

DRAFT MINUTES

Agenda

Planning Commission

Regular Meeting

CITY AND BOROUGH OF JUNEAU

Mandy Cole, Acting Chairman

May 23, 2023

I. LAND ACKNOWLEDGEMENT – Read by Commissioner Brown.

We would like to acknowledge that the City and Borough of Juneau is on Tlingit land and wish to honor the indigenous people of this land. For more than ten thousand years, Alaska Native people have been and continue to be integral to the well-being of our community. We are grateful to be in this place, a part of this community, and to honor the culture, traditions, and resilience of the Tlingit people. Gunalchéesh!

II. ROLL CALL

Mandy Cole, Vice-Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in Assembly Chambers of the Municipal Building, virtually via Zoom Webinar, and telephonically, to order at 7:03 p.m.

Commissioners present: Commissioners present in Chambers – Mandy Cole, Vice Chair; Erik Pedersen, Deputy Clerk; Matthew Bell; Adam Brown; Nina Keller; David Epstein

Commissioners present via video conferencing – Michael LeVine, Chairman; Paul Voelckers

Commissioners absent: Travis Arndt, Clerk

Staff present: Jill Maclean, CDD Director; Teri Camery, Senior Planner; Lily Hagerup, CDD Administrative Assistant; Ilsa Lund, CDD Administrative Assistant; Sherri Layne, Law Assistant Municipal Attorney

Assembly members: ‘Wáahlaal Gíidaak (Barbara) Blake

III. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - None

IV. APPROVAL OF MINUTES

A. May 9, 2023 Draft Minutes, Regular Planning Commission

MOTION: *by Mr. Pedersen to approve the May 9, 2023 Planning Commission Regular Meeting minutes.*

The motion passed with no objection.

V. **BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION** – Read by Director Maclean

VI. **PUBLIC PARTICIPATION ON NON-AGENDA ITEMS** – None

VII. **ITEMS FOR RECONSIDERATION** – None

VIII. **CONSENT AGENDA** – None

IX. **UNFINISHED BUSINESS** – None

X. **REGULAR AGENDA**

Prior to hearing **AME2021 0008**, Mr. Levine declared a conflict and recused himself.

AME2021 0008: An ordinance amending the land use code, related avalanche and landslide areas, and replacing the avalanche and landslide area maps.

Applicant: City & Borough of Juneau

Location: N Douglas Highway

Staff Recommendation

The proposed ordinance would modify requirements and restrictions for development in avalanche and landslide areas and adopt the April 2022 avalanche and landslide area maps.

Staff recommends that the Planning Commission adopt the Director’s analysis and findings and recommend approval of the ordinance to the CBJ Assembly.

STAFF PRESENTATION – By Director Maclean

PUBLIC COMMENT –

Mark Ridgway, Glacier Hwy – Owns properties on Starr Hill and on Twin Lakes. Mr. Ridgway spoke in opposition to the ordinance saying the study defines a hazard but not the associated risk. Mr. Ridgway said he had only heard of this issue yesterday and asked for more time. Of his two properties, one is within the hazard zone. The home outside of the proposed hazard zone has experienced multiple landslides while the one within the slide zone never has.

Ms. Cole – What do you think of approving the maps without adopting the ordinance?

Mr. Ridgway – Defining the hazard is appropriate but the study is not specific enough to make site specific decisions.

Mr. Epstein – Do you feel that the study failed in identifying hazards?

Mr. Ridgway – No. It defines hazard but in an overly generalized way.

Albert Shaw, 300 Hermit St – Spoke in support of the ordinance. Mr. Shaw lived and Juneau and saw the mudslide in 1936 that killed people. He is in support of the CBJ buying out the houses in the avalanche area.

Mr. Voelckers – It's been said that those landslides may have been triggered by mining activity. Do you have an opinion on that?

Mr. Shaw – There was a lawsuit regarding the slide that occurred on January 2, 1920, which said the slide was caused by the AJ mine stamp mill. That lawsuit failed.

MaryEllen Duffey, West Ridge Condos – Retired senior, long time Juneau resident. Spoke in opposition to the ordinance saying adopting the maps will cause unaffordable increases in insurance costs.

James L Baldwin, 206 Hermit St – Spoke in opposition to the ordinance. When he bought his home, it was considered to be in a moderate zone. He made his purchase decision based on that information. He would like to see a grandfather clause added to protect his investment.

Mr. Voelckers – Who performed the geotechnical analysis in the 1990's that originally determined your hazard status?

Mr. Baldwin – Swanson was the engineering geologist, Baxendall Associates were the consulting engineers, and CBJ building staff performed a detailed finding.

Mr. Voelckers – Agreed with the point that property owners have followed current ordinance regarding their properties and their rights should not be lost.

Mr. Brown – In what year was the study conducted?

Mr. Baldwin – The letter from CBJ approving the findings was dated August 1990.

Larry Fanning, 300 Hermit St – Spoke in opposition to the ordinance. This will have adverse effect on property owners. Financing or refinancing will require landslide insurance, but there is currently nobody who will provide landslide insurance to Southeast Alaska. This renders the property worthless as it cannot be sold.

