Exhibit A

Municipality of Anchorage

Community Development Department
Planning Division

MEMORANDUM

Date: **August 23, 2011**

To: **Mayor**

Thru: **George J. Vakalis, Municipal Manager**

From: **Jerry T. Weaver, Jr., Director**

Subject: Title 21 - Major Issues in Review of Mr. Coffey's Proposed Amendments

The Department was asked to review proposed amendments by Dan Coffey (consultant) to the provisionally-adopted Title 21. This memorandum contains the Department's responses to the proposed amendments, and descriptions of major policy implications of these changes. It is intended to assist the Administration in determining which of the consultant's proposed amendments should be forwarded for further community consideration.

Additionally, the Department has provided a tracked-changes version of Title 21 that identifies each specific individual amendment proposed by the consultant, and provides the Department's comment/recommendation where applicable. The consultant's changes appear in blue within the text (blue underlined is added text, ~~blue strikethrough~~ is deleted text), while the Department's comments are in yellow text boxes in the right margin.

The Department identified 37 major policy issues associated with the consultant's proposed changes, which are listed below. All 37 are described in detail in this memorandum, but major highlights are summarized in bullet points that follow:

- **Cumulative Impacts of Proposed Amendments**
  - If adopted as proposed, implementation of the Comprehensive Plan would be impeded
  - Many recommendations are contrary to Comprehensive Plan goals and policies
  - Some recommendations reduce longstanding current title 21 standards
  - Many recommendations extensively change or reverse provisions that were developed through years of analysis, public comment, and compromise
- **Removing the Comprehensive Plan as a Basis for Decision-Making**
  - Contrary to state law and municipal charter
  - Title 21 is not able to include all Comprehensive Plan guidance

- **Development Costs and Land Area Needs**
  - Overall economic impacts of rewrite have been tested and are generally positive (reduce costs) or neutral (insignificant cost changes)
  - Moderate increases in landscaping and pedestrian facility requirements in the Title 21 rewrite are offset by its lower, more accurate and flexible parking requirements
  - Land area needs for higher intensity uses will generally be less under provisionally adopted rewrite
- **Diminished Role of Urban Design Commission**
  - Training, policies/procedures have improved UDC from past problems
  - Member expertise more appropriate for design reviews (as assigned in prov. draft)
  - Without UDC, PZC will be overloaded, harming timeliness and quality of reviews, member recruitment and retention
- **Deleting the R-4A District and Commercializing the R-4 District (combines two issues)**
  - R-4A: needed for certain residential areas near commercial centers where there is pressure to rezone to commercial – preserves residential land for residential use
  - R-4A: requires housing but allows up to 49% commercial in a development
  - R-4: adding commercial uses negatively impacts existing homes and residents
  - R-4: adding commercial diminishes affordable multifamily housing land supply
- **Deleting the Mixed-Use Districts**
  - These districts are key to implementing the Comprehensive Plan and meeting future growth needs
  - Mixed-use districts differentiate the various commercial areas by scale and function
  - These districts allow the same wide range of commercial uses compared to current Title 21
  - These districts enable higher density projects using less land compared to current B-3 commercial
  - Incentivized rezonings will not disrupt business; mixed-use development is not mandatory
- **Reorganization of Use Categories and Allowed Uses**
  - Proposed amendments combine unlike uses, which may lead to potential use conflicts
  - Proposed amendments create nonconforming uses
  - Also removes protections for neighbors from many use types; possibly devalues land
- **Commercial Uses in Industrial Districts**
  - Proposed amendments fall back to current code; does not implement Comprehensive Plan or reserve industrial land for future needs and employment
  - Provisionally adopted I-1 district already allows many commercial uses while restricting grocery and general retail that conflict with industrial uses
  - Draft land use plan map redesignates many areas currently zoned I-1 to more appropriate commercial districts
- **Building Heights in Commercial and Industrial Districts**
  - Focusing most intensive office employment to major employment centers is a key component of Comprehensive Plan; limiting building heights in outlying areas is vital to this goal
  - For existing buildings, being over-height is not a nonconformity in the rewrite
  - Midtown properties can be exempt from height limits by incentivized rezones to RMU

- The vast majority of business properties outside of Downtown and Midtown are developed at less than three stories, so impact will be minimal

- **Reduced Stream Setbacks Diminishes Natural Resource Protection**
  - Increased stream buffers are essential for water quality maintenance and treatment, fish and wildlife habitat, maintaining stream stability, and controlling flood flows
  - Proposed amendments allowing more uses closer to the stream would increase costs for the Municipality and property owners from flooding, erosion, water pollution and turbidity, unstable channels, utility maintenance and re-locates, compromised habitat, NPDES permit issues, and increased flood insurance rates

- **Perpetuating Nonconformities**
  - Expands definition of "maintenance and repair" to the extent that nonconforming structures will never go away
  - Allows new nonconforming uses to be created
  - Weakens already-reduced standards for moving characteristics of use (parking, landscaping, etc.) towards compliance

- **Community Meetings Changed to Community Council Meetings**
- **Moving Planned Unit Developments (PUDs) from Conditional Uses to Master Plans**
- **Deletion of "Site Condo Ordinance"**
- **Deletion of Allowance to Rezone Less than 1.75 Acres into B-1A District**
- **Deletion of Requirement that Rezone Special Limitations be at Least as Restrictive as Proposed in the Application**
- **Street and Trail Review**
- **Expansions to the Minor Modifications Provision**
- **Code Stability Through Limitation of Amendments**
- **Deleting the R-2F District**
- **Increasing Multifamily Building Bulk in the R-4 and Nonresidential Districts**
- **Retaining the B-1B District**
- **Shifting Mixed-Use Standards from Applying to a District to Applying to Developments**
- **Airport Zoning – Retaining the T District**
- **Allowing Low Density Residential Uses in R-3**
- **Allowing All Tower Types in Residential Zones as Permitted Uses**
- **Deletion of Provisions in "Setbacks from Projected Rights-of-Way"**
- **Deletion of Neighborhood Protection Height Transitions**
- **Private Open Space—Significantly Reduced and Compromised**
- **Deletion of Connectivity Requirements**
- **Weakened Pedestrian Connections and Facilities**

- **Extensive Rewrite of Landscaping Section with Diminished Requirements**
- **Deletion of Dumpster Screening Amortization**
- **Watering-Down Street Facing Windows and Other Residential Design Standards**
- **Deletion of Townhouse Landscaping Standards**
- **Unclear Changes to the Definition of Improvement Areas**

Following are the Department's review and recommendations regarding the above major policy issues, numbered 1 – 37. These are presented in two sections: General, a discussion of three over-arching issues associated with the consultant's proposed changes; and Chapter Analysis, a chapter by chapter analysis of major proposed changes.

General

1. Cumulative impact of hundreds of individual amendments undermines the provisionally adopted Title 21 rewrite.

Issue: The consultant rewrote many sections of the code while changing words or sentences throughout other sections of the code which, if adopted, would have far reaching impacts. These effects include provisions that are inconsistent with the Anchorage 2020 – Anchorage Bowl Comprehensive Plan (Anchorage 2020) and other elements of the municipal Comprehensive Plan.

Response: The consultant's proposed changes to the provisionally adopted Title 21 rewrite include more than what the Department had anticipated from the consultant's original task, which was the identification of 8-10 major issues.

- The consultant's proposed amendments are extensive to the provisionally adopted code, which has been developed through years of public debate and compromise. The provisionally adopted code is based on direction from the Comprehensive Plan (Anchorage 2020), which called for a diagnostic analysis of that plan's policies in comparison to current Title 21. The consultant's proposal extensively changes and/or reverses much of the work that culminated thousands of collective hours of work done by the citizens of Anchorage, development and industry representatives, municipal boards and commissions, and the Municipal Assembly. The provisionally adopted code has been carefully and methodically crafted, and is a balanced calibrated set of new land use regulations.

- The effect of many of the consultant's revisions, if adopted, would be inconsistencies with the goals and policies of Anchorage 2020 – Anchorage Bowl Comprehensive Plan and implementation of the Plan in many respects would be compromised, and not possible in some instances.

- In addition to some of the consultant's revisions being inconsistent with the municipal comprehensive plan, some of these revisions fail to meet current Title 21 standards.

- This is basically taking Anchorage in opposite direction of the Comprehensive Plan as well as stepping back from where the existing Code has us today.

- The consultant makes proposed amendments in one part of the code without making necessary corresponding amendments in other parts of code. Amendments in one section affect other parts of the code sometimes in ways that are unintended or not immediately apparent because all parts are interrelated. This leads to internal inconsistency and confusion within the code. Without internal consistency, all users of the code will have a very difficult time interpreting and applying the code, which could lead to lengthened review and approval times for applications. In a worse case scenario, staff must either apply to the Department of Law for an interpretation, or request a code amendment from the Assembly. In the accompanying tracked changes version of the rewrite, the

Department has tried to note areas of inconsistency so that the magnitude of the problem can be understood.

Despite the consultant's reference to the Provisionally Adopted Title 21 as a "staff proposed code", it is a community product resulting from an extensive, eight-year public involvement process that included five (5) public review draft code iterations, including the provisionally Assembly adopted draft that was developed with the Assembly Title 21 Committee. Milestones in the process include: 21 public ("town hall") meetings, 50 presentations to interest groups, and 54 meetings with stakeholder groups; 55 advisory committee meetings including the Citizens Advisory Committee, the Title 21 Rewrite Boards and Commissions Advisory Committee, and the Real Estate Task Force; Thousands of written public comments; 16 public hearings from 2007 – 2010 at PZC and Platting Board; and approximately 115 to 120 meetings by the Assembly Title 21 Committee, 2005–2010 .

The Rewrite also reflects $669,000 in professional services by multiple national experts in planning and development; extensive pro bono site testing and review by various members of the development community; and 29,000 hours (14 person-years) of professional planning work by the Department.

Moving forward with Mr. Coffey's amendments would re-open many issues that took eight years of public process and professional analysis to resolve as well as introducing new issues not seen by many in the community. The proposed amendments are substantial and so numerous that it would take much longer to meet the Administration's schedule for completing the code. The Department will provide recommended amendments that respond to issues of most concern to the development community in addition to the analysis of the consultants proposed changes.

Recommendation: In the interests of keeping to the Administration's desire for an expedited adoption schedule, the Department recommends tabling most of the consultant's amendments now, and moving forward with adoption without most of them. There are near-term follow-up amendments anticipated.

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

Issue: The consultant has proposed a suite of amendments throughout the code to eliminate the Comprehensive Plan from being considered during land use decisions. He suggests that Title 21 should include all municipal guidance relating to land use decisions—in essence, Title 21 should replace the comprehensive plan, which would no longer need to be considered when making land use decisions.

Response: The Department disagrees with these proposed amendments. Removing the Comprehensive Plan as a basis for land use decisions is an unexpected proposal, and would not be appropriate for several reasons.

Both state law and the municipal charter require comprehensive plans as the basis for land use regulations and decisions. Section 12.01 of the municipal charter states

> "The Assembly by ordinance shall adopt and implement, and from time to time modify, a comprehensive plan setting forth goals, objectives and policies governing the future development of the municipality."

Section 29.40.030 of the Alaska Statutes describes the comprehensive plan as "a compilation of policy statements, goals, standards, and maps for guiding the physical, social, and economic development, both private and public, of the first or second class borough", and establishes that:

> "With the recommendations of the planning commission, the assembly shall adopt by ordinance a comprehensive plan."

The comprehensive plan cannot be replaced by another document, as the consultant's proposed language suggests in sections 21.01.060B. and 21.01.080D. Entitlements must conform both to the standards and regulations of Title 21 and also to the goals, policies, and objectives of the comprehensive plan. Title 21 is an implementation tool for the comprehensive plan.

The consultant proposes to place all of the goals, policies, objectives, and direction of the comprehensive plan into Title 21; this is problematic and is not possible. For example, Policy #2 of Anchorage 2020 states, "Land Use and Generalized Residential Intensity Maps shall be developed with each Neighborhood or District Plan incorporating elements of the Land Use Policy Map and shall guide land use decisions." Here, the comprehensive plan is specifically stating that maps that are included in various plans shall be applied to land use decisions. Another example comes from Policy #14, which includes the following statement, "No regulatory action under Title 21 shall result in a conversion of dwelling units or residentially zoned property into commercial or industrial uses unless consistent with an adopted plan." There is no way for Title 21 to implement that policy by only looking within itself. While the consultant is certainly correct in his desire to ensure that Title 21 implements the goals, policies, and objectives of the comprehensive plan (as noted in the language he added to the start of section 21.01.060), Title 21 cannot be taken in isolation.

One major component of a comprehensive plan is the land use plan map. This map identifies which areas of the municipality are designated for residential development (and at what density ranges), commercial development, industrial development, and other municipal needs, such as parks and recreation, transportation, public facilities, etc. This adopted map is the guidance for rezoning decisions by the Planning and Zoning Commission and the Assembly. It also indicates for the community where different types of future development will be. The map (and the entire plan) was developed with a solid understanding of and accounting for the current population, economy, land use, and transportation and utility infrastructure, as well as forecasts for growth and the community goals and aspirations for the future. Before going into effect, the map is reviewed by the Planning and Zoning Commission and adopted by the Assembly as part of the Comprehensive Plan. Without the direction of the map, land use decisions would be at the whim of the Assembly, with no thought given to how the community plans to grow and change.

The multitude of amendments proposed by the consultant would exclude the comprehensive plan from being a basis for rezoning decisions. The consultant does not take into account that the comprehensive plan includes more than just the Anchorage 2020 plan. Other elements of the comprehensive plan have important policies that must inform land use decisions, thus implementing the will of the community. For example, removing the comprehensive plan from consideration during entitlement decisions would mean that project reviews would not incorporate any reference to adopted plans such as the Parks Plan, the U-Med Plan, the Downtown Comprehensive Plan, the Hillside District Plan, etc. This would have a deleterious effect on plan review and begs the question: why did the municipality pay for and develop, and the Assembly approve these plans if the various plans were not intended to be used to evaluate proposed development projects?

Recommendation: Do not support the proposed amendments regarding the Comprehensive Plan. All proposed amendments in a variety of locations that remove the comprehensive plan as a guide in both purpose statements and approval criteria for various entitlements, should be rejected.

List of sections where proposed amendments should be rejected at a minimum:

- 21.01.060B. (conflict with comprehensive plan)
- 21.01.080D. (implementation and conformity to plans)
- 21.03.020M.1. (conditions of approval on a decision)
- PUD approval criteria (the department recommends this section be in 21.03.080; the consultant placed it in 21.03.110)
- 21.03.120D.1. (minor modification approval criteria)
- 21.03.160.E. (rezoning approval criteria)
- 21.03.170A. (purpose of site plan review)
- 21.03.170E.4. (site plan review approval criteria)
- 21.03.190C.9.k. (subdivision approval criteria)
- 21.04.020A. (purpose statements of residential zoning districts)
- 21.04.030A. (purpose statements of the commercial zoning districts)
- 21.04.030B.3.c. (district location requirements for B-1A district)
- 21.04.030E.3.c. (district location requirements for the RO district)
- 21.04.030F.1. (purpose statement for MC district)
- 21.05.E.3.b. (use-specific standards for Governmental Office)
- 21.07.010D.6.b. (criteria for alternative equivalent compliance)
- 21.07.060E.2.c. (pedestrian facility requirements in class B districts)

3. Claims that project costs and site land area requirements will increase and are used as a basis for reducing the minimum development standards

Issue: The consultant has proposed amendments in multiple sections of the provisionally adopted rewrite that reduce or eliminate minimum development standards. The basis for these

changes is the claim that the Title 21 rewrite would increase project monetary costs, and the contention that:

> "The regulations in the provisionally adopted code required the use of significantly more land for both residential and commercial development…in short these new requirements all increase the amount of land required for development for both commercial and residential."

According to the consultant, the only Anchorage 2020 policy relevant to using development standards is that the Comprehensive Plan "contemplates more efficient use of remaining vacant and underdeveloped land". He interprets this to mean that any individual site requirement, such as a landscaping bed, conflicts with the Comprehensive Plan.

Response: Despite claims of significant cost impacts and greater land area requirements, the evidence from cost comparison site tests (developed in partnership with consultants and with substantial input from the local development community) conclude that the new code will reduce direct monetary costs and land area requirements for most types of commercial, industrial, and multifamily apartment site developments. The proposed changes ignore the well known fact that landscaping, open space, and walkways help promote compact development, make it less costly to achieve, and preempt future public expenditures to make up for their absence.

To evaluate potential economic impacts from the Title 21 rewrite, the Municipality contracted with Development Strategies, Inc., a nationally respected economic planning firm, to prepare an Economic Impact Analysis (EIA) of the rewrite. Completed in 2008, the EIA estimates the immediate and direct economic impacts of compliance on individual properties. The EIA methods and assumptions were subject to public review and numerous consultations with the development community. The EIA study comprehensively models the potential economic impacts of Title 21 site development standards on commercial, industrial, and high density residential projects likely to be most impacted by the new standards.

The EIA cost comparison model has recently been updated to reflect the Provisionally Adopted rewrite, and respond to comments and suggestions from members of the development community for further testing of additional sites.

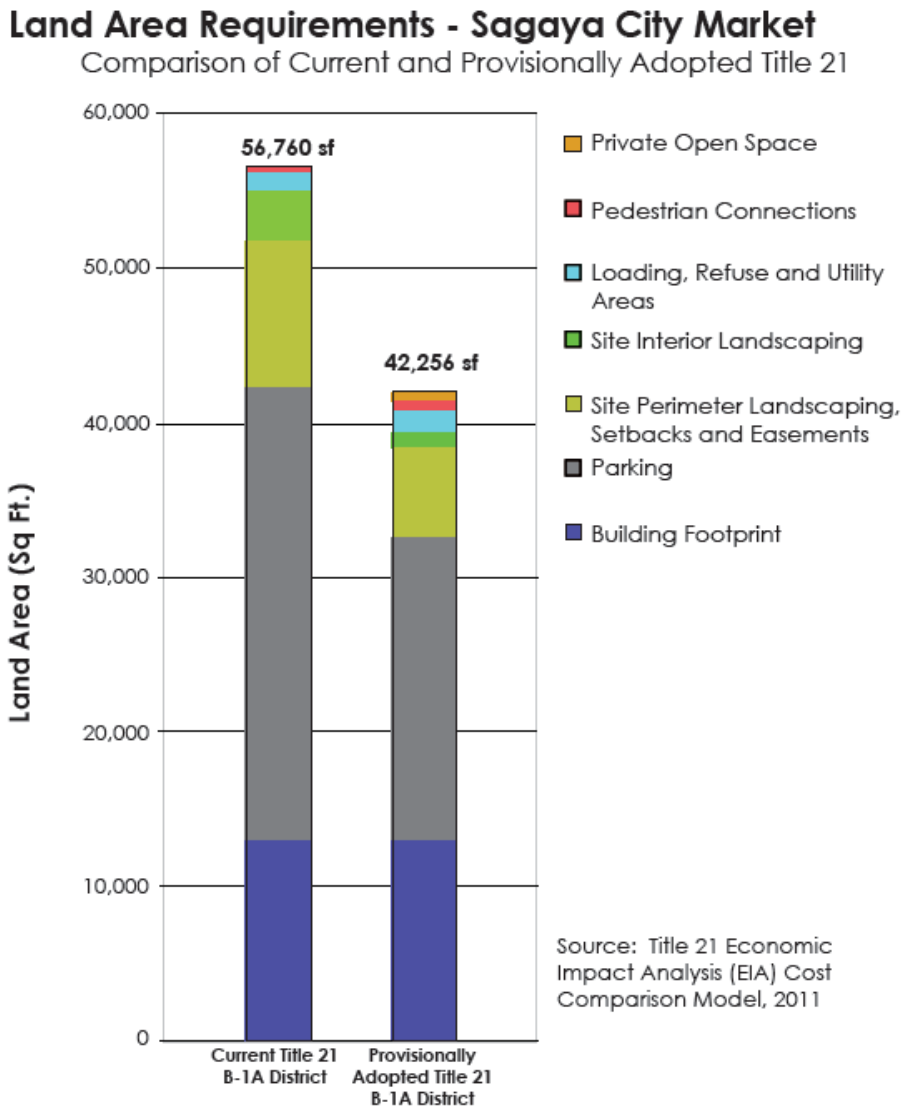
<u>The main finding of the EIA is that the overall economic impacts of the Title 21 Rewrite are, in fact, generally positive or neutral</u>:

- Development costs and land area requirements of zoning compliance are projected to be the same or lower under the new code, based on a majority of example site development scenarios tested.
- Land area requirements would generally fall for the higher intensity uses including offices, multifamily, industrial, mixed use, and certain retail uses.
- Parking requirements are the main cost incurred by current Title 21, and will be more flexible, efficient, and accurate relative to parking demand in the rewrite.
- Moderate cost increases related to improved landscaping and pedestrian facilities are in most cases offset or outweighed by savings from the more efficient parking requirements.

- Generally, the same size or larger buildings are enabled under the new code. Proposed height limits would be typically offset by parking reductions. Most development in Anchorage will continue to be more limited by market forces and parking needs than by zoning regulations, regardless of provisionally adopted height limits outside of Midtown. Both current and provisionally adopted Title 21 leave substantial room for greater density than Anchorage's actual prevailing pattern of development.

The results of two site development cost comparison tests by the updated EIA model exemplify these findings. The first example is an adaptive reuse/redevelopment, New Sagaya's City Market. This site was chosen because more investment and growth is anticipated to occur through reuse of existing sites.

