

# Alaska Business Monthly

February 2006

**Title 21 and its broad-reaching effects: whether you are a business building owner, a building contractor, or a property owner—you need to be involved. Everyone will be affected by the new code**

Barbara Morgan

Recently, a real estate task force looked at the revenue implications to the Municipality of Anchorage for the current Title 21, and the cost consequences to building developers and consumers.

Anchorage's Mayor Mark Begich appointed 17 professionals in real estate to be on a task force that compared costs of building the projects under current code requirements and the proposed standards. All of the professionals agreed Title 21, as it existed, needed to be revised.

The task force examined seven development projects, including the Fred Meyer building in Eagle River, Golden View Park subdivision, Lake Ridge, Town Square and Seventh Place on Cordova. (Comments can be viewed in reports posted on the Anchorage Municipality Web site.)

## ASSOCIATED GENERAL CONTRACTORS RECOMMENDS EVERYONE GET INVOLVED

Dick Cattnach, executive director of Associated General Contractors of Alaska, recommended that everyone get involved. His advice: Give your input if you want changes. All segments of the public should be involved.

"As currently drafted, the proposed Title 21 revision could have several economic consequences, including higher development costs, lower land values and reduced property revenues to the municipality.

"It is also a serious issue for landowners who could see as much as a 40 percent reduction in land values. (Because of the expense of upgrades.)

"If implemented as currently written, the cost will result in a significant degradation of the value of real estate in Anchorage," said Cattnach.

Cattnach spoke of major policy regulatory inconsistencies in the regulations for compact development (the current town center concept has been up, not out), nonconforming uses, and the development approval process.

AGC sees impacts on the government in terms (1) of increased staff requirements, (2) a devalued tax base, and (3) the need for a new planning and zoning map.

A study done by Dowl Engineers, using a model of the new Alaska USA Financial Center on 36th and Centerpoint Drive, indicated that if this building had to comply to the draft of Title 21, the impact would be reduced office space by 26.4 percent and storage mechanical space by 11.5 percent.

The question is for a developer would this be feasible?

The Title 21 draft currently discusses traffic impact mitigation, connectivity and parking. Concerning parking for on-site pedestrian connections, it states: "A parking lot must minimize conflict between walking and traffic."

There must be weather protection for pedestrians. "Building and roofs shall be designed so that precipitation shall not fall on sidewalks, walkways or building entrances."

For perimeter landscaping, landscaping is required if there are more than four parking spaces. For interior landscaping, interior landscaping is required if there are 20 or more parking spaces. For off-street parking, minimums and maximums are established. Dumpsters must be screened. There is no grandfathering in. Every Dumpster must be screened in five years. Off-street loading areas must be screened. This would affect Carrs and other commercial business buildings.

Rooftop mechanical equipment on all buildings must be screened with similar materials. And there are lists of prohibited materials.

Title 21 looks at design standards for vibration (e.g., a compactor, or moving pile), air pollution (no visible emissions of any kind beyond lot line), and materials and waste handling.

#### BUILDING OWNERS & MANAGERS ASSOCIATION EXPRESSES CONCERNS

James Sawhill, president of Lounsbury & Associates, in his talk at one of the BOMA monthly meetings, discussed the need for Title 21 to be updated and better organized to reflect community expectations and priorities.

But how much are we willing to spend?

If you fall into the category of nonconforming with your property with Title 21, how will you be affected? You will be able to do minimum repairs and maintenance without having to meet code requirements. You will not be able to expand or enlarge without being up to code. If 50 percent of your property is destroyed, you cannot rebuild. If you are a nonconforming use, it may affect your ability to get financing.

Title 21 also will address zoning districts. There will be a new zoning map, and land-use map. So far R1 is the same, Alpine is the same, but some districts are eliminated. For example, the Southport planned community is gone.

Drafts of Title 21 look at steep slope development restrictions. If the slope is over 30 percent, it can't be developed.

It restricts building a retaining wall to a maximum height of 4 feet. This would have a tremendous impact on cost.

Properties must have 15 percent open space for commercial or mixed use.

Landscaping requirements are increased. For tree retention there is a new point system. You must have 75 percent trees in a tree tract. If you have more than 50 lots, you must retain trees within a lot or tract.

The draft also addresses architect standards for residential buildings. We have never had this before, says Sawhill.

New parking lot lighting standards require shorter poles and lighting levels. Owners have five years to come into conforming compliance. This would affect any project. For example, if a mall did any improvements, it would have to spend money to have its lights in the parking lot up to code, which, in some estimates, could be enormously expensive. Property would be devalued because of this expenditure.

Sawhill remarked that there have been changes to the first draft of Title 21 with the second draft in November, but there are still issues. "I would like to see the steep slope development standard changed.

