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TO: Ad Hoc Title 49 Advisory Committee
FROM: Rob Dumouchel, Special Project Planning Manager
DATE: 4NOV24
RE: Phase 1 Wave 1 Concept Review and Assembly Recommendation

This memo outlines proposed text amendments for Title 49 – Land Use. At the October 28, 2024 meeting of the Committee¹, an overview of the concepts proposed for the first wave of phase 1 text amendments to Title 49 were provided. At the November 13, 2024 meeting, the Committee will be discussing the concepts and preparing a recommendation to put forward to the Assembly. This memo will provide a brief overview of each concept. It also addresses questions raised by Committee members in advance. Note that there will likely be some modifications between the proposals below and the final product presented to the Assembly as the amendments will be vetted by the Title 49 rewrite project's contract attorney and relevant CBJ staff. If a text amendment is initiated by the Assembly, the Committee will have a chance to comment on the draft while it is moving through the Planning Commission's review process.

Staff Recommendation: Make a motion to endorse all proposed concepts in Phase 1 Wave 1 and recommend that they be drafted and submitted to the Assembly for the initiation of a text amendment as authorized by 49.75.410(b)².

Accessory Dwelling Units (ADUs)

The proposed ADU text amendment would build upon work begun by the Community Development Department (CDD), the Planning Commission, and the Title 49 Committee (a subcommittee of the Planning Commission). The intent is to integrate current best practices for ADUs, to remove barriers to development, and streamline ADU permitting.

The proposed text amendment would include the following:

- Removal of 49.25.510(k) accessory apartments and replacement with 49.25.512 accessory dwelling units.
- A reduction in codified ADU permit application requirements which would give CDD more flexibility to adjust requirements within an evolving development context.
- Exemption of ADUs from density calculations.
- Language specifying an ADU's relationship to a principal structure and acknowledgement that a principal structure may become an accessory structure to a newly constructed single-family home.
- Exemption of ADUs from minimum lot size and minimum lot width but retains maximum lot coverage and maximum height limits from the underlying zone district. Existing legal nonconforming structures converted to ADUs are not required to remedy noncompliance with lot coverage, setback, or height standards.
- A maximum size standard of 1000 square feet for detached ADUs.
- A maximum size standard of 1000 square feet or 40% of the principal residential structure, whichever is greater for attached ADUs.

¹ 28OCT24 meeting packet contains presentation slides: <https://mccmeetings.blob.core.usgovcloudapi.net/juneauak-pubu/MEET-Packet-ac734a92da024ea4ade9fcf5173245f3.pdf>

² **49.75.410 - Text amendments.** (a) *Commission initiated.* The commission shall initiate an amendment to this title by holding a public hearing to consider whether it should recommend such amendment to the assembly. The director shall provide at least ten days public notice of the hearing. (b) *Assembly initiated.* The assembly shall initiate an amendment to this title by referring such amendment to the commission for proceeding in accordance with subsection (a) of this section.

- A 10-foot rear setback for ADUs (unless the zone district allows for less)
- Removal of on-site parking requirements for ADUs within one mile of a transit stop, as well as those created via conversion of an existing covered parking space.
- A definition for "Accessory Dwelling Unit" in 49.80.120 – Definitions.
- The explicit naming of ADUs as a minor development in single-family; multifamily; and commercial and mixed-use zone districts in 49.25.300 – Determining Uses.
- The principal permitting of ADUs in all residential districts.
- An allowance for attached ADUs within the allowable construction standards of a bungalow. The intent is that a conforming bungalow structure could have an ADU created within its footprint, to include the conversion of a covered parking area (i.e., garage).

