

TITLE 21 REWRITE

**Assembly Title 21 Committee
August 9, 2012**

**Response to Planning and Zoning Commission Recommended
Amendments to the Provisionally Adopted Title 21**

Chapter 8

Title 21 Rewrite — Assembly Review




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Municipality of Anchorage
Community Development Department
Planning Division



MEMORANDUM

Date: August 9, 2012
To: Assembly Title 21 Committee
From:  Jerry T. Weaver, Jr., Director
Subject: Review of PZC Recommended Amendments to Provisionally Adopted Chapter 8

The Department is reviewing the recommended amendments from the Planning and Zoning Commission (PZC) to the provisionally adopted Title 21. It is identifying policy issues regarding these proposed amendments. This review is intended to assist the Assembly Title 21 Committee in its deliberations.

These issue-response-recommendations are provided in installments by chapter. This installment addresses policy issues that have been identified for **Chapter 8**.

For all chapters, the issues of concern are limited to the following:

1. Changes that have potentially significant implications or outcomes, which either vary from the provisionally adopted Title 21 or downgrade current Title 21 standards.
2. Changes that conflict with the Comprehensive Plan or make its implementation more difficult.
3. Concerns raised by the public that the PZC did not address. In addition, issues brought to the Department's attention by the Assembly Title 21 Committee Chair are included.

The relevant Exhibits that are referred to by this Chapter 8 issue-response include the following:

Exhibit H Anchorage Housing Market Analysis (March 2012)
Exhibit J Municipal Law Opinion re Takings (May 27, 2005)
Exhibit N PZC Case 2011-104 Issue-Response Memoranda (April 19 – June 19, 2012)

These exhibits were provided to you digitally on CD in your three-ring binders at the first meeting. They are also available on the Title 21 rewrite project web page at <http://www.muni.org/Departments/OCPD/Planning/Projects/t21/Pages/Title21Rewrite.aspx>.

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8.1 Chapter 8 Conflicts with Comprehensive Plan –21.08.010 and 21.08.050A.

ISSUE:

The PZC recommends adding new provisions in two parts of Chapter 8 that say, in cases of conflict with the Comprehensive Plan, the requirements of Chapter 21.08 in general, and also specifically subsection 21.08.050 (Improvements), shall govern.

RESPONSE:

This proposed change should not be supported, for the following reasons:

- As a generalized statement, the proposal is factually incorrect, as by law the Comprehensive Plan governs. Ref. (1).
- The proposed sections are unnecessary, because Chapter 1 addresses the general issue of consistency with the Comprehensive Plan in Title 21.
- Chapter 1, *General Provisions*, applies to all of Title 21.
- It would be redundant to restate Chapter 1 provisions in other chapters and sections. This would conflict with a primary objective of the Title 21 Rewrite, to streamline.
- It would be inconsistent with the rest of Title 21, and confusing, if only certain chapters or sections restated that the provisions in Chapter 1 applied to them.

RECOMMENDATIONS:

1. Do not accept the proposed changes to sections 21.08.010 and 21.08.050A.1.
2. Address the issue of Title 21 consistency and conflicts with the Comprehensive Plan in Chapter 21.01, per discussion with the Municipal Attorney. Ref. (1).

REFERENCES:

PZC Revision of Title 21: Section 21.08.010C. on page 1, lines 23-25; and Section 21.08.050A.1. on page 12, lines 40-42.

Provisionally Adopted Title 21: Section 21.08.010, page 410, and Section 21.08.050A.1., page 420.

(1) Items 1.3 and 1.5 of the Chapter 1 issue-response, dated July 19, 2012, discuss the conflicts issue.





8.2 Approved Multi-phase Projects –21.08.030B.

ISSUE:

The PZC has proposed adding language such that all phases of a multi-phase project be allowed to be developed utilizing the provisions of Title 21 as they existed at the time of the approval of the first phase.

This follows on issue 1.6 from Chapter 1.

RESPONSE:

A time limit consistent with current Title 21 should be added or this change would downgrade current Title 21 standards and potentially impede implementation of the Comprehensive Plan:

- Phased projects tend to be large scale developments, which can take more than many years to complete. See (1).
- Currently, where there is an approved full layout plan, all of the phases are reviewed for compliance with the conditions of approval the full layout plan, which can be valid for up to ten years. The conditions of the full layout plan arise from the code that was in place at the time it was approved. The phases are reviewed against those conditions, not against whatever code is current at the time each phase is submitted. If a later phase does not conform to the full layout plan (e.g., a school site is now proposed where residential lots were shown in the full layout plan), this phase would be reviewed anew under the regulations in place at the time of the phase’s submittal.
- Where there is no full layout plan, and the land is tracted out with no indication of future development plans, it would be inappropriate for future phases to be reviewed to the code in place when the first phase was approved. People do not have vested development rights to use the design standards of the code in place when the land was tracted out, if the simply tract out a property and do not submit a layout plan for review and approval. The MOA does not know what is being proposed.

Continued...

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030B., Page 2,
Lines 18-21.**

*Provisionally Adopted Title 21
Section 21.08.030B., Page 411,
Line 15.*

(1) Examples of existing multiphase projects that were started in the late 1990’s or early 2000’s still in progress include Southport, Eagle Crossing, and Eagle Pointe.

(2) The Commission’s proposal could be applied to unlimited time extensions of the original approval or in the case of an expired preliminary plat approval.

Going back to the version of Title 21 that existed when each phased development was approved would result in multiple years of Title 21 requirements being used to review different phases of developments, depending on what year the development was approved as Title 21 underwent revisions within the ensuing years.





