



Municipality of Anchorage

Planning Department

Memorandum

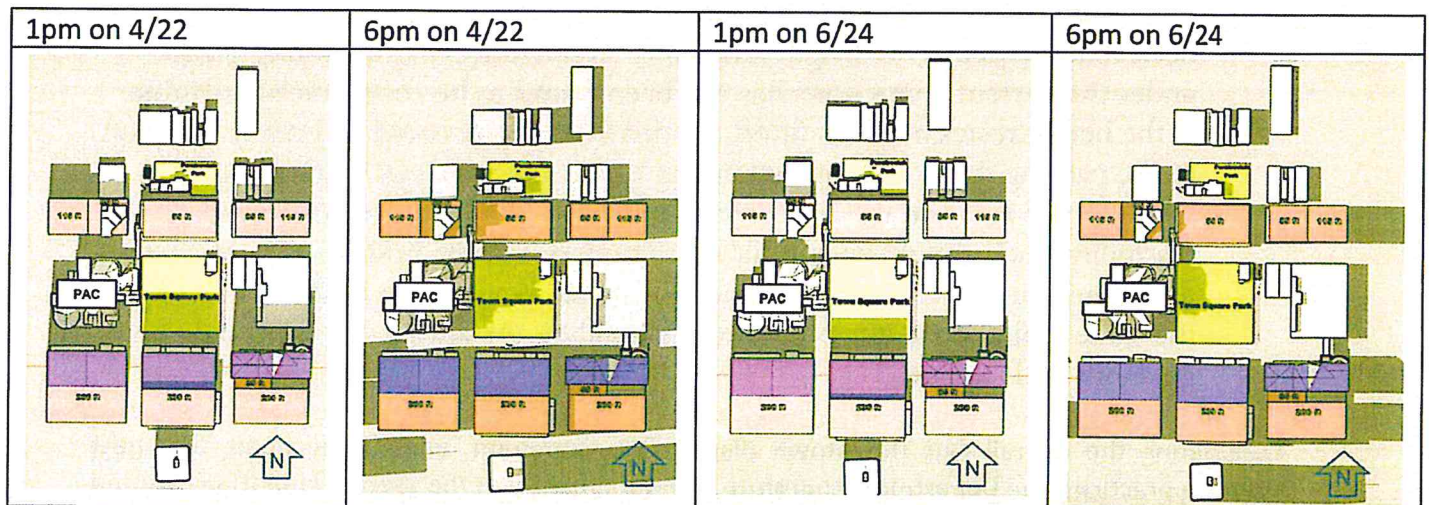


Date: May 18, 2023
To: Assembly Member Volland & Assembly Member Constant
From: Daniel McKenna-Foster, Senior Planner
Through: Kristine Bunnell, Long Range Planning Manager
Through: Craig Lyon, Planning Department Director
CC: Steve Rafuse, Superintendent, MOA Parks & Recreation
Subject: Height Restrictions South of Town Square Park

Height Limitations for Blocks 69, 70, & 71 in Chapter 11 of Title 21

The recent Chapter 11 code update process sought to increase flexibility in order to allow more of the types of concentrated development that the community expects out of the densest area of the city. Under the new code, most properties in the B-2A and B-2B zones have no height limit except that which is imposed by the FAA for airplane approaching around Merrill Field. In the general area around Town Square Park, these FAA height limits range between 360 feet to 400 feet. Unlike other properties with the same zoning in this area, blocks 69, 70, and 71 still have a special height restriction between 200 and 230 feet.

Shadow Modeling Completed By The Department



Shadow modeling done by the Planning Department using the consultant model

On December 2, 2022, the Planning Department received the following comment from one of Anchorage's largest engineering and development firms, currently working on a project downtown in relation to the Downtown code update:

"The current code has height limits on Block 69 and 71. I may have missed the meeting where this was discussed and I wanted to better understand the intent. Has a shadow study

been completed that would support the height limitations? How were the heights determined?”

Following up, the Planning department was not able to locate any shadow study or reproducible modeling that could support these standards, but was able to use a recent model produced by the project’s consultants earlier in the Our Downtown analysis process. This model, which is available upon request, demonstrates that during the time outlined in code:

- 1) Increased allowable building height on blocks 69-71 does not create significantly more shadow for the lower half of the park than that which is cast by existing trees already, and
- 2) The existing Performing Arts Center (PAC) casts significant shadows over Town Square Park in the late afternoon and evenings during the same four-month period; this also seems to be a more likely time when a larger number of people in Anchorage may use the park. In fact, According to the [Anchorage Downtown Partnership](#), in 2022, the Town Square Park’s “Live After Five” concert series regularly held concerts from 5:30pm to 8:30 pm, when the blocks 69,70, & 71 cast no shadows over Town Square Park at all.

During the Area Wide Plan process for the D Street corridor several months later, the Planning Department heard from property owners and the general public about what to plan in this area which included Block 71. Public comments generally encouraged redevelopment and mixed use housing, especially for the JC Penney garage. Specific comments from one of the property owners of the northern portion of Block 71 stated:

“As we discussed one of the reasons that the JCPenney parking garage has not been redeveloped is the height limitation. Rebuilding only a parking garage under the current restrictions has not been found to be economically feasible. If the height restriction was lifted, residential or hotel could be built in addition to the parking deck. My understanding is that the west side of property is limited to 75 feet and the East side is limited to 115 feet. An economic feasibility study should be conducted to understand the best density, of course the higher the better. My initial thought would be to go up to 200 feet which is the same limitation as the Nordstrom’s building. As always, we appreciate your guidance and support.”