Committee questions:

- **What changes are being requested now vs. what is currently allowed?** – Current accessory apartment regulations control the number of rooms a unit may have; set the base size of an ADU at 600 square feet (although there are ways to get a larger unit up to 1000 square feet); and require use permits if a lot size is substandard.
- **Are ADUs allowed to be added during new construction?** – Yes. ADUs may be built at the same time as the principal residential structure(s).
- **Is there a limit to how many ADUs can be added to a site?** – Yes. Up to one ADU per residence allowed with a limit of two on a parcel.
- **Are there setback requirements from other structures on a lot?** – Yes. Separation between structures is driven by the building code (Title 19).

Caretaker Units

Caretaker units are residential units located on industrial property that are intended to house an owner or employee who has a responsibility for managing or maintaining the property upon which the residence is located. Caretaker units are accessory to a permitted commercial or industrial use on the property. The proposed text amendment would define caretaker units in Title 49, create a section of code specifically for administration of caretaker units, make caretaker units principally permitted in Waterfront Industrial (WI) and Industrial (I) zone districts, and address related issues connected to parking and mobile homes.

The proposed text amendment to Title 49 would include the following:

- Creation of a definition for "caretaker unit" under 49.80.120.
- Creation of a new code section for caretaker units – 49.25.514 which would:
 - Require a permit for development of a caretaker unit.
 - Require caretaker units to be accessory to a principal use on the same parcel.
 - Limit residency to caretaker and family (family is defined in Title 49 as "one or more persons living as a single housekeeping unit").
 - Exempt caretaker units from density requirements, similar to the proposal for accessory dwelling units.
 - Allow caretaker units to be up to 2000 square feet in net floor area (currently no limit exists).
- Clarification that caretaker units are a minor development under 49.25.300 – Determining Uses
- Edits to the Table of Permissible Uses that would:
 - Create a line for "Caretaker units" which principally permits them in Waterfront Industrial (WI) and Industrial (I) zone districts.
 - Remove the option for "Single-family detached, one dwelling per lot" from Waterfront Industrial (WI), and Industrial (I) zone districts as it has been replaced by the new caretaker unit use.
 - Edit the entry for "Caretakers mobile homes on individual lots" to instead read as "Mobile homes on individual lots outside of mobile home parks" which principally permits them in the Waterfront Industrial (WI) and Industrial (I) zone districts with the caveat that they are further governed by 49.65, Article III – Mobile Homes.

- The addition of caretaker units in industrial zone districts to the rules for mobile homes on individual lots under 49.65.300.
- The addition of a line for caretaker units in the parking use table that requires zero off-street parking spaces with the intent that total parking requirements for the parcel hosting a caretaker unit will be driven by the principal industrial use.

Committee questions:

- **How do caretaker units differ from ADUs?** – Caretaker units only exist in industrial zones and are meant to support the principal industrial use on the parcel.
- **Why are caretaker units allowed to have more square footage?** – I’m proposing more square footage for caretaker units in part because they are located on lots that are unlikely to have yard space or easy access to neighborhood amenities like parks.
- **Will caretaker units have the same exemptions as ADUs (parking, setbacks, density)?** – Caretaker units will be exempt from density requirements, however, everything else would be driven by the underlying zoning district.
- **Is there a qualification that must be documented to be considered a caretaker unit, rather than an ADU?** – A residence would be considered a caretaker unit if it is located in an industrial zone and granted a caretaker permit.
- **How are these considered later when the unit is no longer used as a caretaker unit?** – A structure used as a caretaker unit may be converted to another allowed use. A residential use without a caretaker nexus is not allowed in industrial zone districts.
- **Is there a limit to how many caretaker units can be added to a site?** – Yes. One per parcel.
- **Do caretaker units have to fall within the current floor plan?** – No. A caretaker unit can be detached from the principal structure.

Determination of Use – Major vs. Minor Development

Section 49.25.300(c)(3) contains rules for determining what constitutes a “minor development”. The section is restrictive and perceived as being somewhat confusing by staff and the public.

