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To: Title 49 Committee

From: Tim Maguire

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Subject: Title 49 Update - Chapter 15, Article IV, Minor and Major Subdivisions

BACKGROUND

These proposed revisions to Chapter 15, Article IV, Minor and Major Subdivisions are a continuation of the Title 49, the Land Use Code update.

Some sections of the existing subdivision code originate in the 1960’s. In the intervening 40 plus years, many amendments and additions have been made to the code. Furthermore, code sections concerning subdivisions are scattered throughout Title 49. This situation has led to code sections that conflict with each other, are out of date, or are repetitive.

This update to Chapter 15, Article IV, Minor and Major Subdivisions should rectify many of these problems.

During the preparation of this document, staff consulted with the Engineering, Fire, and Public Works Departments. We also used the expertise of two consultants who have great familiarity with the CBJ development codes.

The next step in this update process is for the Title 49 Committee to review these proposed revisions and make their recommendations to the entire Planning Commission.

Staff will incorporate the committee recommendations and forward all the revisions to the Law Department for preparation of a draft ordinance. The draft ordinance will then be set for public hearing before the Planning Commission.

A summary of some of the more significant changes being proposed are discussed below. In addition, a copy of the existing ordinance with all staff recommended additions, deletions and comments (See Attachment 2), and clean copy showing only proposed code language (See Attachment 3) are attached for review by the Title 49 Committee.
GENERAL

“All” code sections of Title 49 that deal with subdivision development will be put into one chapter. These include:

- The access section from Chapter 40 Access, Parking, and Traffic;
- The monumentation and platting requirements from Title 4, of the CBJ regulations;
- The subdivision design and monumentation sections from Chapter 35;
- The remainder of Chapter 35, Public Improvements as a new section; and
- The hillside and geophysical hazard sections from Chapter 65.

The purpose of this consolidation is to make it easier for the public to understand what is required for completing a subdivision development. It also will help staff to administer the code. With so many sections of code scattered throughout Title 49, it is more likely a provision will get overlooked.

Subdivision permitting will become a stand-alone chapter, Chapter 17 (See Attachment 4).

With the addition of so many sections from other parts of Title 49, subdivision permitting becomes a very large part of Title 49. In addition, the permitting process and criteria for approval will be modified to better suit subdivision development, rather than using general land use permitting procedures.

The submittal and approval of construction plans will be integrated into the subdivision permitting process. (Page 36, Line 1692)

Approval of construction plans and completion of public improvements are a fundamental part of subdivision development. However, these major components have not been clearly integrated into the subdivision approval process.

APPLICATIONS

All subdivisions will require submittal of the same two applications:

1. A Preliminary Plat Application (Page 7, Line 285)
2. A Final Plat Application (Page 18, Line 830)

The purpose is to have standardized submittal requirements for subdivision applications no matter the size of the subdivision. Separate and sometimes conflicting requirements are currently required for submittal of minor and major subdivisions. The process for review and approval of these applications is different, and discussed below.
PERMITTING PROCESS

This code update will lay out each step of the process for subdivision approval. (All Pages). The outline below shows how the permit approval process will be structured after the code is revised.

Minor subdivision (1- 4 Lots)
  Preliminary Plat
  Final Plat

Major In-house subdivision (5- 10 Lots)
  Preapplication
  Preliminary Plat
  Final Plat

Major Subdivision (> 10 Lots)
  Preapplication
  Preliminary Plat
  Final Plat

Currently, many steps in the approval process are not clear or not shown. The bulk of the revisions being proposed to Chapter 15, Minor and Major Subdivisions, are to address these discrepancies. This outline shows the permits review process, including a new permit approval process called major in-house subdivisions, which is discussed in more detail below.

MINOR SUBDIVISIONS

The two-step process for approval of a minor subdivision will be preliminary and final plat approval, consistent with all the other subdivision permits.

A staff report will be required for the preliminary plat approval process for minor subdivisions. The director will prepare the report for review before a decision is made as to whether to approve the plat (Page 38, Lines 1792).

The director’s decisions on minor subdivisions will be formalized with a Notice of Decision for the preliminary plats (Page 39, Lines 1851).

The purpose of these changes is to clarify and standardize the approval process for minor subdivisions. A staff report will summarize all conditions of approval needed for plat approval for the applicant and the director. The Notice of Decision will clarify the status of the subdivision and itemize all remaining conditions.
MAJOR IN-HOUSE SUBDIVISIONS

Subdivision of 5-10 lots will be approved by staff under a new permit, Major In-house Subdivision.

