Title 21 requirements as they exist in draft form.

GENERAL COMMENTS

The Municipality of Anchorage has benefited significantly in appearance since the implementation of the current Title 21 requirements. The modifications to Title 21 will have a similar impact into the future. The new Title 21 requirements will also have an economic impact, resulting in higher development costs that must be shared by the whole community. As a result, we as a community must decide what the baseline criteria for acceptable development will be.

Customized Requirements: It has been repeatedly noted that portions of the new Title 21 are in common use in other communities throughout the U.S. While this provides a certain level of confidence that these requirements are practicable, it should not serve as sole justification for their implementation here. The new Title 21 should be very carefully customized to meet the economic, social, and physical needs of Anchorage.

Enforcement: As we embark on implementing new and stricter development criteria, it should be noted that the appearance of our community would be much improved if our existing Title 21 requirements were better enforced. The new requirements will demand greater levels of Municipal oversight and increased staffing to achieve the desired benefits. The increased demands we place on our builders and developers through the new Title 21 must be met by the public commitment for staffing and enforcement.

Streamlined Approvals: Clarion Associates has asserted that developers will benefit from a streamlined administrative approval process, established within the new Title 21. From my review, I am not certain that such a streamlining will be realized. First, within the new Title 21 there are a number of new aspects of a project that will be subject to

review that are not required in the current Title 21. Second, many sections in the new Title 21 are open to subjective interpretation. Throughout my review of this document, I have tried to identify where language might be altered to promote a more objective review of new projects.

Implementing the 2020 Comprehensive Plan: In attempting to implement the vision of the 2020 Comprehensive Plan, the new Title 21 faces inherent conflicts. On one hand, the 2020 plan states: "Anchorage's future development will depend increasingly on more efficient use of existing infrastructure, vacant land, and on infill and the redevelopment of underused properties". On the other hand, the plan states: "A strong commitment to protect natural open spaces and critical wildlife habitats will maintain the quality of the natural environment." In one sense, the 2020 plan advocates for a tighter, denser, more walkable community while at the same time advocating for the protection of existing open space. The desire to preserve open space has been given considerable weight through the public and private open space requirements in the current draft of Title 21, while the stated desire to achieve more efficient land use is not so well expressed. Additionally, the 2020 plan indicates a desire to provide a wide mix of housing types suitable for all housing markets. While most concur that we could do a better job in developing entry level housing, that housing, by its nature doesn't come with a lot of frills. The requirements of the new Title 21 could restrict that development.

Many of the new requirements within Title 21 have a cumulative effect of encouraging lower density development. In particular, the public and private open space requirements, snow storage requirements, utility easements, and tree retention requirements may work together in a cumulative fashion to promote lower density development. Although it has been stated that in most cases these requirements will overlap and not be cumulative, our testing indicated that there will likely be many cases where these requirements will not overlap.

Non-Conforming Uses: With the vast majority of the existing Anchorage Bowl already developed, the new Title 21 will primarily guide re-development in our community through the next couple of decades. The draft of the new Title 21 is largely silent with respect to non-conforming development. In essence, someone looking to re-develop a property appears to be subject to the same requirements as those for new development. During the workshop, Dale Porath noted that in the future, there will be non-conforming uses, non-conforming structures, and non-conforming characteristics. If a property owner chooses to upgrade or redevelop his property at some point in the future, but that choice triggers the requirement for a complete re-development of the property, the new Title 21 may, in fact, inhibit improvements that would benefit the community as a whole.

I believe it is important to identify trigger points, (perhaps a dollar value) beyond which total compliance with Title 21 would be required. Below that threshold, property owners could make new improvements in compliance with Title 21, without having to bring the entire property or structure up to the new code requirements.

SPECIFIC COMMENTS

21.07.10 GENERAL PROVISIONS

Under the heading of Alternative Compliance, the applicability of this section should be open to most sections of Title 21. If a developer or property owner can demonstrate that he or she has a better idea than the strict application of Title 21, they should have the opportunity to make their case. This should not be applicable only to buildings.

21.07.20 NATURAL RESOURCE PROTECTION

Stream, Water Body, and Wetland Protection: These requirements are generally good. There are already strong restrictions on how these lands are used and the New Title 21 simply brings these requirements together in one place. It can be noted that many of the requirements are redundant with other existing regulations.

