

PLAN IMPLEMENTATION

Zoning Regulations

Zoning is the conventional method of land use regulation. It is a legislative process through which the local governing body divides the municipality into districts or zones, and adopts regulations concerning the use of land and the placement, spacing and sizing of buildings for each district.

Purpose of Zoning

The basic purposes of a municipal zoning code and map are to:

Promote Public Health and Safety. The zoning code may require setbacks between buildings to promote fire safety and to allow light and air to flow freely between structures. The code can be used to separate harmful or unpleasant land uses from residential neighborhoods. It can also be used to require lots large enough for safe on-site waste disposal.

Protect Property Values. Property values can be protected by creating long-term stability in neighborhoods through reducing or eliminating the potential for conflicting or incompatible uses. Commercial and industrial investments are also protected from other incompatible activities.

Create Uniform Regulations. The uniform regulations of zoning districts establish ground rules for developers, local officials, and the public at large.

Reduce Nuisances. Nuisances such as light, glare, dust, odor or noise can be reduced or contained on, or largely on, the site where they originate. Screening, vegetation or some other form of buffer can be required between, for example, a wrecking yard or storage lot and adjacent streets or roads, or nearby neighborhoods.

Conserve Land for Appropriate Uses. A municipality may have only limited land areas suitable for industrial or recreational activities. Waterfront property suitable for water-dependent uses may be scarce or in demand. Only certain parcels may be acceptable for generally unpopular uses like gravel pits and landfills. Zoning for appropriate uses can assure the availability of land important for community development.

The Legal Basis for Zoning

Zoning began in the United States in the early part of the 20th century as an attempt to promote public health, fire safety, and separate incompatible uses. In New York, for example, zoning began in an attempt to stop the spread of the garment district up 5th Avenue and to improve the safety and living conditions in tenements. Many lower courts had upheld zoning in the 1920s. It was not until 1926, however, that the United States Supreme Court ruled in the landmark case of The Village of Euclid v. Ambler Realty, that zoning was declared a lawful and constitutional use of the police power. Justice Sutherland stated in the majority opinion that:



Plan Implementation

- Zoning Regulations
- Zoning Authorizations
- Subdivision Regulations
- Additional Implementation Tools



" each community has the right and responsibility to determine its own character and as long as that determination [does] not disturb the orderly growth of the region and the nation it is a valid use of the police power."

After this decision, zoning spread rapidly throughout the country and became the



most widely accepted means of regulating land-use activities. By the 1950s, zoning had become closely associated with comprehensive planning to the extent that the terms were often used interchangeably. In subsequent years, however, the comprehensive plan is recognized as a policy document and the zoning ordinance as a regulatory document. In fact, recent court decisions have made it clear that a municipality must have an adopted comprehensive plan before it may enforce a zoning ordinance. In Alaska, as in many other states, this is an explicit requirement of state law.

Authority for Zoning in Alaska

Chapter 29.40 of Alaska Statutes provides municipal authority for planning, platting, and land use regulation. In addition, home rule governments may provide for local planning and land use authority through provisions in their home rule charters.

AS 29.40.040(a) provides:

In accordance with a comprehensive plan adopted under AS 29.40.030 and in order to implement the plan, the assembly [or city council] by ordinance shall adopt or amend provisions governing the use and occupancy of land that may include, but are not limited to,

- (1) zoning regulations restricting the use of land and improvements by geographic districts;
- (2) land use permit requirements designed to encourage or discourage specified uses and construction of specified structures, or to minimize unfavorable effects of uses and the construction of structures;
- (3) measures to further the goals and objectives of the comprehensive plan.

A municipality's zoning code consists of two parts: the map and the text. The map shows the location of different districts or zones, while the text contains standards for each classification, such as minimum lot size, setbacks, maximum building height, maximum lot coverage, floor area ratio, number of dwelling units per acre (density), and listings of permitted, accessory, conditional and prohibited uses.

Zoning Authorizations

The zoning ordinance is generally comprised of a map depicting zoning districts such as residential, commercial, and industrial land uses, along with zoning regulations that indicate permitted,

conditionally permitted, and prohibited uses in those districts. Some zoning ordinances have more general zoning districts, such as central business district, downtown, suburban, and rural, with a focus on the impact and intensity of the type of development and associated design review standards.

The zoning ordinance establishes standards by zoning district for minimum lot size, minimum lot width and depth, setbacks between structures, maximum building height, parking, maximum and minimum lot coverage, signage, and other prerequisites for development. The ordinance also defines zoning-related authorizations such as variances, conditional use permits, planned unit developments, home occupations, accessory uses, and non-conforming uses. It will describe the administrative requirements for these zoning authorizations, permits, approvals, and appeals.