Mr. Voelckers – In your research on insurance, you found no landslide insurance. What about avalanche insurance?

Fanning – Avalanche insurance seems to be available.

Jean McBrien, 300 Hermit St – Spoke in opposition to the ordinance. Ms. McBrien stated only this area was selected for mapping, but there are other areas identified for mapping in the January 23, 2018 proposed mass wasting study. Those areas were Blackerby Road and the east side of Mendenhall Valley. Lenders will not lend on properties in a severe landslide zone without insurance, but landslide insurance is not available in Juneau. On July 22, 2021, CBJ Planning Manager Alix Pierce said on KTOO that the goal was to give the public information, and that it would be up to the public what they do with it. Ms. McBrien would like to see the maps used for information only.

Ke Mell, 850 Basin Road, is a registered architect and spoke in opposition to the ordinance. Ms. Mell said civil engineering professional liability insurance will not allow engineers to certify anything regarding avalanches or landslides as there are no standards in place. She felt applicable standards should be adopted first. Ms. Mell added risk does not equal hazard.

Ms. Cole – Mr. Baldwin and Mr. Fanning spoke about having their property moved outside of avalanche zones. Are you saying this can no longer happen?

Ms. Mell confirmed that she is not aware of any professional insurance that would allow an engineer to sign off on that today.

Mr. Voelckers – In the Baxendall case, they redefined some of the hazard zone boundaries. But how do you define mitigating measures for a property that is clearly within a hazard area?

Ms. Mell – Engineers have told her that they cannot do anything on her property because of the hazard maps.

David McCasland – Lives in Juneau. Owns 127/139 Franklin and is in process of purchasing the Elks Lodge (Rockwell) building. Spoke in opposition to the ordinance. He is planning to build housing on the property. The properties are identified in hazard zones. However, the properties have not seen landslide/avalanche events in the 100 years he knows of.

Debbie Purves, 300 Hermit St. – Spoke in opposition to the ordinance. Ms. Purves expressed concern that the Tetra Tech proposed mapping will override the existing boundary adjustment approvals for the Hermit Street area based on analyses and reports previously approved by CBJ engineering department. Those previous approvals should be honored and not discounted without additional engineering and geotechnical analysis in the area.

Ms. Cole – There has been an ordinance in place regulating severe and moderate landslides. How do you see this ordinance differently?

Ms. Purves – The ordinance is not very different, but the mapping is substantially different.

Mr. Epstein – Asked if she thinks there should be grandfather rights.

Ms. Purves – If someone followed code and obtained approval, they should be able to keep that approval.

Mr. Brown – Do you know if Tetra Tech took into account the previous determinations?

Ms. Purves – Referenced technical memo #3 where it was mentioned in general.

Rick Purves, 300 Hermit St. – Spoke in opposition to the ordinance. In 1981, an engineering evaluation was accomplished by R&M Engineering on the West Ridge Condo property. No landslide hazards were identified and CBJ issued building permits. In 1990, Baxendall & Associates performed an evaluation for the Townhouses on Irwin Street and also found no problem. In 1996, Baxendall & Associates performed additional evaluation for 400 Hermit Street. In all of these studies, detailed analyses were conducted and found no evidence of landslide activity.

Mary Alice McKeen, 212 W 9th St.- Spoke in opposition to the ordinance saying the information provided is not adequate because they are not site specific in defining which properties are or are not included in the hazard zones. She suggested adopting a warning system similar to the one in Sitka.

Mr. Voelckers – Has Sitka’s landslide/avalanche warning system proven adequate to allow for property owners to obtain insurance?

Ms. McKeown did not know.

Mr. Pedersen – How does the Sitka warning system work?

Ms. McKeen said people can go to a website and see the hazard level by day. It is at least partially based on rainfall amounts.

Ms. Cole - The maps exist and are public information now. What is the effect on the ability to resell or insure property now that they exist, whether adopted or not?

Ms. McKeen said it is a big leap between having the maps and using them to determine development. The ordinance proposes to use them to regulate development. She felt it is misleading to adopt the maps for ‘informational purposes’ and asked what information are they providing?

Mr. Voelckers – What is the status of the Sitka maps now that they have been repealed? Are they presented on the Sitka city website?

Ms. McKeen suggested CBJ staff talk with Sitka staff. The Sitka maps have been completely repealed and are not even published.

Brianna Ackley, Starr Hill – Read her written comments into the record and spoke in opposition to the ordinance stating the CBJ assessors’ office has assessed her property higher than ever this year but putting the property into the hazard zone deems the property worthless. The maps need more detail and should not be adopted until the insurance problem has been addressed.

Andrew Heist, Irwin St- Spoke in opposition to the ordinance saying the maps are incomplete and flawed. More research is needed before taking action that will have a consequence on so many residents.

Shawn Eisele, Starr Hill - Spoke in opposition to the ordinance saying there needs to be site specific analyses conducted. He takes the risk seriously but feels the risk is reasonable. He feels the CBJ

should take responsibility for conducting the site-specific studies and not put that expense on private property owners.