Steep Slope Development: I believe this section is overly prescriptive and in some cases assigns arbitrary cut and fill height values. Only one of the workshop projects dealt specifically with steep slope issues and it was noted that the draft language would preclude some of the standard approaches typically used on steeper slopes of the Hillside now.

To start with, I would simplify the purpose language of this section. Many of the items listed in the intent are not specifically improved through the standards. As an example, Item d. states: "Preserve the most visually significant slope banks and ridge lines in their natural state." There is nothing amid the standards that would do this. I would recommend simplifying the purpose to state: "The purpose of these provisions is to promote site development that takes advantage of and incorporates topography as a design element, reducing the need for large areas of cut and fill on a site."

Applicability: Many of the sites we work on have a reasonably large developable area with some portion of a site that is really steep. It is possible that when averaged over the entire site, it would cause these requirements to kick in. An alternative would be to require compliance with standards when more than 50% of the proposed developed area of a site has slopes with an average slope of 20% or greater.

Standards: I believe the limits of 4 feet and 6 feet are arbitrary. It was noted during the workshop that one of the best ways to deal with grading on steeper slopes is to allow only single loaded access roads, with the lots on the downhill side. I think this is an excellent suggestion, but in these cases the roads are entirely cut instead of a balance of cut and fill. They would probably not be able to comply with the standards. The single loaded road approach will result in preservation of buffers and existing vegetation.

Voluntary Guidelines (bottom of page 10): I would not include any voluntary guidelines in Title 21. A separate document with design standards or guidelines for residential development could be useful, but I would recommend that only codified standards be included in Title 21.

Item g of the standards states: "A retaining wall shall not be stepped in height, but shall be sloped from one height to another to match the terrain behind it." This is too restrictive. A stepped retaining wall can be just as effective. This requirement would preclude walls constructed of concrete masonry units, which have to be stepped. When including figures to illustrate a requirement, make sure they are applicable to most cases. The figures on page 12 are not realistic for typical residential development. Most lots have nowhere near enough room for a meandering access road.

Wildlife Habitat Protection: I suggest deleting this section in its entirety. Critical wildlife habitat throughout the Anchorage Bowl is very closely associated with waterways, shorelines, and wetlands. These areas are already provided protection, either by Title 21 or other means. The new requirements identified in the draft Title 21 would be applicable if a property is identified as "critical" on the Anchorage Coastal Resource Atlas. This map is now more than twenty years old. Although there is a new map in the preparation stages, I don't believe it should be used as a reference until it is available.

In the development limitations paragraph of this section, verbiage states: "All development subject to this section shall, *to the maximum extent feasible,* incorporate the following principles in siting buildings, structures, roads, trails, utilities, and other similar facilities"

Although "to the maximum extent feasible" is defined in the definitions section, it is very much open to interpretation. A group intent on stopping a development based on these requirements will almost always be able to make the case that "more" could have been done.

For projects that fall into this category, the referral requirements of having to submit plans to the Alaska Department of Fish and Game and to the U.S Fish and Wildlife Service for comment would be a major bureaucratic headache and would likely preclude most development.

Tree Retention: I believe that the issue of tree retention is much more complicated in our locality than the simple approach identified in the draft Title 21, Module 3 Document. The new Title 21 proposes to use a simple canopy approach to on-site tree retention. I'm sure that there are many locations where this is a simple and appropriate means of accomplishing this goal, due to large canopy trees. In Anchorage however, trees don't get very large and many native growing trees are inappropriate for urban use. Following are a couple of examples of why this is not a very useful means of accomplishing the desired goal.

- **Class C Wetlands**. Much of the remaining property available for development in the Anchorage Bowl is situated on Class C wetlands or deep peat. The predominant vegetation type is a mix of black spruce, birch and variety of wet-tolerant shrubs. Developing such a site requires excavation of the peat and replacement with gravel. In cases where portions of existing vegetation have

been left in place next to new gravel fill, water from the peat migrates into the gravel and much of the existing vegetation dies as a result of drying out. On large tracts, where significant blocks of this material can be left it can work, however small blocks of preserved vegetation of this type are unlikely to be successful.