Two of the most common zoning authorizations are conditional use permits (CUP) and variances. These are described below.

Conditional Use Permits

A conditional use is a use not allowed outright in a particular zone, but it could be permitted if conditions attached to the approval make the activity compatible with surrounding, allowed uses. A typical conditional use, one that most people will recognize, is a church in a residential



Zoning is an exercise of the local government police power. The police power is basically the government's right to place controls over individual behavior, including the use of private property, to promote the health, safety and welfare of the community at large.



neighborhood. State law does not cover conditional use permitting so municipalities are free to design a conditional use permitting system that best fits their needs.

“Commissions should avoid “sausage making”, a term often mentioned by former Anchorage Planning and Zoning Commissioner Bob Stiles. It is the petitioner’s job, and that of the staff, to craft a proposal that is as clean as possible, regardless of how abysmal it may be. When a commission begins trying to craft lengthy stipulations to make a project work, there will always be requirements that the petitioner or staff will not be able to appropriately interpret. If a motion begins to smell like sausage, postpone the matter to a later date and ask the petitioner and staff to craft a better proposal. The provide clear direction to the two parties with respect to what needs to be worked out.”

- Dwayne Adams, MOA Planning Commissioner

Conditional use permits are sometimes called "special exceptions" or "special permits." They are a flexible planning tool that permit a developer to proceed with a project under restrictions designed to eliminate or reduce the adverse impacts that could occur if there were no restrictions on the use.

Standards for issuing a CUP

The standards for issuing a CUP are as various as the governing bodies which enact them. Sometimes

courts balk at very broad or vague standards, such as when a use is permitted if it "is in the best interests of the community" or would "promote the public health, safety and welfare." Such vague standards invite abuse so it is best to use more definite standards or to adopt regulations or interpretive rules better defining the standards, if they are vague.

Purpose of the CUP

The purpose of the conditional use proceeding is to determine how the conditional use project can be made compatible with the abutting lots and the surrounding neighborhood. Standards such as "in keeping with the character of the neighborhood" or "consistent with the character of the uses authorized in the zoning district," or "eliminate or reduce properties," focus on the purpose of the conditional use permit. Such standards, if given honest and serious attention, will serve a commission much better than vague and very general standards. In addition to the conditional use standards, many codes also provide a list of adverse impacts to consider when evaluating a conditional use permit application. These could include such things as traffic generation, noise, lighting glare, on-street parking pressure, dust, damage to municipal roads, and visual impact (and the need for buffering).

Variances

A variance is an exception from the strict terms of the zoning (or platting) code. It allows for the relaxation of the strict requirements of the code in certain extraordinary cases. Its purpose is to prevent the zoning code from prohibiting reasonable use of a lot because of some peculiarity of the lot not affecting other neighboring properties. It has been described as a safety valve that prevents a regulatory taking of property in cases

where in would be impossible to comply with the terms of the zoning code and still make a reasonable use of the property. It is essentially permission to violate the law that others must obey. It is an extraordinary remedy for an extraordinary situation.

Title 29 Requirements for Variances

Title 29 contains explicit prohibitions on the granting of variances. The language in Title 29 is usually adopted verbatim in local zoning codes because, except for home rule governments, local governments are bound by it.

A variance may not be granted if:

1. The person seeking the variance causes the special conditions that require the variance.
2. The variance will permit a land use in a district in which that use is prohibited.
3. The variance is sought solely to relieve financial hardship or inconvenience.

AS 29.40.040(b)

Variances can be "use variances" or "area variances." As the name implies, a use variance permits a use otherwise prohibited in a given zoning district. AS 29.40.040(b)(2) prohibits use variances for general law municipalities; however, home rule municipalities are not prohibited from allowing them. Area variances provide

relief from setback, frontage, height, density, and similar requirements and are permitted by AS 29.40. Both general law and home rule governments may issue area variances.

Granting Variances

Most zoning ordinances authorize the granting of a variance to relieve "unnecessary hardship." AS 29.40.040 prohibits variances solely to relieve financial hardship or inconvenience, but the commission can take such hardship into account if it is serious enough and sufficiently related to the land. A court will usually find that a hardship exists if the property to which a zoning requirement applies cannot be put to some reasonable use consistent with the zoning regulations. In other words, if a zoning regulation deprives the owner of all beneficial use of the land because of a peculiarity of the land itself, the owner is entitled to some relaxation of the regulation. A mere reduction in value is not a hardship. A complete inability to sell the property for any permitted use, after a good faith attempt to sell it, is sometimes accepted as evidence of a loss of reasonable return.