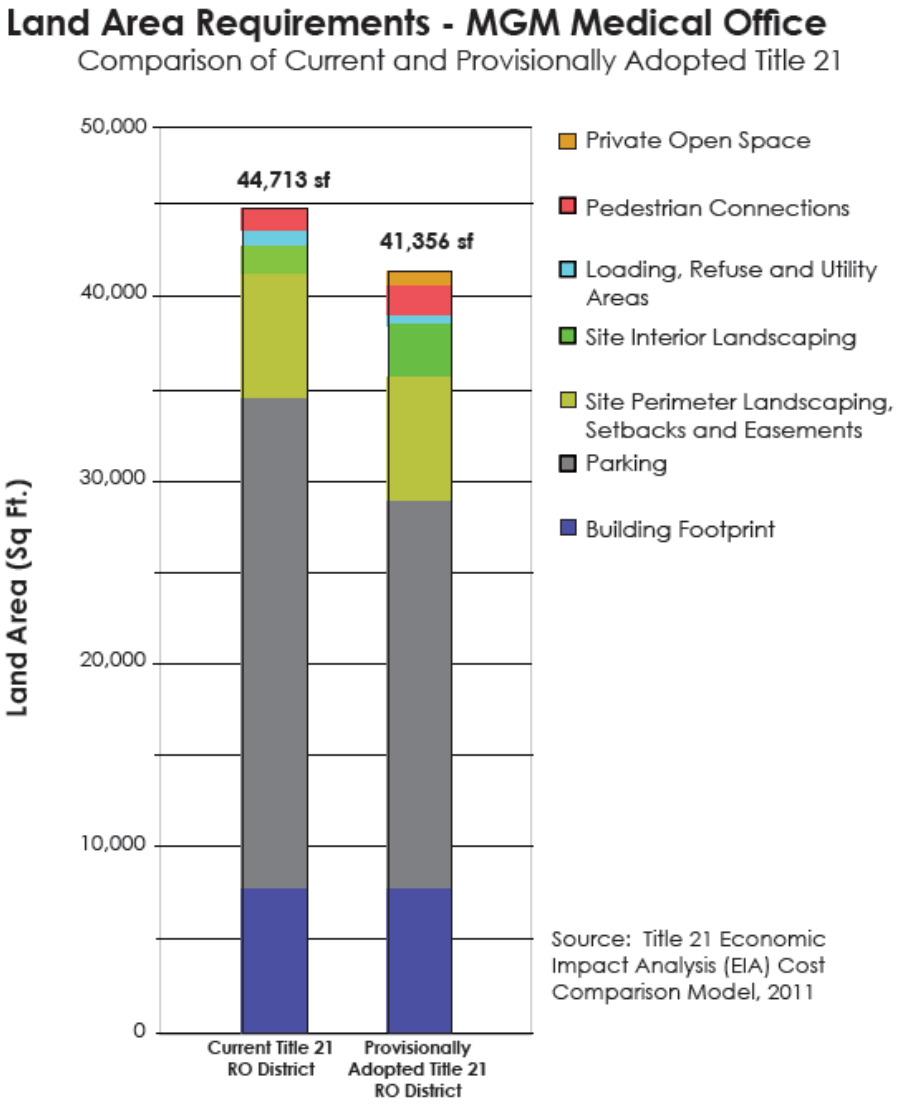
The land area requirement for City Market would be significantly lower under the Title 21 rewrite than current zoning regulations.



The right hand bar, which shows the amount of land area that would be required under the provisionally adopted rewrite, is actually about the same size of the actual site. Without the variances that this project received from parking and landscaping regulations, the current Title 21 would actually require more land area than is on the site. Therefore, the development as actually built more closely resembles the provisionally adopted requirements, and was only able to be built with multiple variances requiring review by the Planning and Zoning Commission.

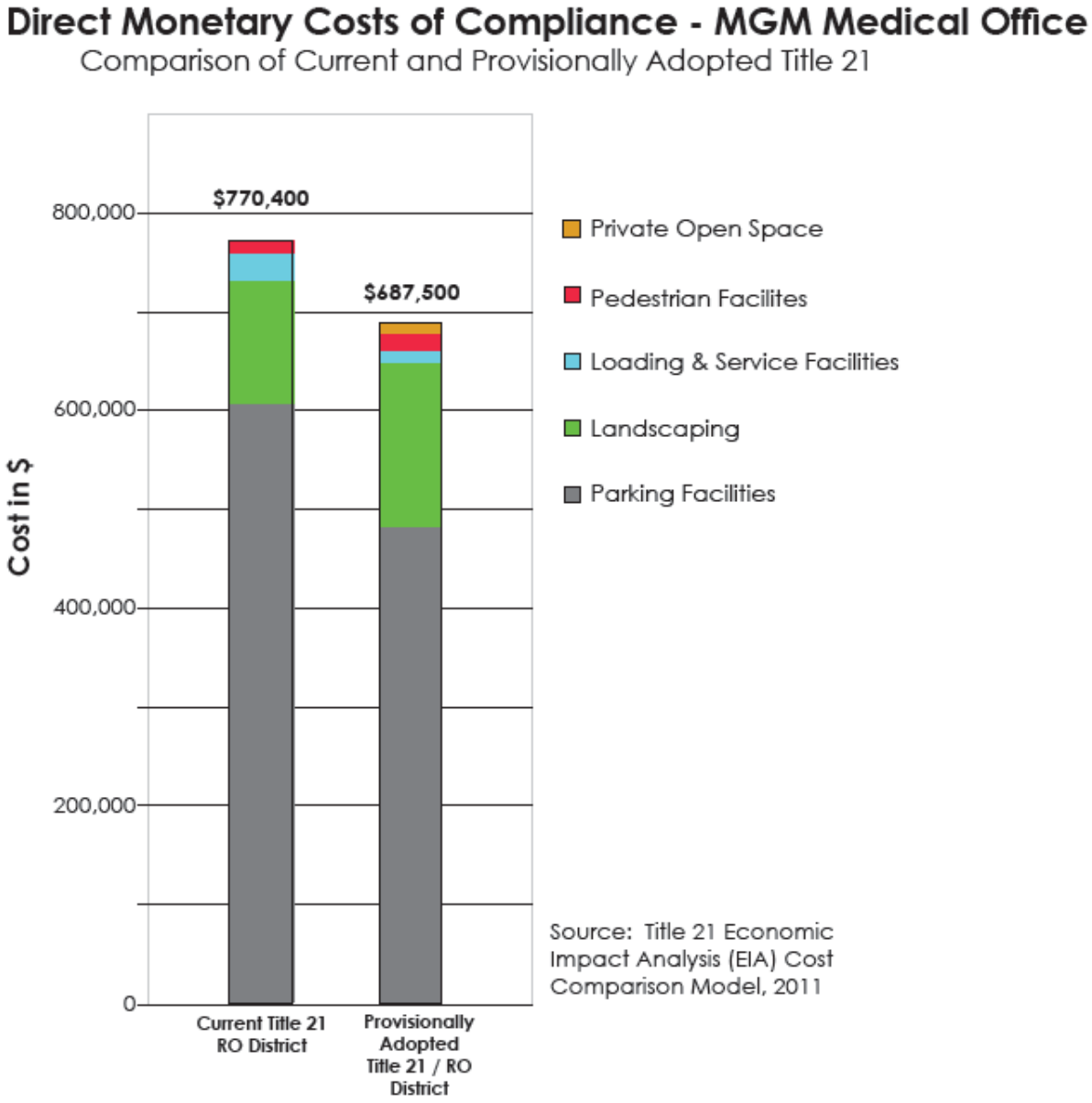
The second example is the MGM Medical Office building, a test site originally requested by the consultant. MGM is a small lot infill site development in a growing medical field business.

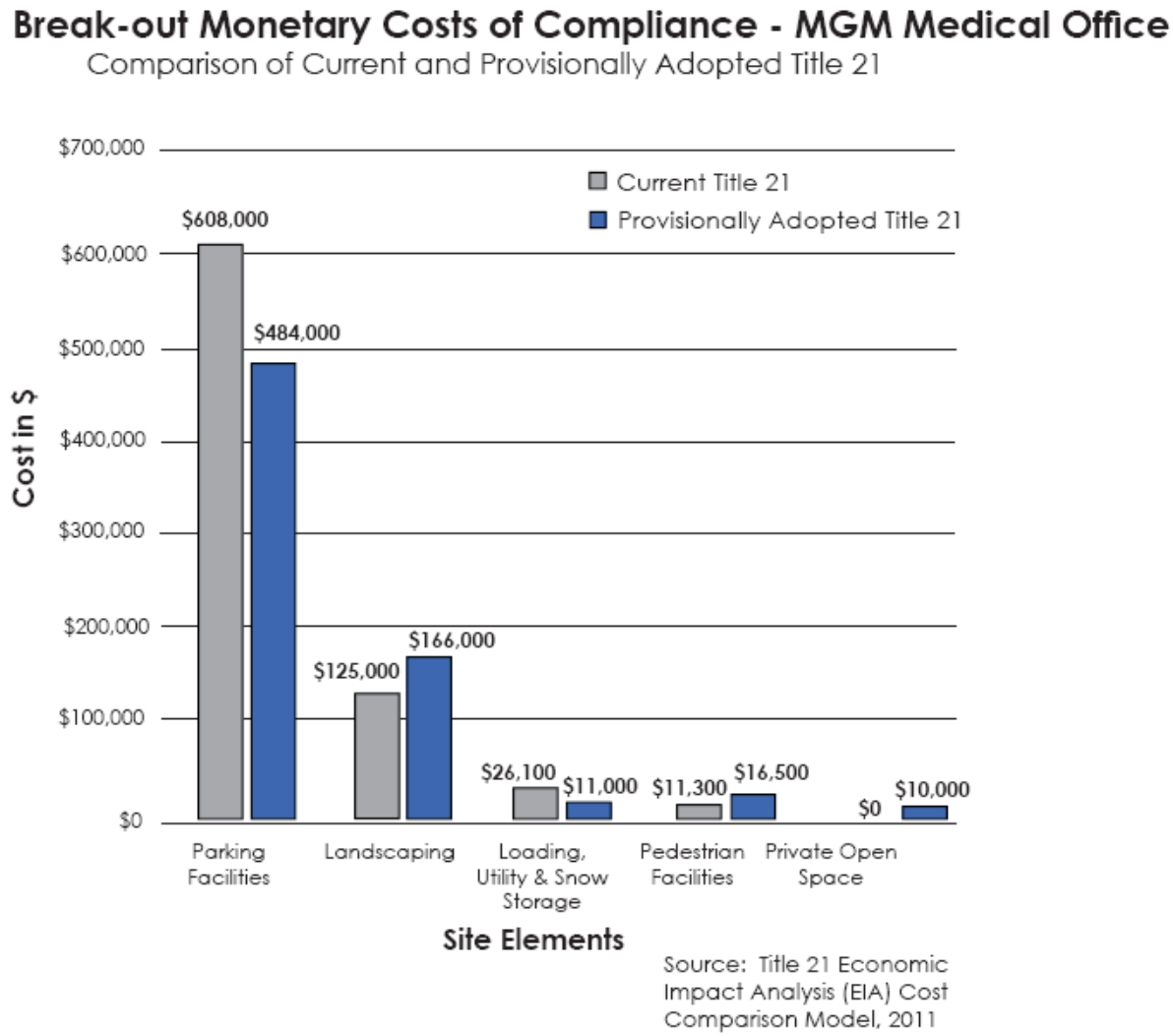
The first graph below shows that, as in the City Market example, the provisionally adopted Title 21 requires less land area than does current Title 21 to comply with site development requirements.



Land requirements under the provisionally adopted Title 21 would be reduced, mainly due to lower parking requirements that outweigh moderate increases to landscaping and open space requirements.

The following two graphs compare the direct monetary costs of compliance with the site development requirements of current and provisionally adopted Title 21. The second graph breaks out and monetizes each major required site element.





Parking requirements account for most of the costs of compliance under current code; the provisionally adopted code provides a somewhat greater balance between parking and other site features, although it leaves most site elements with only a tiny fraction of the overall cost.

The EIA cost comparison model also found that residential multifamily site development would experience lower costs of compliance with Title 21 site development standards. Under the provisionally adopted rewrite, parking requirements for Park Plaza II would be reduced from 163 spaces to 110 or fewer spaces, for a savings of more than $1M for the project.

Park Plaza II

Likewise, another test site, the Sunbeam Apartments, would experience a 10%-15% reduction in the amount of land needed to comply with title 21 site development standards under the provisionally adopted code.

Sunbeam Apartments at 1082 W. 26th Avenue

The consultant's statement regarding the Comprehensive Plan (Anchorage 2020) reflects a selective reading and misinterpretation of its adopted policies for future growth. Anchorage 2020 emphasizes efficient use of remaining vacant land as a necessary means of shaping developments to meet projected population growth, and to maintain natural open spaces. It emphasizes strategies that focus on Anchorage as an evolving community with higher densities around commercial and employment centers. In order to accommodate anticipated population and employment growth, development standards must be tailored to promote higher densities to make efficient use of dwindling land supply and full use of infrastructure investments. This was the thrust behind the Comprehensive Plan implementation strategy calling for the comprehensive update to Title 21.

Economic benefits to property owners from development standards can include:

- providing walkways promotes pedestrian access between uses, making possible a more compact and inviting development pattern within a district;
- reduced parking requirements opens up more land for building footprint; and
- enhanced landscaping can reduce use conflicts and protect property values in the general area.

These code details are based on successful methods from around the country; they are not trendy approaches to regulations. By contrast the consultant's revisions have not undergone detailed, comprehensive testing or economic analysis. His changes are not directed towards those ends and instead focus on the immediate costs of individual site elements, rather than looking at the bigger, long term picture. This approach has proved unsustainable and has not been supported by the public, nor has it proved to be successful across the country. It actually trends towards inefficient uses of land and in some cases poor quality development. Title 21 serves as the most important set of tools to support the future shape of Anchorage and consultant's proposed changes severely undermine this tool's role. In many cases his amendments and reversals of new regulations will restrict or delay this evolution towards a vibrant urban community.

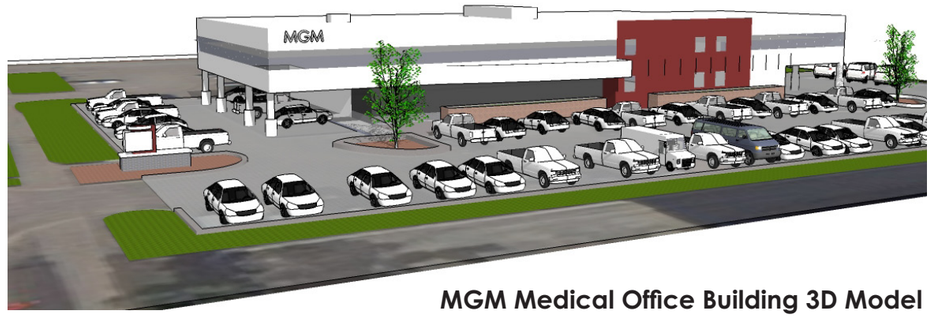
Recommendation: Do not support amendments that would negate the minimum standards for development based on unsubstantiated claims, which conflict with the best evidence available, that the cost and land area for development would increase under the provisionally adopted code.

Examples of sections where proposed amendments based on false premise regarding potential impacts should be rejected at a minimum:

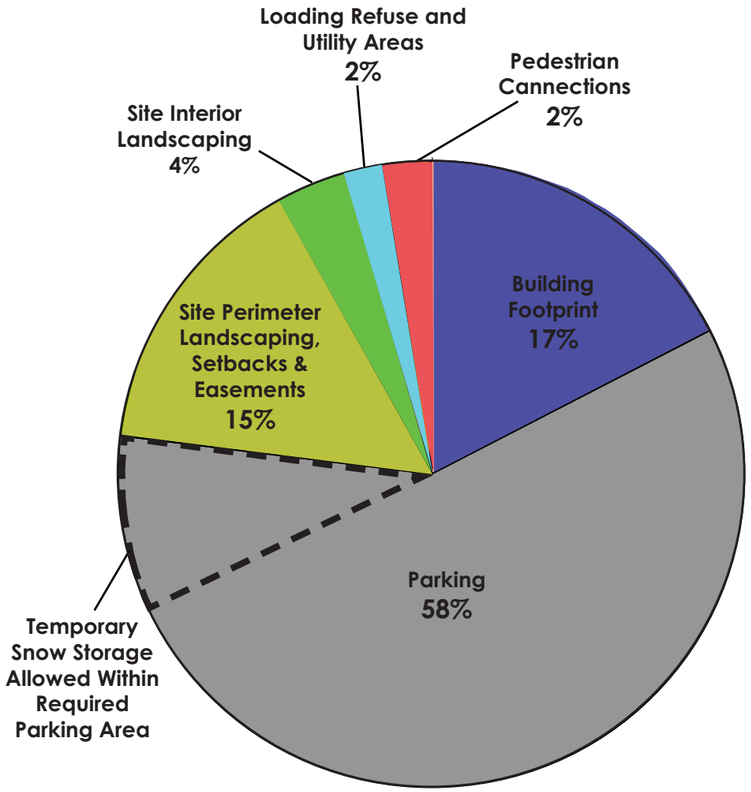
- 21.07.030. private open space
- 21.07.060E. pedestrian connections and facilities
- 21.07.080. landscaping requirements
- 21.07.110. residential design standards

Land Area Requirements as a Percent of Total Site - MGM Medical Office Building

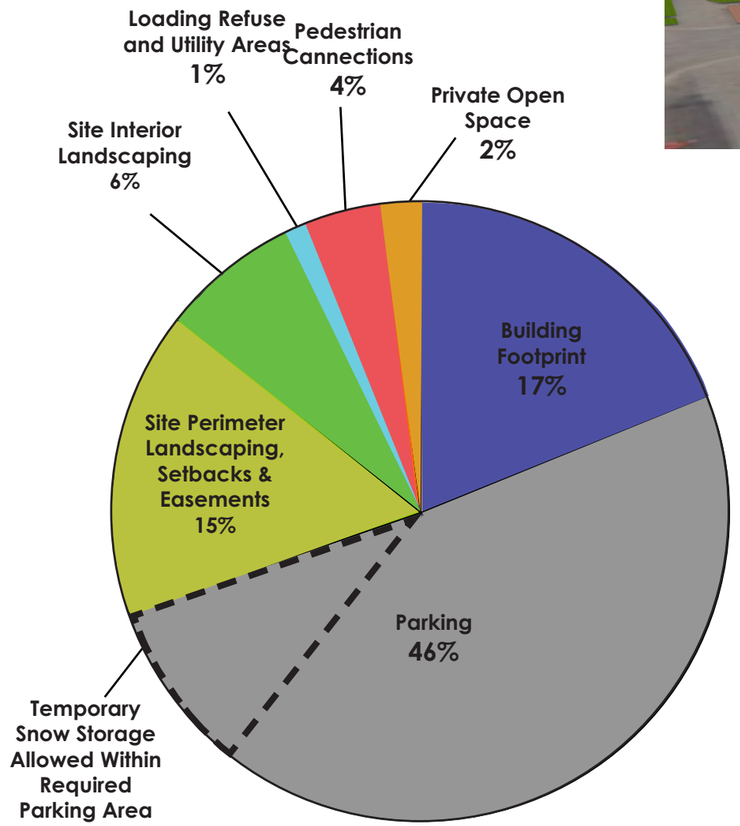
Comparison of Current and Provisionally Adopted Title 21



MGM Medical Office Building 3D Model



Current Title 21 (97% of Total Site Area)

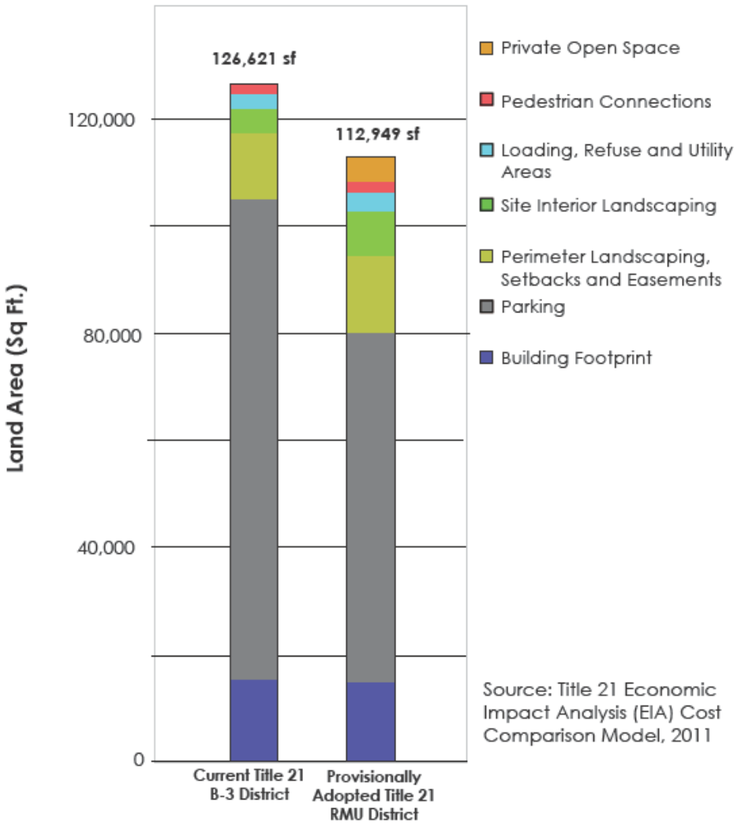


Provisionally Adopted Title 21 (90% of Total Site Area)

Source: Title 21 Economic Impact Analysis (EIA) Cost Comparison Model, 2011

Land Area Requirements - Alaska USA FCU Financial Center

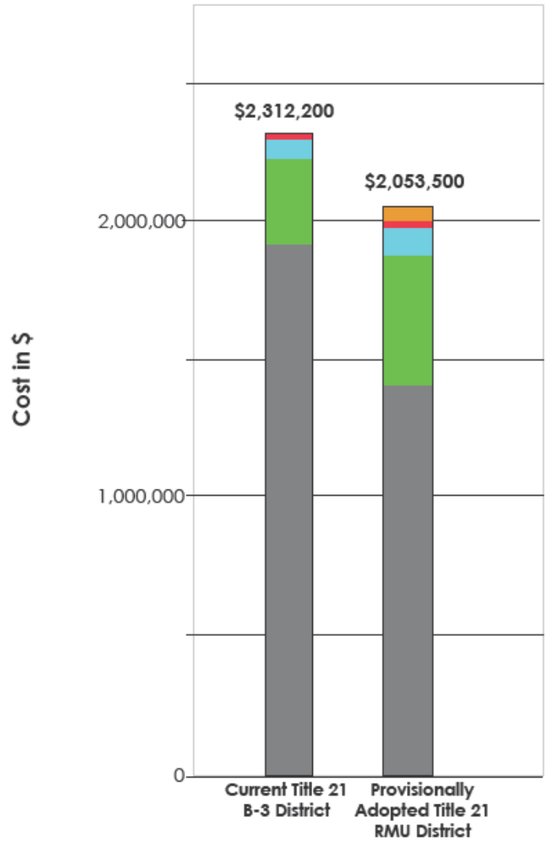
Comparison of Current and Provisionally Adopted Title 21



Source: Title 21 Economic Impact Analysis (EIA) Cost Comparison Model, 2011

Direct Monetary Costs of Compliance - Alaska USA FCU Financial Center

Comparison of Current and Provisionally Adopted Title 21



Source: Title 21 Economic Impact Analysis (EIA) Cost Comparison Model, 2011

Additional site cost comparison test using the EIA model:
Comparing Existing B-3 District and Provisionally Adopted RMU (Regional Mixed Use) District in Midtown

Chapter Analysis:

Chapter 2

4. Urban Design Commission (UDC), 21.02.040

Issue: The consultant has proposed significant changes that generate confusion regarding the role of the UDC. In chapter 21.02 he has reduced 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.)