8.2 Approved Multi-phase Projects – Continued

RESPONSE CONTINUED:

- This would conflict with the Comprehensive Plan in that later stages of large developments would not be in conformance with new code requirements.
- The proposed change allowing the developer to choose which code would apply to later phases would have the effect of extending Title 21 regulations that existed at a certain point in time indefinitely into the future. (2) The data upon which the original approval was granted may no longer be valid and the surrounding area may have changed significantly. Regulations change over time for reasons such as:
 - ⇒ In response to new technology;
 - ⇒ To address conflicts discovered within the code;
 - ⇒ In response to unintended consequences arising from experiences with other projects;
 - ⇒ To implement more efficient or effective tools;
 - ⇒ To respond to state or federal requirements; and/or
 - ⇒ Implement the updated Comprehensive Plan.
- Currently, when a plat approval for a full layout plan does expire, a new preliminary plat must be submitted for the approval to continue development of a phased project. At such time the more currently adopted Title 21 applies to the preliminary plat being reviewed. This ensures that the most current Title 21 will govern a phased development no matter how many revisions were enacted to Title 21 in the time since the phased development was originally approved.
- By contrast PZC’s proposed change would create regulation ambiguity and administrative inefficiency. Ref. (2). In addition, tracking the applicable Title 21 version would further compound tracking applicable versions of design criteria and construction standards for phased developments.

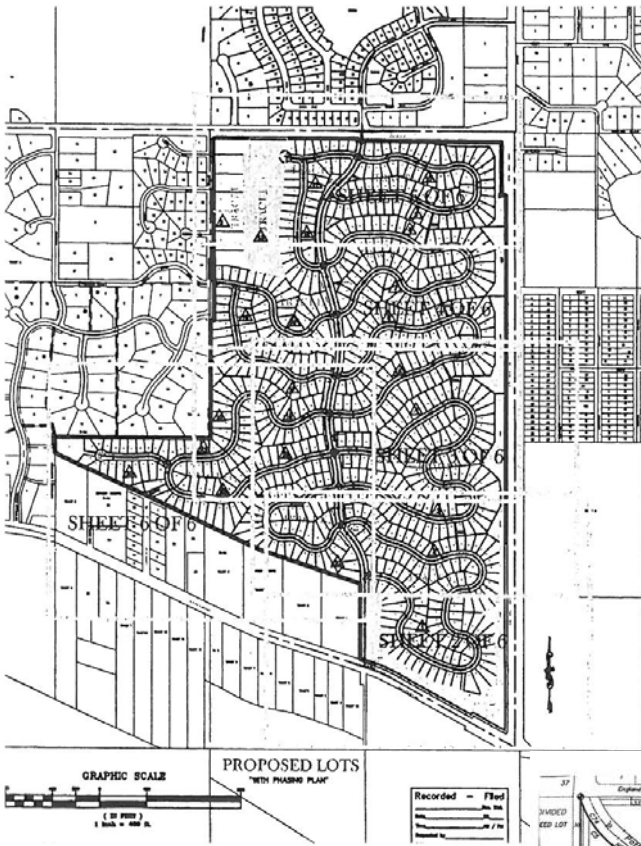
RECOMMENDATIONS:

1. For large parcels with an approved full layout plan, future phases should be reviewed for compliance with the full layout plan. The Department does not object to a second five-year extension of the approval, through a series of 18 month approvals, not to exceed 60 months, allowing the full layout plan to be in place for a maximum of 15 years, which is five years longer than the current Title 21.
2. If no full layout plan is submitted, each phase of the development should be reviewed under the Title 21 in place at the time the application is submitted.