A "hardship" deserving a variance must usually be caused by circumstances unique to the property involved and an applicant will be required to show that his/her neighbors do not suffer from a similar hardship. Examples of hardships justifying a variance would be the



Variances

- ✓ Hardship demonstrated
- ✓ Standards of review applied
- ✓ Findings written and adopted
- ✓ Due process followed

A variance cannot be granted if the hardship is self-imposed.



existence of a stream crossing the applicant's land in such a manner that it leaves no reasonably buildable area, making compliance with setback requirements impossible, or the presence of unbuildable soils or steep slopes unique to a particular lot.

One "standard" must be avoided. Public sentiment, whether it is for or against a variance, is never a reason to grant or deny a variance. This is a tough rule to remember when a hearing is filled with angry neighbors, but the commission's job is to determine whether the property qualifies for a variance, not whether granting the variance has substantial public support or opposition.

When a property owner has shown that a property meets the standards for granting a variance, it must be granted. The commission has no discretion to deny it. Conversely, because a variance is to be granted only in exceptional cases and the grant amounts to a dispensation to violate the law, variances may not be granted unless all the standards for the variance have been proven. The commission has no authority to grant a variance in the absence of any one of the required standards.

Use of Variances to Solve Planning Problems

If the commission is granting a lot of variances, it probably needs to examine the zoning code for deficiencies. The code could be too restrictive or simply not take into account the unique topography and

environmental conditions that may exist in the municipality.

As in other quasi-judicial proceedings, the commission must observe the due process requirements of the U.S. Constitution, and it must include written findings and conclusions in its decision to grant or deny a variance.

Subdivision Regulation

Purpose of Regulation

How does a planning commission shape its community character? One very important way is through the subdivision or platting ordinance. These are essential tools that can be used to influence the layout of lots and streets and coordinate the construction of public infrastructure to support homes and businesses. The location and size of platted lots establishes a template for community development. When land is platted, the pattern of physical development is set and is, for all practical purposes, irreversible.

The subdivision ordinance regulates the division of land into building lots for the purpose of sale, development or lease. The ordinance specifies procedures that are to be followed when land is divided and built upon. When used in conjunction with the comprehensive plan and the zoning ordinance, the subdivision ordinance assures that the land development process is accomplished in an appropriate and consistent manner.

Reasons for Regulating Subdivisions

The reasons a community might have for regulating the subdivision of land are:

1. Design of street pattern – connections with existing and future streets
2. Design and width of streets – efficient movement of traffic, ability to provide fire protection, and surface drainage of storm water
3. Water supply and sewage disposal – ensure these services can be provided either by the community or property owner
4. Lot layout – adequate descriptions of lots avoid boundary disputes and ensure access and adequate area for wells, septic systems, and buildable areas.

The extent to which a community regulates subdivisions will vary. One community might simply have minimum provisions required by statute. Another community may have more extensive requirements such as protection of stream banks, provision of sidewalks and streetlights, or provisions for clustering housing on the most buildable portion of a site. Despite the potential for variation, the purpose of platting remains substantially similar from municipality to municipality. The purpose is to guide the conversion of vacant land into improved or developed land, consistent with technical requirements and community standards.

An Introduction to Subdivision Regulations

A typical subdivision ordinance might contain the following requirements:

- √ Approval by the Alaska Department of Environmental Conservation (ADEC) of all on-site wastewater and sewage disposal
- √ Provision of buffers along anadromous fish streams
- √ Provision of adequate drainage facilities to minimize run-off and possible damage to adjacent properties
- √ Dedication of streets and platted rights-of-way consistent with the municipality's existing and planned streets and roads
- √ Minimum widths for dedicated streets and utility easements
- √ Minimum and preferred lot and block dimensions and arrangements
- √ Dedication of easements for locating utilities, with a requirement that utility installations match up with the community's existing system
- √ Assurance that all lots abut on a platted





right-of-way

- √ Dedication of land for parks or public open space
 - √ Construction of public improvements such as streets, sewer and water lines
 - √ Underground installation of electric and communication cables
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While these provisions may change from municipality to municipality, their basic intent is to assure that newly created lots do not become problems, and create unanticipated costs for their owners, the local government, or the owners of adjacent lots.

Subdivision Procedures

Chapter 29.40 of Alaska Statutes establishes some common platting provisions for municipalities, but also states that a plat may show "other information that may be required by ordinance." This provision provides local governments with latitude in fashioning platting standards that are appropriate for local conditions.