Response: For a long time, the UDC was known to be a dysfunctional commission. In the last decade however, the Commission has evolved to be an efficient, necessary and strong regulatory body. Commissioners have received extensive training and new/revised rules and procedures, and as a result they have been successfully adjudicating case decisions. In 2008, the Commission was given site plan authority over certain developments (AO 2008-15), and this change has provided successful, creating more balance in the workload between the UDC and PZC, and bringing more design issues before the commission that has the members best suited to review such issues.

The UDC should be retained and should be assigned duties as identified in the provisionally adopted code, for two reasons. The first is that this commission consists of professional designers, architects, landscape architects, and others who are better trained and more capable of reviewing site designs. Therefore, the UDC is a more appropriate body to take on design review duties, such as major site plan reviews, and to hear appeals from applicants on staff decisions regarding administrative site plan reviews.

The second reason is that the planning and zoning commission would be overloaded with all the additional case work assigned to them as proposed by the consultant's amendments. This would result in slower approvals for the development community, a likely reduction in the quality of the reviews as the commission members become overloaded with cases, and more difficulty in finding citizens in all the required disciplines willing to serve due to the increased number of meetings and the workload.

Recommendation: Do not support the proposed amendments, retain the provisionally adopted draft and forward for adoption.

Chapter 3

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

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.

Response: The Department disagrees with the proposed amendment.

This issue was debated many times with the Assembly Title 21 committee—should public meetings that are required for certain developments be community council meetings or should these meetings be a separate public meeting? The primary concern was that the majority of community councils do not meet in the summer, and some may meet irregularly.

The Department recommends the public meetings should not be required to be community council meetings, for the following reasons:

1) The public meeting as described in the provisionally adopted code allows the applicant to hold one meeting when the project relates to multiple community councils rather than attending each applicable community council, which saves time, costs and effort;

2) As many community councils do not meet in the summer, the proposed amendment would place an undue burden on the community council president to respond to a summertime meeting request, arrange for a meeting location, and send notices to the community;

3) If the community council president is out of town and does not see an applicant's meeting request, then the public loses an opportunity to have a dialogue with the applicant regarding the project; and

4) The provisionally adopted code also allows the meeting to be a community council meeting if the applicant so desires, and staff anticipates this will often be the case in the non-summer months. If the applicant holds a separate community meeting, the community council will still be notified through the public notice process and will be able to comment on the application to the board or commission.

Recommendation: Do not support the proposed amendment.

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". His basis is "there appears to be no valid reason to make a residential planned unit developments [sic] a conditional use."

Response: This change adds an unnecessary step in the approval process of PUDs, increasing the time (and cost) of approval for the applicant, and adding unnecessary workload to the Assembly. One purpose of the Title 21 rewrite was to streamline development approvals, where appropriate, but the consultant's amendments do the exact opposite for PUDs.

In the current code, planned unit developments (PUDs) are a type of conditional use. In a PUD, the applicant proposes limited modifications to district and development standards, in exchange for a more in-depth review process and a density bonus. The Planning and Zoning Commission is the appropriate body to approve or reject the PUD proposal, in the same manner that the Commission rules on conditional use applications.

The institutional master plan is a new planning process, requested by the institutions in the U-Med area, to provide flexibility for their development plans. In exchange for providing the municipality with a detailed 10-year development plan, the institution no longer has to get a planning department approval for each new use consistent with the master plan (a building permit is still required). Like neighborhood and district plans, Institutional Master Plans also require Assembly approval.

If the two types of PUDs are reviewed as master plans, every new PUD in the future will need Assembly approval, as required in the master plan process. Requiring Assembly approval would unnecessarily add significant time and expense to a PUD project.

Recommendation: Do not support the proposed amendments, retain the provisionally adopted draft and forward for adoption.

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

Issue: Proposed deletion of Section 21.03.100 (E), which allows the Municipality to require commensurate public infrastructure improvements when there is no subdivision.

Response: The Department disagrees with the proposed amendment.

This section continues to be needed. Before this section became law in 2003, many development projects were constructed without the provision of the necessary infrastructure to support the developments. The section applies when there is no subdivision to prompt a subdivision agreement which provides for the orderly development of public infrastructure, as well as to paper-platted rights-of-way, and to development projects where the surrounding public right-of-way may have no infrastructure improvements or substandard infrastructure improvements. It allows for the upgrade of infrastructure when a project is of sufficient size to have measurable negative impacts on existing facilities that are not constructed to current municipal standards. It is not responsible for the Municipality to allow major sites to be developed without commensurate supporting work to be done for infrastructure. Otherwise, the taxpayers end up taking on bond interest obligations for roads and drainage projects that are needed when

infrastructure becomes worn out prematurely by the traffic and runoff generated by a new development.

This section of code was not a piece of legislation done in haste. It was carefully considered and vetted. As noted in the Planning and Zoning Commission resolution (PZC Resolution 2002-081), this section facilitates orderly development of the community, ensures that all developments will have the required public infrastructure improvements, is in accordance with the comprehensive plan, and is used as standard practice in other communities.

Recommendation: Do not support deletion of Site Condo Ordinance, 21.15.150.

8. Deletion of allowance to rezone less than 1.75 acres into B-1A, 21.03.16(B)

Issue: The consultant proposes to delete this current code provision, stating in his narrative that he has retained the B-1B district and "that the mixed-use provisions of the Neighborhood Mixed Use (NMU) proposed district are a permitted use in these two districts (B-1A and B-1B)."

Response: Disagree. The Department is unable to respond to the reasoning behind the proposed change, as the reasoning does not address the importance for small (less than 1.75 acres) neighborhood-serving commercial sites within residential areas under certain conditions, as is allowed under current code. This is the special function of the B-1A district as Anchorage's smallest scale commercial district.

Currently, the minimum sized area for rezonings in B-1A is 40,000 square feet (less than one acre). The provisionally adopted rewrite reduces this to 20,000 square feet to better position B-1A to address small corner commercial sites.

For most zoning districts, the minimum size of areas that may be considered for a rezone to a new district (rather than a rezone that adds on to an existing neighboring district) is 1.75 acres. This minimum area requirement prevents "spot zoning", which leads to zoning patterns that elevate potential conflicts between uses. However, there are certain applications of small zoning districts that are appropriate. For example, the current code allows rezoning of small municipally-owned areas into the PLI district in order to, among other things, accommodate small parks.

Another application of a small area rezoning that is appropriate is a small neighborhood commercial district within a residential area. Examples in Anchorage include the City Market (13th and I St.), the Fire Island Bakery (and a few additional properties at 13th and G St.), and 10th and M Seafoods. Under the consultant's proposed change, none of those developments would be possible today because it would be impossible to zone a commercial area small enough to be acceptable to a neighborhood.

Anchorage 2020 calls for additional small neighborhood commercial sites, which provide neighborhood services closer to neighborhood residents, with a scale and character compatible with the surrounding area. For example, there is currently a proposal to create a small mixed-use development on the corner of West Northern Lights Blvd. and Turnagain St. This idea is supported by the surrounding community and mentioned in the draft West Anchorage District Plan. Unfortunately, without the ability to rezone small areas (less than 1.75 acres) into a neighborhood commercial zoning district, this development will never come to be.

Recommendation: Do not support the proposed amendments, retain the provisionally adopted draft and forward for adoption

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

Response: Disagree with the consultant's proposed changes. This is an important provision from current code that needs to be carried forward. Today, if an applicant requests a rezone and proposes certain special limitations (SLs) on that rezone (such as "no gas stations, no liquor stores"—these are common SLs), the neighboring property owners review the rezone request with the SL conditions. If a neighboring property owner is satisfied with the situation, they will usually not comment and not show up at any public hearing, assuming that the rezone will most likely be approved with those conditions. The neighboring property owner has assurance that those uses which may decrease his/her property value will not be built next door. If the requirement for the final special limitations to be at least as restrictive as proposed in the application is removed, then the neighboring property owner has no assurance that there won't be a gas station or liquor store on the site in question. The neighbor will have to follow the case to make comments and testify before the Planning and Zoning Commission and the Assembly, even though the applicant has voluntarily proposed the restrictions. This amendment requires much more vigilance on the part of the neighbors to protect their property values, when one of the intents of the rewrite is to provide more certainty to the public and the developers.

Recommendation: Disagree with consultant's proposed amendments, retain the provisionally adopted draft and forward for adoption.

10. Changing the Street and Trail Review Process, 21.03.180

Issue: The consultant proposes changes to this section that are not consistent with current practice, including the memorandum of agreement recently signed with the State of Alaska/Department of Transportation regarding the review process for street projects, and the municipally-adopted Context Sensitive Solutions policy.

Response: This is a major change from how street and trail reviews are accomplished today. Currently, the planning and zoning commission reviews the various possible alignments and the general design, while the urban design commission reviews the landscaping and pedestrian facilities. The municipality and the State of Alaska spent a good deal of time working out an agreement, which was signed by the current administration, for how transportation projects will be reviewed and approved. If the changes proposed by the consultant are adopted, the agreement with the State will have to be renegotiated.

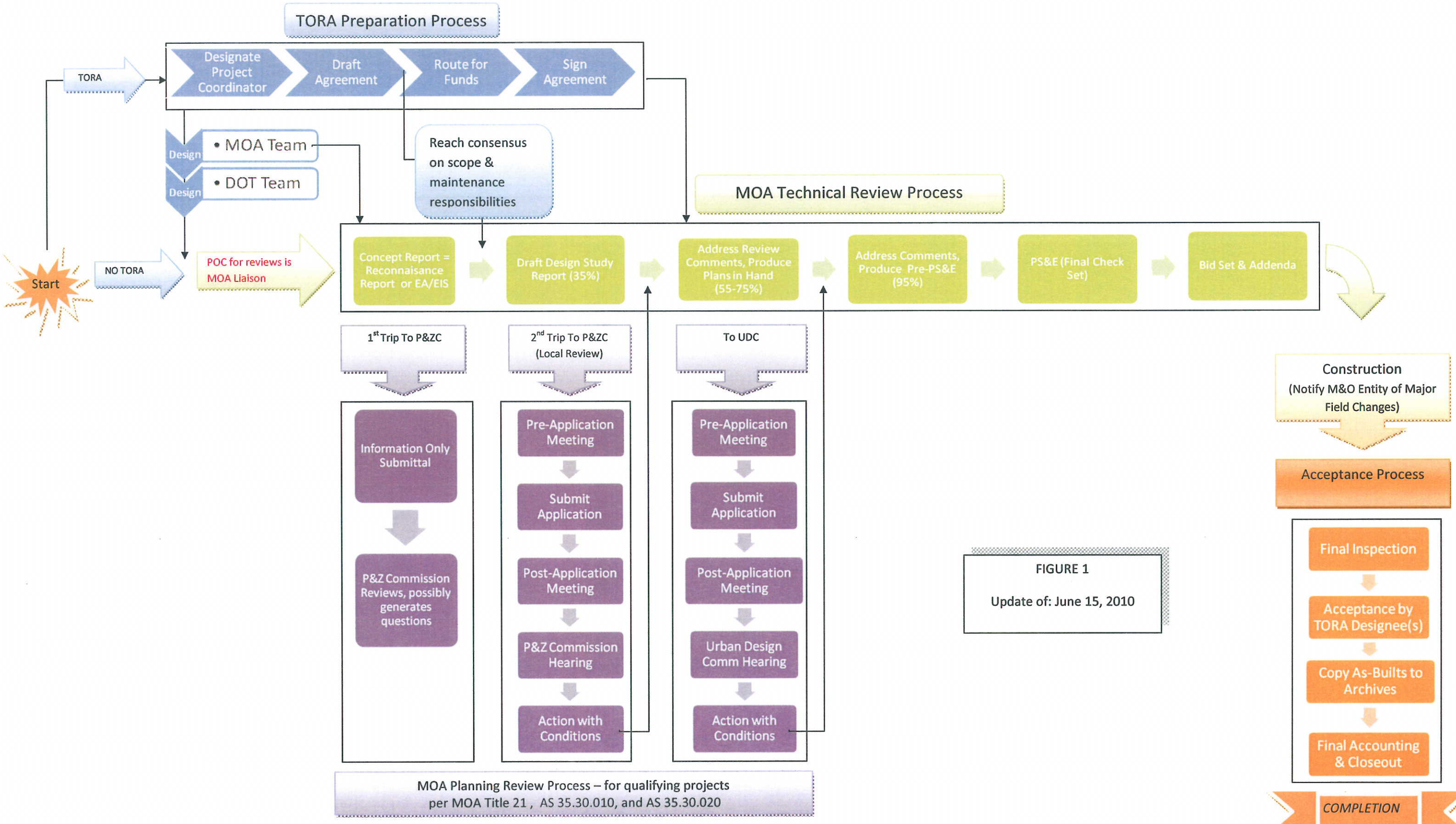
Applicants often complain when they have to go to multiple boards/commissions for project approval. However, unless an applicant is seeking a variance, this is very rare. In the case of street and trail review, the applicant is the government, and the enhanced level of review is certainly worth the time, given the use of public funds and the permanence of the facility being constructed.

Additionally, the proposed change from "community meeting" to "community council" in this section does not meet the adopted Context Sensitive Solutions (CSS) policy of the municipality. The CSS policy is about meeting with the stakeholders associated with a project. This may be a unique group that is not a subset of a community council. Transportation projects today hold public meetings above and beyond meeting with community councils, because the community councils do not have enough funding to reach the entire community.

Recommendation: Do not support the amendments. Retain and move forward with the language developed by staff in the Planning and Public Works Departments that reflect the agreed-upon processes.

(A diagram of transportation projects review process follows.)

COOPERATION PROCESSES –FOR STATE TRANSPORTATION PROJECTS WITHIN THE MUNICIPALITY OF ANCHORAGE



MOA Planning Review Process – for qualifying projects
per MOA Title 21 , AS 35.30.010, and AS 35.30.020

FIGURE 1

Update of: June 15, 2010

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.

Response: The minor modification provision, which is essentially a minor variance allowance, was developed in response to rewrite project objectives calling for both increased certainty and increased flexibility. The minor modification process supplements new site development standards with additional needed flexibility.

As provisionally adopted, the minor modifications allow the decision-making body to modify (by up to 5 percent) most of the design and development standards of chapter 21.07, and the lot and setback dimensional standards. While current code has a procedure for obtaining administrative variance for minor dimensional errors, it is only available for construction errors that result from excusable neglect, and the allowed variance is usually less than 2 percent. The provisionally adopted code has significantly increased the scope and allowance of the minor variance, both by removing the tie to construction errors, and by increasing the scope and the tolerance of the variance. This increase in the tolerance of the minor modification from 2% (or less) to 5% and allowing it to be applied for situations other than construction errors gives significant flexibility that did not occur under the current code.

The consultant has proposed four amendments to the minor modification provision that have pushed the scope and tolerance of the variance too far:

1) By making the Platting Board a decision-making body allowed to make minor modifications, the proposed amendments would open up plats to have the standards modified by up to 5 percent, which is a significant amount. For example, this could allow a 6,000 square foot lot to be reduced to 5,700 square feet.

2) The proposal would apply minor modifications to the zoning district standards. This undermines some of the basic protections in the zoning ordinance that are needed to prevent conflicts when different zoning districts abut each other. For example it could be used to increase the amount of commercial area allowed in the R-4 residential district, or reduce the amount of landscaping buffer between a commercial and residential district. Additionally, it could be used in the flood hazard overlay district or the airport height overlay district, which could put the Municipality in conflict with federal regulations.

3) The provisionally adopted draft limits the use of minor modifications to adjust no more than three different standards within the same development. The consultant has increased this number to four.

4) The proposal weakens the approval criteria. It requires the modification only to "substantially comply" with building and safety codes, rather than meeting those codes. It requires modifications to be "not significantly inconsistent" with the requirements of Title 21. That leaves no guidance on how to interpret "substantially compliant" and "not significantly inconsistent".

In summary, the proposal expands the minor modification to become a by-right reduction to standards that should instead only be reduced through exceptions processes.

Recommendation: Do not support the proposed amendments to minor modifications process. Create amendment to allow conflicting provisions, inconsistencies, or unintended consequences to be quickly changed within the first three years after code adoption.

12. Code instability through lack of limitation of amendments in 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.

Response: One of the purposes of the rewrite project is to provide more certainty to developers and the public. If Title 21 is amended at every Assembly meeting, it is impossible for users of the code and staff to keep track of what is the current and applicable code. This situation is also challenging since new code books are six months out of date by the time they are printed (the Department's most current code book only contains ordinances approved through September 30, 2009), and the code website (maintained by a contractor) takes more than six months to be updated. (Review of the Municode on 7/13/2011 shows that an ordinance approved on January 11, 2011 has not yet been incorporated into the code text.) A provision limiting amendments to twice a year will help the public, users of the code and staff to have a clearer and better understanding of what is currently adopted. The provision has exceptions for amendments that are immediately necessary to address public health, safety, and welfare.

Recommendation: Do not support the amendment. However, the Department has always agreed with Mr. Coffey that for the first couple of years after the rewrite is adopted, minor problems/inconsistencies/conflicts will crop up that need to be addressed quickly. The Department will propose an amendment that allows the Director of Community Development to determine that if an amendment is needed due to conflicting provisions, inconsistencies, or unintended consequences, such amendment may be immediately proposed and with a positive vote of the Assembly, bypass Planning and Zoning Commission review.

Chapter 4

13. Deleting the R-2F district in section 21.04.020F

Issue: The consultant proposes to delete the R-2F low-density multifamily district. The basis for this change is the claim that R-2F is "mixed-use residential", and therefore related to the mixed-use districts that he proposes to eliminate, so that property owners can construct a mixed-use development without having to go through a rezone.

Response: The department disagrees with the proposed deletion of this residential district.

The proposed amendment reflects total misunderstanding of the R-2F district. The R-2F is not a "mixed-use" district. It allows no commercial uses. It is a residential district that allows low-density multifamily. The only "mix" in R-2F is the mix of housing types allowed in this district, which includes single family houses, duplexes, and small multi-dwelling residential structures up to four units in size. This new zoning provides a buffer and transition between higher and lower density residential areas.

The R-2F was developed in response to public comments received during the rewrite, was part of two public review drafts of the code, underwent PZC hearings and approval, and was provisionally adopted by the Assembly without controversy.

Currently, the intensity of residential districts jumps from the R-2D zone which allows up to a two-family dwelling, to the R-2M which allows up to an 8-plex. The Department heard from residents in some R-2M neighborhoods where the predominant housing is single- and two-family, with some 3- and 4- plexes scattered in, that they were concerned that their neighborhoods could redevelop with significantly larger buildings and higher densities. The Department agreed that a residential district that allowed more density and larger buildings than the R-2D, but less than the R-2M, was appropriate for certain existing neighborhoods.

Comparable cities in size to Anchorage have a lower density multifamily zoning option available that accommodates smaller scale multi-dwelling buildings (townhouses, triplexes) while protecting small-scale neighborhood character, stability, and property values. This provides residential developers with a less controversial option for achieving rezonings up to multifamily zoning in transition sites that could provide housing opportunities.

Recommendation: Do not support the proposed amendment; forward the provisionally adopted R-2F district for adoption.

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 provisionally adopted R-4 multifamily district as well as in the RO and B-3 districts.

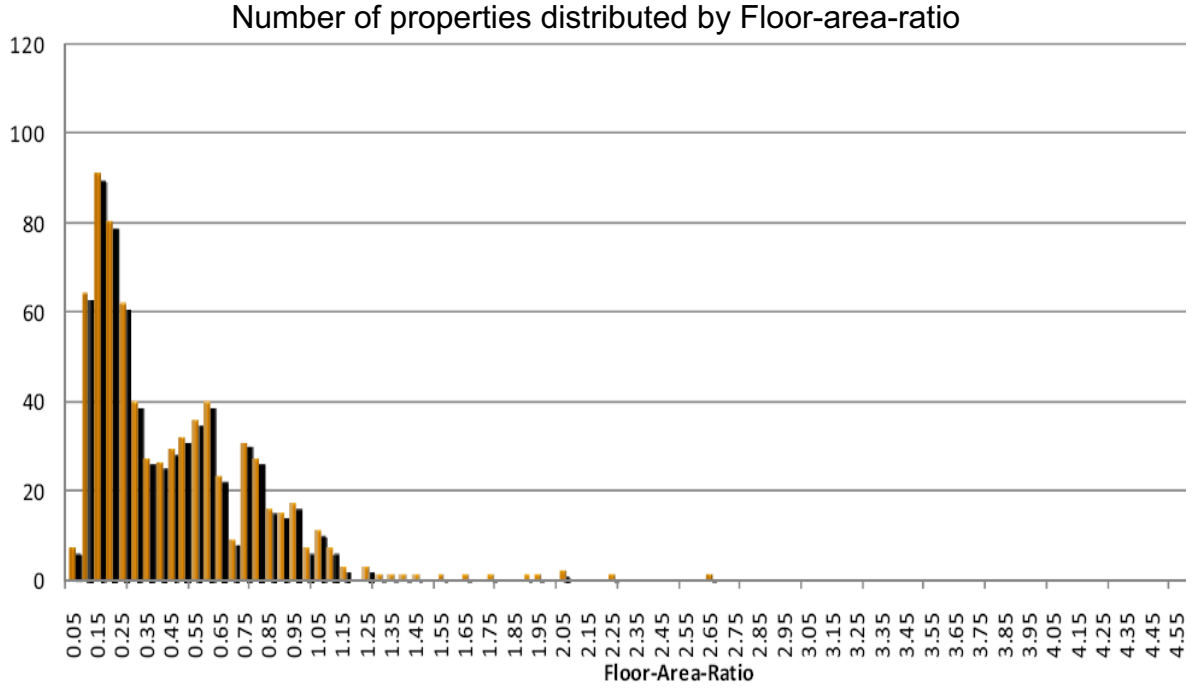
Response: The department disagrees with the proposed amendments. The provisionally adopted multifamily building bulk limit carries forward the current limits for multifamily bulk in

the R-4, B-3, and R-O districts. This is a longstanding safeguard that ensures appropriate building bulk and setbacks for residential development in these districts.

The current and provisionally adopted maximum allowed building bulk is a *floor-area-ratio* of 2. This maintains a reasonable building scale relative to the size of its lot, appropriate to the character of the neighborhood. It protects the value of neighboring properties, avoiding potential property owner conflicts.

This current bulk limitation is already substantially higher than what is found in prevailing development densities. Only a few dozen out of nearly 900 properties zoned R-4 achieve a floor-area-ratio of even 1, as shown in the following distribution curve. Market conditions and long-term economic forecasts indicate these patterns are unlikely to change.

Building bulk (Floor-area-ratio) of existing properties in R-4 District, 2008



Park Plaza II Apartment Homes at 16th and A is an example of one of the highest density developments in recent decades. Although it incorporates two levels of structured parking beneath the building and rooftop open space in order to maximize its site, it achieves a floor-area-ratio of only 1.6, nearly one-fourth less than the zoning bulk maximum of 2.