- **Shade Tolerance and Exposure**. I have worked on several projects where we have tried to preserve the native species already on site. Many of the ground species in our native boreal forest are shade loving plants. Once the forest is opened up due to development, shade-loving ground plants often quickly die off to be replaced by less desirable species of alder and other materials.
- **Second Growth**: Much of the property in Anchorage has already been cleared once and is now covered with a second growth of poplar, alder and other pioneering species. These plants will show up on aerial photographs as existing trees and developers may be asked to retain this material as a result. The Town Square development, presented during the workshop is a case where this is true and having to preserve this "second growth" vegetation would have had a significant impact on property development. If tree retention is a priority, the nature of the vegetation should be a determining factor for retention.
- **Cottonwood Trees**: Although others might disagree, I believe that Cottonwood trees are inappropriate in an urban setting. Many communities expressly prohibit planting Cottonwood trees. Although they get large, the soft wood makes them hazardous in high wind conditions and they create a great deal of litter. Because of their large canopy, when assessed from an aerial photograph, cottonwood trees would almost certainly have to be retained to meet the requirements of this section.
- **Solar Access**: This code does not differentiate between deciduous and coniferous trees. In our northern latitude, property owners should not be required to maintain coniferous trees on the south side of a development that would block winter solar access.

If tree retention is a focus of the code, I believe that the only workable approach for Anchorage would be to require a site survey that identifies all trees with a diameter greater than six inches, as measured six inches above the ground. The Code could then require that 30% of all deciduous trees, excluding Cottonwood (or other specific species as identified) and perhaps 15% of coniferous trees outside of the building envelope be preserved. Coniferous trees situated on the south side of a proposed development could be preserved or not at the discretion of the developer. I have noted that these requirements should only apply outside of the proposed building envelope because there are a number of considerations that determine where a building goes on a site. These include required set-backs, soils, topography and other important considerations. Site vegetation should not take precedence in the determination of where a building is situated. The requirements of the current Title 21 would have impacted the location of the Fred Meyer Store in Eagle River and other projects studied during the workshop.

Although Title 21 states that requirements would not apply to properties that already have a single family residence or where 100 percent coverage is allowed, I would suggest that there are large urban areas where these requirements should not apply. Areas near the

Central Business District, Mid-Town, and proposed Transit Corridors should be exempt from these requirements.

21.07.030 Open Space: Of all of the sections within the new Title 21, this section probably has the greatest impact, both in economics and in influencing the future character of our community. The requirements of this section impacted all of the residential developments that were examined as part of the workshop. They tended not to impact commercial development, because there is a lower requirement and the landscaping required for parking lots and buffering can fulfill the open space requirements.

The draft Title 21 requires all residential development to set aside 30% of the total land for private open space and 10 acres of public open space for every 1,000 residents

Public Open Space:

The public open space requirement or fee in lieu is fundamentally a "parks tax" on any new development. I don't personally have an issue with it, however if we do this for parks, should we not be doing something similar for schools and other public use requirements?

It seems, by the way this is written, that it would promote a lot of small park units throughout the city. This could be a burden for on-going maintenance. It is very important that any new park acquisition be coordinated with the Parks and Open Space Master Plan. We should add no new parks and no new recreational facilities except as identified in the plan.

This type of requirement is more typical for communities that are rapidly developing into undeveloped areas. In Anchorage, most lands are already developed and we have a very good park system that services most parts of our community. Title 21 will deal a lot more with re-development than new development. If we as a community are unwilling to pass park bonds to improve and maintain our existing parks, is it really fair to impose a tax on developers to accomplish what we as a community are unwilling to fund?

If a public open space requirement is maintained in Title 21, I would suggest that the verbiage be such that any "fee-in-lieu" can be used for improvements in existing parks and not restrict such fees to the purchase of new park lands.

Private Open Space.

The requirement to set aside 30% of the total land area for residential development of five units or more is, in many cases, excessive. The lesser requirements for commercial mixed use and industrial development would appear to be redundant with other requirements and for many locations seem inappropriate.

While this requirement is obviously responding to the open space vision of the MOA 2020 Plan, I believe it fails to account for the fact that the vast majority of the Anchorage Bowl is already developed.