Platting Procedures

- √ Procedures for the review and approval of preliminary and final plats
 - √ Standards and criteria for the submission of preliminary and final plats
 - √ Waiver provisions for land subdivisions that do not require close scrutiny; for example, the creation of four or fewer lots each five acres in size or larger consistent with AS 29.40.090(a)
 - √ Definitions of the terms used in the platting ordinance
 - √ Standards for the survey and monumentation of platted lots
 - √ Subdivision design standards for street width, grade, cul-de-sacs, intersections
 - √ Standards for the provision of water, sewer, electrical, and telephone utilities
 - √ Provision for penalties and appeals
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Basic information on the preliminary plat map gives the planning commission a solid foundation from which to evaluate the proposed subdivision. While commissioners should consider visiting the site of a proposed subdivision on their own to gain some first-hand understanding

of the proposal, such visits should be made with care as the visit can create an ex parte communication problem, especially if anyone associated with the subdivider or anyone who opposes the subdivision accompanies the commissioner on the site visit. *Ex parte* communications are covered in Chapter Four.

Requirements for Preliminary Plat Maps

The following information should appear on a preliminary plat map:

- √ The signature and seal of a land surveyor or licensed to practice in the State of Alaska
- √ A title block in the lower right-hand corner containing the following information
 - a. Proposed name of the subdivision
 - b. Scale (not to exceed 100 feet to the inch)
 - c. Date of application
 - d. Name and address of the property owner
 - e. Location of the subdivision by reference to U.S. survey numbers
- √ A north arrow
- √ The location of existing and proposed property lines
- √ The size of each parcel created by the subdivision, expressed in square feet
- √ The linear dimensions of each lot created by the subdivision
- √ Topographic lines at ten (10) foot intervals

- √ The location of significant natural features such as, but not limited to, creeks and watercourses, wetlands, outcrops and significant habitats
- √ The location and purpose of all easements and rights-of-way
- √ The location and type of all improvements including, but not limited to, drainage ditches, culverts, utilities, streets, sidewalks, and public open space

Submittal and Approval of Final Plat

In the typical process, the platting board or planning commission sitting as the platting board reviews the preliminary plat and determines whether it is in compliance with all of the standards in the municipal platting code. Upon completing its review, the platting board may approve the preliminary plat as submitted; approve the preliminary plat with additional conditions or stipulations; or reject the preliminary plat with cause. The board must set out the reasons for its acceptance or rejection of the plat. The process for setting out these reasons is covered in Chapter Three, Findings.

Upon platting board approval of the preliminary plat, the applicant must submit a final plat consistent with the approved preliminary plat. The applicant must make all public improvements to the subdivision as a condition of final plat approval. Some municipalities permit a plat to receive final plat approval before the required improvements are constructed



“Preliminary Plat is a significant milestone for the applicant, who can then proceed with some confidence that the commission will approve a consistent final plat.”

- An Introduction to Subdivision Regulations, Martine L. Leitner, Esq., and Elizabeth A. Garrit, Esq. PC Journal Number 5, July/August 1992



and accepted if the subdivider has provided adequate security to guarantee their construction by a specified date. Types of security might include a performance bond, cash, or real property to be held in trust by the municipality. Once the platting board approves the final plat, a copy of the plat must be submitted to the district recorder's office, and lots may be sold.

Major and Minor Plats

Subdivisions typically qualify as major plats if they have five or more lots. Minor plats, also known as short plats, typically have four or less lots. The procedure for review of major and minor plats should be set forth in the local subdivision code.

Minor plat review is usually intended to allow for an expedited review of a subdivision that is expected to have “low impact” (i.e., fewer lots, less road development, no dedications or vacations needed, on land already determined suitable for development; not subject to natural hazards). However, the approval of a minor plat is based on the same considerations that apply to a major plat. These considerations include: compliance with design standards of the local regulations; compliance with the comprehensive plan; and compliance with the primary subdivision criteria.

Vacation of Rights-of-Way

A vacation is the formal action for abandoning or revoking a public right to use an easement, trail, or right-of-way.

The process for vacations is essentially the same as the subdivision process. Title 29 provides that no vacation may take place without the approval of the appropriate governing body – this may be the planning commission or, in some communities, a platting board.

Typically, a vacation requires concurrence and signature of the majority of the owners of land adjoining the proposed vacation. The applicant for the vacation must also demonstrate that the area proposed for vacation is no longer practical for the uses or purposes authorized or that other provisions have been made which are more beneficial to the public.