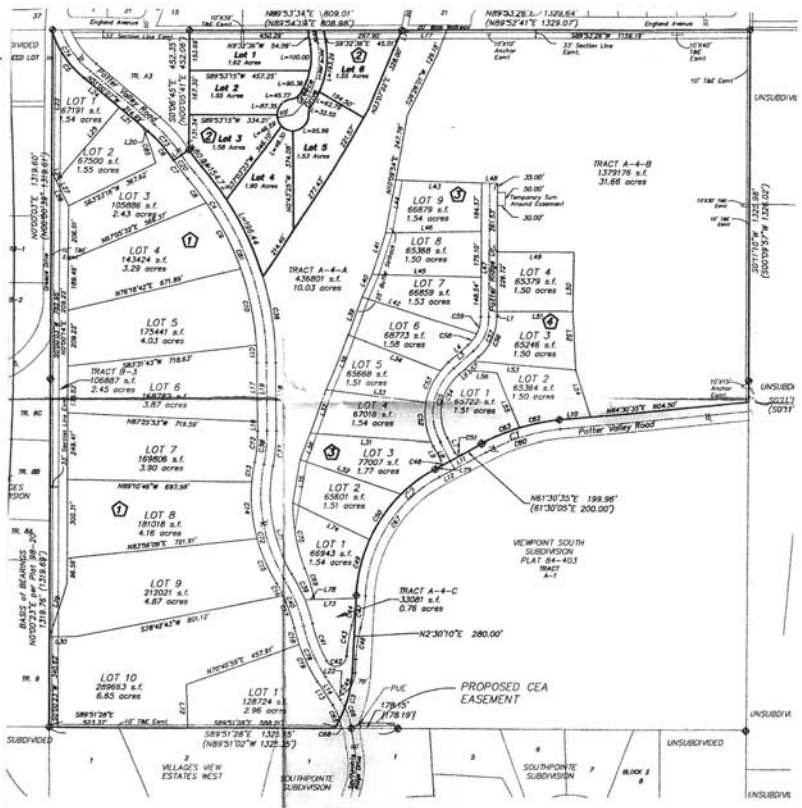




8.2 Approved Multi-phase Projects –21.08.030B. (continued)



West Park Subdivision—
full layout plan

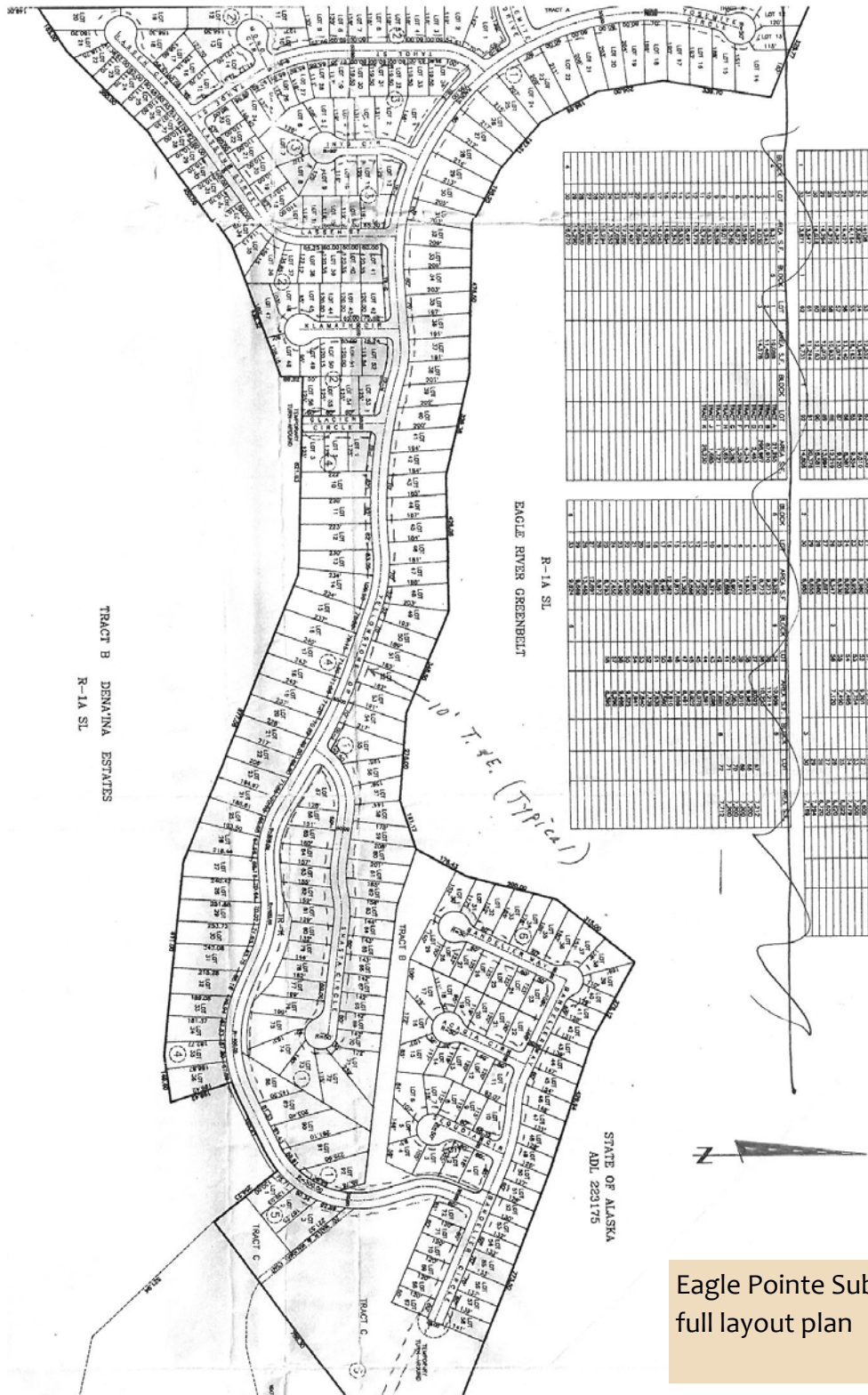


Potter Highlands Subdivision—
example of tracts without a full
layout plan





8.2 Approved Multi-phase Projects -21.08.030B. (continued)



Eagle Point Subdivision—
full layout plan





8.3 Private Streets in Subdivisions –21.08.030F.

ISSUE:

PZC recommends that private streets be allowed by-right, in lieu of dedicated public streets, in subdivisions which have a plat note providing for a homeowners association to maintain and repair the streets.

PZC argues that private streets are allowed now and should continue to be allowed, and that MOA’s concern is mainly about who maintains the street.

RESPONSE:

Private streets in subdivisions must remain an exception, and approved through a variance process before the Platting Board:

- Public right-of-way dedication provisions are longstanding in Title 21. Dedicated public streets provide uniformity in design, construction, snow plowing, street cleaning, maintenance, traffic flow operations, and emergency response.
- Private streets requests must provide justification why a private street is appropriate and preferable to a dedicated public street, and demonstrate that the private party is willing and able to maintain the private street to public standards.
- Private street requests must clearly demonstrate the private street presents no conflict or obstruction to the orderly expansion of the public street system in the area.
- Private streets must be designed and constructed to public street standards.
- Under current Title 21, private streets in subdivisions have been evaluated and approved on a case-by-case basis.
- There is a difference between subdivisions and single-tract condominium-ized developments (often referred to as “site condos”). Private streets in single tract developments will continue to be allowed through the administrative review.

Continued...

REFERENCES:

***PZC Revision of Title 21:
Section 21.08.030F., Page 3,
Lines 1-4.***

*Provisionally Adopted Title 21
Section 21.08.030F., Page 411.*





8.3 Private Streets in Subdivisions –continued

RESPONSE CONTINUED:

- The Municipality receives recurring inquiries regarding converting “private” streets to “public”, generally prompted by HOAs (or individual members) as the HOAs realize increased street maintenance and repairs costs as infrastructure ages, or unsatisfactory private services. These inquiries come despite HOA covenants, recorded declarations, and plat notes to reinforce that the street is “private”.
- The variance process ensures the paper trail that is needed to document why the applicant was allowed to have a private street in a particular case, and the conditions of approval, and the type of “private street” situation (sidebar).
- PZC’s proposed exception is located in the wrong section. Street dedication requirements are in section 21.08.040A.

RECOMMENDATIONS:

1. Do not accept the proposed amendment in section 21.08.030.
2. Amend section 21.08.040A., which addresses dedication of streets, to allow private streets in subdivisions as an exception through a variance before the Platting Board.

Defining “Private Street”

A definition of a “Private Street” to differentiate from a “Privately Maintained Street (in a public right-of-way)” may be appropriate.