Part of the push to streamline the permitting process is to allow more applications to be approved in-house where appropriate. Currently, any subdivision over four lots is a major subdivision and requires two full public hearings before the Planning Commission. One question raised is why don’t we just expand the definition of minor subdivision to include up to 10 lots? The reason this is not being recommended is that there are requirements for minor subdivisions that are different from major subdivisions that staff believes should not be changed even though the approval process is being changed. The following is a list of those differences that we believe should not be altered while allowing approval of somewhat larger subdivisions in-house.

✓ Minor subdivisions do not have to prove water availability (existing code).
✓ Major in-house permits will have to provide a sketch plat, minors will not.
✓ Major in-house permits would be subject to CBJ oversight of the construction and maintenance of on-lot waste disposal systems.
✓ Major in-house permits may require some form of public notice (pending a decision by the Planning Commission).

Ordinance language has not been prepared for this proposal at this time but the concept can be discussed now.

MAJOR SUBDIVISIONS AND MAJOR IN-HOUSE SUBDIVISIONS

Major in-house (5-10 lots) and major subdivisions (> 10 lots) will be required to submit a sketch plat for the pre-application conference (Page 4, Line 180).

The purpose for requiring a sketch plat and basic information about the development is to help in identifying any major issues and/or required improvements early on in the process before an applicant completes costly plans and reports for the preliminary plat.

A Subdivision Advisory Group (SAG) will review the sketch plats. The SAG will be made up of a standing group of CBJ and State staff including Fire, Engineering, and the and Public Works (Streets, Water, and Sewer Divisions) Departments (Page 38, Line 1,781)

Again, the review of the sketch plat by a regular group of staff familiar with CBJ requirements specific to subdivision development will make the preapplication more useful. For example, staff from the Public Works Department will have specific knowledge about CBJ utilities and roads and what will be required to extend them.
APPROVAL CRITERIA FOR MAJOR SUBDIVISIONS

The criteria, or findings, for approval of major subdivisions will be modified. Currently, the criteria for approval of major subdivisions are the same as those used for approval of conditional uses permits.

The purpose of this change is to amend these criteria for approval, where appropriate, to better fit subdivision development. For example, one of the exiting criteria that must be considered for approval of a conditional use permit is:

“(B) Will substantially decrease the value of or be out of harmony with property in the neighboring area…”

These proposed changes would eliminate this criterion. This is a basic policy question. Is a subdivision a use of land that is presumed to be compatible with surrounding development? Or, should the subdivision be treated as a use of land that may or may not be appropriate for the neighborhood. The reason to treat subdivisions as compatible uses is that all lots in a new subdivision must meet the standards for the zoning district and any future use of these lots must comply with the existing zoning district. These proposed changes to the criteria do not preclude the Planning Commission from placing conditions on the plat approval.

MINIMUM CIRCLE

We will propose that a lot contain a **minimum** circle, that the circle meets setbacks, and that the circle be a **maximum** distance from a public right of way (See Attachment 5).

*Trying to determine whether a new subdivision lot meets minimum dimensional standards has always been a headache. How do you measure the width and the depth of irregularly shaped lots?*

*The purpose of this change is to simplify how one determines whether a lot meets dimensional standards. With adoption of the minimum circle standard, staff will be able to administer this requirement consistently, and the public should be able to easily understand it. This method also achieves the objective of having each new lot contain a minimum building area, exclusive of the required setbacks.*

*Just providing a minimum circle, however, does not guarantee that a lot is acceptable. A determination will still need to be made that each lot has a feasible building site based on topography, suitable access to a public right of way, and other site-specific features.*
FUTURE WORK

Staff is proposing that the Title 49 Committee start work on these proposed changes to Chapter 15, Article IV, Minor and Major Subdivisions. However, there are additional revisions to Chapter 15 that staff believes should be made as part of this update:

- Establishing a permit for conservation subdivisions that formalizes a process for the clustering of subdivision lots, while preserving valuable open space or sensitive lands.

- Updating standards for subdividing lands within geophysical and flood hazard areas and relocating them in Chapter 17 Subdivision permitting.

- Establishing a process for the subdivision of land for the purpose of setting aside public use, open space, or park lands.

- Establishing a process for the subdivision of land for the purpose of acquiring public right-of-ways.

Before staff brings these next set of code amendments to the Title 49 Committee for review, we would like to find out if the Committee has other revisions they would like to see made for Subdivisions.