Additional Implementation Tools

Zoning and subdivision regulations depend on the comprehensive plan. The comprehensive plan is the “roadmap” which captures in text, maps, and graphics, what a community envisions for itself in the future. Although the comprehensive plan addresses land use principles, it does not regulate land use nor does it define in great detail how the land is to be developed. This is the role of zoning and subdivision ordinances. The comprehensive plan provides the public policy basis for zoning districts and the rules for

development of land that, when used in combination, direct what happens on the land.

While zoning and platting are the typical means of implementing the comprehensive plan, there are other tools. The commission can use other measures to further the goals and objectives of the plan.

These other measures can include, but are not limited to, such things as:

- Municipal entitlement program
- Municipal land management program
- Capital improvements program
- Coastal management program
- Statewide Transportation Improvement Program (STIP)
- Sanitation master plans
- Municipal budget
- Design review standards
- Floodplain regulations
- Land Management Plans of State and Federal Agencies
- Historic preservation standards
- Environmental impact assessments

Municipal Entitlements

Since 1962, the state legislature has granted state land to local governments for several reasons: to provide an incentive to form

local governments, to provide a means of revenue production through sales or lease that expand the municipal tax base, to provide land for community development and public facilities, and to provide local public recreation opportunities.

Under the 1978 Municipal Entitlement Act, boroughs and home-rule municipalities in existence in 1978 were granted specific acreage of state land based on negotiations that factored in population, the size of the municipality, and availability of state land within their boundaries. For more information on this program and process, contact the Division of Land in the Alaska Department of Natural Resources.

Borough entitlements established by the 1978 Act:

Municipality of Anchorage – 44,893 acres
 City and Borough of Juneau – 19,584 acres
 City and Borough of Sitka – 10,500 acres
 Bristol Bay Borough – 2,898 acres
 Fairbanks North Star Borough – 112,000 acres
 Haines Borough – 2,800 acres
 Kenai Peninsula Borough – 155,780 acres
 Ketchikan Gateway Borough – 11,593 acres



Borough Entitlements

formed since 1978:

Northwest Arctic Borough

– 285,000 acres

Aleutians East Borough

– 7,633 acres

Lake and Peninsula Borough

– 125,000 acres

City and Borough of Yakutat

– 138 acres

Denali Borough

– estimated at 51,000 acres



Kodiak Island Borough – 56,500 acres

Matanuska-Susitna Borough – 355,210

acres

North Slope Borough – 89,859 acres

Municipal Land Management

Cities and boroughs may acquire, manage, control, use, and dispose of any real property or interest in real property inside the municipal boundaries. The acquisition of real property by a city or borough can be made by a number of methods:

- Purchase or lease for compensation to the property owner
- Donation or partial donation (if accepted by the municipality)
- Dedication (if accepted by the municipality)
- Exchange of real property for equivalent fair market value consideration
- Eminent domain, pursuant to A.S. 9.55.254 through 9.55.460
- State or federal grant
- Property tax foreclosure
- Any other means permitted by law

Cities and boroughs may select vacant, unappropriated, unreserved lands of the

State of Alaska from time to time as such lands become available for selection.

Municipal Land Disposal Methods

City or borough-owned real property, or any interest in real property, may be conveyed by deed or leased by the municipality using a number of methods of disposal such as:

- Public auction
 - Exchange for other real property owned by a person, another municipality, the State of Alaska, the United States of America, corporations, trusts, or other legal entity
 - Over-the-counter programs
 - Lotteries, whether gaming or non-gaming;
 - Competitive bid via auction or request for proposal
 - Agreements by application
 - Remote parcel disposal programs
 - Homestead program
 - Real estate brokers
 - Any other means permitted by law
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City or borough-owned real property, or an interest in real property, may be

dedicated for public purposes; granted or reserved for easements and rights-of-way; and permitted for utilities or encroachments in accordance with local regulations. Many municipalities require that a best interest finding be made and approved by city council or assembly resolution when disposing of, exchanging, or otherwise conveying an interest in real property. These requirements should be described in a land disposal ordinance. All land disposals must be completed by ordinance.

Capital Improvement Program

The capital improvement program (CIP) is one of the most powerful tools for implementing a community's comprehensive plan when CIP projects are linked to the goals and objectives of the comprehensive plan. The CIP ultimately influences the pace and quality of development in a community.

Contents of the CIP

A completed CIP contains a list of capital improvement projects by priority, information about each project, a schedule for seeking funding, and a construction schedule. The CIP will include projects that are needed right away and projects that will be needed over the next five or six years. Each year as the projects are funded and completed the CIP is updated to add new projects and to reflect changes in community needs and priorities.

