Municipality of Anchorage

Community Development Department
Planning Division

MEMORANDUM

Date: June 4, 2012

To: Planning and Zoning Commission

From: Jerry T. Weaver, Jr., Director

Subject: Case 2011-104 – Proposed Amendments to Provisionally Adopted Title 21: Public Comment Issue-Response for Chapters 5 and 6

This memorandum provides responses and recommendations as to issues raised by the public about the provisionally adopted **Chapters 21.05 and 21.06,** addressing Use Regulations and Dimensional Standards. These issues were raised at the March 12 and 19, 2012 public hearings and in written public comments on Case 2011-104.

Previous memoranda covered title 21 chapters 1-4 and 8. Subsequent memoranda will cover remaining chapters and issues. All memoranda and exhibits are being posted on the title 21 rewrite project web page as they are completed. The URL is below.

Some of the comments regarding the use regulations and dimensional standards have been previously reviewed and addressed by the Department and the Administration. The responses to such issues in this memorandum refer to the relevant pages of the following Exhibits:

Exhibit A. August 23, 2011 memorandum from the Department to the Mayor in response to issues raised by a consultant hired by the Mayor to review the provisionally adopted Title 21; and

Exhibit B. October 19, 2011 memorandum from the Department to the Mayor, which summarizes the Administration's decisions and direction regarding issues raised by the consultant.

The issue-responses in this memorandum also reference the following:

- Provisionally Adopted Title 21 with Technical Edits, dated 12-12-2011
- Consolidated Table of Proposed Amendments, dated 3-12-2012
- The applicable public comments in **Exhibit D**, Comments Received for PZC Case 2011-104 (references to public comments use the page number(s) the comment appears in Exhibit D)
- **Exhibits E – I**, which cover: economic impacts analyses, the Anchorage Bowl land use plan map, and recent land supply studies for residential, commercial, and industrial use categories.

Exhibits A through K were provided with previous issue-response memoranda and are available at http://www.muni.org/Departments/OCPD/Planning/Projects/t21/Pages/Title21Rewrite.aspx .

This page intentionally left blank.

Issue-Response Table of Contents:

Chapter 21.05

Chapter 21.06

This page intentionally left blank.

Chapter 5 Issues

5-1. Rearranging and Merging Use Types / Replacing the Use Table

► **Section 21.05.010 (Table 21.05-2, Table of Allowed Uses)**

Issue: Should the provisionally adopted use categories and use table be substantially changed?

Public comments: The commenter proposes a new table of allowed land uses, to replace the provisionally adopted use table. It would reduce the number of use categories by half, and change which kinds of uses would be allowed in each zoning district. He implies that the number of uses in the title 21 rewrite is substantially greater than in current code; appears to take issue with having all of the use types specifically defined; and contends that the rewrite "substantially changes the way in which 'uses' and 'changes in use' are regulated" and that it is not clear about what happens if there is a change of use. (Dan Coffey, pages 158-167)

Response: The Department does not agree with the proposed changes, or the comment's portrayal of the current or provisionally adopted use categories.

The provisionally adopted title 21 streamlines, organizes, and clarifies the use types. It achieves one of the community's primary objectives for the rewrite—to provide clearer, more consistent use regulations and reviews, in response to complaints about the current code. 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. They are listed in various places: some are among the general terms and definitions in the glossary; others are in the parking requirements; and many more are listed in 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 have to be relisted under each district in which they are allowed. Current code is frequently unclear about which land use regulations should apply to a proposed establishment, so land use determinations (researching which use regulations should apply to a proposed business) consume a lot of administrative and applicant time.

- The provisionally adopted code has 156 uses, and defines each use. 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"). Each use type has a definition, and the same set of defined use types is used consistently throughout the new title 21.

- The title 21 rewrite groups various kinds of establishments together into a Use Type because they have similar impacts on their neighbors and require similar development standards, while defining uses separately where substantially different land use-specific regulations apply. For example, the minimum parking requirements in section 21.07.090 match the provisionally adopted use types. By contrast, the commenter's proposed changes would combine uses that have greatly different parking needs. This would disrupt the one-to-one correlation between the defined uses and important use-specific standards. It would put administrative staff and applicants back into the situation of not have a consistent set of use definitions to guide which parking requirement might to apply when somebody needs a permit. One reviewer may see a proposed establishment as home furnishings retail, while another may see it as a furniture store which has significantly different parking requirements. There has been agreement that where the land use regulations differ significantly between activities, uses should be defined separately. This reduces subjectivity and yields more consistent, timely reviews.
- The rewrite has 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 use types are listed alphabetically. This layering of categories actually helps keep code short because some provisions in the code apply to all use types in a category. For example, the private open space section exempts all uses the transportation facility, vehicles and equipment, warehouse and storage, and waste and salvage use categories, among others.
- Despite the commenter's claims, the title 21 rewrite carries forward current practice of how proposed uses are reviewed. It regulates "changes of use" (changes in occupancy from one use type to another) in the same way as under current code. Municipal land use permit reviewers today receive most every kind of proposed building or occupancy permit. They determine what (if any) title 21 review process may be needed in each case. Any proposal that changes which title 21 standards would apply (e.g., different parking requirements) is processed as a change of use. The problem with current code is that it does not set transparent ground rules for what constitutes a "change of use" for a development review. This leads to inconsistent interpretations and processes. The rewrite depends on the same "change of use" trigger as today, but it clarifies the review procedures, what constitutes a "change of use", and the use types—so that administration will be easier and more transparent. If a use determination does become necessary, the applicant can appeal staff's decision to ZBEA.

After eight years of development, the provisionally adopted code consolidates various uses into a reasonable and defined list. 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 seemed satisfied with the provisionally adopted draft. Issues that have arisen over those years have been addressed.

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 over the years since draft #1. To change the system now, without compelling reasons, impacts provisions throughout the chapters and invites unforeseen future complications. With such a brief review time, the ramifications of such significant changes are unknown.

The commenter's proposed use table would also require changes to the use definitions and use-specific standards, and would change 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 commenter's changes do not appear to be carefully thought through. Several problematic examples include:

- 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 commenter's proposed new table or a reorganization of use types. Forward the provisionally adopted use classifications and table of allowed uses.

5-2. Unlimited Commercial Uses in the I-1 Industrial District

► **Section 21.05.010 (Table 21.05-2, Table of Allowed Uses)**

► **Proposed Amendments 28, R11, 32, 37, 39, and 40 in Consolidated Table**

Issue: Should there be no limitation on commercial uses allowed in the I-1 District?

Public comments: One commenter recommended removing all limits on business uses in the I-1 district (Dwiggins, page 87) and a proposed revised table 21.05-2 is provided which shows many commercial uses allowed in the I-1 zoning district (Coffey, pages 162-163).

However, comments received from four community councils, Anchorage Citizen's Coalition, and a number of citizens oppose the amendments proposed by the Administration to allow a wide range of commercial uses in the I-1 zoning district (Rogers Park Community Council, Rabbit Creek Community Council, Mid-Hillside Community Council, Airport Heights Community Council, Anchorage Citizens Coalition, Slatter, Eurich, Diamond). Reasons for public opposition include:

- Policies #21 and #26 of *Anchorage 2020* which call for preservation of industrial reserves and which direct new commercial development to Major Employment Centers, Redevelopment/Mixed-Use Areas, town centers, and neighborhood commercial centers.

- Allowing certain commercial uses such as offices and grocery stores to locate in industrial zones results in further sprawl, traffic congestion ad vehicle conflicts, and incompatibilities with neighboring properties.
- The provisionally adopted title 21 already allows a limited number of commercial uses to occur within the I-1 district that support or are compatible with industrial uses.
- Reexamination of the uses allowed in the I-1 district and potentially increasing the number of commercial uses in the I-1 zone should wait until evaluation of the Anchorage Commercial Land Assessment and the adoption of the Anchorage Bowl Land use Plan Map.

Response: The provisionally adopted Title 21 allows more than twenty commercial use types in the I-1 district. Chapter 21.05-2 Table of Allowed Uses identifies these uses as either permitted or allowed by conditional use. Last year a consultant recommended to the Administration that a wide range of commercial and other non-industrial uses should be allowed in the I-1 and I-2 districts as in the current Title 21. The Department disagreed with the consultant regarding more commercial uses in the industrial zones due to Comprehensive Plan (Anchorage 2020) policies and designation of industrial reserves. For example, Policy #26 of Anchorage 2020 states: "Key industrial lands, such as the Industrial Reserves designated on the Land Use Policy Map, shall be preserved for industrial purposes." The Department also indicated that commercial uses were already allowed in the I-1 district of the provisionally adopted Title 21 and that the allowed 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. Many existing industrial zoned areas could be appropriately eligible to rezonings to commercial or mixed-use districts. For further discussion of this issue and a map, reference Exhibit A, item #24, pages 40-41.

The Administration considered this issue and has proposed (through Amendments #28, R11, and #32) to amend I-1 to allow all commercial uses that are allowed in the provisionally adopted B-3 district, with two exceptions. Grocery and General Retail stores greater than 20,000 sq. ft., which would be classified as large commercial establishments, were left out of the list of commercial uses for the I-1 zoning district, since these two uses tend to create commercial centers (Refer to Exhibit B, item #24).

Recently, the Municipality received the final report for the Anchorage Commercial Land Assessment (Exhibit G). This report evaluated the buildable land supply for the Anchorage Bowl and Chugiak-Eagle River, projected the potential twenty year demand for commercial land for commercial uses (retail, office/institutional, and lodging), and estimated commercial land needs for each subdistrict of the study area. Given this analysis, the report's overall findings indicate that given the amount of land zoned for commercial use, site size considerations, assuming a continuation of historic development densities and a baseline growth projection, several subdistricts in the Anchorage Bowl will have an estimated shortage of commercial capacity over the next twenty years. Undersupply is most pronounced in the Midtown Area, but also significant in the Dimond area. The study further indicates that over one-half of the study area's commercial capacity is accounted for by land zoned for industrial uses, which is particularly the case in the Dimond area.