Park Plaza II has a floor-area-ratio of 1.6,
20% less than the maximum allowed bulk in R-4

The consultant's proposed amendment to double the maximum intensity development from 2 to 4 floor-area-ratio would be harmful to existing neighborhoods. Such building bulk would leave inadequate space for open space, yard setbacks, landscaping buffers, or daylighting within a residential district. The existing limitation is more consistent with Comprehensive Plan goals regarding the quality of design of residential site development.

There are a limited number of large sites situated next to the major employment centers of Midtown and Downtown which have potential for redevelopment to residential at a higher density, with mixed-use. A higher FAR in these locations could be appropriate adjacent to the city centers where they would have minimum impacts on adjacent existing neighborhoods. For these cases, the provisionally adopted Title 21 rewrite makes the new R-4A district available as a safety valve allowing higher densities and commercial mixed-use. (See Map 1 in issue 15, and discussion of Country Lane project concept in issue 16, below). As provisionally adopted, the new R-4A high density residential mixed-use district allows up to 3.0 FAR through bonus incentives. This is a very high urban density appropriate in some locations within major city centers.

Recommendation: Do not support the proposed amendments; retain the provisionally adopted draft and forward for adoption.

15. Commercializing the R-4 residential district in 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 (next issue). The consultant's rationale behind this is to enable property owners in any R-4 zone to build mixed-use projects without having to rezone to a new district, so that mixed-use becomes optional rather than mandatory.

Response: The department disagrees with the proposed amendment.

The proposed amendment would reverse course for the rewrite and render Title 21 in non compliance with the Comprehensive Plan, whose policies directing future growth state:

- Conservation of residential lands for housing is a high community priority. No regulatory action under Title 21 shall result in a conversion of dwelling units or residentially zoned property into commercial uses unless consistent with an adopted plan;
- Prevent underutilization of increasingly scarce multifamily zoned residential land for lower density and non-residential uses, and require a minimum number of housing units per acre;
- Encourage high density housing development near Downtown and Midtown major employment centers. In Downtown, facilitate multifamily development in the residential zones surrounding the CBD, and concentrate non-residential projects within the CBD core to jump-start its revitalization; and
- Protect existing neighborhoods designated for residential use from encroachment by incompatible land uses.

These policies are undermined if existing R-4 residential lots can be converted to 50% commercial.

Commercializing the R-4 multifamily district would be deleterious in several ways:

1) It would introduce commercial uses into existing neighborhoods that traditionally have been residential;
2) It would diminish housing affordability by introducing competing non residential uses on already scarce multifamily zoned lands;
3) It would worsen imbalances between the number of jobs in Downtown and Midtown and the supply of housing nearby;
4) It would cut the availability of urban living opportunities for multiple income levels and household types; and
5) It would impact residents of existing neighborhoods currently zoned R-4 (Map 1), by allowing commercial development and traffic to encroach into residential environments.

R-4 is Anchorage's only high density residential district. The supply of R-4 lands is limited (See Map 1, next page), and inadequate to meet anticipated future housing needs. Anchorage needs to reserve one residential district for high-density residential use without encroachment by commercial, and leave most existing R-4 zoned areas intact near Downtown and Midtown.

The provisionally adopted R-4A (issue 16), is intended to be the appropriate zoning district to accommodate residential mixed-use projects, and augment Anchorage's residential land supply by encouraging mixed-use residential in underutilized lower density residential and commercial areas near Downtown and Midtown.

Recommendation: Do not support the proposed amendment. Keep the R-4 intact as a residential district. Retain the provisionally adopted draft and forward for adoption.

16. Deleting the new R-4A residential mixed-use district in 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. His basis is the claim that new districts would require substantial rezonings which would be "disruptive to business and new development".

His proposal would allow mixed-use projects in the existing R-4 zone without having to go through a rezoning process, so that mixed-use becomes optional rather than mandatory.

Response: The department disagrees with the proposed amendment to delete the R-4A district. As discussed in issue 15 above, Anchorage needs to retain the existing R-4 multifamily district for primarily residential use. However, the city also needs a zoning tool to augment its existing residential land supply by encouraging (a) mixed-use housing in underutilized commercial areas, and (b) redevelopment of certain large sites currently zoned residential (e.g., R-2M, R-3, R-4) near Midtown and Downtown employment centers. The R-4A helps turn underutilized sites into high density urban housing. It allows but does not require commercial on the same site as the housing.

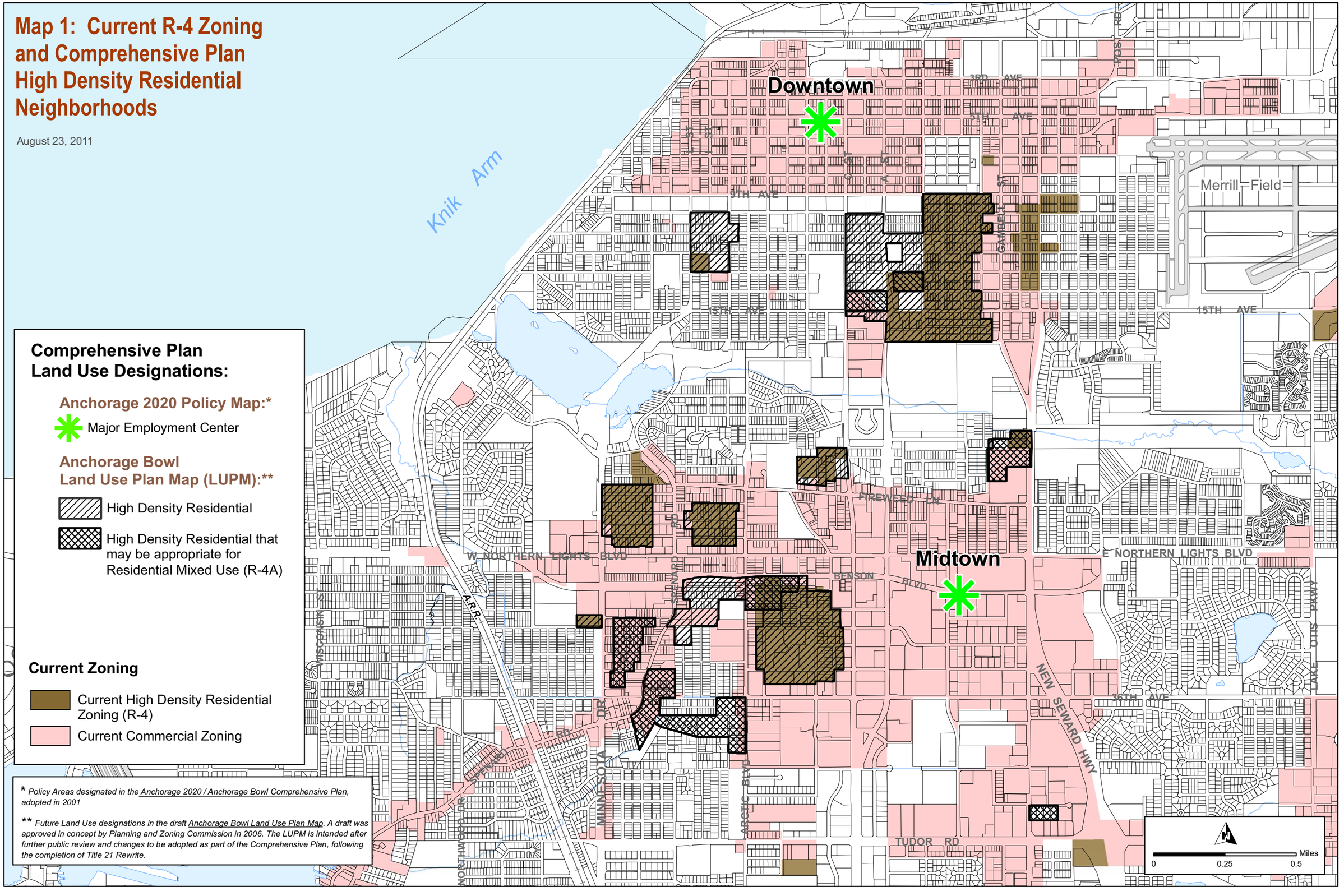
The R-4A is intended to be a release valve for certain large residentially zoned sites near commercial centers where an owner desires the higher value of commercial zoning, but the city desperately needs the residential land to be used for housing (Map 1). It is a very high density residential district that does not mandate or require mixed-use, but can allow up to half of a development to be a compatible commercial (non-residential) use. It allows greater return (because of opportunity to build some commercial) while preserving housing capacity that is compatible with an (urban style) residential living environment. It allows up to six times more commercial on a site than does R-4. Its regulations allow one-third more building bulk, which would be incompatible in most existing R-4 areas.

Anchorage needs to have contemporary zoning tools that are tailored to support the needs of mixed-use/redevelopment areas near Midtown and Downtown. Limiting the city to its current zoning toolbox does not simplify but continues to complicate or dissuade contemporary development projects.

A recent mixed-use project concept under consideration by a major property owner in Midtown exemplifies the use for which R-4A is intended. The concept for "Country Lane", illustrated below, is a high density, mixed-use residential project with 330 dwellings above ground floor commercial. R-4A can accommodate innovative projects like this by-right, which reduces costs and uncertainty. The citycurrently does not have any district tailored to accommodate this intensity of mixed-use development. Current Title 21 requires the city to manipulate existing districts into specialized zones with "Special Limitations" and "Planned Unit Developments" to accommodate the development pattern and uses to meet current market demands. This adds considerable time and expense to the project, which is then passed onto the buyer or renter.

Map 1: Current R-4 Zoning and Comprehensive Plan High Density Residential Neighborhoods

August 23, 2011



Comprehensive Plan Land Use Designations:

Anchorage 2020 Policy Map:*

- Major Employment Center

Anchorage Bowl Land Use Plan Map (LUPM):**

- High Density Residential
- High Density Residential that may be appropriate for Residential Mixed Use (R-4A)

Current Zoning

- Current High Density Residential Zoning (R-4)
- Current Commercial Zoning

* *Policy Areas designated in the Anchorage 2020 / Anchorage Bowl Comprehensive Plan, adopted in 2001*

** *Future Land Use designations in the draft Anchorage Bowl Land Use Plan Map. A draft was approved in concept by Planning and Zoning Commission in 2006. The LUPM is intended after further public review and changes to be adopted as part of the Comprehensive Plan, following the completion of Title 21 Rewrite.*

The consultant's proposed amendment also fails to achieve its own objective to allow mixed-use without rezonings. A majority of the sites ideally suited for taking advantage of the new R-4A mixed-use provisions are located in zoning districts other than R-4—such as the R-2M, R-3, and RO districts. The new R-4A district arose in part from discussions with the owners of large underutilized R-2M and R-3 zoned sites. Under the consultant's proposal, such sites would still need to rezone (to R-4) in order to have mixed-use.

Rezonings are not anticipated to be a barrier to implementation of the R-4A. Experience shows that rezonings occur as property owners review the advantages a new district for their development needs. Rezonings to R-4A can be supported and facilitated (and even incentivized) by the MOA where consistent with the Comprehensive Plan. Despite claims otherwise, gradual implementation of a new district through choice rezonings that benefit the property owner will not be very disruptive to business and to new developments. If that were the case, then property owners would not have proposed more than 140 rezonings in Anchorage over the last 10 years.

Recommendation: Do not support the amendment. Implement the provisionally adopted R-4A residential mixed-use districts as a new zoning option for the choice of property owners to obtain significantly more residential and commercial density at appropriate locations.

17. Retaining the B-1B District in 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). The basis for this change is to avoid "substantial rezoning throughout the Municipality" and "allow mixed-use development in existing zones".

Response: The department disagrees with this proposal to reverse the progress of the update to the zoning ordinance by bringing back the B-1B district.

The B-1B zone is an antiquated, rarely used district. There are only eight (8) lots (out of more than 67,000) in Anchorage zoned B-1B. Its restrictive development regulations coupled with a lack of the right kind of standards necessary to foster walkable, cohesive neighborhood centers

render B-1B neither favorable for property owners nor able implement the neighborhood mixed-use centers called for in the Comprehensive Plan.

As a result, the B-1B zone is unnecessary and has not been a part of *any* of the five public review drafts of the code in eight years of the rewrite project.

The provisionally adopted districts including the NMU neighborhood mixed-use districts sufficiently address the community's current needs and objectives. As one of the three mixed-use districts, the NMU creates a mixed-use center that facilitates compact site development for efficient use of land, more activities that coexist compatibly in close proximity, and stronger interconnections to allow walking and transit. In comparison to the B-1B, the NMU:

- provides more flexible provisions for lot dimensions, landscaping, and parking
- enables more intensive reuse, infill, or redevelopment of existing properties
- allows a third commercial story (allows building heights up to 45 - 50 feet)
- incentivizes mixed-use projects (mixed-use is optional not mandatory)
- incorporates *height transitions* and *buffering (see Issues 27 and 32 below)* for surrounding neighborhood protection and compatibility (and public acceptance for infill)

Unlike the consultant's proposed reconstituted B-1B, the advantages above in the NMU are available to all commercial uses (e.g., stores, offices), and not just for mixed-use projects.

To facilitate the retirement of the B-1B, the Department has initiated a rezoning of the eight (8) B-1B zoned properties to appropriate districts more advantageous to the development needs of the property owners as well as the relationship of the property to the surrounding neighborhood. The Department sent notices to the property owners, and has spoken with those who have responded with questions. To date, the Department has not received negative feedback from owners.

Recommendation: Do not support the proposed amendment.

- Carry through with the retiring the B-1B district
- Facilitate rezonings of the eight (8) properties to more advantageous districts for the needs of future development, at no cost to the property owners

18. Deleting the mixed-use districts in section 21.04.050

Issue: The consultant proposes to delete all of the new mixed-use zoning districts from the provisionally adopted Title 21.

The consultant's claim is that new districts would require substantial rezonings which would be disruptive to business and new development. The consultant contends that the provisionally adopted code would allow mixed-use projects only if property owners rezone to mixed-use.

Finally, the consultant also states that "staff has proposed" the mixed-use districts, which implies that these districts are not a community product nor have they progressed very far in community approvals.

The consultant proposes that, in order to allow mixed use when the market is ready for it without rezonings, the city should retain all existing commercial zones and address mixed-use within the existing zones.

Response: The Department disagrees with deleting the three new mixed-use zoning districts in the provisionally adopted Title 21.

Mixed-use districts are an essential key to implementing the Comprehensive Plan (Anchorage 2020)**.** Anchorage 2020 calls for mixed-use centers to create stronger focal points of urban activity within existing commercial areas. They would concentrate a greater share of new medium to high density development in order to use existing underutilized lands more efficiently and allow the transportation system to be planned and run more efficiently.

Anchorage 2020 directs that there be new zoning provisions in Title 21 to implement mixed-use centers at three (3) different geographic scales in these policy areas. These range from "major employment centers" that are the most intensely developed areas of the Municipality with the highest concentrations of office employment, down to the neighborhood scale focal points for community retail and services.

From the beginning of the rewrite project, it was recognized that several new districts would be needed to implement the mixed-use centers called for in the Comprehensive Plan.[1] Since then the mixed-use districts have been at the center of the development of the new zoning ordinance, and have been heavily influenced by a wide range of stakeholders, development professionals, and public officials.

The three mixed-use districts accomplish several things:

- Encourage the concentration of future development in well-defined, compact centers, and limit the number of high density major city centers;
- Differentiate the mixed-use centers by scale and function, just as Anchorage's residential zones today differentiate the residential neighborhoods, allowing a scale and function appropriate to each part of town;
- Apply district standards that facilitate compact site development for efficient use of land, compatibility between uses to enable more to coexist in close proximity, and stronger interconnections to allow walking and transit to be more practical; and
- Allow the same wide range of commercial uses allowed in today's commercial zones (RMU and CMU compared to current B-3; NMU compared to current B-1A and B-1B), while providing incentives for (optional) mixed-use.

[1] The Title 21 Diagnosis (2002) and Title 21 Annotated Outline (2003), both approved by Assembly, set the direction for the rewrite of the zoning districts in Title 21, which took place over four public review drafts.

Mixed-use districts with these functions are necessary to modernize the zoning districts. Title 21 was last rewritten more than 40 years ago and no longer meets Anchorage's needs as it moves into second generation growth (i.e., infill and redevelopment). The old districts are classic "Euclidian zoning" that separates uses and encourages development patterns that spread out over the landscape. This does not make for efficient use of land or wise use of the urban infrastructure already invested to serve the citizens of Anchorage. The old districts poorly addressed the transitions and connections between various uses in closer urban settings.

The general location of the mixed-use centers compared to current zoning is shown on **Map 2**.

Every few decades, cities update their zoning ordinances to respond to changing community circumstances and objectives. Creating new districts is common practice in order to evolve with the times. Cities across the country have successfully implemented mixed-use districts. They are a sound, current, and well accepted zoning practice that has generally replaced the "Euclidian" approach to land use regulation in commercial centers.

If the consultant's recommended approach were followed instead of the creation of mixed-use districts, it would be a major step backwards for the future development of the city. The consultant's proposal effectively cuts ties that the provisionally adopted Title 21 has with Comprehensive Plan goals and policies for future growth. It goes against an intentional approach to have specific zoning districts in place to achieve the various policies and land use recommendations of Anchorage 2020.

Population and employment growth in the Anchorage Bowl will continue, and to meet this growth, development needs to evolve to higher densities through infill and redevelopment. New zoning tools are needed to support and meet this market demand over the next 20 years. The consultant's proposal is a de facto fall back to the current code, with which:

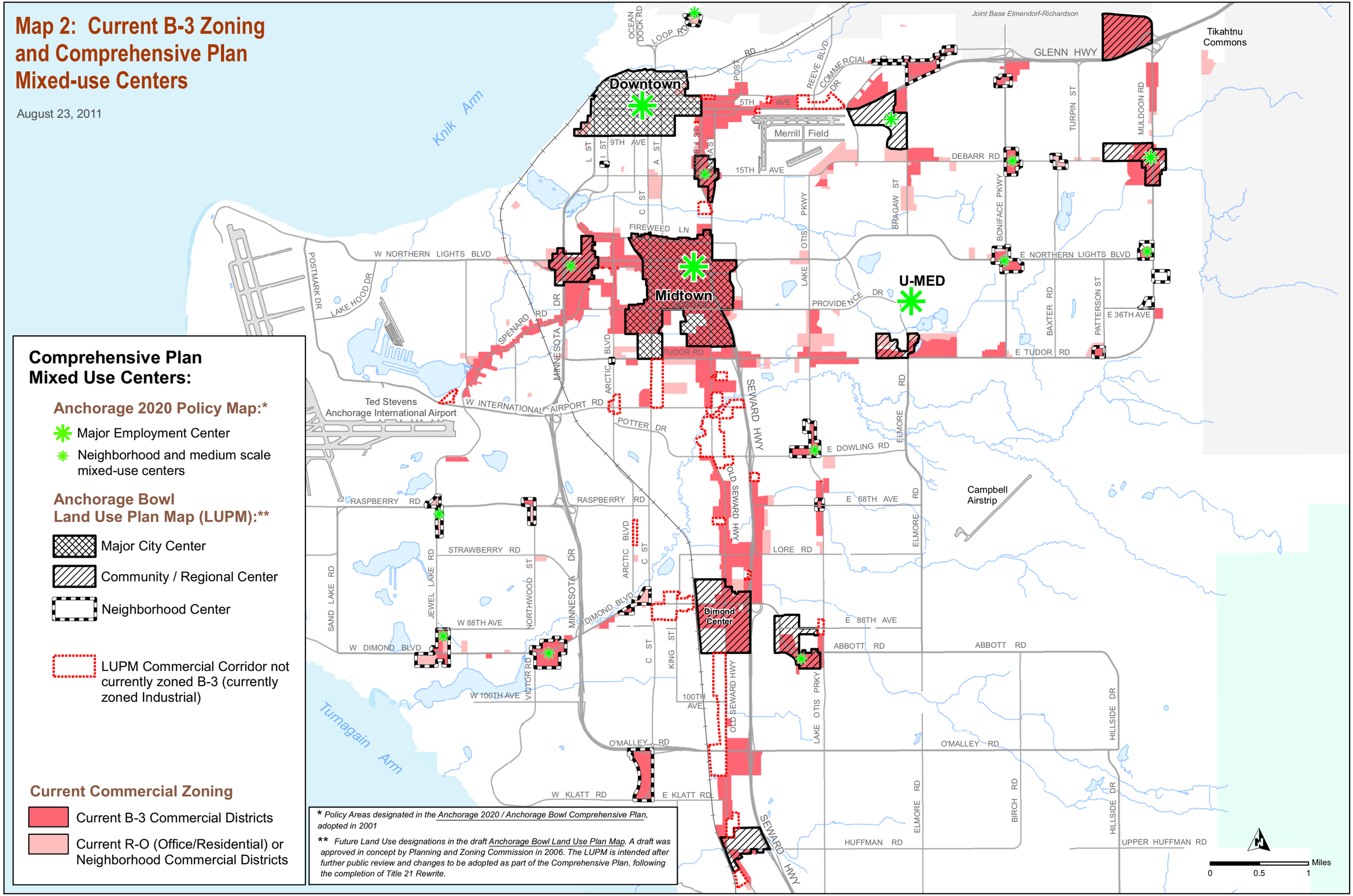
- Development would be unlikely to achieve the Anchorage 2020 long term changes;
- The municipality would be out of compliance with State and municipal charter requirements to plan and make the appropriate provisions to meet its future growth needs;
- Anchorage will likely not have the capacity to meet the housing and employment needs in the future, further pushing development to the Mat-Su Valley; and
- It may ultimately negatively impact property values.

Mixed-use districts will be implemented as a new zoning option for property owners. <u>The Municipality will not require rezonings to mixed-use.</u> Rezonings will be incentivized (e.g., possible waiver of rezoning fees) to encourage property owners to rezone.

Rezonings will occur as property owners review the advantages of the new districts to their development needs. Gradual implementations through choice rezonings that are to the advantage of the property owner will not "be very disruptive to business and to new developments," despite the consultant's claim otherwise. If rezonings were as disruptive as the consultant claims, then property owners would not have proposed more than 140 rezonings to the Planning and Zoning Commission over the last 10 years.

Map 2: Current B-3 Zoning and Comprehensive Plan Mixed-use Centers

August 23, 2011



Comprehensive Plan Mixed Use Centers:

Anchorage 2020 Policy Map:*

- Major Employment Center
- Neighborhood and medium scale mixed-use centers

Anchorage Bowl Land Use Plan Map (LUPM):**

- Major City Center
- Community / Regional Center
- Neighborhood Center
- LUPM Commercial Corridor not currently zoned B-3 (currently zoned Industrial)

Current Commercial Zoning

- Current B-3 Commercial Districts
- Current R-O (Office/Residential) or Neighborhood Commercial Districts

* *Policy Areas designated in the Anchorage 2020 / Anchorage Bowl Comprehensive Plan, adopted in 2001*

** *Future Land Use designations in the draft Anchorage Bowl Land Use Plan Map. A draft was approved in concept by Planning and Zoning Commission in 2006. The LUPM is intended after further public review and changes to be adopted as part of the Comprehensive Plan, following the completion of Title 21 Rewrite.*

Also despite the claims, properties zoned B-3 will be allowed to develop mixed-use projects (ie., residential/commercial) without having to rezone. In other words, rezonings will not be mandatory in order to build mixed-use projects (although rezoning to a mixed-use district would be an advantageous choice).