The CIP will list major non-recurring expenditures for libraries, museums, fire and police stations, parks, civic centers, street construction or reconstruction, sewage and water treatment plants, and water and sewer lines. Costs associated with capital projects include engineering and architectural fees, feasibility studies, land appraisal and acquisition, construction and related furnishing, and equipment for new facilities.

The CIP will typically contain the following three elements:

1. An overview of the CIP process and a listing of the benefits a community will derive from the improvements
2. A section on financial data with historical revenue and expenditures data along with projected revenue, expenditure and debt service
3. Projects recommended for funding during the CIP period, the relationship of the project to the community's comprehensive plan, and how the projects will be financed

CIP Preparation

Local government practices vary as to how the CIP is prepared. The responsibility for preparing the CIP may be that of the



Steps for preparing a CIP might look like this:

- ✓ Establish a schedule and procedures
- ✓ Identify capital improvement needs
- ✓ Evaluate and rank project needs
- ✓ Develop additional information about priority projects
- ✓ Complete and adopt CIP
- ✓ Seek or budget funding for first year projects
- ✓ Update CIP

- "CIP Process" PC Journal
Number 25, Winter 1995



municipal manager's office, the public works department, or the planning department. Typically, proposals from all operating departments are submitted several months before the beginning of the new fiscal year. The municipality's finance department, manager, public works director, and planner will evaluate them, determine the local government's ability to pay for the new projects based on revenue forecasts, and then organize the projects into a schedule.

Role of the Planning Commission in the CIP Process

The planning commission is involved in identifying projects that eventually appear in the CIP because of the impact that the projects may have on the community's physical development. Sometimes the commission may advise elected officials and the administration on general priorities for selecting projects. The commission will review the draft CIP against the backdrop of the comprehensive plan and forward its recommendations to the governing body. Public hearings are a part of the CIP process. The public hearing may be before the planning commission or governing body or both.

Questions the planning commission might ask when reviewing a proposed CIP:

√ Does the project appear in the local comprehensive plan? If a high priority project in the comprehensive plan has been postponed, such as road widening

until development reaches a certain level in a commercial corridor of the community, ask why.

- √ Does the comprehensive plan have policies to ensure that certain urban design or architectural requirements are met with new facilities such as civic and recreational centers and libraries?
- √ Is the project well thought out?
- √ Is the project related to other projects and is the sequence of construction reasonable? For example, the water department should install a water line in a street before the street department undertakes resurfacing to avoid digging up a freshly surfaced (paved or gravelled) street
- √ If the project serves a developing area, what are the assumptions as to the levels of service and the ultimate population of the area as anticipated in the comprehensive plan?
- √ Have all agencies that might be affected by a project been contacted? For example, the school board might want to coordinate the location of a new school site with the acquisition of a new park.
- √ Is there balance between repair and maintenance of facilities in mature neighborhoods verses installation of new improvements in developing areas? Is one part of the community getting more than its fair share?
- √ Is the local government spending enough on capital projects in comparison with annual operating expenses or is it falling behind in responding to community growth and change?

Alaska Coastal Management Program

Roots of the Program.

The roots of the Alaska Coastal Management Program (ACMP) are founded in the Federal Coastal Zone Management Act of 1972 (CZMA). This act was developed in response to rapid development along the nation's coasts, increasing coastal impacts, and competing demands for such things as public access, housing, tourism, recreational facilities, and off shore oil development, along with more traditional uses like fishing and harbor and port development.

In 1977, the Alaska Legislature voluntarily created the Alaska Coastal Management Act (ACMA), as envisioned by the national CZMA. The Alaska program was developed in response to an increase in federal oil and gas leasing, the large amount of federally owned land in the state, an increase in community interest in having a voice in development issues, and an increase in demands on coastal resources.

How the ACMP Works.

The ACMP is administered by DNR. The "project consistency review" process is designed to manage the use and development of coastal resources. Any project that may affect coastal resources and that is a federal activity or needs a federal approval must be found to be consistent with the ACMP before any permits may be issued. The consistency

review process is coordinated between the local, state, and federal agencies.

With the passage of the ACMA, municipalities, rural regions of the unorganized borough, and the State of Alaska began to cooperatively manage the use and protection of Alaska's coastal resources. Local communities that are part of a coastal district, may participate in the state program. Participation is voluntary.