The commercial study recommends that consideration be given to some commercial use allowance for I-1 zoned land to meet the projected commercial demand. While an industrial lands study completed in 2009 had found a significant deficit in available industrial land supply (see Exhibit I), the commercial study recommends refinement of the industrial land study to match more recent, published projections of the Anchorage economy, and to more specifically address the character, infrastructure, and locational needs of future industrial development.

Completion of the Commercial Land Assessment responds in part to comments received from citizens, organizations, and community councils which oppose an expansion of commercial uses in the I-1 zoning district. These comments generally recommended waiting until the Commercial Land Assessment was completed and the Anchorage Bowl Land Use Plan Map is adopted before consideration is given to expanding uses in the industrial zones. The Land Use Plan Map project, expected to follow adoption of the Title 21 Rewrite, will re-designate certain industrially zoned lands for commercial development while retaining key industrial lands for future industrial use.

Recommendation: The Department supports the Administration's proposal to amend the provisionally adopted title 21 industrial zoning to allow more commercial uses in the I-1 zoning district, while remaining in conformance with the Comprehensive Plan, as follows:

- Amend I-1 to allow the additional commercial uses and accessory retail sales already proposed in the draft amendments of PZC in 2010 (as documented in Amendment R11).
- Amend I-1 to allow all commercial uses in the provisionally adopted B-3 general commercial district to be allowed in the I-1 district with two exceptions: Grocery and General Retail uses that are large commercial establishments (more than 20,000 sq. ft.).
- Move forward with the provisionally adopted I-2 industrial district (Issue 5-3 below).

5-3. Unlimited Commercial Uses in the 1-2 Heavy Industrial District

► **Section 21.05.010 (Table 21.05-2, Table of Allowed Uses)**

Issue: Should there be unlimited commercial uses in the I-2 heavy industrial district?

Public comment: One commenter has indicated that if the uses on industrially zoned land are limited, there is a significant risk that the limitation will be determined to be a "taking" under Alaska's condemnation law and that the MOA would be responsible for compensation to the property owners. The comment further recommends allowing all of the current uses in the existing Title 21 code as applied to the I-2 zone to continue. This commenter also provided a revised Table 21.05-2 which shows an extensive number of commercial and non-industrial uses to occur in the I-2 zoning district (Coffey, page 156, and pages 162-163). Another commenter recommends eliminating limits on business uses in I-2 (Dwiggins).

However, as documented in issue 5-2 above, comments received from four community councils, Anchorage Citizen's Coalition, and a number of citizens opposed the amendments proposed for public review by the Administration to allow a wide range of commercial uses in even the I-1 zoning district. For example, Rabbit Creek Community Council opposes more commercial development in industrial zones. It states the impacts of commercial uses in industrial zones is not conducive for economical management of the city, nor does it comply with Anchorage 2020's policy #26 for preservation of industrial lands. Retail sprawl impedes development of efficient transportation infrastructure. Re-examine allowable uses after completion of the Anchorage Commercial Land Study.

Cook Inlet Region, Inc. (CIRI) provided comments that it owns a parcel of land on the northwestern corner of Minnesota Drive and C Street which is currently zoned I-2. CIRI has invested millions of dollars in planning, civil engineering, traffic studies, major sewer line design and permitting, wetlands permitting, as well as placing a massive surcharged fill over the entire site. The provisionally adopted title 21 will effectively strip all of the higher valued commercial uses from the I-2 zoning district, leaving this highly visible corner as strictly "heavy industrial". This will damage CIRI financially and will impact discussions with interested commercial users. CIRI recommends that the MOA either: 1) Retain the I-2 zoning as it is currently and consider appropriate areawide zoning after the Land Use Plan Map has been adopted; or 2) Consider an overlay district for appropriate properties along the C Street extension that would retain the ability of having commercial and industrial uses.

Response: The provisionally adopted Title 21 allows more than ten commercial uses in the I-2 district, as either permitted by-right or allowed by conditional use. Last year the Mayor's consultant recommended that a wide range of commercial and other non-industrial uses should be allowed in the I-1 and I-2 districts as in the current Title 21. The Department disagreed with the consultant regarding more commercial uses in the industrial zones due to Anchorage 2020 policies and the Plan's designation of industrial reserves. For example, Policy #26 of Anchorage 2020 states: "Key industrial lands, such as the Industrial Reserves designated on the Land Use Policy Map, shall be preserved for industrial purposes." For further discussion of this issue and a map, reference Exhibit A, item #24, pages 40-41. The Department also disagreed with the consultant regarding a potential takings issue (refer to Exhibit J – May 27, 2005 Department of Law opinion).

The Administration considered the issue of commercial uses for both the I-1 and I-2 zoning districts and has proposed to move forward with the provisionally adopted I-2 industrial district without additional non-industrial uses. This is so that Anchorage retains at least one industrial reserve zone consistent with the Comprehensive Plan. Further, the Administration has stated that the issue of allowing additional non-industrial uses within the I-2 zoning district can be reexamined upon completion of the Anchorage Commercial Land Study and adoption of the Anchorage Bowl Land Use Plan Map (Refer to Exhibit B, item #24).

Recently, the Municipality received the final report for the Anchorage Commercial Land Study (Exhibit G). As discussed in issue 5-2 above, that study forecasts an estimated shortage of commercial land capacity over the next twenty years. Undersupply is most pronounced in the

Midtown Area, but also significant in the Dimond area. The study further indicates that over one-half of the study area's commercial capacity is accounted for by land zoned for industrial uses, which is particularly the case in the Dimond area.

The commercial study recommends that some commercial use allowance should be considered for the I-1 zoning district to meet the projected commercial demand. However, the study also discusses as part of its policy implications section that allowing some commercial uses in I-1 and prohibiting commercial development on I-2 properties would preserve an increased level of industrial land, while also providing for a considerable level of commercial capacity.

Another land study, the Anchorage Industrial Land Assessment (Exhibit I), completed in 2009, reported the importance of economic driver (basic) industries to Anchorage's economy, the vulnerability of industrially zoned lands to commercial development, and a deficit of developable industrial land relative to Anchorage's projected future needs. The industrial land study has been criticized, and the Commercial Land Study recommends it be refined to match more recent, published projections of the Anchorage economy, and to more specifically address the character, infrastructure, and locational needs of future industrial development. However, the industrial land study does provide a basic indication that some level of protection for appropriately located industrial zoning districts from unlimited large scale commercial is justified. Information unavailable in 2009 has also indicated that the supply of industrially zoned land not encumbered for commercial retail use is less than the industrial land study estimated. Until the reevaluation of that analysis can be completed, it would be inconsistent with the findings of both studies, as well as conflict with the Comprehensive Plan, to eliminate the I-2 as the only zoning district available to protect the remaining industrial land base.

The Planning & Zoning Commission's conceptually approved Anchorage Bowl Land Use Plan Map identifies certain industrial lands for future rezoning to commercial districts. 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, refinement and completion 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.

Recommendation: The Department supports the Administration's proposal to move forward with the provisionally adopted I-2 industrial district without an allowance of additional non-industrial uses, so that Anchorage retains at least one industrial reserve zone consistent with the Comprehensive Plan. Further, the Administration has stated that the issue of allowing additional non-industrial uses within the I-2 zoning district can be reexamined upon completion of the Anchorage Commercial Land Study and adoption of the Anchorage Bowl Land Use Plan Map.

Industrially zoned properties that have already been approved for commercial development, or are at prime locations for future commercial development, will be reviewed as part of the revisions to the Anchorage Land Use Plan Map, which is anticipated to be ready for review by the Planning and Zoning Commission within one year from adoption of the Title 21 rewrite.

5-4. Use Standards for Assisted Living, Adult and Child Care, and Hospitals

► **Sections 21.05.030B., and 21.05.040A. – F. of Provisionally Adopted Title 21**

Public comment: Use-specific standards should be eliminated or at least reworked: vegetated open space consisting of 25 percent of the property must be left un-touched in some uses; parking is not allowed in setbacks (which is another 'taking' of land); snow storage should not be required. (Don Dwiggins, page 88)

Response: The use-specific standards to require vegetated open space, snow storage areas, and parking setbacks are generally carried forward from current title 21. They were adopted by the Assembly in 2005 to resolve specific issues with child care, assisted living, and health facility type uses. For example, Child Care Centers and Adult Care Facilities with Nine or More Persons, must provide 15 percent of the lot as vegetated area, set back parking areas behind buffer landscaping strip where abutting residential properties, and provide a snow storage area equal to at least 15 percent of the total paved surface area on the site. Several of these standards also apply to Nursing Facilities and Hospital/Health Care Facilities. (See current sections 21.45.310 and 21.45.380). These standards were developed through an extensive, use-specific public process that was separate from the title 21 rewrite.

The comment does not provide a rationale for removing these standards now. The direction from the community throughout this project has been that the title 21 rewrite, already extensive in scope, should avoid revisiting recently adopted amendments to title 21 (e.g., amendments from after 2002), as a general rule. If substantive modifications become necessary, those recent issues can be re-opened and worked out in a separate process from the rewrite.

Recommendation: Forward these use-specific standards with the provisionally adopted title 21.