Use of the term “private” has been associated with in five distinct kinds of situations:

- (1) A dedicated private street located on privately owned property held in common by a HOA (Examples: Eagle Crossing Phases H, I, and N; Coronado Park);
- (2) A street that is “privately maintained, repaired, and reconstructed”, but located in a dedicated public place (Examples: multiple Hillside neighborhood outside ARDSA and LRSA boundaries; LumenPark);
- (3) A private street located in a common access easement across multiple privately and individually owned parcels with shared access, maintenance, repair, and reconstruction (Example: Little Campbell Creek Estates);
- (4) A private street located inside a commercial fragment lot development lot (Example: Dimond Mall complex); and,
- (5) A private street constructed on a single tract under AMCR 21.90. (Example: Loussac Place)





8.4 Sidewalks in Cul-de-sacs –21.08.030F.

NOTE: The Assembly Title 21 Committee resolved this issue at its August 2nd meeting.

ISSUE:

PZC recommends adding a new subdivision design standard exempting all cul-de-sacs from any sidewalk requirement.

RESPONSE:

This proposal should not be supported for the following reasons:

- This proposal reverses the course of Title 21 Rewrite project objectives, and is in conflict with the Comprehensive Plan.
- This is a reduction of existing Title 21 standards. Currently, cul-de-sacs with low traffic volumes and speeds need not have sidewalks, unless the platting authority finds there is sufficient pedestrian trip volume to require sidewalks. See (1).
- It does not take into account the intensity of development on the cul-de-sac. Nothing prohibits intense uses on cul-de-sacs, such as a school or multifamily housing that would generate large numbers of pedestrian trips. At a minimum, the sidewalk requirement should be tied to the need.
- In Chapter 21.07, it is a requirement to provide a pedestrian access easement at the end of each cul-de-sac to the closes adjacent street or trail, where practicable. Sidewalks should lead to this pedestrian easement.
- It is more appropriate to address this issue in Chapter 7, Section 21.07.060., which addresses pedestrian facility requirements including in cul-de-sacs.

RECOMMENDATIONS:

1. Do not accept the proposed amendment to the subdivision design standards.
2. Continue to address pedestrian facility standards for streets and cul-de-sacs in Chapter 7, Section 21.07.060.

REFERENCES:

*PZC Revision of Title 21:
Section 21.08.030F., Page 3,
Line 44.*

*Provisionally Adopted Title 21
Section 21.08.030F., Page 411.*

(1) AMC 21.85.090B.





8.5 Subdivision Standards for Alleys –21.08.030.F.

ISSUE:

The PZC recommends prohibiting driveways on lot frontages where there are alleys.

RESPONSE:

This proposed amendment should not be supported for the following reasons:

- This is an inappropriate section to deal with this issue. This section is about the platting of alley rights-of-way. Development design standards for driveway access are established in Chapter 7.
- The language is unclear. Is it prohibiting driveways on the alley side, or is it prohibiting driveways on the street frontage of a lot that has an alley available?
- The proposed amendment contradicts the standards in Chapter 7 for driveway access for lots with alleys. The standards in Chapter 7 are more flexible and were developed through analysis, field study, the assistance of the municipal Traffic Engineer, and the public review process. See (1).

RECOMMENDATIONS:

Retain the provisionally adopted section without the addition.

REFERENCES:

Section 21.08.030F.7 of Provisionally Adopted Title 21

Section 21.08.030F.7., page 3, lines 46-47, of PZC Revision of Title 21

1. For example, Section 21.07.110H.4., *Site Design—Alleys*, provides design standards for driveway access to residential lots with alleys.





8.6 Applicability of Subdivision Slope Standards to Individual Lots –21.08.030H.

ISSUE:

The PZC recommends adding a provision that states the calculation of the slope percentages used to determine if a property shall be subject to the standards for subdivisions on slopes, shall not apply to an individual lot. The rationale given for this addition is that it provides clarification.

RESPONSE:

This addition should not be supported for the following reasons:

- It is unnecessary because the applicability is already clear. The applicability states that the section, “applies to parcels to be subdivided that are five acres or more” and either “have an average slope of 20 percent or greater over the entire property” or have 30 percent or greater slopes over 30 percent or more of the entire property. These statements could not be interpreted to apply to individual lots.
- This section applies to the design of a subdivision of a property into individual lots. It is different from slope standards for development of an individual lot, which are established in Chapter 7.
- Grammatically, the addition does not fit the structure of the section, and is confusing. How can there be a measurement that cannot apply to a lot?
- There is no way the slope percentage could be applied to the individual lots into which a parcel is to be subdivided, because this measurement occurs on the parcel before subdivision.
- This confusing change could result in allowing mass grading of 30% slope areas, contrary to the intent to not disturb steep slope areas in the best interest of maintaining drainage and protecting adjacent properties. See (1).

RECOMMENDATION:

Retain the provisionally adopted section 21.080.030H.1. without the addition.

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030H., Page 4,
Line 44.**

*Provisionally Adopted Title 21:
Section 21.08.030H., Page 413,
after Line 35.*

- (1) For example, AO 99-148 addressing the special limitations for the Eagle Crossing subdivision established that “Development within areas of, or greater than, 30% slope affected land shall be prohibited, except in the areas shown on the attached ‘Exhibit B’ and except for specific limited clearing of vegetation for utility placements in a preliminary approved subdivision plat.”





8.7 Deleting Minimum Standards for Sidewalk/Pathway on Slopes –21.08.030H.

ISSUE:

For subdivisions on slopes where the platting authority may apply more limited requirements for street sidewalks, the PZC proposes to replace minimum walkway standards for providing a sidewalk/pathway on one side of the street, with a discretionary, case-by-case review decision process. The PZC has proposed a limited set of factors the platting authority must use determine the walkway requirements.

Note this amends a proposed amendment previously approved by PZC in 2010, and has formatting discrepancies. See (1).

RESPONSE:

- This proposal in conjunction with proposals in Chapter 21.07 allow the platting board to waive adopted municipal policies, by allowing them to eliminate pedestrian facilities that are shown on various adopted plans, such as the Trails Plan, the Hillside District Plan, etc..
- The proposed change would reduce current Title 21 standards. Under current code, the requirement cannot just be eliminated.
- Using “the cost of improvements in relation to the anticipated use” as one of the regulatory decision-making criteria is inappropriate and weighted toward the needs of the developer. The criteria does not address the need for the pedestrian facility.

