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TO: Planning Commission

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FILE NO.: AME2012 0014

PROPOSAL: Amendment to CBJ 49.50.300 to change the amount of vegetative cover required in the *Mixed Use* (MU) zone district and for *Public Institutional Uses*.

The City and Borough of Juneau Land Use Code states in CBJ 49.10.170(d) that the Commission shall make recommendations to the Assembly on all proposed amendments to this title, zonings and re-zonings, indicating compliance with the provisions of this title and the Comprehensive Plan.

ATTACHMENTS

Attachment A	DRAFT revision to CBJ 49.50.300
Attachment B	Map of *Mixed Use* (MU) zone district
Attachment C	Map of *Mixed Use* (MU) zone district boundary overlaid onto 2006 aerial

BACKGROUND

The proposed ordinance would amend Title 49, the Land Use Code, to eliminate vegetative cover requirements in the *Mixed Use* (MU) zone district and require *Public Institutional Uses* to comply with vegetation requirements as specified by the underlying zone district. Currently, CBJ 49.50.300 requires a minimum of 5% vegetative cover in the *Mixed Use* (MU) zone district and a minimum of 30% for *Public Institutional Uses*.

The *Mixed Use* zone district is generally within the older, more historically developed portions of downtown Juneau. Vegetative cover requirements did not exist historically in the development pattern of downtown Juneau which is why many properties don't provide vegetative cover onsite. The vegetative cover requirement is also in conflict with the massing and building standards for the *Mixed Use* zone district; no setback requirements exist in the MU district which encourages site built out for maximum density downtown. Since no setbacks are required, this leaves no land area available to provide the required vegetative cover. Also, within the Downtown Historic District, building to the property lines is encouraged as that is what was done historically. By looking at an aerial map of the downtown showing the *Mixed Use* zone district

properties (see Attachment C), it is evident that the majority of the properties do not comply with this vegetative cover standard. Additionally, many variances have been requested, and granted, over the years from this requirement. When there are repeated variance requests to the same standard, it can sometimes be a signal that the section of code is no longer appropriate and needs to be reviewed for current needs.

The Land Use Code also requires a minimum of 30% vegetative cover for *Public Institutional Uses*. This specific land use type supersedes the zone the use is located in. This amendment would allow the underlying zone district's vegetative cover requirement to be applied in the same manner as it is for all other developments. Therefore, staff is recommending the requirement for *Public Institutional Uses* be converted so that conformance with the vegetative cover requirements will be governed by zone, rather than Use. The vegetative cover standards in the Code apply generally to zone districts. Only two specific land use types require a different vegetative cover requirement than the underlying zone district: *Convenience Stores, Outside of a Commercial District*, requiring 20%, and *Public Institutional Uses*, currently requiring 30%. Many of Juneau's Public Institutional Uses are located within the Downtown Juneau area, in the urban core area that promotes infill, compact development. The requirement for 30% coverage doesn't achieve the goals adopted by the Comprehensive Plan in many of these development instances; however, if the project is required to comply with the underlying zone district's vegetative cover requirement, consistency with the goals of the zoning district will be assured. Staff recommends this requirement be governed by the underlying zone district requirement for vegetative cover instead.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

The Comprehensive Plan (the "Plan") doesn't speak specifically to the requirement for vegetative cover for specific uses or zoning districts. The Plan does speak to the need for compact urban development, improved water quality and for protection of streams and water bodies and in some cases this is met by requiring vegetation.

Comprehensive Plan Policies

Suburban and Urban Area Development

POLICY 3.2 IT IS THE POLICY OF THE CBJ TO PROMOTE COMPACT URBAN DEVELOPMENT WITHIN THE DESIGNATED URBAN SERVICE AREA TO ENSURE EFFICIENT UTILIZATION OF LAND RESOURCES AND TO FACILITATE COST EFFECTIVE PROVISION OF COMMUNITY SERVICES AND FACILITIES WHILE BALANCING PROTECTION OF NATURAL RESOURCES, FISH AND WILDLIFE HABITAT AND SCENIC CORRIDORS.

Stream Corridors and Lake Shorelines

POLICY 7.3 IT IS THE POLICY OF THE CBJ TO PROTECT RIPARIAN HABITAT, INCLUDING STREAM CORRIDORS AND LAKE SHORELINES, FROM ADVERSE EFFECTS OF DEVELOPMENT AND TO PROVIDE A HIGHER LEVEL OF PROTECTION FOR NON-URBAN SHORELINES IN PUBLIC OWNERSHIP.