5-5. Government and Civic Buildings – Definition and Standards

► **Page 172, Lines 7-34 of Provisionally Adopted Title 21**

Public comment: The commenter indicates that the current Title 21 lacks clarity regarding the location of government buildings and offices, and states that policy language in Anchorage 2020 regarding government buildings being located downtown is less clear than a corresponding policy in the previous1982 Anchorage Bowl Comprehensive Development Plan. The commenter proposes language to replace Section 21.05.040C.4 of the provisionally adopted code which would loosen the requirements for locating major government offices in the downtown central business district or locating satellite government offices in centers identified in the Anchorage 2020 comprehensive plan. (Coffey, pages 160, 171-176)

Response: The three successive Anchorage Bowl Comprehensive Plans since 1976 have all stressed the importance of locating government offices downtown. The 1982 plan stated that

"the Municipality shall locate all major office functions within the downtown and shall encourage both State and Federal agencies to locate within this area, as appropriate to their functions." Policy #19 of Anchorage 2020, adopted in 2001, states: "locate municipal, state, and federal administrative offices in the Central Business District." Policy #18 of Anchorage 2020 states: "Strengthen the Central Business District's role as the regional center for commerce, services, finance, arts and culture, government offices, and medium- to high-density residential development."

It the Anchorage 2020 – Anchorage Bowl Comprehensive Plan, the strategies for implementing Policies #18 and #19 include the update to the Central Business District Plan. This was achieved with the 2007 Anchorage Downtown Comprehensive Plan, which recognizes the need for Downtown to build upon its strength as a hub of government offices and includes among its primary goals to attract government and private offices to Downtown. Another key Anchorage 2020 strategy is the Land Use Regulation Amendment which is intended to revise specific provisions of Title 21 to implement the stated policy, which in this case involves the locating of municipal, state, and federal administrative offices in the Central Business District.

To implement the Comprehensive Plan, the provisionally adopted title 21 provisions include two primary sections affecting the location of government administrative offices. The first is the public facility site selection process (21.03.140) which affects new or leased public buildings greater than 50,000 square feet of gross floor area and civic facilities designed for more than 1,500 spectators (note that the threshold for public facility site selection in the current title 21 is 4,000 square feet). The Planning and Zoning Commission reviews proposed public facilities using a set of site selection criteria which includes one which states: "major municipal, state, and federal administrative offices shall locate in the Central Business District. Satellite government offices and other civic functions are encouraged to locate in regional and town centers if practicable". The Commission's review is final unless, within 20 days of the date of service, any party of interest requests an assembly hearing in a letter sent to the director.

The second provision in the title 21 rewrite regarding government offices is in the use-specific standards for government administration and civic buildings in 21.05.040C.4. These standards indicate that construction of buildings (or additions to existing buildings) of 7,000 to 25,000 square feet requires an administrative site plan review; and construction of facilities over 25,000 square feet is subject to a major site plan review. In addition, the section indicates that the priority location for major federal, state, and municipal administrative offices and civic buildings is in the central business district. Satellite government offices and civic functions are intended to be located in other regional centers, mixed-use centers, or town centers designated in the comprehensive plan. If facilities are proposed at locations other than the centers designated in the comprehensive plan, the approval is contingent on the Planning and Zoning Commission's findings, using the site selection criteria of 21.03.140, that comprehensive plan designated centers would not be feasible or would not serve the public interest.

The intent of these regulations is to carry out the policies of the Comprehensive Plan regarding the location of government administrative offices and civic buildings. These provisions are not anticipated to hamper efforts to locate certain types of government offices outside of designated centers if the Commission finds the public interest is best served at those locations.

Recommendation: The Department recommends moving forward with the provisionally adopted language regarding the locations of government offices and other civic facilities. The provisions in 21.03.140 give the Planning and Zoning Commission clear criteria to use in evaluating and deciding on sites for proposed government administrative offices and civic buildings through the public facility site selection process. In addition, the use-specific standards in 21.05.040C.4 give the Commission to ability to review other proposed government administrative and civic buildings which are not subject to the public facility site selection process to determine if the proposed locations will serve the public interest.

5-6. Elementary and Middle Schools – Outdoor Play Area

► Section 21.05.040E.3.b.iv, Page 175, (Lines 29-43) and Page 176 (Lines 1-3) of Provisionally Adopted Title 21

Public comment: The Anchorage School District (ASD) comments that its charter schools would be forced to relocate if they were required to provide two square feet of outdoor play space for every square foot of classroom space. It states that other cities have developed similar urban schools with magnet programs that thrive on proximity to downtown assets and play space is provided at nearby facilities such as the YMCA. ASD recommends that responsibility for outdoor play space for elementary and middle schools should be relegated to those responsible for educating students under approval of the State of Alaska Department of Education, and that section 21.05.040.E.3.iv. should be deleted (Anchorage School District, page 286).

Response: Minimum requirements for outdoor play areas have been a part of the draft code since its early draft iterations. Public review and hearing drafts required all schools to abide by the Anchorage School District site development and design criteria for its public school sites. The current draft minimum requirement for outdoor play areas has been in the draft code since chapter 21.05 was provisionally adopted by the Municipal Assembly in 2008.

Similar to other site standards in the title 21 rewrite, the minimum requirement for outdoor play space for public and private schools would not be imposed retroactively on existing schools but would apply only to proposed new schools. Existing charter schools would not be forced to relocate upon adoption of the new title 21 standards. Furthermore, the Municipality can adopt standards which may be stricter than State standards, if, in this case, the Municipality places a high priority on outdoor activity, space, and exercise for children.

A provisionally adopted draft provision allows for use of parks within a quarter mile from schools to satisfy the outdoor play space requirement, although the provisions don't allow crossing an arterial street. This draft provision could be modified to allow for crossing arterial streets if such streets have signalized crosswalks that are supervised by adults during recreation periods and the schools are located in the downtown central business district.

Recommendation: The Department recommends keeping the requirement for outdoor play space as written in the provisionally adopted draft. However, the Department would support an amendment to allow the ¼ mile walking distance to include crossing arterial streets in the downtown central business district if a signalized pedestrian crossing and adult supervision are provided.

The following amended wording (underlined) could be considered for 21.05.040E.3.b.iv(2):

> "The school and park are not separated by a street of arterial classification or greater on the Official Streets and Highways Plan, except that in the Downtown area, as defined by the Anchorage Downtown Comprehensive Plan (2007) but excluding the area north of 2nd Avenue, the school and park may be separated by a street classified as an arterial if a signalized pedestrian crosswalk and adult crossing guard supervision are provided."

5-7. Fitness and Recreational Sports Centers in the I-1 District

- ► **Section 21.05.010F. (Table 21.05-2, Table of Allowed Uses)**
- ► **Proposed Amendments R11 and 32 in Consolidated Table**

Public comment: The "fitness and recreational sports center" commercial use type was overlooked in proposed amendment 32, which recommended all commercial uses to be allowed in the B-3 district to also be allowed in the I-1 district. Therefore, add this use type to the list of added uses to be changed to a "P" in the I-1 District in Table 21.05-2, Table of Allowed Uses (Bob Mintz – Carr Gottstein Properties, page 109).

Response: Amendment 32 was limited to adding B-3 commercial uses that other proposed amendments had not already previously provided for in some way in the I-1 District. Previously proposed amendment #R11 (from PZC in 2010, and which appears on page 22 of the consolidated table of proposed amendments) proposes that fitness and recreational sports centers be changed from prohibited to "C" (a conditional use) in the I-1 District.

Amendment R11 was proposed in 2010 partly because a review of the provisionally adopted table of allowed uses had identified several opportunities to increase the draft code's flexibility while staying within the policy framework of the Comprehensive Plan for preserving industrial lands for compatible uses. Warehouse and office space in the I-1 is sometimes used for a variety of instructional services, such as arts, music, and dance lesson studios, or has been converted into instructional gymnasiums or rock climbing gyms. These uses are not uncommon in I-1 districts. Most provide another market for leasable industrial space without threatening to convert the industrial area into a retail center or inject an incompatible volume of traffic.

On the other hand, a larger scale amusement or health club establishment could be incompatible with retaining the industrial land pattern or introduce intensive customer/user oriented traffic that is both incompatible with industrial users and takes away from stronger focus of major commercial

activity in Anchorage's commercial and mixed-use centers. A full sized "Alaska Club" type establishment could have a similar impact as large grocery or general retailers that the Administration's proposed amendments have sought to limit in the I-1. The recommendation by Amendment R11, to allow amusement, instructional, and fitness uses through a conditional use review rather than permitting them by-right would be appropriate in such cases.

However, smaller establishments such as the commenter's example, "Southside Fitness", could fit into a mixed industrial-commercial or warehouse environment. In the latter case, a "P" permitted designation in the I-1, as suggested by the commenter, would be more consistent with the Administration's proposed amendment 32 which allows other commercial uses into I-1 by-right.

The Anchorage Commercial Land Study (Exhibit G) recommends that some commercial use allowance should be considered for the I-1 zoning district to meet the projected commercial demand. The Anchorage Industrial Land Assessment (Exhibit I), while recommended for refinement by the commercial study, does provide a basic indication that some level of protection for appropriately located industrial zoning districts from unlimited large scale commercial is justified. Information unavailable in 2009 has also indicated that the supply of industrially zoned land not encumbered for commercial retail use is less than the industrial land study estimated.

Recommendation: The Department recommends realigning amendment R11 to be consistent with the Mayor's proposed amendment 32 which allows B-3 commercial uses up to a certain size by-right in the I-1 while protecting it from the largest most intensive commercial uses that tend to create or anchor commercial centers. Specifically:

- Modify Amendment R11 for the I-1 District, to permit by right ("P"): instructional services, amusement establishments, fitness and recreational sports centers by-right, where these establishments have a maximum floor area of up to 20,000 square feet.
- Besides the above modification, forward amendment R11 unchanged, such that in the I-1 District if the uses above are large commercial establishments (above 20,000 square feet), they are subject to a conditional use ("C") review for compatibility with the industrial area.