RECOMMENDATIONS:

Adjust the proposed amendment in 21.08.030H.6., as follows:

1. Add a criteria to address the need for the pedestrian facility; and
2. Change the last phrase, on lines 42-43, to read, “... , and the demonstration providing for[POSSIBILITY OF] alternative locations for pedestrian facilities.”

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030H.6., Page 5,
Lines 36-43.**

*Proposed Amendment #R27,
Page 61, of the Consolidated
Table of Proposed
Amendments*

*Provisionally Adopted Title 21:
Section 21.08.030H., Page 414,
Lines 28-32.*

- (1) There seems to be some minor discrepancies in PZC’s tracked-changes formatting. Some of the highlighted changes in blue in lines 36-37 are proposed technical edits, not from PZC. Secondly, the last sentence on lines 40-43 is new from PZC, and so should not be highlighted yellow.





8.8 Exempting Subdivisions on Slopes from Grading Standards –21.08.030H.

ISSUE:

PZC recommends granting the Platting Board the authority to waive the prohibition against mass grading of entire subdivisions on slopes of 20 percent or greater.

PZC contends that there should be flexibility to allow it under circumstances the Platting Board determines it is appropriate.

RESPONSE:

This proposed change should not be supported for the following reasons:

- This would allow the Platting Board to waive adopted municipal policies, to conflict with the Comprehensive Plan.
- The goals, objectives, and policies of the Comprehensive Plan are for slope development to retain and adapt to the natural topography, drainage, soils, and vegetation on hillsides. See planning policy references in (1), (2), (3), (4), and (5).
- Mass grading of an entire subdivision on a steep slope is contrary to sound development practice.
- Neighboring property owners, the critical natural environment of hillside slopes, and the community in general would be likely to be negatively impacted.
- The waiver is open-ended, but the onus should be on the PZC to explain to t While the Department does not support this change, if there were to be an exception, then there would need to be standards that state when the mass grading of an entire subdivision site on a steep slope may be appropriate, in order to give guidance to the Platting Board.

RECOMMENDATIONS:

Retain the wording of the section as provisionally adopted. If there is to be an exception, add standards for determining when mass grading of an entire subdivision on a slope is appropriate.

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030H., Page 6,
Line 1.**

*Provisionally Adopted Title 21:
Section 21.08.030H., Page 414,
Lines 28-32.*

- (1) Hillside District Plan, Goal #2 and Policy 14-1, highlighted next page.
- (2) Turnagain Arm Comprehensive Plan, Goal #1 is to preserve scenic quality and the natural environment, and includes this policy: “Limit disturbances on steep slopes to prevent soil erosion and drainage problems to the maximum extent possible.”
- (3) Chugiak-Eagle River Comprehensive Plan Update, Natural Environment goals and objectives highlighted on next page.
- (4) Anchorage 2020 Comprehensive Plan Policy #13, see next page.
- (5) Girdwood Area Plan, page 43: extra care to be taken in development of moderate slope areas.





8.8 Exempting Subdivisions on Slopes from Grading Standards – (continued)

Hillside District Plan

Goal 2: “Guide the character of development of individual properties, homesites, and subdivisions to help maintain assets such as quiet, trees and other natural vegetation, natural drainage systems, wildlife habitat, good views, access to open space, access to clean water, and dark night skies.”

Policy 14-I establishes slope development standards that apply specifically to subdivisions, and reads, “The Municipality will write ordinances or policy updates as necessary following plan adoption to formalize these standards.”

- “Minimize disruption of natural vegetation; where vegetation must be altered (for example, in road cuts), replant disturbed areas with native vegetation meeting “Firewise” standards.”
- “No mass grading is permitted other than for roads and utilities”.

Anchorage 2020 Comprehensive Plan

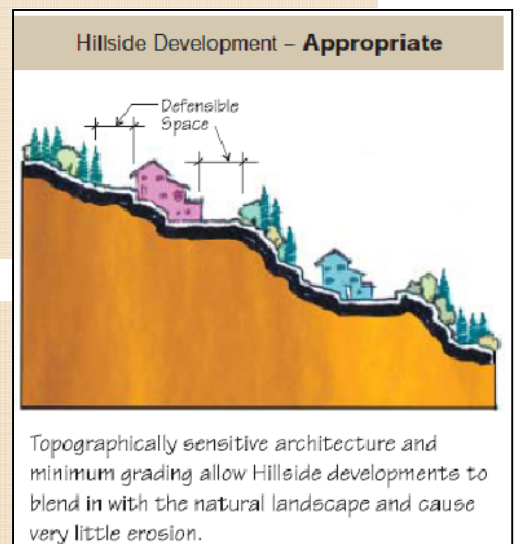
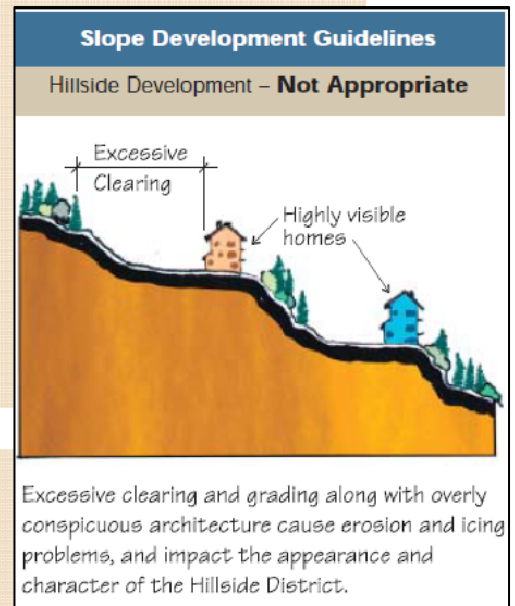
Policy 13: “New rural residential subdivisions shall be designed to: a) Maintain the rural character of the area; b) Link to existing adjacent road and trail systems; c) Protect, maintain, or avoid sensitive environmental areas (wetlands, steep slopes, drainageways, unsuitable soils, geohazard areas); and, d) Incorporate wildland fire safety design standards.