For many types of residential development, there are merits to establishing open space requirements. This type of requirement however cannot be assessed uniformly to every residential development. This was clearly demonstrated during the workshop, when the Golden View subdivision was reviewed. In this subdivision of 450 homes, more than 90 lots would have to be eliminated to meet this requirement. In addition to the lost revenue for the developers this would result in 90 homes for which the Municipality would be unable to collect property taxes. The private open space requirement has a very real cost to everyone in our community and we need to insure that we are getting good value for the cost. In the case of Golden View, the lots are large and the subdivision has an open and expansive character. In this case, the private open space would really only benefit the homeowners in the development and not the community as a whole.

The inclusion of a requirement for usable private open space for high density multi-family housing, whether apartments or rentals, is much more important. In the cases of the Lake Ridge and Town Square developments, residents at both locations would clearly benefit from the inclusion of private open space. In these developments, there was no usable private open space. The only open space available was that required for parking lot landscaping. By the current draft of the Title 21, this would count toward meeting private open space requirements. Both developments are likely to have an abundance of resident children and no outdoor space to play.

A third category is residential development such as 7th Place at 7th Avenue and Cordova. Within some portions of city, where high density urban development is favored, there should not be a requirement for private open space. This should be determined by establishing high density or multi-use zones.

Following are some recommendations I would include for the private/public open space requirements:

- For residential lots greater than 10,000 square feet the private open space requirement should be 10% of total development or less.
- For residential lots of 6,000 square feet or less, require 15% private open space.
- For multi-family residential development (apartment or condominium) require 15% usable open space. Landscaping associated with parking lot screening or internal parking lot landscaping should not count toward fulfilling this requirement.
- Establish urban high-density zones where there is no private open space requirement for multi-family development. Areas near the downtown and

possibly mid-town would fall into this category. The 7th Place development examined during the workshop is an example of this type of development.

- The location criteria established in draft Title 21 identifies a number of criteria for where the public and private open space should be located. The text states that this should be followed to the *maximum extent possible*. This is clearly open to interpretation and begs the question: Who determines what portion of the site is acceptable as open space?
- Eliminate the requirements for private open space for commercial and industrial uses. The 2020 plan identifies industrial uses as extremely important to our community. We should allow these lands to be used for industrial purposes without additional requirements that may complicate the use of those lands.

21.07.40 DRAINAGE, STORMWATER RUNOFF, EROSION CONTROL

During the workshop, there were no projects that this would have apparently adversely impacted. It was not discussed.

My comments are related to paragraph D, Erosion and Sedimentation Control.

Item 1 states: "The smallest practical area of land shall be exposed at any one time during development". My question would be: Who makes this determination and how will it be enforced?

Item 2 states: "When land is exposed during development, the exposure shall be kept to the shortest practical period of time." I don't believe this requirement (as written) is enforceable.

21.07.80 LANDSCAPING, SCREENING, AND FENCES

I believe there was solid consensus among workshop participants that Anchorage, as a community could do a better job of landscaping for much of the development we do. The new landscape requirements will result in increased landscaping for most developments. In some cases, the new requirements are probably a little excessive, and as currently written, the landscape unit system is overly complicated. That said, the new requirements, once tweaked should result in a significant improvement.

Purpose: Most of the items in the purpose section are appropriate and clear. I think item 9 should be rolled into the introductory paragraph, because unlike the other items it doesn't identify a specific community objective that will be fulfilled by requirements. I would also suggest that item 7 be deleted. Although the draft Title 21 requires that plants can only be used from an approved master tree and shrub list, I believe this is overly restrictive. There are a wide range of microclimates within our community and a certain range of experimentation should be acceptable. I would be more willing to accept this if

the Municipality could assure that plans would be reviewed by a Landscape Architect or Horticulturalist.

The Anchorage Chapter of the American Society of Landscape Architects is preparing a detailed set of comments relative to this section. Rather than get into the fine details, my comments focus on larger scale issues of this section.