5-8. Pharmacies as a Health Service or General Retail Use

► **Sections 21.05.040F.1.a. and 21.05.050H.6.b.i. of Provisionally Adopted Title 21**

► **<u>Proposed Amendments 40 and 106.30</u> in Consolidated Table**

Public comment: Make corrections to improve the consistency in the treatment of pharmacies by the use definitions and use-specific standards, as follows. Modify the definition of "Health services" in section 21.05.040F.1.a. by substituting the word "pharmacies" for "dispensaries". Secondly, modify the use-specific standards for "General retail" in Section 21.05.050H.6.b.i. to delete the language "such as a pharmacy" which inaccurately identifies pharmacies as an example of a "General retail" use (Bob Mintz – Carr Gottstein Properties, pages 107 and 110).

Response: These are minor wording corrections that would make the provisionally adopted title 21 clearer and more consistent in how it categorizes medical dispensary-type pharmacies.

Proposed amendment 106.30, as requested by the Assembly Title 21 Committee in 2010 and supported by the Department, defines "pharmacy" , as it is used in the land use regulations, as being limited to only medical dispensaries: "An establishment offering **only** [emphasis added] to prepare, preserve, compound, and dispense prescribed and non-prescribed medication and drugs, medical supplies, and health care items". This clarifies that title 21 will not regulate a Walgreens type retail store which offers a variety of items (including toys for example) as a "Health service" "pharmacy", but rather as "General retail".

Instead, the provisionally adopted title 21 categorizes a pharmacy as being under the "Health services" use type. The "Health services" use type includes a variety of outpatient care, personal service, medical laboratory related medical establishments. Zoning districts such as the PLI and RO allow a "Health service" use such medical dispensary-type pharmacies, but prohibit "General retail".

However, the provisionally adopted "Health services" use definition on line 24 of page 177 lists "dispensaries" rather than "pharmacies" in its list of example establishments. Use of the word "Pharmacy" here would be more appropriate, since it is contemporary and more familiar, and is consistent with the rest of the rewrite. For example, "Pharmacy" is listed as an allowed accessory activity under the definition of "Hospital/Health care facility" use type.

Also, the use-specific standard for "General retail" identifies "pharmacy" as an example of a general retail use. This appears to be leftover language from an early draft of the code, which defined and categorized this use type differently. The commenter's correction is helpful.

Recommendation: The Department supports modifying the definition of "Health services" in section 21.05.040F.1.a. by substituting the word "pharmacies" for "dispensaries", and modifying the use-specific standards for "General retail" in Section 21.05.050H.6.b.i. to delete the phrase ",such as a pharmacy,", both modifications suggested by the public comment.

5-9. Financial Institutions' Computer Support Centers in the I-1 District

- ► **Section 21.05.050F.2.b. (Page 200) and Section 21.05.060A.1. (Page 207) of Provisionally Adopted Title 21**
- ► **<u>Proposed Amendment 37</u> in Consolidated Table**

Public comment: Computer support centers for the use of financial institutions should be permitted in the I-1 district without limitation to size, by adding a subsection 21.05.050F.2.b.iv to read as follows: "Notwithstanding the previous limitations on financial institutions, computer support centers for the use of financial institutions are permitted in the I-1 district without limitations to size." (Bob Mintz - Carr Gottstein Properties, pages 106 and 109)

Response: If the comment is referring to what is defined in the provisionally-adopted code as a "Data Processing Facility" (Section 21.05.060A.1 on page 207), computer support facilities serving financial institutions (and other uses as well) would already be permitted by right in the I-1 district and a conditional use in the I-2 district. The provisionally-adopted code definition for "Data Processing Facility" is an establishment where electronic data is processed by employees, including, without limitation, data entry, storage, conversion, or analysis; and subscription and credit card transaction processing.

Recommendation: Unless additional information would indicate computer support centers being significantly different than "Data processing facilities", the Department recommends no further changes to the provisionally adopted draft beyond proposed amendment #37.

5-10. Office Use Limitations in the I-1 and I-2 Industrial Districts

- ► **Section 21.05.050F.3, Pages 200-201 of Provisionally Adopted Title 21**
- ► **Proposed Amendments R14 and 38 in Consolidated Table**

Public comment: A commenter recommends rejecting proposed amendments R11 and 38, and states that: these amendments are another limitation on land use in the I-1 and I-2 districts; they attempt to eliminate office uses in the I-2 district; property owners of buildings taller than 45 feet cannot have an office in the building; an office use must directly serve the function of an industrial or public/institutional use permitted in the industrial district, and if the building is greater than 5,000 square feet the office space is restricted to 25 percent of the gross floor area of the site. (Dan Coffey, pages 275-6)

A different commenter instead recommends the following modifications to amendment 38 regarding office uses in the I-1 and I-2 districts:

1. Add the following italicized wording to subsection 21.05.050F.3.b.ii(B):

   "The proposed office use shall directly serve the function of an industrial or public/institutional use permitted in the district *unless the proposed office use is included within a BIP-PUD.*"

2. Add the following italicized wording to the proposed underlined wording in subsection 21.05.050F.3.b.ii(C):

   "The office use shall comprise no more than 25 percent of the gross floor area on the site when the gross floor area is over 5,000 square feet, unless a greater percentage is [APPROVED BY THE DIRECTOR]*authorized by the approving authority or the use is included within a BIP-PUD.*"

(Bob Mintz - Carr Gottstein Properties, pages 106 and 109)

Response: Proposed amendment 38 modifies amendment R14 addressing the impacts of commercial office buildings in industrial districts. The amendment limits the size and non-industrial use of office buildings in the industrial districts, in order to:

- Encourage high intensity office employment growth to concentrate in the city's commercial districts and designated centers, rather than in outlying industrial zones.
- Prevent using up the city's remaining industrial land base for commercial offices that may be unrelated to and incompatible with industrial uses and functions.
- Make the maximum height for office buildings in the I-1 the same as to be allowed in the B-3 district, to repair an inconsistency in the draft code that would have allowed taller commercial office buildings in the I-1 than in the B-3 or mixed-use districts (except for in Midtown).

Despite the first commenter's claims, amendment #38 is actually intended to allow for office use in the I-2 District, subject to limitations. The provisionally adopted title 21 without amendment #38 would not permit any office. This proposed amendment results from comments from Chugach Electric utility during the review of its proposed headquarters offices to be co-located with the new power generation plant currently under construction.

However, continuing to allow unlimited commercial office use in industrial zones would perpetuate the disconnect that now exists between the Comprehensive Plan land use policies for the appropriate location of commercial and industrial growth and current Title 21 regulations for industrial zoning districts. The Anchorage 2020 – Anchorage Bowl Comprehensive Plan calls for concentrating future higher density growth in office employment in the major employment centers and other designated commercial and mixed-use centers, separating incompatible uses, and protecting designated industrial reserves from conversion to commercial use.

For this reason, amendment 38 proposed that offices uses shall be limited to directly serving the function of an industrial or public/institutional use permitted in the district. For example, the headquarters office of a warehouse and distribution establishment could be located in the industrial districts. Furthermore, it limits the maximum percentage of the total gross floor area of a site which may be office to 25 percent (PZC had previously recommended allowing up to one-third).

A review of the proposed amendment suggests that relaxing its percent floor area limitation and clarifying that the limitation is intended to apply only cases where the office portion exceeds 5,000 square feet would improve its practicality for some industrial uses while remaining consistent with the objectives. In addition, providing for an exception for BIP-PUDs, as proposed by a commenter, is consistent with the objectives and proposed changes in the chapter 3 issue-response memorandum for business industrial parks.

The 45 foot height limit for offices is recommended because the provisionally adopted I-1 district has a higher height limit than most commercial districts outside of Midtown to accommodate taller industrial structures. Its taller height limit was not intended to allow higher intensity commercial office employment.

The proposed 45 foot height limit is not anticipated to have an economic impact. Existing structures are exempt from the new height limits. Most future office development outside of Midtown is anticipated to continue Anchorage's existing development pattern of one-, two-, and three-story low rise office buildings. The market for medium and high rise office development is anticipated to continue to concentrate in the several major employment centers such as in Downtown and Midtown.

Recommendation: Forward proposed amendment 38 (replacing the latter half of amendment R14) for adoption, with the following modifications:

- Amend proposed subsection 21.05.050F.3.b.ii(B) as follows: "The proposed office use shall directly serve the function of an industrial or public/institutional use permitted in the district unless the proposed office use is included within a BIP-PUD."
- Amend proposed subsection 21.05.050F.3.b.ii(C) as follows: "The office use shall comprise no more than 50[25] percent of the gross floor area on the site when the gross floor area is over 10,000[5,000] square feet, unless a greater percentage is approved by the decision making body or the proposed use is included within a BIP-PUD[APPROVED BY THE DIRECTOR]."

5-11. Restaurant Use – Inclusion of Micro-brewery in Definition

► **Section 21.05.050E.3, Page 200, Lines 5-8 of Provisionally Adopted Title 21**

Public comment: A commenter recommends modifying the provisionally adopted "Restaurant" use definition to allow restaurants (and not just bars) to have brew-pubs, suggesting language similar to the definition for "Bar", which "may also manufacture malt beverages" as a brewpub. (Bob Mintz – Carr Gottstein Properties, pages 106-107)

Response: The provisionally adopted title 21 already allows restaurants to have brew-pubs. It permits the combination of restaurant-brewpub in any zoning district that permits both restaurants and bars.

Under current and provisionally adopted use regulations, a business establishment may actually be comprised of several kinds of use types defined in title 21. For example, in Exhibit E, economic cost comparison test site #3, indicates that both current title 21 and provisionally adopted title 21 treat New Sagaya's City Market as combination of two principal uses: restaurant and grocery. The two uses in the development may have different use-specific standards but are reviewed simultaneously and seamlessly in the land use permit review for the establishment. Likewise, a restaurant that includes a brewpub will simply be treated as a combination of two separate use types by the land use permit reviewer: "Restaurant" and "Bar".