Districts may identify important local issues, describe local coastal resources, and guide the use, protection, and development of these resources through development of enforceable policies which address local issues and are implemented locally. Additionally, district policies may be incorporated into the ACMP giving them the force of regulation on the state level. In this way, district participation in the ACMP gives communities the opportunity to help shape development in the coastal zone so it reflects the needs and values of the local residents.

Districts are provided funding from the state for research and education of coastal issues, coastal planning and local implementation of enforceable policies.

What is the role of the Planning Commission and the ACMP?

If a proposed project in the coastal zone requires a local permit, such as a conditional use permit, the coastal district coordinates the review and makes a





determination of consistency for that local permit. Assessing the consistency of proposed projects and activities with the district's enforceable policies is critical. Such a review provides the district with the opportunity to share its expertise regarding local issues and provides a forum for public participation in the project review. This is where the local planning commission plays an important role. Not only must the commission make findings regarding the legality of the conditional use permit as it relates to the local comprehensive plan and zoning code, they must also review the project for consistency with the coastal district enforceable policies.

From time to time a district should evaluate its policies and assess the need for an update. The planning commission will participate in district policy development much like it participates in the preparation of the community's other land use regulations. It is the commission's responsibility to ensure that the policies accurately and adequately reflect the community's values and capabilities.

The Planning Commission evaluates the policies to ensure that:

- The policies address local concerns about the coastal zone
- The policies address controversial development projects adequately

- The policies reflect new information or new data
- When new zoning or other land use regulations make current policies obsolete, the policies are deleted
- The community supports the revision

Local policies adopted by the state must be consistent with other land use-related plans. Other state and federal land use-related planning efforts include:

- √ Alaska Department of Fish and Game (ADFG) Special Area Management Plans
- √ Alaska Department of Natural Resources (DNR) Area Plans
- √ DNR State Forest Plans
- √ U.S. Forest Service (USFS) Plans
- √ U.S. Fish and Wildlife Service (USFWS) Propose Rules to Designate Critical Habitat Areas
- √ USFWS Refuge Management Plans
- √ National Park Service (NPS) Concept Plans
- √ Local Harbor Authority Plans
- √ Lease Sales by the DNR or Minerals Management Service

For more information refer to the ACMP Guidebooks 1-6. These guidebooks provide greater detail on the program. The ACMP website (<http://www.alaskacoast.state.ak.us/>) is an additional source of information.

Statewide Transportation Improvement Program

The Alaska Department of Transportation and Public Facilities (ADOT&PF) has developed a public process for selecting projects to be included in the Statewide Transportation Improvement Program (STIP). The STIP is the State's plan for allocating funding for surface transportation – highways, transit, trails, and ferries – for a three-year period. Neither aviation nor ports and harbors projects are included in the STIP.

There are three broad spending categories affecting roads, ferries, trails, and transit. All projects for which funding is requested are first placed into one of these three categories.

Category 1. National Highway System (NHS) is the system of most important highways and ferry links between the state's population centers and economic centers, border crossings and intermodal facilities.

Category 2. Community Transportation Program (CTP) creates partnerships with local governments to build projects serving local and regional needs. This category includes state highways that are not considered NHS routes.

Category 3. Trails and Recreational Access for Alaska (TRAAK) projects improve access to recreational facilities, provide trails for transportation facilities and provide interpretative improvements along highways.

Requests for projects to be funded by the CTP and TRAAK programs are solicited statewide. Boroughs, cities, villages, transit providers, Native organizations and other local governments, private parties, and state and federal agencies are requested to make project nominations. The planning commission can participate in the CTP and TRAAK processes by helping their local government review nominations to ensure the projects serve local and regional needs. The planning commission's role is to review transportation projects from local, state, and federal agencies and evaluate each project as it relates to the local comprehensive plan goals and policies and local transportation plan recommendations.

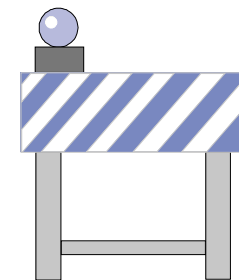
Sanitation Master Plans

The extension of water and wastewater (sewage disposal) service into an area is one of the first steps in opening an area to development. It is also one of the first steps necessary for increasing the density of development in an area. Planning for water and wastewater systems is called "sanitation planning." The end product is a water and wastewater master plan, otherwise known as a sanitation master plan. Much of the work necessary for the



Does the sanitation master plan:

- √ Economize on the costs of public facilities and services?
- √ Maintain a high quality of public services?
- √ Ensure that the eventual character of development is consistent with community values and vision?
- √ Maintain a desirable degree of balance among the various uses of land and development patterns?





master plan will be contained in the community's comprehensive plan – social and economic information (e.g. population and economic forecasts), physical environment and natural resources information (e.g. soils and hydrology), and community information (e.g. land ownership and future locations for residential, commercial and industrial uses). The sanitation master plan goals, objectives, and alternatives for implementation should also be directly linked to the community comprehensive plan goals, objectives, and policies for land use and development patterns.