Slope Development Guidelines Strategy: “The objective of this strategy is to create enforceable design guidelines for development on slopes.”

Chugiak-Eagle River Comprehensive Plan Update

Natural Environment policies and strategies:

- “Preserve Vegetation in steep slope areas in order to prevent soil erosion to the maximum extent practicable.”
- “For development on steep slopes, during all phases of construction, incorporate control measures to prevent flooding, minimize erosion, assure safety, and prevent eroded material from entering established drainage systems, natural water courses and roadways.”





8.9 Vehicle Routes for Subdivisions on Slopes –21.08.030H.

ISSUE:

PZC has rejected Amendment #R28, approved by PZC in 2010, which was intended to provide content for a reserved section of Title 21. No reason was given for deleting this section.

RESPONSE:

The proposed section should be supported, for the following reasons:

- This section, along with the prohibition on mass grading of subdivisions, is important to preserve existing soils, vegetation, and natural drainage patterns in sloped areas, as called for in the Comprehensive Plan. Ref. (1).
- The section addressing vehicular routes on steep slopes was “reserved”. A proposed prohibition on streets on slopes over 50 percent was one of the main concerns that the Assembly Title 21 Committee asked be reviewed by the Planning Department.
- This section was carefully developed with engineers from the Project Management and Engineering Department. It places a limit on the amount of ground disturbance, rather than on the steepness of the slope to be crossed. The recommendation encourages the least ground disturbance possible, as directed by the Comprehensive Plan. See (2).
- The recommended section is designed to achieve the twin goals of limiting the disturbed areas on slopes, while allowing development and access to more remote parcels in the Municipality’s sloped areas.

RECOMMENDATION:

Retain amendment #R28 to forward the proposed section for adoption.

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030H.8., Page 6,
Lines 7-46.**

*Consolidated Table of
Proposed Amendments:
Amendment #R28, Page 61.*

*Provisionally Adopted Title 21:
Section 21.08.030H., Page 414,
Lines 42-43.*

- (1) Plan policies listed in Issue 8.7 above. Also, Policy 14-M in Hillside District Plan addresses road standards, “with the purpose of minimizing cut-and-fill, disruption to natural drainage, and visual impacts.”
- (2) In summary, the proposed section requires the roadway embankment to remain within the right-of-way, but allows constructed structural stabilization solutions, such as retaining walls, to extend into the area that is 15 feet beyond the right-of-way. Disturbed areas are to be restored. A retaining wall must be a terrace if it exceeds 15 feet in height.





8.10 Geotechnical Investigations –21.08.030L.

ISSUE:

PZC has proposed to replace the provisionally adopted requirement for a geotechnical investigation in high and very high seismically induced ground failure hazard zones (zones 4 and 5), with a statement giving the Platting Board, Geotechnical Advisory Commission (GAC), or the PZC the authority to require such an investigation if the review body decides it is necessary.

RESPONSE:

The public health, safety, and welfare would not be served by the proposed amendment:

- A waiver from the geotechnical investigation should remain available as an exception, and not become the default. The Municipality’s adopted ground failure maps already indicate that zones 4 and 5 are highly or very highly susceptible to seismically-induced ground failure. The geotechnical investigation will provide more specific analysis to either show that the ground in the proposed subdivision area will be stable or to show the extent of seismically-induced ground failure that can be expected. See (1).
- A decision by the platting authority to waive the requirement for a geotechnical investigation should be based on a recommendation from the Geotechnical Advisory Commission (GAC), which is the board with specific background and expertise in this area.
- Since the GAC is a technical advisory board, it can only provide a recommendation to the platting authority. It does not have the authority to require a study. See (2).

RECOMMENDATIONS:

1. Do not accept the language proposed by PZC for Section 21.08.030l, paragraph 1.
2. Retain the provisionally adopted language in Section 21.08.030l, but with the following revisions:

Continued...

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030l., Page 7,
Lines 2-14.**

*Provisionally Adopted Title 21
Section 21.08.030l., Page 415,
Line 2-6.*

- (1) Seismic ground failure zones 4 and 5 are susceptible to land sliding and ground spreading in a major earthquake. These areas pose a higher life/safety risk and potential for economic loss.
- (2) Chapter 21.14 defines “platting authority” as the platting officer, municipal platting board, or any other board so designated by the Assembly”.





8.9 Geotechnical Investigations (continued)

Specific Amendment Language Recommended by the Department to Provisionally Adopted Section 21.08.0301.:

I. Seismic-Induced Ground Failure Hazard

1. A geotechnical investigation shall be performed to evaluate the potential for seismic-induced ground failures across that portion of the subdivision within seismic zones 4 and 5 of the municipality's *Seismically-Induced Ground Failure Maps*[MAPPING]. The requirement for a geotechnical investigation shall apply to all zoning districts, unless otherwise waived by the platting authority based on a recommendation from the Geotechnical Advisory Commission.
2. A report of the findings and recommendations of the geotechnical investigation shall be prepared by a civil engineer licensed in the state of Alaska and submitted to the platting authority[, PREPARED BY A CIVIL ENGINEER LICENSED IN THE STATE OF ALASKA]. The report shall include a discussion of the suitability of the proposed development and recommendations for any needed mitigation.
3. The scope of the geotechnical investigation shall include subsurface explorations (test borings [OR EXCAVATIONS]), laboratory testing, and engineering analysis to evaluate the potential for, and potential magnitude of liquefaction, settlement, and lateral [HORIZONTAL] spreading[, AND FAULTING], following methods conforming with the state-of-practice; and stability of existing slopes, natural or man-made, following methods defined in AMC chapter 23.15, section 1802.2.6, paragraph D. These evaluations shall be based on probabilistic ground motion parameters corresponding to 475-year or greater return period.
4. The platting authority may reject a proposed subdivision in its entirety if the geotechnical investigation does not demonstrate that the area can be developed in accordance with this title and AMC title 23.
5. The geotechnical investigation submitted with the plat application may supplement the requirements for geotechnical investigations included in AMC title 23.





8.11 Exempting Small Lots from Minimum Width-to-Depth Ratio—21.08.030K.

ISSUE:

PZC has proposed adding language exempting “small” subdivision lot from the requirement for the width to be at least one-third of the depth of the lot.