Title 21 categorizes unlike land uses separately—even uses that are periodically put together into one business establishment—because their differing impacts on surrounding areas are such that the community has decided to apply different use-specific regulations to them. For example, both

current and provisionally adopted title 21 allow restaurants in some zoning districts where they do not permit bars and brewpubs, because of the differing impacts on their surroundings. Therefore, while the B-1A neighborhood commercial district, the RO residential-office district, and the R-4 multifamily district will permit a café (e.g., Fire Island Bakery on its B-1A zoned parcel in the middle of South Addition neighborhood), these zones would not permit by-right a bar or brewpub.

Recommendation: No change to the provisionally adopted title 21 as it already achieves the commenter's purpose to allow for the restaurant-brewpub combination in districts such as the B-3, I-1, and Mixed-use districts which allow both uses.

5-12. Building Material, Furniture Store, and General Retail Store Overlap

- ► **Section 21.05.050H., Pages 202-203 of Provisionally Adopted Title 21**
- ► **<u>Proposed Amendments 39 and 40</u> in Consolidated Table**

Public comment: A commenter recommends clarifications to the use type definitions to eliminate overlaps between big box type "Building material stores" and "Furniture and home appliance stores", and "General retail" stores selling home furnishings, floor coverings, paint, etc. Specifically, proposed amendments 39 and 40 the consolidated table should be modified to:

- Delete "floor covering" from the definition of "Building materials store", and
- Retain the words "home furnishings" and add "paint" as another example after home furnishings in the definition of "General retail store".

(Bob Mintz – Carr Gottstein Properties, pages 106 and 110)

Response: The provisionally adopted title 21 combines most every kind of retail establishment into a single use type: "General retail". This reduces the number of uses that were previously listed separately under the current title 21 (e.g., "hardware stores", "bookstores, stationery stores, and newsstands", or "drugstores".), where they have similar land use impacts and therefore identical land use regulations.

However, a few kinds of retail sales uses are defined as a separate use type, because different use regulations apply. The provisionally adopted "Building materials store" use type is one of these. It is exemplified by a "Lowes" kind of store that sells lumber and other primary building materials (e.g., cement), taking on a land-intensive, industrial box type nature. The title 21 rewrite applies a significantly lower parking requirement to these stores, and is more lenient toward allowing these large stores into the I-1 and I-2 districts than, say, a full sized grocery or general retail store.

For similar reasons, amendment 39 proposes to also differentiate the "Furniture and home appliance store" from the "General retail" definition. As with "Building materials store", the retail sales of furniture, mattresses, carpets, flooring, and home appliances demands far less parking and takes on a more industrial character than most retail sales. By contrast, current title 21 applies the

same parking requirement to the Bailey's furniture store at the corner of International and C Street as it does to most any toy, clothing, flower, or bookstore in town. The title 21 rewrite provides more opportunity to substantially reduce parking and land area requirements. It also applies some kind of limits most other kinds of retail in one or both industrial districts, so it differentiates furniture and flooring stores to allow them without opening industrial lands to unlimited retail.

The commenter has identified and proposes to correct several overlaps in the definitions between "Building materials store", "Furniture and appliance store", and "General retail". These are constructive, helpful, refinements to language that should improve the consistency and clarity of regulations for both administrative review staff and applicants.

Recommendation: The Department supports modifying the definition of "Building materials store" in section 21.05.050H.2.a. by deleting the word "floor covering", and modifying the definition of "General retail" proposed amendment 40 for Section 21.05.050H.6.a. to retain the words "home furnishings" and after these words add the word "paint" with a comma, both modifications suggested by the commenter.

5-13. Renaming "Liquor Store" to "Beer, Wine, or Liquor Store"

► Section 21.05.060H.8, and Table 21.05-2 of Provisionally Adopted Title 21

Public comment: Change the name of the use type "Liquor store" to "Beer, Wine or Liquor Store". (Bob Mintz – Carr Gottstein Properties, page 107)

Response: This proposed change appears to be a non-substantive clarification. The name of the use would more clearly indicate that the use is not limited to sales of hard liquor or distilled spirits but rather includes sales of other kinds of alcoholic beverages such as wine and malt beverages. That aligns with the use's definition, which includes all "alcoholic beverages".

According to the American Planning Association (APA), "Liquor store" appears to be a commonly used term in zoning ordinances to describe stores that sell liquor, wine, and beer, without limitation to one kind of alcohol or another. Anchorage's provisionally adopted term and definition uses this common practice. However, APA also documents that at least several jurisdictions limit the definition of "liquor store" to stores that only sell hard liquor, package liquor, and distilled spirits. The commenter would clarify that Anchorage's use type is the former, more expansive definition.

Recommendation: No objection to changing the name of the use type "Liquor store" to "Beer, Wine, or Liquor Store" in section 21.05.060H.8, Table 21.05-2, and wherever else it appears.

5-14. Government Services – Definition and Use-specific Standards

► **Section 21.05.060A.4, Page 208, Lines 3-8 of Provisionally Adopted Title 21**

Public comment: Add and modify wording to the use definition and use-specific standards for "Government service" as follows:

- Delete the word "yards" from the end of the use definition, so that it reads, "A facility housing government shops, maintenance, and repair centers, and equipment storage [YARDS]."
- Insert an additional use-specific standard which reads, "Supporting administrative offices shall utilize no more than 50% of the total area on site."

(Bob Mintz – Carr Gottstein Properties, page 107)

Response: The proposed wording change to the use definition reflects that government equipment storage may come in another form besides an outdoor storage yard (e.g., an enclosed structure.

In the use-specific standards, if the commenter's proposed additional language is intended to clarify that a substantial amount of office space can be allowed within a Government service establishment, a more appropriate (and less complicated) way to achieve the commenter's objectives would be to instead modify the use definition to allow for accessory offices.

Or the commenter's proposed additional language may be intended to allow "Government service" uses a greater percentage of floor area being office than what is proposed to be allowed for other uses in the I-1 and I-2 districts. Proposed amendment R14, which is modified by proposed amendment 38, would allow accessory offices to allowed industrial uses in the I-1 and I-2 districts subject to a generally applicable limitation that the office use comprise no more than 25 percent of the gross floor area on the site when the gross floor area is over 5,000 square feet, unless a greater percentage is approved by the director. However, the commenter does not provide a rational for why government service uses should be an exception to the generally applicable standard that would apply, for example, to non-governmental shops, maintenance and repair centers falling under the "General industrial service" use type.

Recommendation: The Department has no objection to the proposed wording change to delete the word "yards" from the end of the "Government service" use definition, and also suggests changing the last "and" in the sentence to "and/or" or equivalent language, to further improve the flexibility of the language.

Unless additional information would indicate there is a functional use characteristic in the "Government service" use type distinguishing it from the "General industrial service" use type, the Department recommends no changes to the use-specific standards for "Government service". Generally applicable limitations on accessory offices that apply to other industrial uses should apply. However, there is no objection to adding a sentence to the use definition which states that accessory activities may include offices, such as is stated in the "General industrial service" use type definition.

5-15. Accessory Dwelling Units (ADUs)

- **Section 21.05.070D.1.b.iii., Pages 234 and 236, of Provisionally Adopted Title 21**
- **Proposed Amendments 45 and 46 in Consolidated Table**

Issue: Should ADUs be permitted in the R-1 and R-1A Districts?

Public comments: Accessory dwelling units are encouraged by Anchorage 2020 for offering a way to provide more low cost housing. Allowing ADUs in R-1 zoning districts is a big issue that Anchorage debated and rejected in recent years. This should be put on hold until after the rewrite is adopted, and then reconsidered on its own. (Anchorage Citizens Coalition, page 22)

Allowing an ADU in R-1 and R-1A districts contradicts an existing title 21 section enacted in the very recent past. It would eliminate single-family lots in Anchorage, increasing density in the wrong places, reducing property values, and dismantling single-family neighborhoods (Dan Coffey, page 276).

The Girdwood Valley Service Area Board of Supervisors state that Amendment #46 (i.e., ADUs to be 60 feet back from all front lot lines and 10 feet back from the principal dwelling) would make accessory dwelling units above garages very difficult and creates additional driveway and snow removal issues. It is inconsistent with existing development patterns of accessory dwelling units above garages and should not be applied to Girdwood zoning districts. (Girdwood Valley Service Area Board of Supervisors, page 63)

Response: Amendment 45 proposes that Accessory Dwelling Units (ADUs) be permitted in the R-1, R-1A, and (subject to limitations related to amendment #21) the R-3 districts. It is a carry-forward of a proposed amendment that has been available for public review since May 2010, with respect to the R-1 and R-1A districts. That amendment is expanded to include the R-3 district, reflecting the Mayor's direction to allow single-family homes in certain parts of the R-3 district.

The provision for ADUs is one component of the housing strategy for the Anchorage Bowl. Accessory units are separate self-contained dwelling units that are subordinate in size, location, tenure, and appearance to a single-family residence. The physical scale and placement of the accessory units is carefully regulated to maintain single-family neighborhood character and avoid negative impacts on neighboring properties.

Accessory units do not require development of new land, do not require as much construction or cost as much to build as conventional rental units. These units often rent for less-than-average market levels, and benefit from greater on-site management by the homeowner. In addition to providing opportunities for affordable and workforce housing, accessory units can provide homeowners with income, security, and companionship. Changing demographics in the Anchorage community also point toward multi-generational households, and some empty nest couples may want or need to move into an ADU on their children's property.

Development standards are extremely important for avoiding or minimizing effects on existing neighborhoods. Regulations for ADUs may need to assure that accessory units do not increase the

intensity of activity or have an effect on a single-family neighborhood beyond that which would already be allowed under the regulations for single-family development. Regulations already in title 21 include for example:

- Maximum unit square footage, building bulk, and overall building height.
- Side entrance location.
- Maximum number of occupants.
- Off-street parking spaces.