In Midtown, property owners will have the choice of remaining with existing B-3 zoning or rezoning to a mixed-use district. The RMU (Regional Mixed-use) district will be available for those in Midtown who wish to rezone to mixed-use. The MT-1 and MT-2 districts are placeholders reserved for potential future districts. The MT-1 and MT Districts have not been drafted, and required the completion of the *Midtown District Plan*, which would guide the development of these districts. Because they are merely placeholders, the Title 21 Rewrite can be adopted without the MT districts.

(Downtown and U-MED districts are addressed by other zones and are not affected by this issue.)

Recommendation: The Department does not support the consultant's proposed amendment to delete the three mixed-use districts. The Department does recommend the following amendments and clarifications to alleviate property owner concerns:

- Delete the MT-1 and MT-2 Midtown district placeholders.
- Implement the provisionally adopted NMU, CMU, and RMU mixed-use districts as a new zoning option for the choice of property owners, and facilitate rezonings through fee waivers, administrative assistance, and expedited review procedures.
- Amend the rewrite to waive the minimum area requirement for rezonings to mixed-use.
- Amend the provisionally adopted B-3 district to reaffirm that B-3 is intended to stay as it is and remain available to commercial property owners, including in central Midtown.
- Amend the RMU district to clarify it will be available as an option for Midtown B-3 property owners who want to rezone to a mixed-use district.

19. Grafting standards for mixed-use districts onto mixed-use development in commercial zones in 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.

The consultant's premise is that (a) regulating mixed-use projects in existing commercial zones can implement mixed-use centers and so avoid the need for adopting new mixed-use zoning and (b) this approach will allow mixed-use projects to occur when the city is ready for it whereas

adopting new mixed-use districts would try to mandate where and when mixed-use projects would develop.

Response: The Department disagrees with the proposed amendment. The consultant's recommendation reflects a misunderstanding of what mixed-use districts implement. Mixed-use is not a site specific goal. The main focus is not for individual properties to achieve mixed-use (e.g., residential/commercial). Mixed-use projects are not mandated, and the majority of individual developments within mixed-use centers are neither likely nor needed to be mixed-use projects.

The purpose of mixed-use districts is to create a cohesive district that accommodates a variety of uses compatibly within a defined geographic area. Mixed-use district standards apply to all uses in order to facilitate compact site development regardless of use type, allow more uses to coexist in close proximity, and require convenient pedestrian connections to allow walking and transit to be more practical. The district's physical urban form, not its mixed-use buildings, promote its character and function.

The illustration below (from Anchorage 2020) shows the concept for a mixed-use center. Not one individual building in the illustration is shown as mixed-use. However, the sum of the whole creates a cohesive district in which a variety of compatible uses interact with one another. The success of both the mixed-use center and its individual component developments does however depend on a consistently set of development regulations—the same standards that apply to all uses. For example, most of the buildings and active uses are set closer to street and sidewalks. Parking lots are located beside or behind each building.

Mixed-use Center Concept (Comprehensive Plan)

The consultant's proposed grafting of the mixed-use district development standards onto individual mixed-use projects in the B-3 district would fail to implement or achieve mixed-use

centers. It would result in a patchwork development pattern where mixed-use projects might occur rather than a cohesive district. Mixed use standards work best when applied uniformly to a zoning district or to a discrete area of development.

The proposed amendments would also create disincentives for potential mixed-use projects in current B-3 district. More development standards would be applied to only mixed-use projects than for adjacent single-use projects. A building with a mix of uses would have a lower height limit and more restrictive setbacks than a neighboring office or store. Why should an apartment building suddenly need to be shorter in height if a coffee shop appeared in its ground floor?

The proposal would also be administratively difficult to implement, because of current practices that include frequent changes-of-use within buildings, as well as "spec" buildings. Many sites are developed or improved, or buildings are constructed, "on spec" rather than with a specific tenant or use in hand. In addition, some buildings could include "flex space", which is constructed to accommodate either residential or commercial, depending on changes in the market.

Recommendation: Do not support the proposed amendment.

20. Airport zoning in 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.

Response: The consultant's comments on the Transition District misrepresent the current situation. Today, the TSAIA has three different zoning districts within its borders: PLI (public lands and institutions), I-1 (light industrial), and T (transition). Through the rewrite project, the planning department was attempting to assist the airport by creating one zoning district for its property, instead of the patchwork that creates different rules in different places for the same use. The airport management has chosen not to engage in the rewrite process at this time. Planning staff has reasonable arguments about how the airport should be zoned and what regulations should apply in what situations, but that is an issue for the Mayor to address at a later date with airport management.

The bottom line is that when the rewrite is adopted, there won't be an airport district in place. Therefore, the existing districts at the airport need to be maintained in code. If the Transition district is not carried forward, what happens to the land zoned Transition at the airport?

Recommendation: Disagree with the proposed amendment. Retain the existing T district until such time as issues relating to zoning at the airport are worked out between the Municipality and the Airport management.

Chapter 5

21. Rearranging and merging use categories and use types

The consultant has provided some discussion of sub-classifications and sub-sub-classifications in his narrative. However, in reading through the narrative, it is difficult to understand what the intentions are for rearranging and merging use categories and use types. Here are the facts:

- The current code has approximately 350 different uses. These uses are not organized in any way and only about 35 of them are defined in the current code. They are listed within each zoning district under "permitted", "accessory", "conditional", and "prohibited". They are redundant (for example, there is "photographic services", "photography studios", "photography studios, art studios", and "photography, dance, music and art studios and supplies") and they have to be listed under each district in which they are allowed.

- The provisionally adopted code has 156 uses. There are five general use classes: Residential, Public/Institutional, Commercial, Industrial, and Accessory. Each of these classes has differing numbers of use categories, which exist only to group types of uses together to make them easier to find. Within the use categories, the uses are listed alphabetically. Every use is defined. Similar uses have been combined into one use (for example, "attorney offices", "attorneys and legal services", "business and professional offices and services", "employment agencies", engineering, surveying, and architectural services", "headquarters/administrative offices of charitable and similar quasi-public organizations of a noncommercial nature", "insurance offices", "insurance services", "office uses", "private employment agencies, placement services, and temporary personnel services", "real estate offices", "real estate services and appraisers", "stock and bond brokerage services", "travel agencies and ticket brokers", and the like have been combined into one use: "Office, business or professional").

- The consultant's proposed amendment consolidated additional uses to bring the total down to 121, or 126, depending on whether you count from the table of uses, or the list of definitions (the consultant did not ensure that all uses listed in the table were defined, and that all uses defined were listed in the table). In the narrative, the consultant does not explain what is wrong with the provisionally adopted list of uses and their organizational structure, but that changes were made to "avoid spot zoning". One can only guess at what this means, since how the uses are grouped together is not related to "spot zoning".

- Various uses are grouped together into a Use Type because they have similar impacts on their neighbors and require similar development standards, particularly parking standards. The minimum parking requirements in section 21.07.090 match the use types. The consultant's proposed amendments disrupt the link between the uses in chapter 5 and the parking requirements in chapter 7 (as he made no amendments to the parking section), and he has combined uses that have greatly different parking needs.

- The provisionally adopted code has a list that consolidated various uses into what seemed like a reasonable and defined list. Various people can have differing opinions on what the

organizational structure should be. However, the use types and organizational structure have remained relatively consistent through the five drafts and six years since draft #1. To change it now, without compelling reasons, invites unforeseen future complications. The Department, the public, the development community, the Planning and Zoning Commission, the Title 21 Assembly committee, and the full Assembly have all reviewed the use types and organizational structure over many years, and all seem satisfied with the provisionally adopted draft. Issues that have arisen over those years have been addressed. With such a brief review time, the ramifications of such significant changes are unknown.

The consultant also made other changes to the use definitions and use-specific standards, as well as to what uses are allowed in which districts. The Department, along with the public, the Planning and Zoning Commission, and the Title 21 Assembly Committee, reviewed the use tables very carefully to make sure that appropriate uses are allowed in appropriate districts, with the specific intention of limiting the number of nonconforming uses created. The consultant's changes are not carefully thought through. Some problematic examples include:

- Doubling the amount of material to be taken from a natural resource extraction site (such as gravel extraction) before a conditional use approval is required. Under the consultant's proposal, up to 10,000 dump truck trips of material (assuming a dump truck with 10 cy capacity) are allowed to be removed from a site before a conditional use approval, which would address issues such as hours of operation, noise, and dust control, is required.

- Deleting the use "Incinerator and thermal desorption unit" from the PLI district. Hospitals are the most common facilities to have incinerators, and most of our city's hospitals are located in the PLI district. They would be made nonconforming.

- Combining uses such that "vehicle repair" would now be considered "general retail". The use "general retail" is intended to be a bookstore, a drug store, a clothing store, and the like. Vehicle repair shops have nothing in common with book stores. They have different parking requirements and different development standards, and are not always appropriate to be located in the same district.

Recommendation: Do not support the proposed amendments.

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.

Response: The Department disagrees with the proposed amendment. There is not enough land zoned for multifamily housing in the Anchorage Bowl. With a 2% vacancy rate for rental housing in Anchorage today, all multifamily zoned lands need to be preserved to meet future housing demands.

In part because the current Title 21 does not have a minimum residential density requirement, land that is zoned for multifamily is often built at lower density uses than what could be realized, making inefficient use of the land. Developers who propose multifamily projects or rezones to multifamily land near existing neighborhoods face opposition from the local community. This happens because there are few minimum standards to guarantee that the bulk, setbacks, and physical character of the infill development will be compatible with the existing neighborhood character. The result impacts housing affordability, limits available workforce housing near services and employment, and impacts the overall economy .

To prevent the loss of increasingly scarce multifamily zoned land to lower density uses, and to make efficient use of existing public services and facilities, Anchorage 2020 recommended a strategy that multifamily properties be required to develop at a specified minimum number of housing units per acre. The Comprehensive Plan states:

> "Implementation will require amendment of multifamily zoning district regulations to eliminate low-density housing. Design standards for minimum residential density development will be developed before this strategy takes affect."

Specifically, the Comprehensive Plan calls for a minimum density of eight dwelling units per acre along major transit corridors.

In the provisionally adopted code, the department recommended a baby-step towards meeting this policy—namely the removal of detached single family housing as an allowed use in the R-3 district. Existing single family homes are protected by changes to the nonconforming provisions that exempt single- and two- family homes from most nonconformity provisions, allowing those homes to exist in the R-3 in perpetuity.

While there are several areas currently zoned R-3 that should be designated for a lower density, these are a geographic issue to be addressed by the draft Anchorage Bowl Land Use Plan Map.

Recommendation: Do not support the proposed amendment.

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

Issue: The consultant proposes to allow all types of telecommunications towers to be permitted as a by-right use.

Response: Cell towers are frequently the most controversial. Anchorage residents and property owners voice strongly held concerns regarding the visual impacts of the towers, as well as impacts to their health and to their property values. However, if their service is in demand by the general public, towers need to be located where they will be useful for transmission/reception. At times this means that higher land is needed to ensure adequate line-of-sight required for unobstructed transmissions. Thus, the Hillside, in particular, is often sought after for this use. Towers and antennas are currently only allowed in residentially zoned areas if they are on a lot

that is built with a non-residential use, such as a church or substation. They also require a site plan review that requires public notice.

The provisionally adopted draft carries forward the existing regulations and public review and approval processes regarding telecommunications towers. Planning Department reached an agreement with the telecommunications industry that no changes would be made to the section during the rewrite, but at some point after the rewrite, the industry and the Department would work together on changes to make the regulations less complicated and more user-friendly.

To allow all types of towers as a permitted by-right use, (meaning they only need a building permit) would open the door to towers springing up without public notice or input within predominantly residential areas such as the Hillside. This is a change that would likely have residents and property owners up in arms.

Recommendation: Do not support the proposed amendment.

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

Issue: The consultant recommends allowing a wide range of commercial and other non-industrial uses in the I-1 and I-2 districts as is allowed in the current Title 21. The consultant contends the provisionally adopted Title 21 restricts industrial zoning districts to primarily industrial uses, which could open the door for lawsuits against the Municipality for "taking" existing rights to the industrially-zoned property.

Response: The Department disagrees with the proposed amendments for the following reasons:

- The consultant's concern about "takings" lawsuits appears largely unfounded based on a legal opinion the Department received from the Municipal Attorney's Office in May, 2005.
- For industrial areas identified as Industrial Reserves in Anchorage 2020, the consultant's recommendation is clearly inconsistent with Policy #26, which states: "Key industrial lands, such as the Industrial Reserves designated on the Land Use Policy Map, shall be preserved for industrial purposes." The consultant's recommendation would perpetuate a disconnect that now exists between the Anchorage 2020 Industrial Reserves policy and current Title 21 regulations for industrial zoning districts, which allow non-industrial uses. Anchorage 2020 lists "Land Use Regulation Amendment (Industrial Zones)" as an essential strategy to implement Policy #26 of the Comprehensive Plan.
- Allowing commercial and other non-industrial uses in industrial zoning districts can create incompatibility issues between neighboring properties. For example, freight traffic, noise, odors, and lighting of industrial uses can be obtrusive to certain commercial and other non-industrial uses that are located on an abutting lot. Added commercial traffic would increase potential conflicts with industrial and freight movement.
- The provisionally adopted Title 21 already allows a limited number of commercial uses to occur within the I-1 district. These commercial uses support and/or are compatible with

industrial uses such as office industrial parks, single commodity bulk retail sales, and building supply and services.

- Allowing certain commercial uses such as offices and grocery stores to locate in industrial zones conflicts with Anchorage 2020 policy #21 which directs new commercial development to locate primarily within Major Employment Centers, Redevelopment/Mixed-Use Areas, Town Centers, and Neighborhood Commercial Centers.

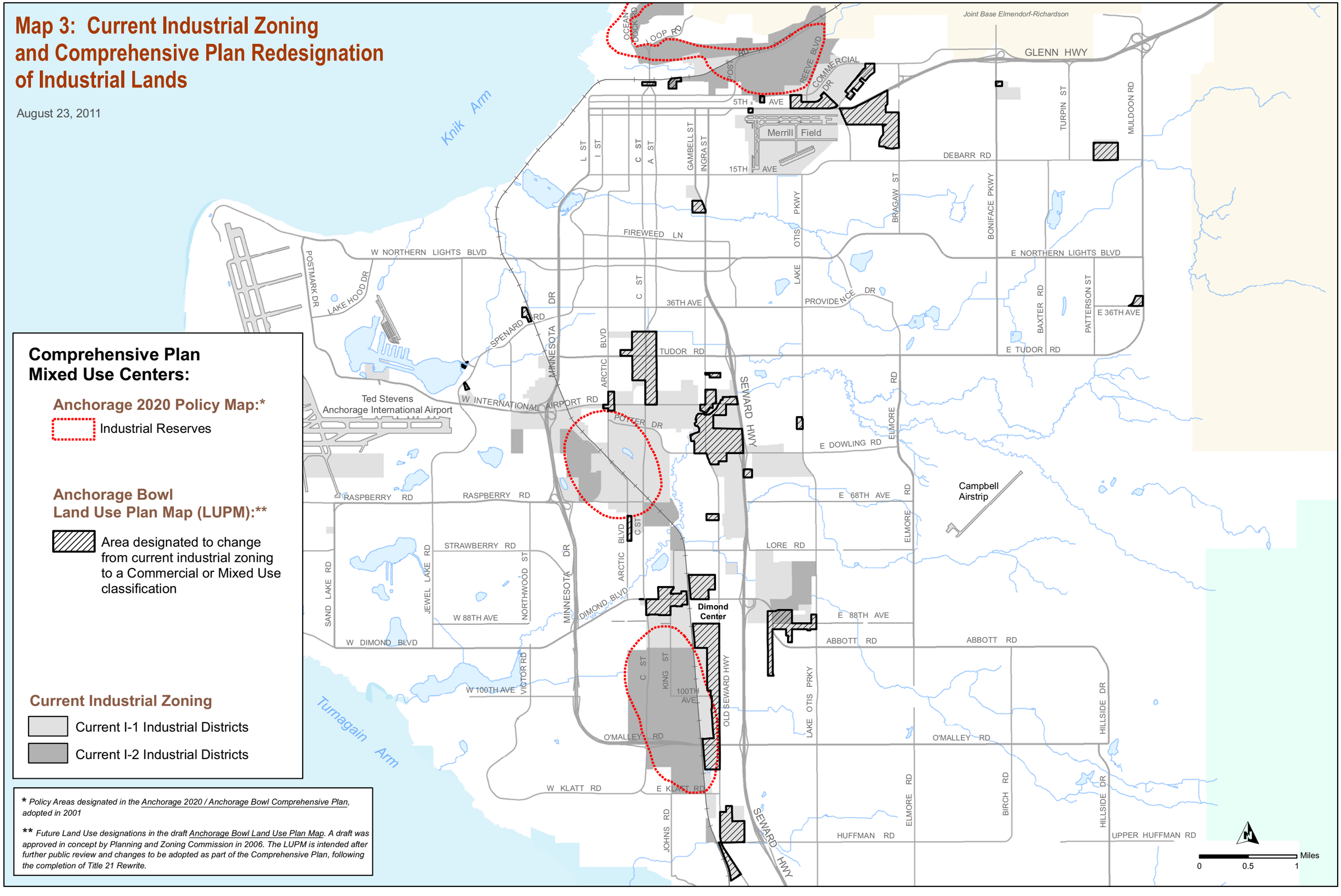
- The Planning & Zoning Commission's conceptually approved Anchorage Bowl Land Use Plan Map identifies certain industrial lands for future commercial zoning. Some of these areas are already developed with commercial uses while others are in prime locations for future commercial development. Once Title 21 is adopted, further review of the Anchorage Bowl Land Use Plan Map by the Planning & Zoning Commission, Municipal Assembly, and the general public is anticipated. This review will result in a well thought out and technically based approach to re-designating certain industrially-zoned lands for commercial development while retaining key industrial lands for future industrial use and expansion as called for in Anchorage 2020. Areas designated on the draft Land Use Plan Map to change from current industrial zoning to a commercial or mixed-use center classification appear on **Map 3**.

Recommendation: Do not support the proposed amendment to allow unlimited commercial and other non-industrial uses within industrial zones.

However, the Department also recommends that upon completion of the Anchorage Commercial Land Study and adoption of the Anchorage Bowl Land Use Plan Map, the issue of additional non-industrial uses allowed within the industrial zoning districts, in particular the I-1 district, be reexamined.

Map 3: Current Industrial Zoning and Comprehensive Plan Redesignation of Industrial Lands

August 23, 2011



Comprehensive Plan Mixed Use Centers:

Anchorage 2020 Policy Map:*

Industrial Reserves

Anchorage Bowl Land Use Plan Map (LUPM):**

Area designated to change from current industrial zoning to a Commercial or Mixed Use classification

Current Industrial Zoning

Current I-1 Industrial Districts

Current I-2 Industrial Districts

* *Policy Areas designated in the Anchorage 2020 / Anchorage Bowl Comprehensive Plan, adopted in 2001*

** *Future Land Use designations in the draft Anchorage Bowl Land Use Plan Map. A draft was approved in concept by Planning and Zoning Commission in 2006. The LUPM is intended after further public review and changes to be adopted as part of the Comprehensive Plan, following the completion of Title 21 Rewrite.*

Chapter 6

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

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

Response: The Department disagrees with the proposed amendment to allow unlimited building heights in the B-3, RO and I-1 districts. However, the Department supports unlimited building heights (as an interim measure) for the Midtown major employment center commercial area.

The Comprehensive Plan states that specific areas of the Anchorage Bowl are intended to provide the highest concentrations of office employment, and the attendant infrastructure to support a mix of high-intensity residential, commercial, and civic land uses to support a more efficient transportation system. It calls for future higher intensity development to occur in and around the major employment centers of downtown and midtown.

Limiting the number of employment centers to Downtown and Midtown, as well as the U-Med District, encourages the concentration of medium- to high-density office and residential development in well-defined, compact, successful city centers. It makes for more efficient transit planning and service as well as realizing higher returns on infrastructure investments that are already in place which are able to support existing and new development in these centers.

Over the past 20 years, because of the widespread use of the B-3 District, non residential development has been scattered through the Anchorage Bowl, resulting in more travel in single-occupancy vehicles to get to work, shop and access services that are located in various locations.

Continuing to allow unlimited building heights in outlying B-3 areas outside of the major employment centers undermines the implementation of mixed-use districts in the centers. The smaller scale mixed-use districts, particularly the CMU and NMU, apply building height and bulk limits to areas outside of Downtown and Midtown. This ensures that future development is compatible in scale and function with the nearby residential neighborhoods. To keep the B-3 zoning with no height limits in place as proposed by the consultant, will continue the disjointed development pattern that exists today. Map 2 provides a visual comparison of these areas.

The building height limitations will not create any non-conformities. First, the provisionally adopted Title 21 establishes that any building constructed before the new Title 21 becomes effective and that exceeds the building height limits will be deemed conforming with regard to height. Secondly, any existing building engineered for the addition of one or more stories may be enlarged in height even if the building is over-height relative to the new code. Lastly, only a handful of buildings outside of Midtown are taller than two stories. Properties are not reaching a greater development potential primarily because of limitations in the market rather than zoning. Buildings located in the medium density activity centers will have the option to rezone to a mixed-use district allowing 60 feet, which is taller than nearly every building that exists currently in these areas. Long term economic and population forecasts indicate that the low-rise pattern outside of Midtown is unlikely to change.

Midtown property owners who elect to construct tall buildings should be allowed to rezone to mixed-use, to the RMU (Regional Mixed-use District), and within that district in Midtown be exempted from building height limits. The Municipality can facilitate rezonings to RMU in Midtown and allow unlimited height there, pending the adoption of more specific land use policies and districts in a Midtown Plan.