Considering the overall Our Downtown plan, public comment, community need, and best planning practices, the Department therefore recommended that the specific limitations around Town Square Park be reduced.

History of Special Height Restrictions Around Town Square Park

The [1983 Central Business District Comprehensive Development Plan](#), adopted by the Assembly in the fall of 1983, discussed the application of specific height limits around a potential Town Square Park but also included discussion for compensating property owners for these restrictions:

“Among the possible mechanisms to be considered include terraced building facades (described in a later section of this chapter) or a limitation of permitted building height. The latter mechanisms might require some compensation to existing property owners, possibly in the form of transfer of development rights.” (pg. IV-10)

That adopted plan followed up with the following action item:

“It is recommended that the Municipality consider the adoption of height limits on certain key parcels, indicated in the long-term development concept plan. These limits might be expressed in the form of a maximum number of bonus points that would be allowed for urban design amenities—which might have the disadvantage of tending to discourage developers from providing needed pedestrian amenities—or in the form of transferred development rights—where a developer would be granted allowances on property elsewhere.”

AO 85-(173), as amended was signed on December 17th, 1985, during the time when the PAC was already in process for development. There is no evidence available for why the special height restrictions on blocks 69-71 require that shadows be assessed between 9 am and 3pm but not at any other time; as mentioned above the PAC itself begins casting the largest shadows sometime around 4pm and into the evening, when Town Square Park’s biggest events are scheduled. The experience of forty years since these discussions indicates that the bonus table system was never as successful as intended, and indeed the bonus system came up repeatedly as an obstacle to development in both consultant analysis and public comments during the Our Downtown process. A possible solution is discussed below in the section titled “Possible Solution for Moving Forward”.

Purpose of the Zoning Code

According to 21.01.030, the purpose of any zoning regulations in the Municipality is to: “implement the comprehensive plan in a manner which protects the public health, safety, welfare, and economic vitality” of the community. Weighing any changes to zoning against this purpose statement, the Planning Department must consider whether a stipulation that limits private property rights in favor of reducing shadows on a public park protects the public health, safety, welfare, and economic vitality *more* than allowing more flexibility for a redevelopment which could include new housing. Allowing the potential redevelopment of an aging parking garage in line with recent community comment has a clear economic and infill benefit. Restricting shadows from a potential development, on the other hand does not have as clear or easily quantifiable benefit to (or protections from violation of) public health, safety, or welfare.

Additionally, allowing more flexibility in zoning regulations for Downtown directly implements the following additional purpose statements from section 21.01.030:

- A. Encouraging the efficient use of existing infrastructure and the available land supply in the municipality, including redevelopment;
- B. Encouraging a diverse supply of quality housing located in safe and livable neighborhoods;
- C. Encouraging a balanced supply of nonresidential land uses that are compatible with adjacent land uses and have good access to transportation networks;
- D. Promoting well-planned development that reflects the municipality's unique northern setting, natural resources, and majestic surroundings;
- E. Providing appropriate development incentives to achieve an economically balanced and diverse community and to promote further economic development in the municipality;
- I. Promoting development in city centers and infill areas so as to create efficient travel patterns;
- K. Promoting a pattern of land use and development upon which to provide for adequate transportation, water supply, sewerage, and other public facilities; and
- L. Encouraging land and transportation development patterns that promote public health and safety and offer transportation choices.

Allowing more development Downtown leads to more residents, more tax revenue, more conservation in less urban parts of the city, and more people using park facilities with eyes on the street.

Changes to Title 21 Chapter 11 (Downtown) During the December 12, 2022 PZC Meeting

A previous version of the now-adopted Chapter 11 amendments included additional height restrictions, similar to those around Town Square Park, to be added to properties around Peratrovich Park. At their December 12, 2022 meeting, the Planning & Zoning Commission voted to remove these new restrictions. Vice Chair Krishna noted in additional findings that the staff report hadn't provided compelling information for why new height restrictions would be required, that she would want to hear from property owners about impacts to potential building scenarios, and generally did not see the case for adding them. The parallel height restrictions for parcels around Peratrovich Park were thus removed. This action indicates that were the existing height restrictions on blocks 69-71 proposed anew today, they would not be approved by the Planning & Zoning Commission.

Charter of the Municipality of Anchorage

Block 51 of the Original Townsite of Anchorage is mentioned in Section 20.01 Dedication of Land in the Charter of the Municipality of Anchorage:

"That portion of Block 51 of the Original Townsite of Anchorage which is at the effective date of this Charter amendment owned by the Municipality of Anchorage, or thereafter acquired by the Municipality of Anchorage, is hereby dedicated for use as a town square park providing open space in the downtown city center.(Initiative, prop. 1, 10-2-84)"

While section 20.02 of the charter prohibits the placement of buildings on this land, it says nothing about imposing height restrictions on surrounding properties in private ownership.

Possible Solution For Moving Forward

Previous conversations around blocks 69-71 have discussed air rights or transfer-of-development rights but processes for these transactions have never been formally established. The current discussion might be a starting point to begin talking about how to balance the desires of people seeking to preserve solar access to the park with private property owners using their properties within the allowances generally afforded by the zoning district. In terms of any kind of easement or transfer, the Planning Department would be happy connect willing sellers with any interested parties in order to begin facilitating that conversation.