Typically, the planning commission is involved at different stages in the sanitation master planning process. Their involvement should be at the start of the process when community input is gathered, during the evaluation of alternatives, during the selection of a system alternative and during the implementation phase and capital improvements program steps. In fact, the local subdivision code works hand-in-hand to implement the sanitation master plan.

Municipal Budget

The key to planning implementation is the commitment of the municipality's fiscal resources to the operation of government and the achievement of community goals and objectives. The budget reflects the community's priorities for services and facilities. Implementation of the comprehensive plan can be reflected in the municipal budget in a number of ways:

Budget Reflects Plan Vision

- Staff is available to carry out the planning objectives
- Capital projects defined in the CIP process are funded
- The planning commission is involved in the budget process

Design Review Standards

The appearance of buildings, including signage, color, lighting, landscaping, and parking is achieved through a set of reasonable and comprehensive review standards adopted by ordinance. Typically the planning staff will administer the design review standards on smaller scale projects. For larger, more detailed projects, a design review board may be involved.

Floodplain Regulations

Establishment of standards for construction in river floodplains and coastal areas complements local subdivision regulations by identifying flood hazard areas. The governing body should require the subdivider to delineate flood hazard areas on the face of the plat. Where appropriate and provided for by ordinance, mitigation measures, such as floodproofing, may be necessary. Participation in the National Flood Insurance Program (NFIP) may also be important in a community with historic

flood hazards and loss of life and property. Incorporation of flood hazard information into the comprehensive plan and land use regulations is critical.

State and Federal Planning Programs

The Alaska Native Claims Settlement Act (ANCSA) was passed in 1971. The intent of ANCSA was to legislatively resolve aboriginal claims. There is controversy over extinguishing tribal rights. ANCSA established 13 regional “for profit” corporations and over 200 village corporations on a shareholder basis. Forty-four million acres of land were to be conveyed to corporations. Generally, village corporations own surface estate while regional corporations own subsurface estate of village lands and additional surface selections. There was a cash settlement of nearly \$1 billion as compensation for land appropriated by the state and federal government. ANSCA lands are considered public property subject to federal, state, and local planning and regulation.

Alaska National Interest Lands Conservation Act (ANILCA) of 1980 resulted from Section 17(d)2 of ANCSA. It specified that 80 million acres be placed in national parks, forests, wildlife refuges or wild and scenic river systems. Management units were created that are subject to comprehensive conservation plans or other management plans. Many areas of mineralization or timber were excluded from these conservation units.

However, limitations on access to some adjacent areas have become an issue. ANILCA provided the federal government with the right to manage subsistence resources and harvests on ANILCA lands.

The Alaska Department of Natural Resources (DNR) prepares state area plans (AS Title 38) for state-owned lands. The plans define recommendations for land classifications and management guidelines.

Historic Preservation

In order to preserve the architecture and appearance of buildings in designated historic districts, the community must work with property owners, architects, and historians to define the district’s character. Subsequent standards can be developed to encourage and ensure the historic character is retained.

Environmental Impact Assessments

Impact assessment can be very technical, but more and more communities and their planning commissions are being tasked with looking at impacts from proposed developments, such as new subdivisions and transportation projects. While in some cases the project proponent will be required by state and federal law to prepare an environmental assessment or impact statement, the commission must still be prepared to evaluate the applicant’s proposal and determine whether project will have a significant impact to their community. This is why it’s critical that the commission is familiar



“The day people stop bringing you their problems is the day you have stopped leading them.”

- Colin Powell,

My American Journey

with the community and its environmental resources, which together make up the character of the community or a project site. Effective environmental assessment includes comparing the environmental base, what a community or property is today, against predictable changes resulting from a new proposal.

Conclusion

The goal of this guidebook was to adequately describe what it takes to be an effective planning commission in Alaska. The many concepts, processes, and terms necessary to the planning discipline have been included in this document. Planning is a collective effort between the citizens, elected officials, and the planning commission. If one group falls short in carrying out their responsibility, the entire community can be affected. When an effective and collaborative planning process flourishes in a community, the vision of the citizens, and its elected officials and leaders can be achieved.

In conclusion, planning commission service demands the best you can offer to your community.