Recommendation: Support an amendment to the provisionally adopted Title 21 to allow for tall buildings in the Midtown major employment center. Do not support unrestricted building heights in outlying commercial and industrial areas throughout the Bowl. Specifically:

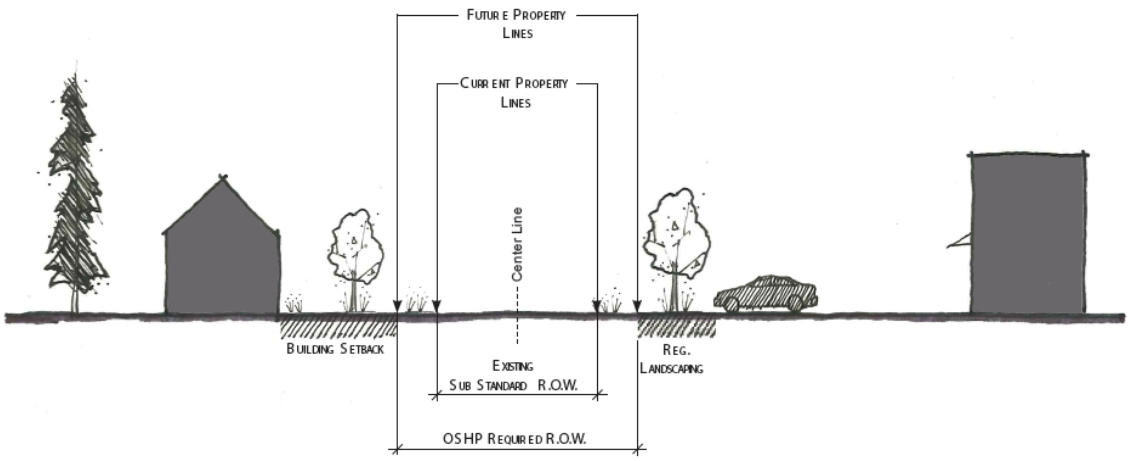
- Make the RMU district available as a mixed-use zoning option for Midtown commercial property owners, until such time as a Midtown Plan and its zoning districts are adopted.
- Exempt buildings from height limits of the RMU district in the Midtown Major Employment Center and Redevelopment / Mixed-use Area designated in the Comprehensive Plan, as bounded by the Seward Highway, Tudor Road, Arctic Boulevard, and Fireweed Lane (Map 2)
- Waive rezoning fees and provide administrative assistance for Midtown property owners that elect to rezone to RMU.
- Retain the provisionally adopted Title 21 height limits for the B-3, 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.

Response: The "Setbacks from Projected Rights-of-Way" section requires that development be set back enough to accommodate the class of road that is either currently constructed (in which case the projected right-of-way setback usually matches the property line), or is planned for the future. By ensuring that the development is set back enough for the future road, the municipality ensures two things: one, that the public will not have to buy structures that have been built on the area that will be right-of-way in the future, thus keeping right-of-way acquisition costs to a minimum; and two, that after right-of-way has been acquired for the road construction or expansion, the remaining lot will be able to provide code required parking and landscaping. In order to ensure these two things, the zoning district setbacks (as listed in the tables of chapter 6) must start where the projected setback ends, because where the projected setback ends is where the new property line will be once the right-of-way is acquired for the road construction or expansion.

SETBACKS FROM PROJECTED R.O.W.s
(NOT TO SCALE)



Additionally, required landscaping should not be allowed in the projected setback area, because if it is, once the projected setback area is acquired for right-of-way, there will be no space available on the remaining lot for required landscaping.

Often times, landowners request reimbursement for improvements that were placed in the project setback, such as landscaping, at the time of right of way acquisition. The more improvements that are allowed in the project setback, the greater the potential costs could result in higher tax payer bond obligations.

These provisions are important planning tools for the orderly future development.

Recommendation: Do not support the proposed amendments to this section.

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". He asserts that the height transition requirement would: result in significant loss of property value on commercial and R-4 properties located adjacent to residential districts; restrict the commercial or R-4 property owner's ability to develop the property in an economically feasible manner; and require developments in the commercial and R-4 districts to incorporate "step backs in any structure" within 200 feet of residential districts.

Response: The Department disagrees with the proposed amendment.

The height transition standard is a buffer that improves the compatibility of higher intensity development with adjacent lower density neighborhoods, in terms of where building bulk is placed on a lot. It protects property values on both sides of the fence.

The height transition does not reduce the development capacity of the commercial lot, or require smaller buildings, despite the consultant's claim. Instead, its function is to encourage more considerate placement of taller buildings on the subject lot, with respect to adjacent residential neighborhoods.

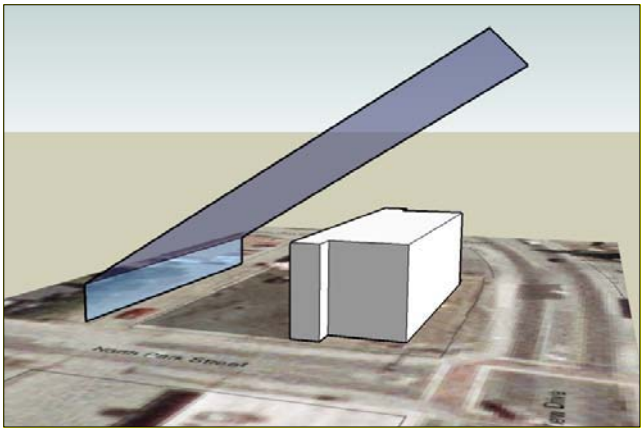
Neighborhood protection transitions become more important as the demand for infill and redevelopment grows next to existing residential neighborhoods. Already multistory structures have begun to pop up adjacent to low-rise residential areas (see example ministorage below). As the vacant land is built out, new provisions in Title 21 which promote more efficient use of land, will allow higher densities on a lot and building height will likely increase as well. The height transition will help ensure that bulk is sensitively placed on the lot.

Tudor Storage building backs up close to the south property line of a residential area.

Aside from visual dominance, a structure of much greater bulk and height has impacts to nearby smaller buildings by invading privacy and lack of visual buffering. In Alaska's northern climate, tall buildings also have more extreme shadowing, microclimatic, and day-lighting impacts to surrounding areas. These transition standards between different building types are needed to protect property values and investments in residential property, and full enjoyment of residential lots.

Years of testing and refinement over a series of public review drafts have calibrated the height transition to avoid impacting the development potential of a subject commercial lot. Even the most shallow commercial lots backing up to residential districts have room to shift the building placement on the lot to be located further away from the adjacent residential property, as demonstrated by the Cook Inlet Housing mixed-use project below.

CIHA Mixed-use building – at 3 stories / 35 feet high on a shallow lot

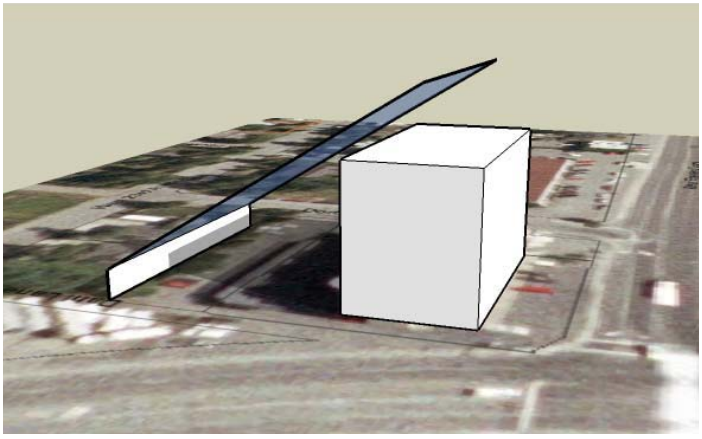


Height Transition: CIHA building complies easily, well below the maximum height plane

The three-story CIHA mixed-use building easily passes the height transitions requirement while also maximizing the development potential of its lot. Parking is placed between the building and the residential properties behind it.

The second example below, the 73-foot tall Woronzof Tower on Fireweed Lane would also comply with the height transitions standard, even though it is on a relatively shallow lot backing up to a residential district. The building still has room for a front parking area, and a larger rear parking lot that buffers the residences to the north from the building mass.

Woronzof Tower – 7 stories / 75 feet high



Height Transition applied: Woronzof complies by staying below the maximum height plane

Large cities such as Denver, Tacoma, and even Manhattan with longer experience with higher density infill have successfully implemented zoning height transitions. Experience elsewhere demonstrates that an infill/redevelopment strategy has a greater chance of success if neighborhoods have confidence they will be protected through better building and site design. If Anchorage is to grow through higher density infill, it will need development transitions tailored to ensure these higher densities can be compatible in closer urban environments.

Recommendation: Do not support the proposed amendments; retain and forward the provisionally adopted Title 21 for adoption.

28. Stream setbacks and natural resource protection in 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-ft).[2]

Response: After considerable research, discussion, review and compromise with the T21 sub-committee, the provisionally adopted 50-foot setback is much lower than what is recommended in scientific literature and used in other cities. For comparison, based on scientific data the standard recommendation is 300-feet[3]. In most communities, stream setbacks average 100-feet nationwide. In Alaska: Soldotna has a 100-foot setback, the Mat-Su Borough has a 75-foot setback, and both Juneau and Homer have 50-foot setbacks. Stream setbacks are necessary to control floodwaters, provide water quality treatment by capturing and filtering pollutants, protect base stream flows to reduce threats of flash floods, maintain stream stability preventing channel migration and maintain stream health for fish and wildlife habitat.

Anchorage's existing 25' setback came about because of politics, compromise and what was acceptable in the mid 1980's—it was not based on scientific or practical findings.

The consultant's amendments reduce the role of setbacks from even current code, as illustrated following page 56 below. As proposed, allowing additional uses within 10-ft of streams threatens the very effective vegetative buffer for water quality and flood control. Vegetation along stream banks serves many purposes. Trees slow water velocity and hold the soil in place with their root system stabilizing stream banks. Overhanging vegetation regulates water temperature, provides shading for salmon, and contributes insects and other nutrients in the stream. Ground-cover vegetation filters stormwater runoff removing sediments and pollutants before entering streams.

Nationally, the economic benefits of streamside protection are well documented indicating higher home values near streams and greenbelts (15% higher in Anchorage) and better quality of life rankings, which attracts potential businesses and homeowners. Alaskan communities with salmon streams have an economic incentive to protect and enhance this valuable resource. Ship Creek supports salmon runs creating an economic boost to the city of approximately $7 million annually. Economic benefits from tourism are realized with stream greenbelts that provide recreational opportunities. FEMA has documented flood insurance rates as much as 45% lower in communities that provide adequate stream setbacks.

Reduced setbacks create issues, including:

- Increased peak runoff (floodwaters, stormwater) entering streams resulting in flash floods, increased erosion and sedimentation;

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[2] The consultant did not propose changes to the provisionally adopted setback to drainageways and ephemeral channels, which is a 10 foot setback.

[3] In numerous research projects, pollutants become neutralized or removed after about 300' of overland treatment in vegetated conditions.

- Increase in frequency of flooding events; de-stabilization of streams; increase in icing and winter flooding issues; increased potential for spring break-up icing causing flooding by diversions and obstructions; impaired water quality;
- Impaired habitat; reduced shading results in higher stream temperatures; reduction in healthy micro-flora/fauna resulting in a reduction of viable salmon habitat; and
- Increased cost to property owners who must rebuild after flood damage, and ultimately to tax-payers who help pay disaster assistance after significant flooding events.

As demonstrated with the existing 25-ft setback, the Municipality has been forced to address issues with costly consequences. Stream bank erosion requires trail, road and utility re-location and bank stabilization projects to protect private property. Municipal work crews are tasked with preventing winter icing and repairing flood damage to infrastructure. Past practices of stream bank armoring just deflects the stream energy and causes erosion in another downstream location. Projects to solve stream bank erosion require careful planning and execution to ensure optimal performance without creating further issues, incurring further costs to the Municipality.

The proposed amendment would exacerbate existing water quality issues and the ability to adhere to the Alaska Pollution Discharge Elimination System permit. Most Anchorage area streams are listed as impaired waterbodies by the state Department of Environmental Conservation because of the ineffective existing minimal 25-ft stream setback i.e. 25' has proven to be too little an area where streams abut industrial uses. In our urban areas, fecal coliform from dog waste is the largest contributor to the poor health of our streams.

Maintaining healthy mature vegetation along stream corridors is paramount to ensuring overall stream health. The amendment also proposes to diminish revegetation oversight for allowed uses within stream setbacks. The basic premise behind retaining vegetation in a stream corridor is to maintain natural vegetation, primarily larger mature trees that benefit the stream and floodplain ecologically and physically stabilizes banks. In order to ensure vegetated setbacks it is important to be very specific about the type of vegetation (natural, non-invasive species) required. As amended, this proposed section could be construed to mean that simply re-seeding with Kentucky bluegrass or allowing the site to grow back on its own with weeds would be acceptable. Removing the provision of natural vegetation does not direct what species are acceptable or not, which could be interpreted to allow invasive species.

As proposed, utilities are allowed to be placed anywhere in the stream setback. Utilities within stream setbacks have a much higher probability of requiring relocation later since placement of such utility lines often requires extensive vegetation removal to bury infrastructure which, only exacerbates erosion potential. As utilities require upgrades, these buried lines are subject to further disturbance and vegetation clearing, increasing costs to utility companies for revegetation efforts. This kind of frequent disruption is contrary to the setback's purpose.

Allowing the proposed change to a 25 foot setback will have unintended financial consequences to property owners in terms of flood insurance costs. The Municipality currently receives credit through the FEMA Community Rating System for requiring a 25-foot setback along local streams. "Credit" in this case is a reduction in the cost of flood insurance premiums. For FEMA's

purposes, the consultant's amended version brings allowed uses within the setback closer to the stream, to within 10-feet. Inclusion of these uses under a 25-foot setback will cause a 10% increase in the cost of flood insurance in Anchorage. For the majority of policy holders, flood insurance is NOT voluntary and is mandated by their banks to comply with federal regulations. This is a very real cost to homeowners.

Recommendation: A change that causes increased financial hardships for property owners and the Municipality, as well as being detrimental to property, infrastructure and habitat cannot be supported. Retain the 50-foot stream setback as in the provisionally adopted code.

(The following pages provide a comparative stream setbacks illustration and a photo imagery series showing the provisionally adopted 50' stream setback in relation to surrounding properties.)

Stream Setbacks

Illustration of 50-ft

JBER

Little Campbell Creek
Example

Chugach State Park

Legend

- STREAMS
- PARK PARCELS
- Chugach State Park
- Highway
- Major Arterial

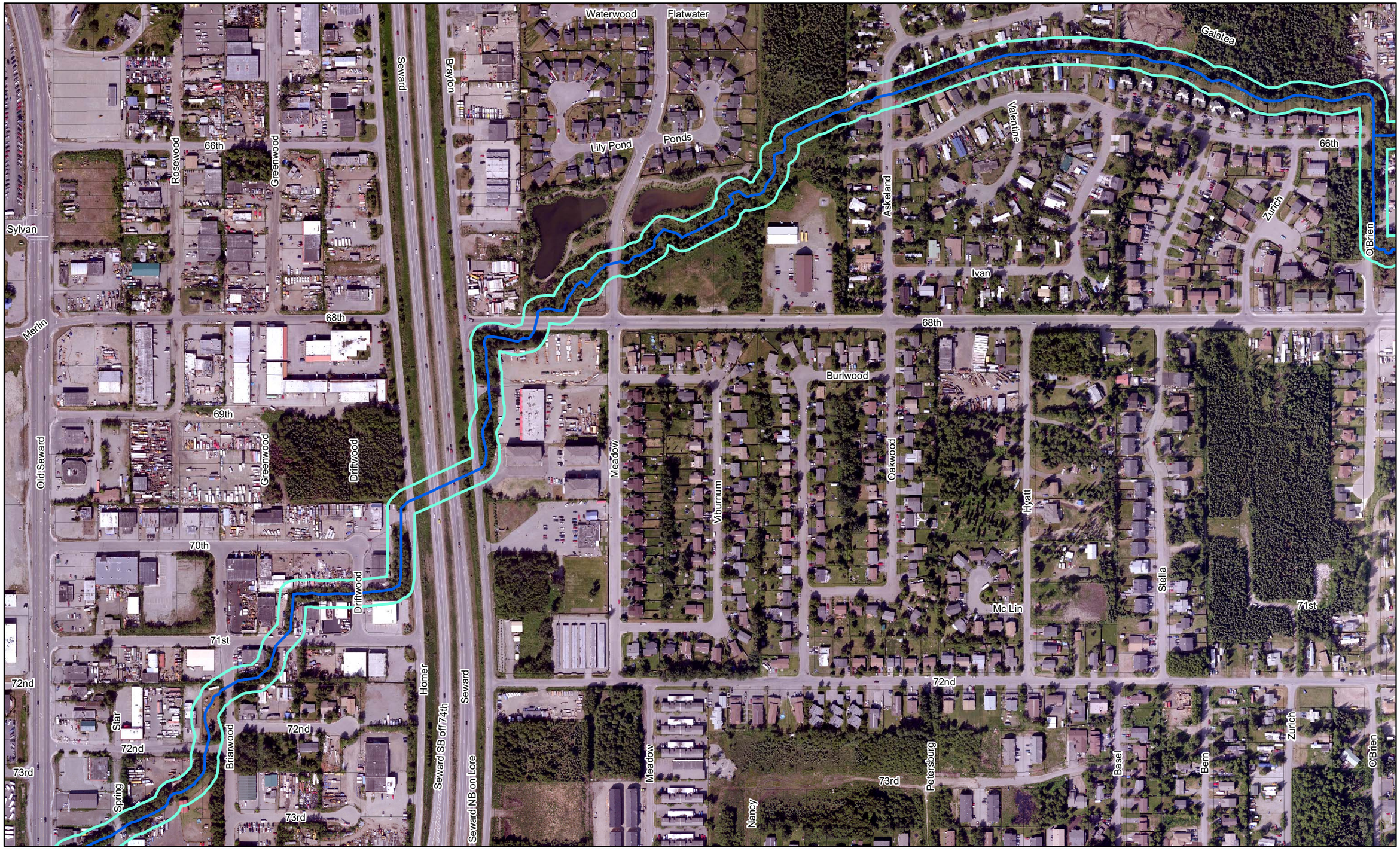
N

0 0.5 1 2 3 4
Miles

MOA-Long Range Planning, Aug. 2011

Little Campbell Creek, North Fork

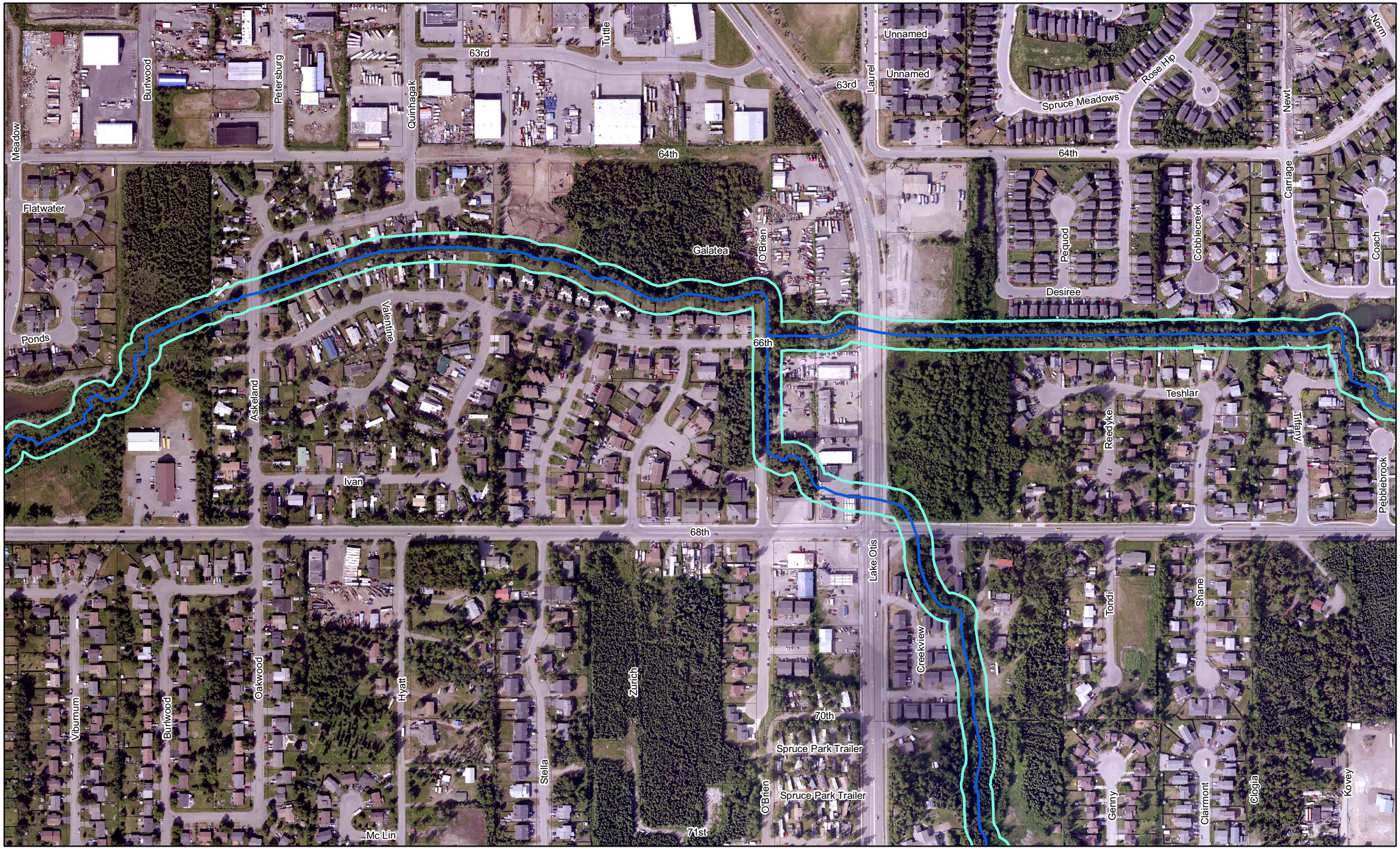
50-foot setback



Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

Little Campbell Creek, North Fork

50-foot setback



Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

0 200 400 800 1,200 Feet

N

Little Campbell Creek, North Fork

50-foot setback

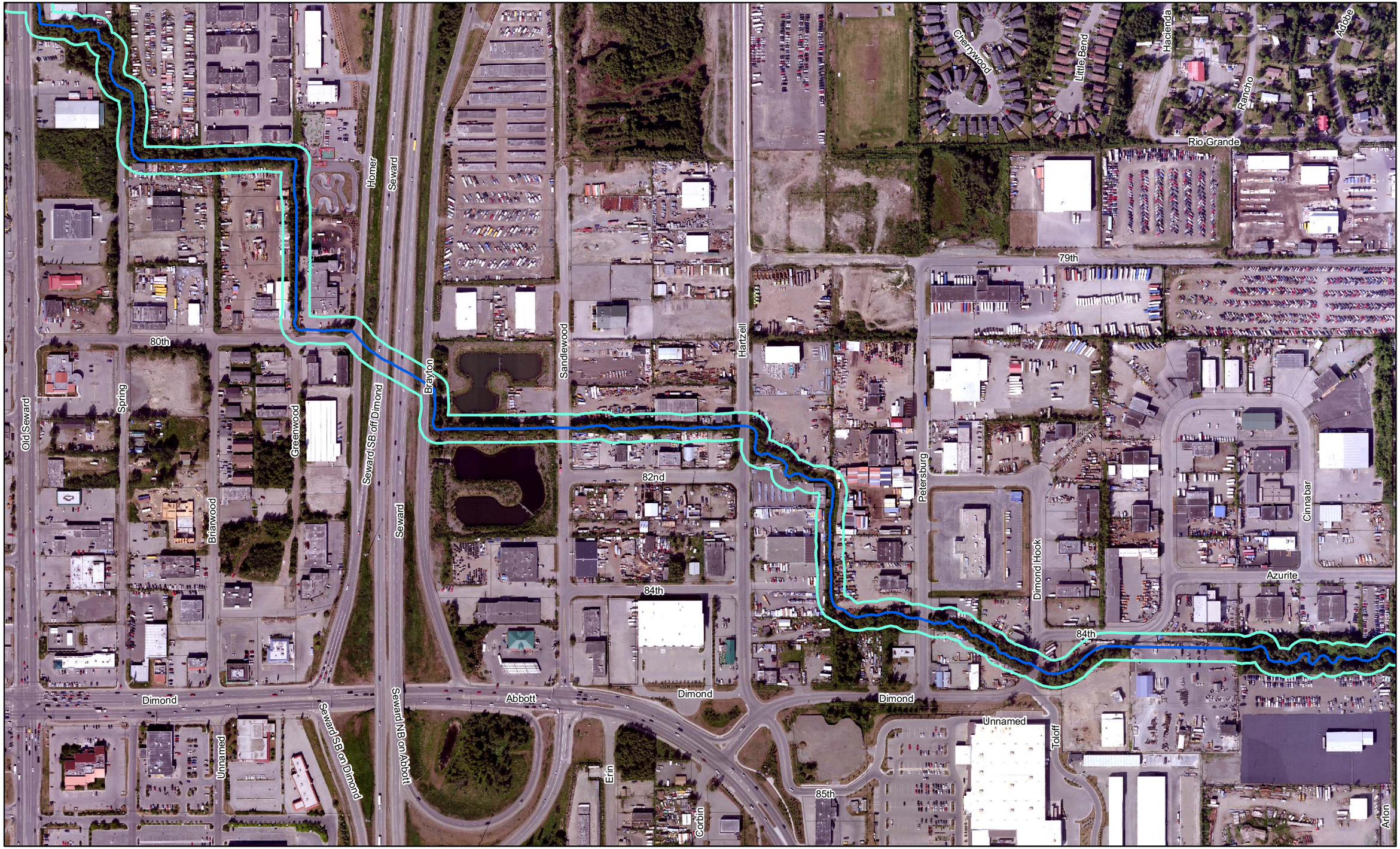
Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