Some communities also have a dispersion provision that applies to existing neighborhoods, so accessory units do not become too concentrated in an area. Limits or exclusion of accessory units can also be done by geographic area. Dispersion or limitation provisions in single-family districts may be an appropriate addition to the title 21 regulations if ADUs were to be allowed in R-1 and R-1A districts. Dispersion provisions would not be restrictive relative to the track record for development of ADUs since 2003. According to municipal land use review records, there were 73 recorded ADU affidavits between September 2003 and 2010, which is less than 10 ADUs per year.

Recently, the Municipality received the final report for the Anchorage Housing Market Analysis (Exhibit H). This report evaluated the buildable land supply for the Anchorage Bowl and Chugiak-Eagle River, and projected the potential twenty year demand for land for residential uses. In consideration of many factors, the study estimates an undersupply of residential land capacity, and offers a detailed analysis of the housing demand challenges facing the Anchorage Bowl and Chugiak-Eagle River. It suggests that the Municipality's next steps are to first complete work on the title 21 rewrite and then to consider and implement some further policy options named in the report. Some policy options will create more community or developer resistance, and policy makers and Municipal staff will need to prioritize housing policies to be adopted based on the outcomes they are most concerned about, as part of a strategic planning process.

Like a small-lot housing ordinance and other housing strategies suggested in the housing study, evaluation of greater allowance for ADUs would be an involved project and require substantial participation by agencies, developers, the design community, local officials, and the general public. Given the housing study's recommendation to develop a strategic policy approach to addressing housing issues after completion of the title 21 rewrite, the public comments received, and the other issues to resolve now, this issue seems well beyond the scope of the title 21 rewrite.

Recommendation: Postpone consideration of allowing ADUs in R-1 and R-1A Districts until after the title 21 rewrite, by modifying proposed amendment 45 to refer to only the R-3 District. Forward proposed amendment 46 except that the current provision should continue to apply in Girdwood. Postpone further reconsideration of ADUs

If the Planning and Zoning Commission decides to forward an amendment allowing ADUs in the R-1 and R-1A districts, the Department recommends consideration of a dispersion provision to avoid concentrations of ADUs. A geographic limitation to only within policy areas of the Comprehensive Plan that prioritize housing opportunity, such as near Downtown, Midtown, mixed-use centers, and transit supportive development corridors, may also be appropriate.

5-16. Screening of Intermodal Shipping Containers (Connex Units)

► **Section 21.05.070D.12.b.i., Page 243, Line 17 of Provisionally Adopted Title 21**

Public comment: The Anchorage School District (ASD) commented regarding the provisionally adopted requirements for screening connexes. ASD has a number of permanent connex units, primarily at its middle and high schools. These serve two purposes: 1) emergency preparedness, and 2) site-based exterior storage, such as for athletics and for career and technology education curriculum materials storage. ASD has the following concerns:

1) The cost of screening or cladding of all existing ASD connexes could be as much as $1 million.

2) Treating all units the same, including those not readily visible to the public. ASD asks if screening the connexes from view from abutting streets, similar to dumpster screening provisions, should be applied rather than requiring full screening or cladding of all connexes.

3) Where screening of connexes is not an option, the District questions the reasonableness of requiring cladding or siding that is similar to the primary structure. ASD recommends that application of recessive paint, or paint that matches the building color scheme would appear to better achieve the intent.

4) Screening on all four sides would make the units immobile and impede access. The size of the access end is minor compared to the overall bulk. Recessive paint treatment would preserve their mobility and ease of access.

5) Some connexes are located near athletic fields and are seasonal in nature, and because these units are mobile, they are relocated when not in use. Fixed landscaping, therefore, would be a concern.

ASD indicated that it supports the concept of recessive finishes because it meets the intent of suppressing objectionable visual impact at a reasonable cost.

(Anchorage School District, pages 286-288)

Response: The use-specific standards for connex units require that they either be screened on all four sides with "structures, landscaping, and/or fences at least as high as the unit, or alternatively, shall be sided and roofed with materials substantially similar to the siding of the primary structure". The intent of these draft requirements is to screen permanently located connexes from view or, alternately, if the connexes aren't screened, to make them appear more like storage buildings than transport containers. To do the latter effectively is to use some type of siding material, to have a roof, and use materials and/or colors which match those of the primary building.

The Department agrees with the ASD that the screening of connexes should focus primarily on views from off the site, particularly abutting public streets, similar to dumpster screening. Also, screening of a connex should occur where it is visible from an adjacent residential property.

The Department also agrees that requirements for cladding or siding similar to the primary structure may not be feasible in some cases. Connex units that are used on a seasonal basis could fall under Section 21.05.080, Temporary Uses and Structures.

Recommendation: In addressing the ASD comments, the Department proposes the following amendments to 21.05.070D.12.b.i:

i. Except in the industrial, commercial, and airport districts, connex units shall be screened on sides facing abutting public streets and residential properties [ON ALL SIDES] by structures, landscaping, and/or fences at least as high as the unit, or alternatively, shall be sided and roofed using[WITH] materials and colors which are similar to materials and/or colors [SUBSTANTIALLY SIMILAR TO THE SIDING]of the primary structure. If the connex unit is placed and used for seasonal purposes subject to the provisions of section 21.05.080, temporary uses and structures, it may instead be painted with recessive paint or paint that matches the color scheme of the principal building.

Chapter 6 Issues

6-1. Small Lot Housing

- **Table 21.06-1: Table of Dimensional Standards, Provisionally Adopted Title 21**
- **Proposed Amendment 49 in Consolidated Table**

Issue: Should title 21 provide for small lot housing, and if so should a small lot housing provision be prepared now as a part of the title 21 rewrite?

Public Comment: CIHA supports inclusion of a cottage (small lot) housing provision to allow single-family houses to be developed on smaller lots. Including a cottage provision would promote the development of green space and affordable homeownership opportunities without sacrificing the density of residential development that MOA hopes to achieve. CIHA encourages MOA to develop a cottage housing ordinance, and offers to initiate a draft. (Cook Inlet Housing Authority)

Response: Established in the Anchorage 2020 Comprehensive Plan, the small-lot housing strategy has as its objective to modify the subdivision and zoning regulations to promote efficient use of residential land, conserve sensitive environmental areas, and include development standards to protect neighborhood quality. The Comprehensive Plan places mandatory guidance as to what a small-lot housing ordinance would address in policies 11, 12, 14, 16, and 57.

The Anchorage Housing Market Analysis (Exhibit H) concludes with a policy suggestion for allowing small-lot single-family housing lots less than 6,000 square feet, where appropriate and with design standards. Currently the MOA does not allow small fee-simple detached residential lots outside of PUDs, cluster (conservation) subdivisions, or Planned Community (PC) District developments. The MOA could get more small-lot residential development by allowing small-lot housing with a smaller minimum lot size and adjusting other regulations specifically for this new form of housing. It would provide a new alternative to conventional multifamily or condominium development while achieving similar densities.

The Department has continued to support the concept and urge completion of the title 21 rewrite in order to turn to small-lot and other plan implementation strategies not included in the title 21 rewrite. Adding a small lot housing ordinance as a part of the rewrite was never anticipated. It did not fit into the scope of the title 21 rewrite, which has already taken years longer than anticipated in part because of it is so extensive. A small-lot housing ordinance will be an involved project in its own right, and require substantial participation by public agencies, developers, the design community, local officials, and the general public. The amount of collaboration and input in addressing subdivision, utility, and traffic engineering issues, as well as public participation opportunities to address developer and neighborhood concerns, makes it prohibitive to insert a cottage housing provision into the very end of the title 21 rewrite review process.

The Department concurs that small-lot housing could potentially achieve the same number of housing units as traditional multifamily and condo development allowed in the R-2M and R-3 districts. Small lot subdivisions in the R-3 would need to have smaller lots than in R-2M, so as to yield at least three new small lots per typical 7,000 square foot subdivided lot, in order to avoid subdividing R-3 properties in a way that permanently underutilizes its land base conflicting with other housing policies in the Housing Market Study and the Comprehensive Plan. In the R-2M, the lotting pattern would be more consistent if minimum lot size and structure size were more in keeping with the lower densities in that district.

It would not be possible for small lot housing to yield the number of units per lot needed in the R-4 high density multifamily district in order to meet Anchorage's housing need, so it would be inherent underutilization of the R-4. Likewise, at the other end of the spectrum, it could be inappropriate in R-1 and R-1A areas with an established lower density lot pattern, except as part of a transit supportive corridor or other special overlay district.

Recommendation: The Department supports a small-lot housing ordinance in title 21, to be developed in a collaborative public process separate from the title 21 rewrite project. There is no objection to insertion of placeholder rows into Table 21.06-1 dimensional standards for the R-2A, R-2D, R-2F, R-2M, and R-3 districts, for a near future small lot provision.

6-2. Deleting Height Limits in All Commercial / Mixed-use Districts

- ► **Section 21.06.020, Tables of Dimensional Standards**
- ► **<u>Proposed Amendment 49</u> in Consolidated Table**

Issue: Should the building setback, height, and lot coverage requirements remain as in current title 21 or should the requirements in the provisionally adopted title 21 go forward?

Public comment: The commenter states that the draft code requires more land for both residential and commercial development, because of the proposed dimensional requirements such as height limitations in the B-3 district where none now exist. He contends that the additional dimensional constraints in Chapter 21.06 are contrary to the policies of the Anchorage 2020 Comprehensive Plan that call for more efficient use of Anchorage's remaining vacant and underdeveloped land. The commenter recommends that all setback, height and lot coverage requirements in all residential and commercial/industrial districts should remain the same as in the current Title 21. (Coffey, pages 178 and page 276). Another commenter recommends eliminating the mixed-use district tables and new height restrictions (Dwiggins, page 89).

