

Land-use code draft still needs modifying

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If Anchorage Mayor Mark Begich doesn't step in, we may be about to shoot ourselves in the foot.

The city's staff, with help from an outside consultant, is writing the public hearing draft for the new Title 21 code, which governs Anchorage's land-use and development code. This draft will be out in May for public review and then go before the city Assembly for adoption.

Many of us in Anchorage's real estate industry -- brokers, appraisers, developers, contractors, property owners and members of the mayor's Real Estate Advisory Task Force for Title 21 -- are greatly concerned that what has been proposed so far is much too overreaching and costly. Significant changes must be made now, as the public hearing draft is being written.

Once the public hearing draft is completed, suggesting changes to the Assembly will be too late. The Assembly cannot dig through all the details and provisions that need to be changed. Instead, Assembly members will likely reject it, thus throwing away four years of hard work or perhaps substitute their own alternative version.

It would be far better for the public hearing draft to be written right the first time, and it is up to the mayor to make sure this happens. Getting it right means we have a code that is balanced and realistic for Anchorage, well thought-out and workable, written in an organized and user-friendly manner, a code supported by local professionals and those that have to work within it, and one that is affordable.

Information for this column was obtained from individuals involved in the process and taken from written comments to previous drafts, as well as Alaska Business Monthly magazine's February article, "Title 21 and its Broad-Reaching Effects."

Here are just a few examples of concerns about commercial property requirements in the drafts to date, as expressed by the professionals who know what is going on. (I understand there are more concerns in the residential portions.) These examples are not even the tip of the iceberg. For example, the Associated General Contractors submitted a list of 128 suggested changes.

* Too long and complicated. One of the goals of the new ordinance was to make it more workable and understandable. The ordinance that started out as 125 pages is now nearly 600 pages. It is poorly organized, confusing and improperly cross-referenced.

* The rewrite was intended to make the approval process smoother, less time consuming and more predictable -- important issues for any new development. Yet, the proposed code makes the approval process significantly more difficult, not smoother. It expands the number of conditional uses, site plan reviews and advisory hearings and adds substantially more criteria.

* Under the current revision, only specific uses will be allowed in each of the new zoning

categories. If the existing use does not match the new zone then the property will be designated nonconforming, even if the building met all codes and requirements when constructed. Current zoning is far more flexible because it cascades, which means a B1 zone use is allowed in B3 and I1 zones -- but not vice versa.

Nonconforming designation will cause significant problems. For example, a nonconforming building that burns down cannot be rebuilt for the same use, unless special permission is granted under subjective criteria. Some existing buildings have loans that require that if the building burns down it be replaced with a building of the same use and character. But if a building is designated as nonconforming, then the owner might not be able to rebuild at that site because the city might not allow it. Consequently, the nonconforming designation will make the owner be in default of the loan because all the loan provisions cannot be met.

Getting new financing on existing nonconforming properties could be difficult and more expensive, thereby restricting refinances, sales and purchases.

And what about those who own a property for a specific future use that meets current code and perhaps have spent a lot of money getting ready for development and the new code makes the property nonconforming? They are out of luck.

* The market's ability to meet changing future demand for different uses will be limited. The new zoning allows fewer uses for every property, so we are going to have fewer possible sites for development and be less able to meet changing market demand. The city is short on land now, and the current revised land-use code is going to make a bad situation even worse.

* The cost of development is made much higher, which reduces property values. The new requirements significantly reduce the usable area of commercial lots because of expanded landscaping, parking and design standards. This means less development is possible on a given lot, and more land is needed for a given development. For example, under the draft code the new Alaska USA Federal Credit Union building at 36th Avenue and Eureka Street would have to be 26 percent smaller. Further, requiring more land for every development worsens Anchorage's land shortage.

* Remodels and expansions of existing buildings in many cases will come under the new code, thus raising the costs. Many of the requirements are nice ideas but unrealistic and costly for existing buildings. The code needs to recognize this with grandfather provisions. For example, it might be very expensive for an existing building to meet the new parking lot lighting standards. The more costly a remodel, the fewer will be done, which means more outdated buildings that should be remodeled but aren't.

We must do better, but we can do only what we can afford to do, and we should be required to do only what is practical. As shown in the examples above, the new code -- if not done right -- can be very costly and a strong deterrent to improving Anchorage.

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