RESPONSE:

- This reduces longstanding current standards for lot width ratio, that affects the built character of neighborhoods.
- The term “small lot” is not defined, and is proposed without design standards or approval criteria to mitigate the small lots.
- Allowing long lots with narrower frontage widths, for example, could increase the frequency of driveways/garages, reduce front yard landscaping, and alter neighborhood housing scale.
- Currently, Title 21 supports small lots as utilized in cluster subdivisions and several other special provisions. However, for small lots to be appropriate in conventional lot development, the community should first establish design criteria, location standards, and maximum densities for small lot development.
- The development of a “small-lot housing” ordinance has been identified in a recent housing market study as a policy option. It would allow for single-family lots of less than 6,000 square feet, where appropriate and with design standards. Ref. (1).
- A small-lot housing amendment should be developed with care and include adequate public involvement and review.

RECOMMENDATION:

1. Do not support the proposed amendment in 21.08.030K.2.
2. Consider prioritizing the preparation of a small lot housing ordinance, to be developed through a collaborative public process that is separate from the Title 21 Rewrite project.

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.030K.2., Page 7,
Line 41.**

*Provisionally Adopted Title 21:
Section 21.08.030K.2., on Page
415, Lines 33-34.*

- (1) Exhibit H., Housing Market Analysis (March 2012): Summary Report executive summary on pages 5 and 6 suggests housing policy options for consideration by policy makers, city planners, housing advocacy groups, neighborhood community councils, developers, and financial institutions.

One option given is, “Allow small-lot single-family housing on smaller lots (less than 6,000 square feet) and narrower lots (less than 50 feet) where appropriate and with design standards.”

In its “Next Steps” section, the Housing analysis report recommends completing the Title 21 Rewrite first, and then implementing the other housing policy options (which could include a small lot housing ordinance).





8.12 Reducing the Minimum Lot Frontage Width on Cul-de-sacs –21.08.030L.

ISSUE:

PZC has proposed a new change reducing the minimum frontage for a lot on a cul-de-sac bulb from 35 to 30 feet. The explanation provided by PZC is that 30 feet is the current standard and there is no reason to change the current standard.

RESPONSE:

In fact, the current minimum frontage width is 35 feet, to accommodate T&E easements, OSHA requirements, and adequate setbacks and spaces between buildings:

- Thirty (30) feet is the minimum width to extend both water and sewer services lines to a residential lot. If repair of a service line(s) is required, OSHA requires a 30-foot work space to ensure safe and adequate side slopes of the work area .
- Typically, there is a 10-foot telephone and electric easement (T&E) that runs along the common side lot lines of adjoining lots – 5 feet along each boundary. Any repair work on a 30-foot frontage could adversely affect the other utility.
- Typically, the utility services lines are extended the minimum length in order to reduce costs, resulting in a structure being constructed closer to structures on adjoining lots.
- The frontage of subdivision lots on a cul-de-sac should not be reduced. The reduction of space between structures will not provide for light, air, open space and privacy. The neighborhood will have a more crowded appearance.
- The narrowing of the lot at the front property boundary may result in a greater number of encroachments into required side yard setbacks requiring variances from the Zoning Board of Examiners and Appeals. Frequently, the need for a variance becomes the responsibility of the new property owner, and not the home builder.

RECOMMENDATION:

Retain the current 35-foot frontage on a cul-de-sac bulb, because it is the minimum required to accommodate the easements necessary to provide public services to a residential lot.

REFERENCES:

*PZC Revision of Title 21:
Section 21.08.030L., Page 8,
Line 30.*

*Provisionally Adopted Title 21:
Section 21.08.030L., Page 416,
Line 22.*





8.13 Overlap between Landscaping and Utility Easements –21.08.030M.

ISSUE:

PZC rejected Proposed Amendment #95 which was intended to delete subsection 2 of the Landscaping provisions of the subdivision design standards.

PZC intends that a portion of the utility easement should be allowed to be used as a landscaping buffer, for flexibility and efficient use of land.

RESPONSE:

- In fact, Proposed Amendment #95 makes it possible for the full width of a landscaping easement to coincide with a utility easement, by deleting a limitation that no more than 50 percent of the landscaping easement could overlap.
- Amendment #95 aligns the subdivisions standards with the with amendments made previously to the landscaping standards in Chapter 7.
- The Title 21 Economic Impact Analysis (EIA) site testing showed the provision in subsection 2 to be infeasible.

RECOMMENDATION:

Forward Proposed Amendment #95 for adoption, to delete subsection 2.

REFERENCES:

*PZC Revision of Title 21:
Section 21.08.030M., Page 9,
Lines 1-5.*

*Consolidated Table of
Proposed Amendments:
Amendment #95, Page 63.*

*Provisionally Adopted Title 21:
Section 21.08.030M., Page 416,
Lines 38-42.*





8.14 ROW Dedications for Trails and Parkland Access –21.08.040D.

ISSUE:

PZC modified the section on dedications for designated trails, and dedications for public access ways to parklands. It has removed authority to require dedication of an easement for trails designated in adopted plans. Parkland access is reduced to 10’, and shall only be easements, among other changes.

RESPONSE:

- Section D. provided the general authority to justify dedication of easements for trails designated in an adopted plan. PZC’s changes to D. would eliminate this authority.
- Public access alignments to Chugach State Park should be a dedicated rights-of-way. Certification of fee simple ownership is necessary to spell out the allowed use, and transfer liability responsibilities to the Municipality.
- At least 20’ width is needed for maintaining clearance from vegetation and snow, adapting to topography, ensuring emergency vehicle access, supporting pedestrian traffic volumes, and to protect the abutting property owners.
- The provisionally adopted dedications support the public’s interest to maintain or enhance public access to its parks and trails. Dedication of streets and/or trails for a legitimate public purpose is a longstanding and legally-justified subdivision requirement, and is supported by the Comprehensive Plan. (1)

RECOMMENDATIONS:

Retain the section as provisionally adopted, except as follows:

1. In provisionally adopted subsection D.1.a., change the word “easement” to “alignment” wherever it appears, and change line 26 to read, “Chugach State Park Access Plan”.
2. Accept PZC’s version of subsection D.1.b., changing the last sentence to read, “Acceptable vehicular access shall be a platted and dedicated right-of-way in accordance with relevant provisions of this code.”