0 200 400 800 1,200 Feet

N

Little Campbell Creek, South Fork

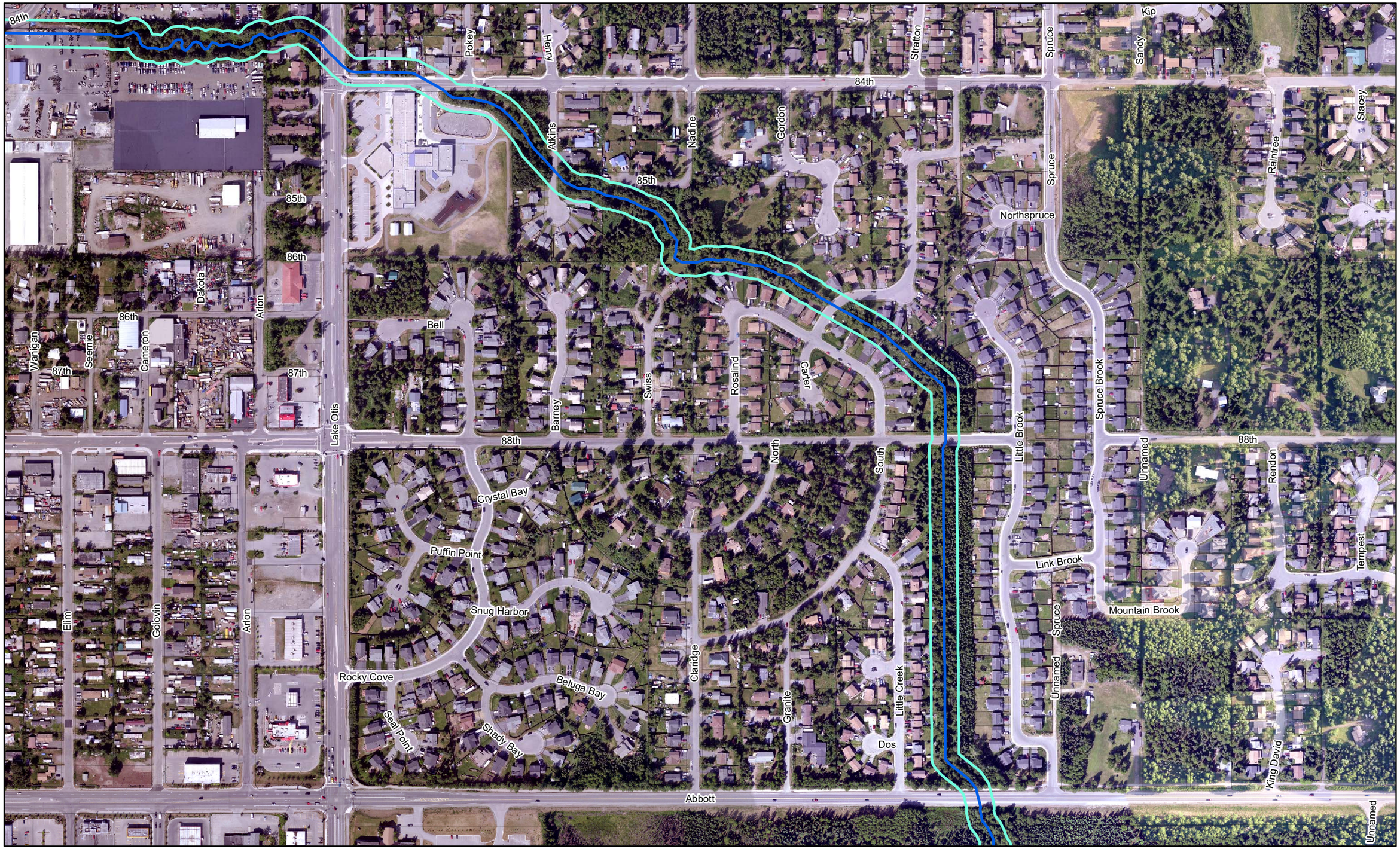
50-foot setback



Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

Little Campbell Creek, South Fork

50-foot setback



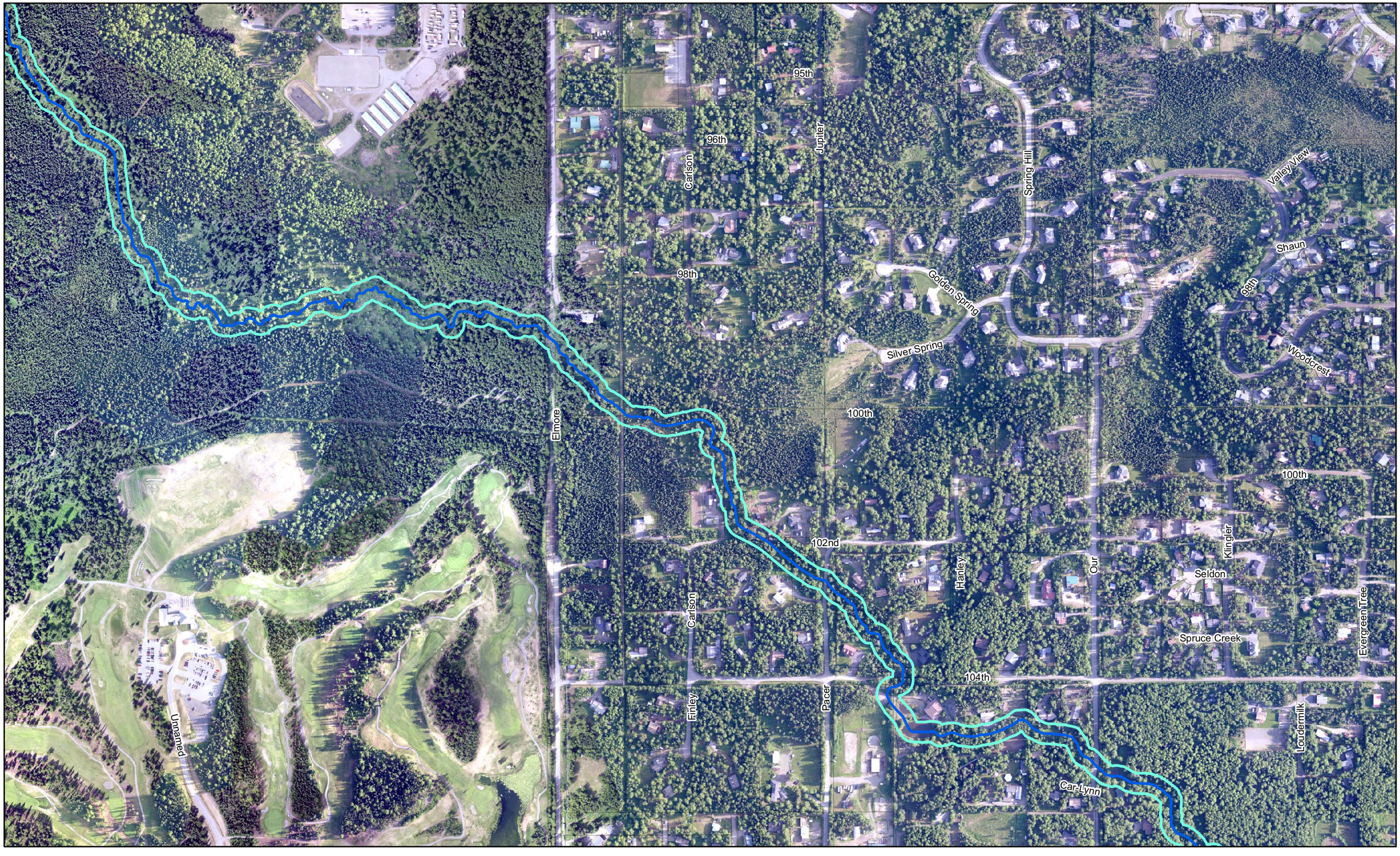
Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

0 200 400 800 1,200 Feet

N

Little Campbell Creek, South Fork

50-foot setback



Note: where streams obviously cross roads, parking lots and driveways, it is within a culvert; therefore, the setback does not apply to those sections of the stream.

0 250 500 1,000 1,500 Feet

N

STREAM SETBACK COMPARISON

0' 20' 40' 60' 80' 100' 120' 140'

STREAM ORDINARY HIGH WATER

Typical Lot Depth: Most Anchorage Zoning Districts

NATIONALLY RECOGNIZED STANDARDS & PRACTICES OF OTHER COMMUNITIES

0' 50' 75' 100' 300'

Juneau, AK
Homer, AK
Kenai Borough

Mat-su Borough

Soldotna, AK
Most Communities Nationwide

Nationally Recognized Standard for Maintaining Stream Health, Habitat, Recreational & Property Values, and for Preventing Floods

CURRENT CODE

0' 15' 25' 100'

ALL OTHER ZONES

utility facilities
drainage facilities
public rec facilities
trails

R-10 ZONE
driveways and culverts subject to review

PROVISIONALLY ADOPTED TITLE 21

0' 15' 35' 50'

ALL ZONES

trails

utility facilities
drainage facilities
public rec facilities
lawns, decks, patios, fill & other pervious improvements

PROPOSED AMENDMENT BY COFFEY

0' 10' 25'

ALL ZONES

Endangers Stream Health, Habitat, and Decreases the Community's Open Space Credit with FEMA, Increasing Homeowners' Flood Insurance Cost

trails
utility facilities
drainage facilities
public rec facilities
lawns, decks, patios, fill & other pervious improvements

29. Private open space – significantly reduced and compromised in 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).

No explanation is provided, although the general intent is probably to reduce project costs.

Response: The Department disagrees with the proposed amendments to private open space.

A major objective expressed by community participants during the rewrite process was to address concerns about the lack of quality open space in multifamily residential developments. The provisionally adopted section replaces the current Title 21 "usable yard" regulations with a "private open space" requirement that focuses on improvements in quality and usability, while avoiding increasing the amount of area required from current code. The table reflects that the provisionally adopted Title 21 is not a substantial increase in the amount of area required, and it allows reductions in the amount of area required by incentivizing higher quality spaces. The provisionally adopted code also explicitly allows rooftops, balconies, and atriums to count as well.

Private Open Space / Usable Yard requirements, by zoning district

Comparison of Current and Provisionally Adopted Title 21, and consultant proposal (sq. ft)

Zoning District	Current Title 21	Provisionally Adopted		Consultant's Proposal	
		not incl. reductions	with 25% reduction	not incl. reductions	with 25% reduction
R-2M	400	480	360	0	0
R-3	400	400	300	300	225
R-4	100	120[4]	90	200	150
RO/ B-3 (residential)	100	120	90	0	0

As the table above shows, the consultant's proposal eliminates the residential private open space requirement in the R-2M, RO and B-3 districts, and reduces it to significantly less than current standard in the R-3 district. This reverses the course of the rewrite project, moves the community backward from current code minimum standards, and does not conform to the policies of the Comprehensive Plan.

[4] Staff has proposed 120 square feet in a 2010 technical amendment, from the provisionally adopted 125 feet.

Residential buildings constructed in these districts have easily complied with these area requirements for decades, and the provisionally adopted requirements are not much different.

The proposed amendments would further undermine the open space requirement by allowing up to half the private open space to be indoors in a room. The room could be 10'x10' and not necessarily visually connected to outdoor spaces. A small room in a building does not achieve the strong community objective of the rewrite project to provide for outdoor usable open spaces around the buildings.

The reduction of the minimum size of common open spaces to a 10' space undermines usability of the common space shared among multifamily dwellings. This dimension isn't sufficient for outdoor space for a single unit, much less for multiple units.

Lastly, the proposed changes reduce the visibility and connections between the private open space and dwellings, undermining improvements to the accessibility, usability, convenience, and safety of private residential open spaces.

The proposed changes are unnecessary and counterproductive if their objective is to improve economic impacts. Site testing by the Title 21 Economic Impact Analysis indicate that private open space is a minor fraction of the direct costs and land area requirements related to complying with Title 21 site development standards—under both current and provisionally adopted code.

The overall costs and land area requirements of multifamily residential development is less under the provisionally adopted code than current code.

The residential district where a large private open space standard could constrain development potential is in the R-4, which relies on a high density of dwelling units on the lot. Yet, the proposed amendments by the consultant would double the open space requirement here, where housing is most dependent on a compact development form. This is unnecessary to the character of the high density R-4 district and could negatively impact the space requirements and economy of high-density multi-story apartment projects. For example, under the proposed amendment, Park Plaza II on 16th and A, a five-story, 100 unit apartment building would have to provide an additional 10,000 square feet of private open space—and its entire development site is only 55,000 square feet . Park Plaza II cannot afford to provide 200 square feet of open space per unit when it has so many units placed on a relatively small lot.

The nonresidential private open space requirement for commercial uses is intended to improve the pedestrian environment, improve the function and quality of public entrance areas, and provide employees and customers with outdoor public space. The standard is not difficult to meet and is exemplified by the outdoor patio seating at Sagaya City Market, pictured below. This and the other existing commercial developments tested using the Economic Impact Analysis (EIA) cost comparison model were shown to meet or nearly meet the provisionally adopted private open space requirement, even though they were not even trying or aware of the draft standard. For example, the MGM Medical Office entrance plaza was shown to exceed the provisionally adopted private open space requirement.

City Market's seating area and MGM Medical Office's entry plaza both comply

The EIA tests also demonstrated that private open space would not be a significant share of the costs or land area requirements related to Title 21 compliance. The bar graphs in issue #3 above show that little of the development cost or land area of MGM Medical Office test site, for example, would be due to private open space. The development already provided the space anyhow.

Good development practices already reflect a general awareness of the utility of pedestrian space in non-residential and mixed-use districts. They help achieve Comprehensive Plan policies to improve the quality of commercial areas and facilitate a transition toward higher urban density.

Recommendation: Do not support the proposed amendments; retain the provisionally adopted draft and forward for adoption.

30. Deletion of connectivity requirements in section 21.07.060D

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

Response: The connectivity index should be retained. It is important for future subdivision in Municipality to address connectivity. When neighborhoods are connected, it encourages less motorized usage, better health and wellness for its citizens, and a greater sense of community. There is administrative relief written in to the provision to account for steep slopes, stream corridors, wetlands, or existing development patterns that make it impossible to meet the standard. The connectivity index is important to make sure there are adequate vehicular routes in and out of the subdivision so that not all of the traffic is clogging just a few routes and intersections, as well as more options for bicyclist and pedestrians to move in and between subdivisions. The beauty of the connectivity index is that it leaves the subdivision designer has greater flexibility to design the road system, as long as the number of intersections and the number of links meets the required ratio.

The other provision that was deleted along with the connectivity index is the requirement for pedestrian connectivity when a cul-de-sac is created. The standard requires a pedestrian walkway from the cul-de-sac head to the neighboring development, with administrative relief

when the walkway cannot be provided due to steep slopes, stream corridors, wetlands, or existing development patterns. Providing pedestrian connectivity allows people to walk more, which helps reduce traffic congestion and improves personal health, both of which are municipal goals.

31. Weakening of pedestrian connections and facilities in section 21.07.060E

Issue: The consultant has proposed revisions which weaken the provision 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.

Response: Do not support the proposed amendments for the following reasons:

- The cumulative effect of the consultant's proposed revisions is a considerable setback to Anchorage 2020 policies regarding pedestrian environment and connectivity.
- Sidewalks should be required along both sides of public streets for all types of developments in class A zoning districts, including cul-de-sacs. For example, public streets through areas of institutional and industrial developments will have pedestrians as well as commercial or residential areas. Institutional uses, in particular, such as churches and schools, can have fairly high levels of pedestrian activity.
- Through–block connections are extremely important to pedestrians. Without these connections and with large blocks, pedestrians are forced to either walk to the next street, which can be a significant distance, or trespass across a property to have a more direct and shorter route to their destination. The provisionally adopted Title 21 requires a through-block connection for blocks 900 feet or greater so that a pedestrian walkway located approximately in the middle of this block will be similar in distance to a large city block. The consultant's proposal to increase the block threshold to 1,300 feet isn't accompanied with any justification. However, the consultant's proposal to increase the distance and inconvenience for pedestrians will only encourage illegal trespass and/or increased pedestrian activity in areas such as parking lot aisles that aren't designed for safe pedestrian access.
- Creating safe pedestrian movement through and abutting parking lots requires design features which clearly indicate to drivers the location of pedestrian walkways. The most effective methods in a winter city are to provide structural definition to the walkway such as a raised walkway protected by vertical curbing or use of physical barriers such as bollards. Painted stripes are not of much use when covered by snow and ice. The Traffic Division supports the provisionally adopted standards for vertical curbing and bollards to protect the pedestrian.

32. Extensive rewrite of Landscaping section with diminished requirements in 21.07.080

Issue: The consultant has proposed deleting most of the provisionally adopted landscaping section and replacing it with new language which fails in some respects to meet even current Title 21 landscaping standards. The consultant did not provide a narrative with guiding principles for the landscaping section or Chapter 21.07 as a whole. The proposed changes would: delete standards for varied levels of landscaping materials in the provisionally adopted draft and replace these with standards which are alluded to but not provided; delete the screening landscaping category from the provisionally adopted code and the current code; delete the table which indicates where the various levels of perimeter landscaping would be required; delete the landscaping point system which was developed to provide flexibility in design and incentives for retaining existing trees and shrubs on a site; and result in a major step backwards in landscaping standards compared to what is required in the current Code.

Response: The Department disagrees with the proposed changes for the following reasons:

- The provisionally adopted landscaping section (21.07.080) is the result of hundreds of hours of public citizens' time spent reviewing and commenting on the section, staff research and review of drafts with a committee of landscape architects, response to comments received from the public, including comments from the American Society of Landscape Architects (Alaska Chapter), and review and changes to the section made by the Urban Design Commission, Planning & Zoning Commission, and the Municipal Assembly. The consultant's rewrite of the landscaping section does not reflect the recommendations heard by staff throughout the entire public review process to date.

- A new landscape ordinance is a key Anchorage 2020 strategy to improve the existing landscaping standards of Title 21. The provisionally adopted landscaping section improves the current code and responds to the comprehensive plan strategy. The consultant's proposed version is a step backwards from some landscaping standards in the currently adopted Title 21 and, as such, doesn't meet the comprehensive plan strategy to improve the current code.

- The provisionally adopted landscaping section in Chapter 21.07 provides three primary levels of landscaping are very similar to the three landscaping levels in the current Title 21 (visual enhancement, buffer, and screening landscaping). The consultant's draft eliminates the screening landscaping category which is an essential landscaping level used to separate uses having significant incompatibilities, such as an industrial site abutting a residential area. The proposed amendment includes visual enhancement and buffer landscaping categories but no standards are provided (only referred to) regarding planting material and landscape bed widths for these landscaping types.