7.3.DG2 On publicly-owned lands, designated on the Land Use Code Maps as not appropriate for development an area extending 200 feet from the ordinary high water mark of the shorelines or stream corridors of the anadromous fish creeks, streams, and lakes listed in the most recently CBJ-adopted Alaska Department of Fish and Game (ADF&F) inventory of anadromous streams.

On CBJ-owned lands that are not designated for disposal in the 1999 CBJ Land Management Plan, maintain 200 feet stream buffers from the ordinary high water mark of the shorelines of the following anadromous fish streams: Peterson Creek (out-the-road), Shrine Creek, Bridget Creek, Cowee Creek, Davies Creek, Peterson Creek (northwest Douglas Island), Eleven Mile Creek, Middle Creek, and Hilda Creek. This buffer zone or setback may be adjusted or altered, on a case-by-case basis, when a scientific analysis of the specific function(s) of the particular creek's value(s) finds that the setback should be more based on its functional wetland(s).

Watersheds
POLICY 7.7 IT IS THE POLICY OF THE CBJ TO PROTECT, MAINTAIN AND IMPROVE SURFACE WATER, GROUNDWATER AND MARINE WATER QUALITY IN ITS JURISDICTION SO THAT ALL WATERS ARE IN COMPLIANCE WITH FEDERAL AND STATE WATER QUALITY STANDARDS AND CONTINUE TO ALLOW AQUATIC LIFE TO THRIVE.

7.7.DG1 Assure that stream corridors and surface waters receive greater attention in the local permitting process through application of streamside Best Management Practice requirements and adoption of additional requirements or criteria that protect these areas and waters if needed. One of those BMPs is the appropriate removal of storage of snow in residential subdivisions and commercial developments. Snow should be stored away from streams, preferably in areas where good vegetative cover will trap excess sediment before entering stormwater systems or waterways. This is particularly important where large surface areas are plowed, such as on Airport property, shopping centers or parking lots near anadromous streams.

Discussion

If this proposed amendment is approved to eliminate the vegetative cover requirement for the *Mixed Use* district and for *Public Institutional Uses*, there are still other regulations and requirements in place to ensure that water quality and streams are protected. For instance, along anadromous streams there are requirements limiting development within 50 feet of the ordinary high water mark. This regulation provides a buffer for runoff from development into protected streams. This proposed ordinance change would not affect the anadromous stream setback requirement. Additionally, there are protections in place for public lands under CBJ ownership as outlined in Policy 7.3 and 7.7.DG1 above. Significant setbacks are required for lands under CBJ-ownership in these instances.

Findings

The proposed draft ordinance is in compliance with the Comprehensive Plan, as there are other requirements and regulations in place to ensure water quality, stream protection, and vegetation protection as discussed in the Plan.

COMPLIANCE WITH CBJ LAND USE CODE

Title 49 has been examined to determine whether or not the proposed ordinance is in compliance with the Land Use Code.

Discussion

The proposed ordinance would eliminate the requirement for vegetative cover in the *Mixed Use* (MU) zone. Vegetative cover requirements for *Public Institutional Uses* would be governed by the underlying zoning district which is more appropriate than a single CBJ-wide standard. By amending the Code to eliminate the vegetative cover requirement in the *Mixed Use* zone district, this will make the Code more internally consistent because the MU zone district encourages compact, infill development and full build out of sites. When no setbacks are required and building to the property lines is encouraged, providing required vegetative cover on the same site is counterproductive. This is evident as the *Mixed Use* zone is the only district that requires no setbacks nor does it have a maximum lot coverage requirement. Additionally, requiring 30% for *Public Institutional Uses*, which many are located within Downtown Juneau, requiring almost a third of the site to be covered in vegetation is against the goals of the zoning district's character downtown which promote the area as a walkable, dense, infill urban region.

Findings

The proposed ordinance is consistent with the Land Use Code. Additionally, the proposed change will correct a perceived discrepancy within the Code by removing the requirement for vegetative cover while also encouraging full buildout onsite in the *Mixed Use* zone district.

HABITAT

Vegetative cover to protect habitat is more specifically regulated in other segments of the Land Use Code. These other provisions provide more appropriate habitat protection.

RECOMMENDATION

Staff recommends that the Planning Commission forward the draft ordinance to the Assembly with a recommendation for approval.