The proposed text amendment would:

- Remove references to bedrooms leased on a daily or weekly basis.
- Clarify that a project can combine minor uses without triggering a major development determination.
- Remove specific number limits for dwelling units in multifamily and commercial/mixed-use districts and instead relies on existing density and development standards. **This would be a very significant change for housing development.**
- Take care of modifications mentioned in the ADU and caretaker unit sections of this memo.

Use Not Listed

Title 49 has an existing mechanism for uses not listed in the table of permissible uses that is very restrictive³. It requires any equivalent use determination to go to the Planning Commission for a public hearing.

The proposed text amendment would allow the CDD Director to make equivalent use determinations which are appealable to the Planning Commission. If there is no logical equivalent use connection, the use would need to be considered through a text amendment.

Transition Zones

Transition zones are governed by 49.70.700 et seq. which states the purpose of a transition zone as follows:

A transition zone is an overlay zone district for certain lands located in the urban service boundary that are set aside for higher density development after public water and sewer have been provided. Transition zones shall be identified as such by the designator "T" on the official zoning maps adopted

³ 49.20.320 – Use not listed.

pursuant to section 49.25.110. The overlay district specifies the current lower density zoning classification as well as the proposed increase. The increase in density will take place at the time public services are provided.

The proposed text amendment would streamline this process by creating ministerial mechanism for upzoning that is performed by the CDD director when a parcel becomes eligible for upzone.

The proposed text amendment would include the following:

- Identification of the CDD Director as having the authority to upzone an eligible transition zone parcel.
- Explicit permission for the CDD Director to initiate the upzoning of an eligible transition zone parcel.
- The removal of the procedure and hearing sections. If a rezone exceeds the Director's authority it will go through the normal rezoning process in 49.75.130.

Adjustments to Approved Permits

This proposed text amendment would grant the CDD Director that ability to make minor modifications to approved permits which will streamline development and save time and money for developers. Major modifications would be required to return to the original decision-making body.

The proposed text amendment would include the following:

- The creation of 49.15.160 – Amendments of Approved Permits.
- The deletion of 49.15.660 - amendments to approved planned unit development plans, 49.15.750 - approved cottage housing development plans, and 49.15.970 - approved alternative residential subdivisions plans.
- The creation of an amendment request/application process.
- The definition of a minor amendment as:
 - Being consistent with the spirit and intent of the original approval;
 - Not expanding or intensifying uses or structures beyond original approval;
 - Having an insignificant change in the outward appearance of the development;
 - Having an insignificant impact on surrounding properties;
 - Having an insignificant impact on the location of buildings;
 - Not impacting a feature that was the basis for conditions of approval or a feature specifically considered by the review authority in granting the original permit;
 - Not reducing parking below the original requirement; and
 - Not creating a delay of more than one year for the project's completion.
- A 15 working day window for the CDD Director to determine if an amendment is minor or major.
- A requirement for major amendments to return to the same review authority as the original approval with the same public notice and hearing requirements as the original permit.
- Section would exclude exploration and mining permits, they are governed by Chapter 49.65 Article I – Exploration and mining permits.

Rules of Construction

The rules of construction within a zoning code contain guidelines for how words are used, how the code is to be interpreted, and how to resolve conflicts between different elements of the code. This text amendment would create a much more comprehensive rules of construction section giving greater clarity to staff and the public when considering developments.⁴

The proposed text amendment would include guidelines for:

⁴ Title 49 has an existing rules of construction section (49.80.110) as well as an interpretation section (49.05.140) that would be replaced by the proposed text amendment.

- General interpretation of Title 49
- Word usage to include
 - Grammatical items like tense, singular/plural, gendered terms
 - The meaning of words like “will,” “must,” “shall,” “should,” and “may”
 - The use of terms like “Department” or “Commission” to specifically mean the Community Development Department and Planning Commission
 - The meaning of words like “and” and “or”
- The use of lists
- Measurement of time
- Rules of rounding for fractions
- References to other documents and regulations
- The delegation of authority in the zoning code
- How to solve conflicts between provisions