"There has been improvement in the open space requirement; it is now on track. Landscape and tree retention have been greatly improved."

Most people will support tree retention, but the question is workability. Can the draft or final be flexible in how it occurs? BOMA Anchorage President Dave Le Clair, at one of the monthly meetings, expressed broad concerns about land availability and cost, inconsistencies, the requirements for open space, the issue of nonconforming uses, which will require improvements and repairs, the possibility of some property owners having difficulty refinancing and selling their property, and the impacts on government for increased staffing.

Title 21 was revised again Nov. 28 and its third draft was in process the first of this year so it is still subject to review, but some organizations have expressed a "high level of frustration" about important policy decisions being made without consideration.

#### LANGUAGE COULD BE SIMPLIFIED

In his testing workshop report for the first draft, Terry Schoenthal, a landscape architect with Land Design North Inc., recommended that some of the language could be simplified.

Other problems Schoenthal noted in the first draft included the steep slope provisions, which were overly restrictive and would preclude standard approaches typically used on steeper slopes of the hillside now. Additionally, the landscape provisions of the first draft were highly prescriptive and in testing, it was nearly impossible to place the required plant in the space available.

The snow storage requirements for the first draft required a significant amount of area set aside for snow storage that could not be counted toward fulfilling required parking. This would result in larger areas of pavement, the opposite of the desired outcome of the Anchorage 20/20 plan.

Provisions could be made for hauling snow. The draft requires 20 percent of parking lot areas for snow storage for commercial buildings. This affects such buildings as Fred Meyer in Eagle River. Some feel the impact will result in less efficient use of our lands.

There are still many requirements in the new Title 21, which are likely to be controversial. An example is the requirement to limit garages to 60 percent of the linear footage of the front of the house. Even many attractive and expensive homes with garages for three cars could not meet this requirement. Less expensive homes that require narrower lots to keep prices down are particularly impacted. Schoenthal suggests that perhaps the housing market and the desires of real estate buyers should determine how much garage should be included in a home.

All of these requirements, even though the intention is to improve the appearance and function of our community, come with a cost to everyone, either directly or indirectly.

Title 21 is enforcement of the Anchorage 20/20 plan. The 20/20 plan was a multi-year process, with strong community support. It sets a vision for the next 20 years.

One of the conflicts is in the desire to have open space parks we would have to create more dense development. Some feel Title 21 tends to reduce higher density and encourages greater sprawl.

#### THE COMMUNITY RESPONDS

AGC, representing 6.50 members, responded against the first draft of Title 21. The Anchorage Chamber of Commerce, representing 800 members, responded against the draft, also. "We have great concern that the impacts will be so substantial to business that you will be discouraging economic development." Anchorage Airport has its comments posted on the municipal Web site concerning how Title 21 should be consistent with Federal Aviation Administration regulations and how code compliance should be handled by trained professionals. The University of Alaska Anchorage responded to the proposed changes to Title 21 by commenting that the code may not work well for the university because the university must retain full authority to design its campus rather than sharing this responsibility with the municipality. Also, "to bring older UAA facilities into compliance with new standards would result in the expenditure of public funds."

The State of Alaska Department of Transportation and Public Facilities agrees with discouraging the design and construction of cul-de-sacs and dead-end streets, calling for connectivity between neighborhoods, but is concerned that some requirements will "substantially increase the cost of public projects ... at a time when federal, state and local funds are limited."

Anchorage Home Builders Association has commented the open space requirements in the draft are excessive and expressed its concern about the economic impact of excessive tree retention and landscaping. Currently decisions are made in a public process of lobbying, the community working

with the assembly. Those who have expressed support for Title 21 like the reassurance of having standards that are written in a book. Others want to be sure particular sections of that writing will not be too restrictive and costly.

Revisions for Title 21 are continuing. The next scheduled public hearing is Feb. 24.

While the original Title 21 was 150 pages, revised drafts for Title 21 have expanded to 600 pages.

Chris Duerksen of Clarion Associates of Denver, Colo., one of the consultants hired to rewrite Title 21, submitted his comments and conclusions, which are posted on the municipality Web site: [www.muni.org/planning/prj\\_Title21.cfm](http://www.muni.org/planning/prj_Title21.cfm). Community comments are also expressed on the Web site.

The purpose of Title 21 is to encourage efficient use of available land, to promote diverse quality housing, to provide appropriate development incentives to achieve an economically community, and to protect the environment.

#### DATES TO MARK ON YOUR CALENDAR

Public Hearing for Draft for Title 21

Feb. 24, 2006

Join Planning Zoning Commission/ Assembly Hearings

April 19, 2006

Planning and Zoning Action

Aug. 24, 2006

Assembly Deliberations

Sept. 12, 2006

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