REFERENCES:

**PZC Revision of Title 21:
Section 21.08.040D., starting
from page 10, line 3, to page 11,
line 7.**

*Section 21.08.040D., page 418,
lines 1-28, of Provisionally
Adopted Title 21*

(1) For example, connectivity and public access between from neighborhoods, adjacent streets, parks, and trails is an essential theme of Anchorage 2020 and especially the Hillside District Plan and the Parks Plan. Subdivision regulations achieve public benefit objectives such as a well-connected street network for pedestrian access, more distributed traffic flow, emergency service responses, and access to Chugach State Park, which borders most of the Municipality.

The MOA also intends to adopt the State’s Chugach Access Plan as a Comprehensive Plan element to support this purpose.





8.15 Deleting Standards for Sidewalks and Walkways –21.08.050H.

ISSUE:

PZC has proposed that sidewalks or walkways shall not be required in urban areas on both sides of a street or property in a subdivision, and that they should not be required in rural areas. The rationale provided is that requiring walkways on both sides of the street results in constraints on the availability of land.

RESPONSE:

This proposal should not be supported for the following reasons:

- The proposal reverses the course of the Title 21 rewrite objectives, and is in conflict with the Comprehensive Plan. Elaboration in (1).
- The proposal degrades current Title 21 requirements in urban districts, where the number of sidewalks required on local streets is based on the projected daily vehicular traffic. See (2).
- The wording of the proposal is problematic. It literally prohibits sidewalks from being required on both sides of any street. Also, what does “both sides of a property” mean?
- The proposal is amending the wrong chapter / section. It is more appropriate to resolve the need for sidewalks in Chapter 7, which addresses pedestrian facility requirements in urban and rural districts. See (3).
- Having sidewalks on both sides of streets does not constrain the availability of land, because the amount of right-of-way required for subdivision streets is still the same. In fact, sidewalks have little relative impact on land area as a percent of a subdivision. They are basic infrastructure that contributes to efficient patterns of travel, development, and land use.

RECOMMENDATIONS:

1. Do not include the language proposed by the PZC in the subdivisions chapter.
2. Maintain the pedestrian facility standards in Ch. 7, Section 21.07.060, and provide walkways on both sides of the street.

REFERENCES:

**PZC Revision of Title 21:
Section 21.080.050H., page
18, lines 20-23.**

*Provisionally Adopted Title 21:
Section 21.080.050H., pages
425-426 of*

- (1) The Title 21 Rewrite as provisionally adopted called for retaining and enhancing minimum community standards for pedestrian facilities and access. PZC’s proposal would be a considerable setback to policies in multiple plan elements of the Comprehensive Plan regarding improving the pedestrian environment and connectivity.
- (2) AMC 21.85.090.
- (3) Title 21 Rewrite, in Section 21.07.060E.2.





8.16 Warranties for Subdivision Agreements –21.08.060H.

ISSUE:

The PZC approved recommended amendments from the department on pages 28-29, which responded to public comments about whether deficiencies in public infrastructure found by MOA inspectors only after the initial inspection should be the sole cause for delaying commencement of the warranty on a subdivision development. The amendments also reflect public concerns being addressed in AO 2012-7(S), which currently before the Assembly. Ref. (1).

However, PZC has added to the department’s recommended language on page 28, line 23, to add a seven day maximum to the period the MOA has to complete the inspection and provide a list of deficiencies. Secondly, PZC has added a new subsection 9 on page 29, lines 29-33, which gives the MOA until 60 days before the expiration of the warranty period to list deficiencies needing correction.

RESPONSE:

The following additional changes from PZC should not be supported:

- On page 28, line 23, adding “for no more than 7 days”, and on lines 28 and 29, “Failure to complete the inspection within the timeframe set forth in this section constitutes acceptance of the improvements for warranty”, would be cause for concern of potential misuse of the provision. Weather becomes an issue when construction season activities extend to snowfall. This situation has caused final inspections to be requested prematurely, all improvement obligations having not been completed. Further elaboration provided in (2).
- On Page 28, line 36, “for no more than 7 days” has also been added. See comments above.
- On Page 29, lines 29-33 a new subsection H.9 was added. It is a misplaced addition, and it conflicts with Section 21.08.060K, End of Warranty Period.

Continued...

REFERENCES:

PZC Revision of Title 21: Section 21.08.060H., starting on page 28, line 19; and continuing through page 29, line 33.

Provisionally Adopted Title 21: Section 21.08.060H., page 436.

- (1) A summary of this section, comments from the public to PZC, and the Department amendments to PZC are provided in Exhibit N., pages 36-38.
- (2) A call for final inspection when snow and ice have begun to accumulate requires the subdivider to remove all snow and ice from all areas to be inspected. Neither the subdivider’s request for an inspection too late in the construction season, nor the subdivider’s refusal to remove snow and ice to facilitate an inspection, are grounds for automatic on-warranty consideration.





8.16 Warranties for Subdivision Agreements – Continued

RECOMMENDATIONS:

1. Do not include PZC’s additional language on page 28 lines 23, 28-29, or 36; or its additional subsection proposed on page 29, lines 29-33.
2. Forward the remaining amendments approved by PZC to Section H.
3. Amend Section 21.08.060J. (page 30, after line 20, of PZC Revision of Chapter 8), as follows, to address the above issue. Active monitoring and responsiveness by the subdivider and the Municipality during the warranty period would facilitate (and alleviate) warranty inspection and follow-up releases.

Add the following language to 21.08.060J.:

The subdivider shall monitor the subdivision improvements during the warranty period, and repair any defective or failed construction that may present itself or become apparent as soon as whether permits, or immediately, in cases where public safety dictates. Repair and reconstruction of any construction deficiencies or construction failures during the warranty period are the responsibility of the subdivider.