- The "Unit" system for identifying landscape requirements is a workable alternative to our existing system, but needs to be simplified considerably and tailored a little to the local nursery suppliers. Almost all of our plant material is imported and that is a factor in the size of plant materials typically used in Anchorage. This is particularly true for shrubs. My personal preference would be to continue with our current system, but tweak the existing requirements to meet the objective of improved landscape. I am concerned that the "Unit" system will insert another level of interpretation into the review process.
- The proposed "Unit" system will require approximately doubling the plant material requirement of the existing visual enhancement landscaping. It does not need to be increased this much. The requirements should be fine tuned to about half-way between the proposed and our existing requirements.
- The perimeter landscaping requirements and the parking lot landscaping requirements should use the same system. Either both use the "Unit" system or both use the current system.
- If retaining existing vegetation is really a goal, give it a much greater impact in the "unit system. Instead of giving bonus percent, assign units to square feet of retained vegetation.
- In the current system, the first level of perimeter landscaping is referred to as "Visual Enhancement Landscape". In the new system, there are three levels of perimeter "Buffer" landscape. This seems to reflect an attitude that we need to be screening or buffering all of our buildings from the street. This is probably a matter of semantics, but it will likely be an attitude reflected in the review process.
- Make sure that minimum planting areas relate to the realities of design. As an example, the minimum width of a planting area for interior planting is 10 feet. This would preclude a foundation planting bed of six feet between a sidewalk and a building that is perfectly acceptable. In parking lots, the minimum size for an interior bed is 10 feet wide and 225 square feet. It is very common that an interior bed takes the place of one or two parking stalls. With curbs, these spaces are often 8 feet wide and 20 feet deep (160 square feet). This should be an acceptable minimum size.
- Provide a means for rewarding a development that incorporates a plaza or outdoor seating areas where they are appropriate. These typically cost a lot more than regular landscaping, but can provide a much greater benefit to the community. By the current draft, there is no way such improvements could count toward the landscape requirements.

- For planting area widths for the three buffer levels, provide some relief to the width requirements if fences or walls are used to augment landscape improvements.
- The irrigation requirement, as it is written will not serve its purpose. The biggest impact will be on parking lot and perimeter landscape. Even if installed, they would rarely be used. A better alternative would be to provide an incentive for a fully automated irrigation system. As an example, the bonding requirement for the maintenance period could be reduced or eliminated if an automated irrigation system was installed as part of the landscape improvements.
- Allow perimeter landscape requirements to overlap with utility easements, if not totally, at least to some degree. Easements are typically at the perimeter of the site, where landscaping is required.
- Eliminate or reduce the requirements for minimum species diversity. Landscaping should correspond to the concept of the architecture it relates to. As an example, the design for the new museum is a very minimalist design. The landscape corresponds by offering a very simple grove of Birch trees. This would not be an acceptable alternative under the new Title 21 requirements. Title 21 should not prescribe a specific design style.
- Reduce the requirement for retaining existing vegetation. The draft Title 21 requires keeping 50 of existing vegetation where it would fulfill the landscape requirements. In some cases this would be acceptable, in other cases not. It would be highly dependant on the type of development being done.
- The requirement for dumpster enclosures is valid, but I would question the need for roofs. In many cases, I would also question the need for opaque gates. These are very likely to get damaged in the course of operation and may end up being more unsightly than if there were no gates.

21.07.90 OFF-STREET PARKING AND LOADING

The off-street parking and loading section is generally good with the following comments:

- Increase the maximum parking allowable to at least 150%. There are lots of types of development and some generate far more trips than others. Additionally, some uses, (hospitals as an example) require overlapping shifts from employees, where the additional parking is really needed.
- The snow storage requirements will impact a lot of development. This was seen in the case of the new Fred Meyer building in Eagle River. Although the 20% requirement is accurate, provisions should be made for hauling snow. This is another case where the cumulative effect of the provisions of the new Title 21 will result in less efficient use of our lands.
- Snow storage placed on lawn areas with a permeable cover will still very likely kill the lawn underneath it. In shady areas it will definitely kill the lawn. Where snow storage occurs on lawn areas, it should have a depth of no greater than 15 to 20 feet from the edge of paving. If heavy equipment, such as front-end loaders are driving onto lawn area to dump snow, the compaction will destroy any turf. It

would be far preferable to store snow on hard surface areas. In those cases it can be left in place or hauled without damaging any underlying landscape.

- The minimum landscape requirement for interior parking islands of 1 tree and 6 large shrubs per 100 square feet is way too dense. In many cases it is not physically possible to place that much plant material.

21.07.100 NORTHERN CLIMATE DESIGN

I would suggest removing this section. It has no requirements, but simply references other sections of Title 21. Let's keep it simple. I believe that if a requirement is not a codified requirement, it should not be in the book.