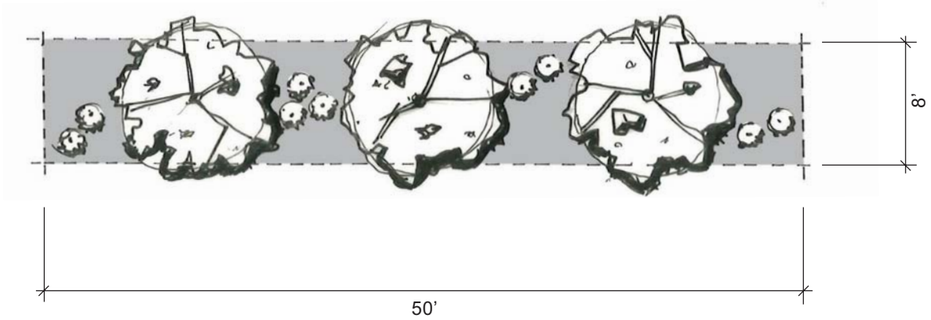
- The provisionally adopted section in Chapter 21.07 includes a reference table which clearly indicates the minimum level of perimeter landscaping required for development sites and abutting zoning districts and various classifications of public streets. The consultant deleted this table and deleted or reduced some of the perimeter landscaping requirements of the provisionally adopted Title 21 such as the replacement of highway screening landscaping

COMPARING TWO LEVELS OF SITE PERIMETER LANDSCAPING:
Current Title 21 versus Provisionally Adopted Title 21

1” = 10’

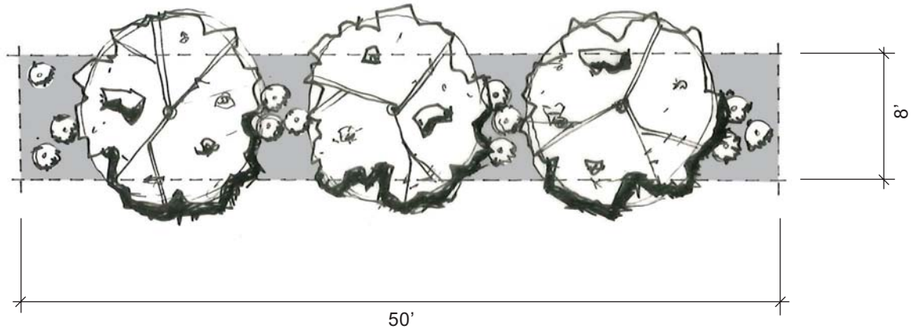
Visual Enhancement Landscaping
Current Title 21

3 x 2” caliper Deciduous Trees
9 x 18” Deciduous Shrubs



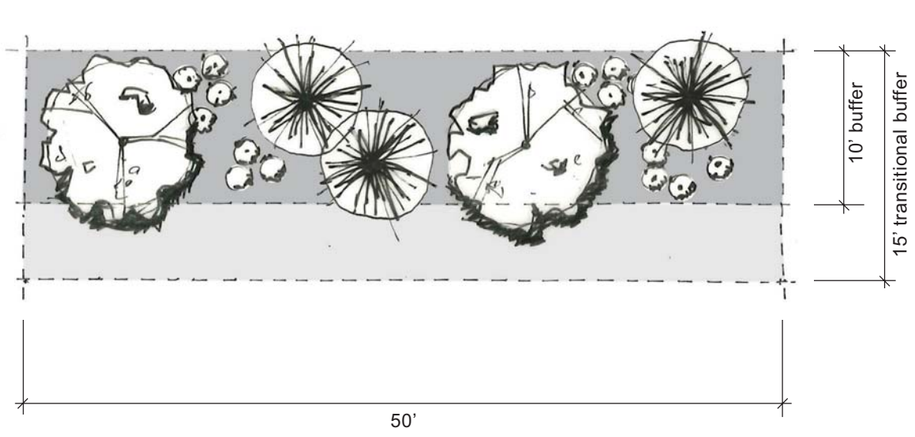
Visual Enhancement Landscaping
Provisionally Adopted Title 21

3 x 2 1/2” caliper Deciduous Trees
12 x 18” Deciduous Shrubs



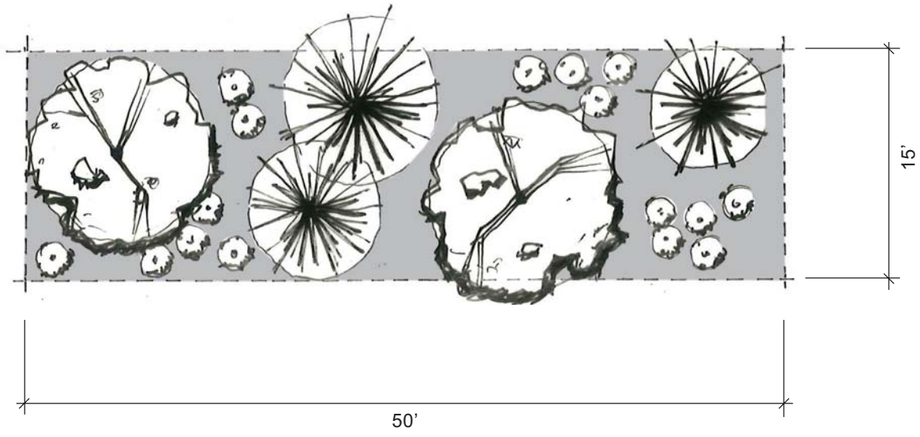
Buffer Landscaping
Current Title 21

2 x 2” caliper Deciduous Trees
3 x 6’ Evergreen Trees
15 x 18” Deciduous Shrubs



Buffer Landscaping
Provisionally Adopted Title 21

2 x 2 1/2” caliper Deciduous Trees
1 x 10’+ Evergreen Tree
1 x 8’ - 10’ Evergreen Tree
1 x 6’ Evergreen Tree
16 x 24” Deciduous Shrubs



(which has been in the code since the 1980's) with a much lower standard of visual enhancement landscaping.

- The landscaping units system in the provisionally-adopted Title 21 rewrite allows flexibility in site design and provides incentives for retaining existing trees and shrubs on a site. The consultant's new landscaping section doesn't appear to provide any incentives for retaining large existing trees on a site, although the consultant's draft does have a provision regarding existing native plant materials on a site.

- The consultant's draft simply deletes, without any explanatory notes, other standards in the provisionally adopted Title 21 such as minimum tree requirements in new residential developments (e.g., three trees per lot).

Recommendation: Do not support the proposed amendments; retain the provisionally adopted draft and forward for adoption.

33. Deletion of dumpster screening amortization in 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.

- By deleting the first part of the amortization provisions, the consultant will be requiring single family, two-family, and three family residential uses with dumpsters to remove the dumpsters immediately upon the effective date of the adopted Title 21 rewrite. The provisionally-adopted Title 21 gives these uses 18 months to switch over to another solid waste disposal alternative such as roll carts.

- By deleting the five year amortization provisions for screening dumpsters, and associated administrative variance provisions, the consultant is avoiding an issue which is important to improving the Municipality's streets and neighborhoods. Many dumpsters are currently located partially or completely within public street rights-of-way. Other sites have an unscreened dumpster in full view on the edge of the site. In either case, unscreened dumpsters lining a street contribute to an unattractive city for residents and visitors. The amortization provisions are intended to phase in standards which will move the dumpsters out of the public street rights-of-way and take measures to screen the dumpsters from view

along these streets. Although the consultant's revisions would still require dumpster screening in new developments, the consultant is also allowing older developed areas to keep unscreened dumpsters indefinitely.

- The eight year public process for the Title 21 rewrite identified dumpster screening as an important issue early on and citizen testimony throughout that period has been supportive of more attractive streets and neighborhoods, including the screening of dumpsters. Since the consultant has not provided any rationale for revisions to this section or chapter 21.07 as a whole, it isn't clear why the community should now abandon any attempt to screen dumpsters in existing developed areas. By not seeking a solution to this issue, the only way the dumpsters will be screened is by waiting for years if not decades for older properties to be redeveloped, at which time they would need to come into compliance with dumpster screening standards. Coupled with the proposed changes to the nonconformities section, dumpsters in the roadways will be a legacy that will be with Anchorage for decades to come.

- The administrative variance process in the provisionally adopted Title 21 sets up a process for property owners to document how they cannot meet the dumpster screening requirements due to site constraints. Upon review of these applications, the Director can authorize

measures such as locating dumpsters and screening structures in several required parking spaces or in a required landscaping bed in order to meet the dumpster screening standards.

34. Watering down of minimum standards for multifamily developments (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 no longer achieve the objectives of the section. Among the proposed amendments of concern:

- 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;
- Eliminating minimum spacing for daylighting between multifamily buildings, while reducing the spacing to lowest common denominator business-as-usual for townhouses
- Watering down individual design feature menu choices to render them worthless, such as converting a tree planting menu choice. which was intended to help soften the appearance of large building façade walls using trees, into a strip of grass
- Converting a four-part requirement to make townhouse entries accessible and visible into a menu of four choices which builders must choose only two

Amending a requirement to screen mechanical equipment such as large banks of multifamily utility meters in residential neighborhoods to less than that required even in commercial districts

Response: The department does not agree with the proposed amendments because they would water various standards down to the point they are rendered useless. They would no longer achieve any policy objective, but rather result in some of the same business-as-usual type developments that Anchorage is trying to move away from. The proposed amendments would frustrate objectives to avoid unnecessary reviews and apply regulations that help improve development.

The provisionally adopted residential design standards implement the residential design policies of the Comprehensive Plan and respond to community concerns about the physical character of some housing developments. Residential development design was a primary concern heard from the community throughout the rewrite process. As a result of years of testing, collaboration, and negotiation, the residential section addresses these concerns with clear, flexible, practical regulations tailored for Anchorage development practices.

Anchorage's strategy of accommodating needed additional housing through infill/redevelopment has a greater chance of success if existing neighborhoods are protected through basic minimum standards for building and site design, and ensure compatible higher density developments are compatible in close urban environments. The public's concerns about higher densities are mainly associated with poor quality of such developments and impacts of cluttered or inefficient site designs.

Relevant Anchorage 2020 policies state:

- Establish minimum standards for site plan layout and building design of new development for appearance, function and compatibility;
- Site and design residential development to enhance the residential streetscape and diminish the prominence of garages and paved parking areas;
- Design attractive affordable housing that is suited to its environs;
- Incorporate crime prevention and other public safety needs into design of residential areas, such as through windows facing neighborhood streets and common areas; and
- Access and pedestrian environment and emphasize pedestrian access and landscaping along neighborhood streets.
-

Clear, flexible, and practical: The provisionally adopted design standards achieve the policy objectives in the most flexible and yet clear manner seen by the Department in any community. They make an improvement over current conditions. They do not dictate how, but rather provide choices and latitude for innovative alternatives.

- Flexibility - Menus are used as a means to enhance design quality without being overly prescriptive. Applicants select the design features most compatible their development rather than one-size-fits-all mandatory standards.
- Clear and specific – Each regulation and menu choice is measurable and has a non-discretionary criteria for approval.
- Creativity - Alternative compliance, with allowance for design innovations and exceptions proposed by the designer during the administrative review, without extra layer of approval process
- Practical - Basis in research, testing and consultation – through years of public comment, negotiations, collaboration and testing with the development community, and review body committees.

The standards do not fully implement the Comprehensive Plan or make a radical departure from responsible current building practices. They make an incremental improvement in the lowest common denominator, so the increase in density and infill Anchorage has only just begun to see in its neighborhoods will contribute to the long term neighborhood character, stability and values.;

Essential design elements – Windows and entries facing the street

Windows facing neighborhood streets, entrance areas, and common or public spaces provide "eyes on the street", a sense of human presence and habitation, and avoid developments that turn their back on the neighborhood. Like many police departments across the country, the Anchorage Police Department recognizes and encourages the public safety value in street facing

windows and visible and accessible entries. At a recently held Anchorage Police Department (APD) safety conference, APD stressed the importance of having "eyes on the street" to help in deterring criminal activities in neighborhoods. Having well placed windows on buildings will help foster this crime deterrent in future residential and commercial buildings in our City.

Current windows situation with blank walls facing neighborhood streets

These photos exemplify the objective for end unit living spaces and windows that engage the street:

Extensive review of local development examples for attached dwellings indicated that a 15 percent window requirement is still modest and practical. It can be easily met, and represents about the lowest percentage that achieves the objectives for the project.

Provisionally adopted 15% requirement can be met by most developments:

Hillbrook: 13-14% windows/entries

32nd and Spenard: 15% windows

Jewel Lake / W. 84th: 15% windows/entries

Many multifamily projects already exceed the provisionally adopted standard, such as:

Dove Tree: 18%-20% windows/entries

Lakeridge: 20% windows/entries

Consultant's proposed amendments would reduce the window standard to the following:

Fire Eagle: 5% windows

901 Medfra: 7% windows

The proposed amendment to reduce the window requirement from 15 to 7 percent, and to make it applicable to all sides of the building (not just street-facing side) eliminates its usefulness.

The Department recommends against amending the minimum windows requirement to 7%. Such an amendment would require the community to implement a new regulation which has little practical effect.

Essential design elements – Main entries visible and accessible from the street:

Another important minimum standard is the treatment of multifamily and townhouse entries. The primary objective is to make main entries more visible and accessible from the street, with a covered porch or landing. The entry is not required to face the street—just be visible.

Following are examples of current situations that the provisionally adopted draft Title 21 is intended to address:

Current situation

Entrances which meet the provisionally adopted entries standard

Essential design elements – Façade articulation of multiple-dwelling structures:

The following pages illustrate how the building design menus would apply to housing examples around town. They show that the standards are achievable using current development practices.

Recommendation: Do not support proposed amendments that water down individual building design menu choices for multifamily, townhouse, and attached dwelling design standards.

Townhouse and Multifamily Developments:
Examples of Compliance with Building Articulation Menus

1.

Example Townhouses: Lakeridge Townhouses

Building Articulation Menu (110.D.7)	Lakeridge
a. Wall Modulation	
b. Upper Story Cantilever or Step-back	✓
c. Change in Siding Material	
d. Ornamental Features or Details	
e. Balconies	
f. Covered Entry Porches or Landings	
g. Bay Windows	
h. Roofline or Roof Form Variations	
i. Variations in Form or Scale	
j. Elevation without Garages	
k. Additional Windows	
How does it fare? *(4 features needed)*	1 feature: **WOULD NOT COMPLY**

2.

Example Sites: Vista Grande/Brookshire

Brookshire

Dove Tree (Vista Grande) Townhomes

Building Articulation Menu (110.D.7)	Brookshire	Vista Grande
a. Wall Modulation		
b. Upper Story Cantilever or Step-back	✓	✓
c. Change in Siding Material		
d. Ornamental Features or Details		
e. Balconies	✓	✓
f. Covered Entry Porches or Landings	✓	✓
g. Bay Windows		
h. Roofline or Roof Form Variations		✓
i. Variations in Form or Scale		
j. Elevation without Garages		
k. Additional Windows		
How does it fare? *(5 features needed)*	3 features: **WOULD NOT COMPLY**	4 features: **ALMOST COMPLIES**

3.

Example Multifamily: 32nd and Spenard

Building Articulation Menu (110.D.7)	32nd Ave Elevation
a. Wall Modulation	✓
b. Modulation of Overall Building	✓
c. Cantilever or Step Back	✓
d. Change in Siding Material	✓
e. Ornamental Features or Details	
f. Balconies	
g. Bay Windows	
h. Additional Window Area	
i. Foundation Landscaping	
j. Roofline Modulation	✓
k. Roof Forms and Attics	
How does it fare? *(4 features needed)*	5 features: **COMPLIES**

4.

Example Multifamily: Admirals Cove (DeBarr Rd.)

Building Articulation Menu (110.C.6)	DeBarr Elevation
a. Wall Modulation	✓
b. Modulation of Overall Building	✓
c. Cantilever or Step Back	
d. Change in Siding Material	✓
e. Ornamental Features or Details	✓
f. Balconies	✓
g. Bay Windows	
h. Additional Window Area	
i. Foundation Landscaping	
j. Roofline Modulation	
k. Roof Forms and Attics	✓
How does it fare? *4 features needed*	7 features: **COMPLIES**

5.

Example Townhouses: UAA Drive

Building Articulation Menu (110.D.7)	Front Entry Facade	End Façade on UAA Drive
a. Wall Modulation	✓	✓
b. Upper Story Cantilever or Step-back	✓	
c. Change in Siding Material	✓	✓
d. Ornamental Features or Details	✓	Almost
e. Balconies	✓	
f. Covered Entry Porches or Landings		Almost
g. Bay Windows		
h. Roofline or Roof Form Variations	✓	✓
i. Variations in Form or Scale		
j. Elevation without Garages		✓
k. Additional Windows		
How does it fare? *(4+ features needed)*	6 features: **COMPLIES**	4 features: **COMPLIES**

35. Deletion of townhouse landscaping standards in section 21.07.110D

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

Response: The Department disagrees with the proposed amendments.

Members of the development community, as well other citizens, identified improvements to landscaping as a cost effective site enhancement that can soften and add visual interest to townhouse structures. These offer a cost effective way to increase the visual quality of new development for relatively little cost. Wide, shared front driveways and shared parking areas that are continuous from one dwelling to the next were observed to be one of the starkest aspects of some townhouse developments from recent years. These enhancement will likely also serve to increase property values.

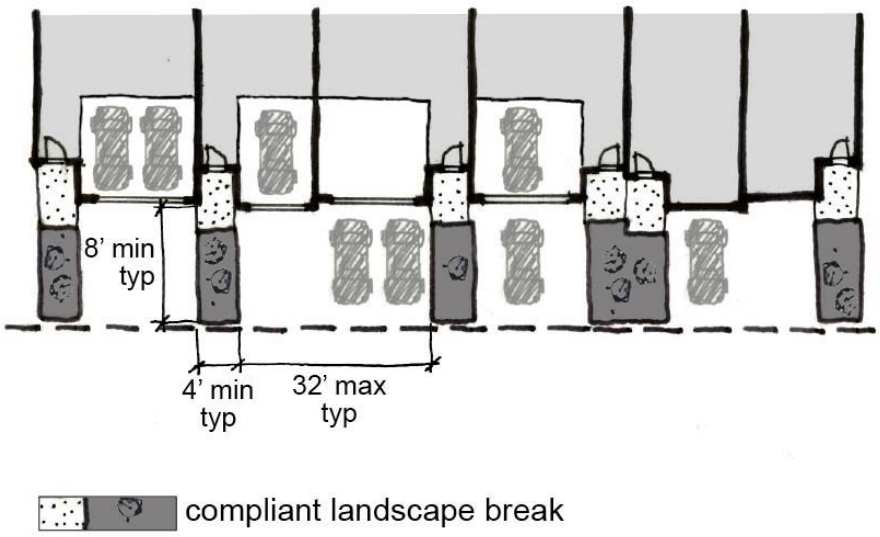
Development examples under current Title21: no landscaped breaks between driveways

Site visits and photographs confirm that landscaped front areas provide visual relief from unbroken expanses of paved surfaces, such as in the following projects:

Landscaped breaks between driveways in new townhouse developments are a high priority of the community, and were discussed extensively and negotiated through the Assembly Title 21 Committee process. Based on these discussions, the Assembly Title 21 Committee settled on:

- Landscaped separations of no less than four feet in width extending from the building to the street or shared drive aisle
- Driveways may be combined in pairs between landscaped breaks, for a maximum of 32 feet without a landscaped break.
- A planting bed buffering townhouse buildings from abutting common parking areas.

These requirements are a compromise: they meet the goal of breaking up long rows of driveways and providing green yard areas along the front facades of rows of dwellings, while remaining workable within the context of current development practices.



The consultant's proposed amendment would eliminate the entire section without explanation, and take the community back to the current situation exactly as it is, with no landscaped breaks. The proposed amendment ostensibly replaces the section with a reference to other landscaping standards, however the reference is to the generally applicable landscaping standards of 21.07.080. The generally applicable landscaping standards do not address the situation of townhouse driveways.

Recommendation: Do not support the proposed amendment.

Chapter 8

36. Unclear 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.

Response: For the purposes of determining the type/complexity of infrastructure required to be built, the municipality is divided into two different "improvement areas". In the current code, these areas are called "urban" and "rural". Through the rewrite the Department found that the term "rural" tends to push some people's buttons, and also it has very different connotations for different people. For example, some people think of rural as one acre lots, others view rural to mean 160 acre size lots. To avoid the tension surrounding the word "rural", the names of the improvement areas were changed to "Class A" (previously "urban") and "Class B" (previously "rural").

Chapter 8 lists the zoning districts that are considered Class A, and the zoning districts that are considered Class B. (In current code, this listing is at 21.85.020.) The improvement area classification indicates the level of public improvements required. For instance, roads in Class A zoning districts are required to have curbs and gutters, street lights, and sidewalks. Roads in Class B zoning districts can be (under current code) gravel with drainage ditches and no street lights or sidewalks.

The proposed amendments would add confusing language about how on occasion the zoning districts in Class A will exist in Class B and vice versa. This is impossible, since by definition the zoning districts listed under Class A are Class A districts, and the same for Class B.

Recommendation: Do not support the amendment.

Chapter 12

37. Perpetuating Nonconformities

Issue: The consultant has proposed changes to Chapter 21.12 - Nonconformities that have drastically changed the regulations to the point that they no longer meet the intent of the section.

Response: As the standards of development in a community change over time, certain developed uses and structures do not meet what the community has agreed is currently acceptable. An example of this is the prohibition on Quonset huts. The community, reacting to the proliferation of this type of structure after World War II, changed the code to prohibit Quonset huts in most districts in the municipality. Since then, existing Quonset huts have been allowed to remain, but no new Quonset huts are allowed, and certain changes trigger the required removal of existing Quonset huts.

The nonconformities section exists to recognize the validity of out-of-date developments, respect the economic investment in older properties, but set some thresholds for when a use or structure must meet or move towards the current community standards. The consultant has proposed some changes to this chapter that will result in certain nonconformities being perpetuated for the foreseeable future, to the potential detriment of the surrounding property owners and the community.

The most significant of the proposed amendments is what qualifies as "maintenance and repair", which are permitted for nonconforming uses and structures as long as the nonconformity is not increased. The provisionally adopted code already significantly expands the definition of "maintenance and repair".

Current code states:

> "Work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumping, to an extent not exceeding ten percent of the current replacement cost of the nonconforming structure…"

The provisionally adopted code gives much more latitude:

> "Repairs and maintenance of nonconformities that are required to keep structures or sites in a safe condition are permitted, provided that the repair or maintenance does not increase the extent of nonconformity. For the purposes of this section, 'maintenance or repair' shall mean:
>
> - Repairs that are necessary to maintain and to correct any damage or deterioration to the structural soundness or interior/exterior appearance of a building or structure without expanding or altering the building or structure.
> - Repair of uses or structures that are damaged or destroyed by 50 percent or less of the replacement cost of the use or structure at the time of damage.

The one year time limit has been removed and the 10 percent limit has been increased to 50 percent, and the scope of the work has been expanded beyond "ordinary" repairs.

The consultant takes this one step further by adding as a meaning of "maintenance or repair":

- Restoration to good or sound condition of any part of an existing structure or characteristic of use; and
- Tenant improvements and renovations.

This opens the door to continual rebuilding and/or renovating of a nonconforming use or structure to the extent that it will never be removed and replaced with a conforming use or structure. This amendment should be rejected.

Additional significant amendments by the consultant include

1) Allowing the number of nonconforming uses within a building to increase (section 21.12.030A.4.), changes that create confusion for the decision-maker with regard to whether or not a standard is met ("substantial compliance" instead of "compliance"; "materially and significantly increases" instead of "increases");
2) Making compliance within the stream setback into a characteristic of use rather than a nonconformity; and
3) Weakening the requirements for a development to bring their characteristics of use (such as parking, landscaping, pedestrian facilities, etc.) towards compliance.

None of these proposed changes should be forwarded.

Recommendation: Do not support the amendments. The standards in the provisionally adopted code are sufficient to accommodate nonconformities created by the rewrite. The changes could impact property values and are not supported by the public.