Public comments from three community councils, four private citizens, and the Anchorage Citizens Coalition oppose Amendment #50 which would allow unlimited maximum building heights in the B-3 District for the Midtown area (Issue 6-7 responds to shadowing concerns). Another community council supported greater building height flexibility in Midtown.

Response: The Department disagrees with comments recommending the allowance of unlimited building heights in all commercial districts, such as the B-3 district. The only area the Department supports unlimited building heights (as an interim measure) is in the Midtown major employment center commercial area.

The Comprehensive Plan identifies specific areas of the Anchorage Bowl to provide for growing future concentrations of employment and a supporting mix of residential, commercial, and civic uses. It calls for the highest intensity development to occur in and around the major employment centers of Downtown and Midtown to support a more efficient transportation system.

Limiting the number of employment centers to Downtown and Midtown, as well as the U-Med District, focuses and encourages medium- to high-density office and residential development in well-defined, compact, successful city centers. This focused development pattern will also capitalize on higher returns on infrastructure investments that are already in place 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 throughout 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 contain building height and bulk limits applicable to commercial 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 will continue the disjointed development pattern that exists today and increase the potential for incompatibility in the outlying areas.

The Administration proposed an amendment to the provisionally adopted Title 21 to allow for tall buildings in the Midtown major employment center, while retaining provisionally adopted building heights elsewhere in outlying commercial and industrial areas of the Bowl. Specifically:

- Allow unlimited building heights in Midtown, until such time as a Midtown Plan is adopted that evaluates appropriate building heights, by exempting buildings from the height limits of the B-3 and RMU districts 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.

- Make the RMU district available as a mixed-use zoning option in Midtown, and waive rezoning fees and provide assistance for property owners that elect to rezone to RMU.

- Retain the provisionally adopted height limits for the B-3 (outside of Midtown), RO, and I-1 districts.

Recommendation: Support the Administration's proposed amendment to the provisionally adopted Title 21, which retains the provisionally adopted height limits (outside of Midtown).

6-3. Reverting to Existing Title 21 Setbacks and Dimensional Requirements

► Section 21.06.020, Tables of Dimensional Standards

Issue: Should all setback, height, and lot coverage requirements remain as in current title 21 or should changes from current code in provisionally adopted title 21 go forward?

Public comment: The commenter states that the draft code requires more land for both residential and commercial development. On this basis he contends that additional dimensional constraints in Chapter 21.06 are contrary to the policies of the Anchorage 2020 Comprehensive Plan that call for efficient use of remaining vacant and underdeveloped land. He recommends that all setback, height and lot coverage requirements in all residential and commercial/industrial districts should remain the same as in the current Title 21. (Coffey, page 178). Another commenter agrees, and argues for combining the dimensional tables (Dwiggins, page 89).

Response: The purpose of the title 21 rewrite project is to update a 40 year old zoning ordinance, last rewritten in the 1960s, and to implement the updated Comprehensive Plan. Title 21 is an implementation tool of the comprehensive plan. It went through a nine year, iterative public review process and the changes from current code are those that reflected community agreement, adopted by the Assembly, for needed change in order to update the land use regulations and implement the comprehensive plan.

The Department takes exception to the way in which this issue is being presented, and arguments based on claims not founded on fact. Despite claims of greater land area requirements, evidence from extensive updated cost comparison tests (developed in partnership with consultants and with substantial input from the local development community) conclude that, in fact, overall land area requirements for site development would generally fall or remain the same. Exhibit E reports that, in testing of representative commercial office, medical office, industrial, multifamily, and retail sites, land area requirements fell in 11 of 13 sites tested, an average 7.5 percent reduction in required land area over 13 tests.

With regard to height limits, every recent economic market analysis—including the Commercial Land Study (Exhibit G), the Housing Market Analysis (Exhibit H), the EIA report (Exhibits E and E-1), and the municipal Assessor's outlook (Exhibit E-3)—corroborates that, for the predominant kinds of development anticipated in Anchorage in the coming decades, the same size or larger sized buildings would be enabled under the title 21 rewrite. The Administration's amendments have clarified and tempered the provisionally adopted regulations, by providing for high rise buildings in Midtown. Anchorage's market does not favor high rise buildings south of Midtown, next to low rise outlying neighborhoods. Most development in Anchorage will continue to be more limited by market forces and parking needs than by zoning regulations.

The commenter claims that the provisionally adopted 21.06 dimensional tables reduce allowable lot coverage and increases setbacks. But in fact all districts in the rewrite have either the same or increased allowable lot coverage. For example, lot coverage in the B-3 is still 50 percent, and commercial property owners may elect to rezone to mixed-use where maximum lot coverage is

eliminated altogether. Setbacks are generally staying the same or are decreasing (e.g., in B-1A). Residential zones are basically the same as current code, although the use type categories are different. For example, the rewrite will allow townhouses on narrower lots than under current title 21. Should we take that away, and perhaps reconsider as part of a small-lot ordinance?

There are several exceptions, where a setback or a required landscape buffer is greater under the rewrite, where abutting districts allow incompatible use or development scale and current code provides inadequate transitions. For such cases the commenter uses a selective interpretation of the Comprehensive Plan to claim that any new title 21 provision that raises the minimum bar, such as requiring a walkway connection, or a wider vegetated buffer, is contrary to the plan's policies for more efficient use of Anchorage's land base. In fact, the Comprehensive Plan calls for a balanced approach which emphasizes, for example, improving pedestrian connections and providing increased neighborhood protection as part of a strategy to grow through compatible infill/redevelopment.

After eight years of development, the provisionally adopted code provides a carefully balanced and calibrated set of dimensional standards. 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 dimensional standards and their organizational structure over many years. Issues that arose were resolved in successive public review iterations.

The proposal for a sweeping reversion of the chapter 21.06 dimensional tables at this late time back to existing code is not carefully thought through. Its rationale has no basis in evidence, nor is the proposal tied to the actual specific setbacks and other dimensional standards for the uses and districts that appear in the tables. If there is not a specific documented concern, there is no basis for returning to existing code. To change the system now would impact provisions throughout the chapters and impede implementation of the Comprehensive Plan.

Recommendation: Forward the provisionally adopted dimensional standards, with the proposed amendments brought forward at the request of the Administration, for adoption.

6-4. Deleting Maximum Setbacks in Mixed-use Districts

► **Section 21.06.020 (Table 21.06-3, Page 261), and 21.06.030C.5. (Pages 265-268)**

Issue: Should maximum setbacks be deleted in Mixed-use Districts?

The commenter states that the draft code requires more land for both residential and commercial development. He contends that this results from proposed requirements such as maximum setbacks that were established in the commercial districts. He states that the additional dimensional constraints in Chapter 21.06 are contrary to the policy of the Anchorage 2020 Comprehensive Plan that calls for more efficient use of Anchorage's remaining vacant and underdeveloped land. The commenter recommends that all setback, height and lot coverage requirements in all residential and commercial/industrial districts should remain the same as in

the current Title 21. (Coffey, page 178). Another commenter recommended eliminating maximum setbacks (Dwiggins, page 89).

Response: The Anchorage Bowl Comprehensive Plan calls for mixed-use development at three different scales of compact urban centers, Major Employment Centers, Town Centers, and Neighborhood Commercial Centers. These centers are to have a mix of uses, i.e., commercial, institutional, parks/open space, and residential uses located in close proximity to each other and developed to promote walking between uses and greater use of transit in addition to being accessible to the automobile.

It achieves this, in part, by applying standards such as:

- Locating buildings and their primary entrances closer to the street and sidewalks;
- Locating parking lots to the side or behind buildings rather than between the front of the building and the street;
- Providing floor area ratio incentives to encourage residential development and other features of benefit to the public;
- Limiting height limits to 45 feet (NMU) or 60 feet (CMU, RMU) outside of Midtown; and
- Reduced minimum parking requirements.

Setting the building closer to the street to improve pedestrian access and the walking environment between uses is anticipated to contribute to decreased land area requirements for development. Studies have found that this pattern of development on the district scale, which makes walking between destinations safer, more pleasant and practical, can contribute to lower automobile usage by 5 to 15 percent or more. This translates into fewer needed parking spaces. This is the state of the practice in helping cities to develop existing lands more efficiently and avoid further road congestion. There are plenty of examples in Anchorage of the building fronting near the abutting collector or arterial streets—it works here already.

The commenter's recommendation to eliminate maximum setbacks in the mixed-use districts would remove a key component supporting the pedestrian environment that is necessary for a compact mixed-use center. In other words, having no maximum setbacks would likely result in commercial development found in auto-dependent commercial areas (such as the B-3 district), with large building setbacks and a parking lot located between the building and the street. This latter type of development does not support the mixed-use centers called for in the Anchorage 2020 – Anchorage Bowl Comprehensive Plan.

Recommendation: Retain the maximum building setbacks for the mixed-use districts as set forth in the provisionally adopted Title 21.

6-5. Maximum Height in PLI District

- **Section 21.06.020, Table 21.06-4, Page 263 of Provisionally Adopted Title 21**
- **Proposed Amendment 52 in Consolidated Table**

Issue: What is the appropriate maximum height of buildings in the PLI District?

The Anchorage Citizens Coalition does not support the proposed amendment #52 which would serve to change the maximum height for the PLI district from the standard in the provisionally adopted code. The Coalition states that the proposed amendment is opposed to the comprehensive plan's goal of protecting neighborhood character; that the proposed 75 foot height is very high (6 stories); and that a better requirement would be to allow the height limit of the surrounding district unless approved by conditional use or through a master plan. (Anchorage Citizens Coalition, page 22)

Response: Amendment #52 proposes a 75 foot maximum height limit for the PLI district, both to be consistent with other districts, and to protect neighboring development. If left unchanged as in the provisionally adopted draft, the PLI district would be one of three districts with no maximum height limit (the others being the I-2 heavy industrial district and AF antenna farm district). This amendment also allows greater height if approved by conditional use or through an institutional master plan. However, the height transition provisions of 21.06.030D.7 would still apply to buildings in the PLI district that are within 200 feet of a residential district even though Amendment #52 removes the reference to these provisions in Table 21.06-4. The provisionally adopted height transition provides better protection in Anchorage's setting than the graduated PLI setbacks in the current title 21.

The commenter's proposal for matching the maximum height standards of an abutting district would be fairly strict if the abutting district were a single family residential district such as R-1 (maximum height of 30 feet). The proposed 75-foot maximum height limit for PLI (amendment #52) along with the height transitions provisions is an improvement from current title 21 provisions for maximum height and building setbacks in the PLI district, and will provide adequate setbacks to protect neighborhood character.

Recommendation: The Department recommends going forward with the PLI district provisions and Amendment #52.

6-6. Deletion of Neighborhood Protection Height Transitions

- ► **Section 21.06.030D.8., Page 272 of Provisionally Adopted Title 21**
- ► **<u>Proposed Amendment 54</u> in Consolidated Table**

Issue: Should there be height transitions to improve the compatibility between taller building development sites and adjacent low rise residential districts?

Public comment: Reject any proposed changes that diminish neighborhood protection height transitions (Rogers Park Community Council; Adopt Title 21 Coalition)

The height transitions provision would require developments to be stepped back within 200 feet of a residential property. If the purpose is just to provide sunlight on adjacent property, impose this "stepped back" requirement only where the commercial development is directly south and adjacent to the residential lot. Or just eliminate the height transition (Coffey, pages 178-9). Eliminate height transitions (Dwiggins, page 89).

Response: The Mayor's consultant made a similar proposal last year to eliminate the height transitions. After reviewing the issue, the Mayor supported the provisionally adopted height transition with a proposed amendment (#54) to increase applicant discretion for how to meet it. Pages 44-47 of Exhibit A provide a policy discussion of this issue with illustrated examples, and pages 9-10 of Exhibit B document the Mayor's direction.

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

The commenter mischaracterizes the height transition in multiple ways. In fact, it addresses building bulk, ambient daylighting, and privacy and visual buffering, just as much as it does sunlight access. These multiple objectives make it important regardless if the property is to the north, south, east, or west. As the **illustrated example tests** on pages 46-47 of **Exhibit A** demonstrate:

- It maintains (avoids reduction of) the development potential of the commercial lots;
- Despite some claims, it does not affect the height or size of buildings, or require "step backs" in their shape;
- Instead, its main function is to find the appropriate placement of taller buildings on the lot, with respect to the adjacent residential neighborhoods;
- Even shallow commercial lots backing up to residential districts have ample room for more building height or to shift the building placement further away from the residential property; and
- It protects property values and full enjoyment of adjacent residential properties.

Furthermore, Proposed Amendment 54 at the request of the Mayor clarifies different methods to comply and gives the applicant greater discretion for achieving an appropriate height transition.

By contrast, the second commenter's proposed amendments would thwart the protection objectives, reverse years of analysis and public process, and yet offer no practical improvement in development potential for the commercial lot. And it is commons sense that to be consistently effective in protecting residences, the height transition must apply to all tall structures within a certain distance of the residential lot (e.g.., 200 feet), and not arbitrarily based on whatever happens to be configuration of lot lines (e.g., "adjacent" lot lines), or if it is to the east, west, south, or any direction.

Provisions that replace existing height-setback bulk transitions in current title 21, such as in the PLI District where it meets a residential property (discussed in issue 6-5 above), depend on having the height transition be applicable generally and not just if the PLI property is to the south of the residential property. Otherwise, it would be a rollback from even current code protections.

Neighborhood protection transitions become more important as infill and redevelopment occur next to existing residential neighborhoods (example ministorage below). Aside from visual dominance, a structure of much greater bulk and height has impacts to nearby smaller residences by invading privacy and a lack of visual buffering. Alaska's northern climate, tall buildings also impact wind, microclimatic, and ambient day-lighting impacts, in addition to shading. For a variety of reasons, a tall building to the east, west, or even north has negative impacts.

As Anchorage grows through higher density build out and redevelopment of existing urban areas, height transition will help ensure that the greater bulk is sensitively placed on the lot, and give neighborhoods some assurance that these higher densities can be compatible in closer urban environments.

Recommendation: Forward the provisionally adopted section with the Mayor's amendments.

6-7. Protection of Sunlight Access from Midtown High Rise Shadowing

► **Sections 21.06.030D.8. and 21.07.130C. of Provisionally Adopted Title 21**

► **Proposed Amendments 50 and 51 in Consolidated Table**

Issue: Should title 21 ensure minimum solar access protection for residential neighborhoods?

Public comments: The height transitions section provides some protection to neighborhoods. However, it will not protect homes from shadow effects of tall buildings if Midtown's B-3 height limitations are eliminated. Denali Tower North (on Denali Street) is one example of a high rise that blocks sunlight access to a significant number of homes three blocks away. More protection from tall building shadowing is needed than the height transition provides. To maintain Anchorage's quality of life, sunlight access must be preserved. Midtown's established residential zones, including the neighborhoods north of Fireweed, need sunlight protection from new commercial development that would darken yards and homes. A specific amendment adding a solar access protection for residentially zoned lots, from 9 a.m. to 3 p.m. daily between March 21 and October 21, is suggested. (Anchorage Citizens Coalition, page 23)

Reject the deletion of height restrictions in B-3 zones in Midtown unless there are strong protections for residential sunlight. (Hillside East, Mid Hillside, Rabbit Creek, and Rogers Park Community Councils)

Allowing tall buildings to cast shadows on homes picks winners and losers and the losers are the homeowners. (Adopt Title 21 Coalition)

Robyn Lauster, Marilyn Houser, and North Star Community Council representative Gordon Glaser testified their concerns with unlimited building height in Midtown, and the shadowing effects of tall buildings; Marc Butler testified that zoning regulations are needed to protect private property rights, and high rises in Midtown should not be able to block winter light for residential property owners north of Fireweed. (March 19 hearing)

The zoning ordnance should protect sunlight access during the winter, when it is needed most, to make Anchorage a more livable winter city. Applying a no-shadow rule to only spring, summer, and fall months misses the point. In the winter months the sun is low on the southern horizon causing tall buildings to cast very large shadows. The lack of sunlight in the winter is known to cause health problems. In the early 1970s my home one block north of E. Fireweed on sunny winter days had sunshine through the large south facing windows, bringing warmth, comfort, and raising my spirits during the long winter. The first Denali Tower did not cause us any problem as it was far enough away and not so tall. But the second Denali Tower casts our home in shadow during the winter months. In summer the sun is higher in the sky so there is no shadow. By deliberately developing zoning rules that do not prevent the blocking of sunlight to residential areas, it affects public health and well-being. Zoning rules can and should provide for well designed transitions that allow planning for tall buildings, medium sized buildings, and lower buildings which do not cut off sunlight to residential areas. (Roxy McDonagh)

Response: The Anchorage 2020 – Anchorage Bowl Comprehensive Plan designates Midtown as a Major Employment Center and a focus area for the highest concentrations of future office employment. It has been the intent of the title 21 rewrite project to limit high density office development to Midtown and Downtown, to encourage successful, focused city centers. The title 21 rewrite included placeholders for MT-1 and MT-2 districts in anticipation of completion of the draft Midtown District Plan. That draft plan recommended that a Midtown Core area (designated to become MT-1) be allowed high rise buildings up to 14 stories in height, and that other parts of commercial Midtown (MT-2) be designated for mid-rise development. However, that draft plan has been on hold for several years and is not anticipated to be completed before the title 21 rewrite is implemented. Therefore, until such time as a Midtown Plan and its zoning districts are adopted to guide building height limits in Midtown, proposed amendments 50 and 51 would remove provisionally adopted restrictions on building height for B-3 properties in the Midtown major employment center area. Regional Mixed-use (RMU) District is proposed to be modified in proposed amendments 24, 25, and 51 to be available as a mixed-use zoning option for Midtown commercial property owners, also with unlimited height in Midtown.

To deal with the shadowing and microclimate effects of the high rises, each public review draft of the title 21 rewrite through the public hearing draft also included a provision to address shadow impacts of tall buildings. Draft section 21.07.130C, Tall Buildings, provided a minimum performance standard to ensure solar access for neighborhoods in the spring, summer, and fall. Research and observation indicated that it would not be practical to protect sunlight access in the middle of winter at 61 degrees north latitude within an urban area.

During the provisional adoption process in 2007-2010, the Department, Planning and Zoning Commission, Assembly Title 21 Committee, and members of the public deliberated on and revised the tall buildings section. The Assembly Committee reviewed several draft iterations. The last they reviewed was on September 9, 2010 and is provided as Exhibit L as background.

Based on Department staff notes, the Assembly Committee on raised comments about the sunlight access criteria in the September 9, 2010 draft, and requested that the Department return with a revised draft and additional information such as potential impacts to commercial lots.

The Assembly Title 21 Committee adjourned indefinitely later in the fall of 2010 before returning to its review of the section. Page 409 of the provisionally adopted title 21 has a placeholder for Section 21.07.130C., Tall Buildings, until such time as sunlight access standards for high rise buildings are completed.

The proposed amendments to allow unlimited building heights in Midtown may result in prioritizing the completion of the Tall Buildings section, which was under development for this purpose.

Recommendation: To address the public concerns that unlimited building heights are inappropriate without sunlight access protections for adjacent neighborhoods, the Department does not object to moving forward with refining and completing Section 21.07.130C, in consideration of the specific suggestions raised by the public, and the concerns in 2010 by the Assembly Title 21 Committee.