Ms. Cole – What is the difference between the areas that were previously deemed moderate/high hazard in the existing ordinance and adding this area to the ordinance?

Mr. Eisele – Maybe the old zoning is erroneous. The current ordinance has not created safety.

Ms. Cole – Are you in favor of repealing the existing mapping ordinance?

Mr. Eisele – Felt that would be an option and felt the CBJ should look at other ways to address the issue.

Yvette Soutiere, 634 6th St - Spoke in opposition to the ordinance saying, “slow down”. Her residence was reclassified from moderate to severe under this ordinance. We are only talking about hazard and not risk. The discussion needs to include risk. The Ordinance should not be adopted.

Mr. Epstein – If a landslide or avalanche event hit your property, would insurance cover it?

Ms. Soutiere – It is unclear at the moment. We have homeowners’ insurance but are unsure what would be covered at this point.

Ms. Cole – How do you feel about adopting the maps for informational purposes only?

Ms. Soutiere – There is a risk of insurance companies will use that information to substantiate not covering a damage.

Jacyn Schmidt [zoom participant] Sitka resident – Ms. Schmidt described the Sitka warning system as a situational awareness tool. She added landslide insurance is not available in southeast Alaska but the hazard is present and does affect housing prices.

Mr. Voelckers – How does the insurance problem affect financing?

Ms. Schmidt – Read from an article stating financing was less influenced by landslide risk designation and more by appraisal report and borrower credit profile.

Mr. Brown – Is Sitka’s situational awareness tool adequate and effective?

Ms. Schmidt – Landslide hazard is not mitigated by the tool but people have more information and that is important.

Susan Clarke, 1109 C St – Spoke in opposition to the ordinance. She was involved in avalanche studies in the 1970s and 1980s. Without the maps, people may not know if they are living or buying in an avalanche zone. There has to be some way to ensure people are informed.

Ms. Cole – Would you be supportive of adopting the maps for informational purposes only?

Ms. Clark – That might be something to consider.

**AT EASE ** 8:48 p.m. – 9:00 p.m.

ADDITIONAL APPLICANT COMMENTS – Director Maclean pointed out that the current maps merge avalanche and landslide hazard areas. Regardless of whether the new maps or ordinance are adopted, they already pose a challenge to property owners for getting insurance coverage. The assembly needs to be aware, and this issue needs to be addressed.

Regarding the idea of grandfathering, for the adopted flood maps, a property owner can apply for a letter of map amendment and request FEMA approval. However, it is not a guarantee that FEMA will uphold the letter of map amendment if the maps change; each case is re-evaluated.

This Sitka warning system is based on debris flow landslides and was part of a five-million-dollar grant. The landslide hazards in Juneau are not all based on debris flow.

The new ordinance is similar to the current ordinance in that it does not prohibit all development. It allows for construction of a single-family dwelling in a moderate landslide or severe avalanche zone with a CUP. Single family homes can be built in severe landslide zones but may not include accessory apartments.

Ms. Camery cited the Tetra Tech technical memos concerning the semi-quantitative analysis that was conducted vs a quantitative analysis involving core drilling and sampling. According to Tetra Tech, it would cost between \$250,000 and \$1,000,000 per slide for a quantitative analysis. In order to do a complete risk analysis as was brought up during public testimony, there would first need to be a full quantitative analysis as well as an analysis of possible consequences on top of that. This helps to explain why only a semi-quantitative study was conducted as a full risk analysis would likely be cost prohibitive.

QUESTIONS FOR STAFF

Mr. Brown – Did Tetra Tech specify types of landslides experienced in Juneau as compared to landslides occurring in Sitka? Can we regulate differently based on the different types of slides?

Ms. Camery said Juneau experiences several types of landslides including, but not limited to, debris flow slides, debris fall, rock fall, and others. The Sitka warning system is for weather caused debris flow only.

Mr. Brown- Did the study include which types of landslides can occur in which areas? Ms. Camery said the study does not provide detail on which type of landslides occur in each area. However, the report does explain the differences in ranking of each designation.

Mr. Voelckers – The Tetra Tech study includes all the way to South Franklin but does not take into consideration any of the uphill structures. If the maps were adopted as presented, then the only thing that could be developed would be single home constructions. However, we already know that Mr. McCasland is planning commercial development. Has there been any discussion or processes to allow reasonable commercial development in the South Franklin corridor?

Director Maclean said it would be up to the PC to develop policy to recommend to the assembly if the maps are adopted.

Mr. Epstein – Is Tetra Tech’s work complete and did they fulfill the scope of work? Director Maclean confirmed yes and yes.

Ms. Cole – How was the location of this study selected? Ms. Camery explained that the CBJ submitted a proposal with three priority locations. FEMA awarded funding for only one of the three areas. The downtown area was listed in the proposal as first priority so that is what was funded.

Mr. Pedersen – If money were not a concern, would Tetra Tech be able to expand the study to allow for site specific results? Ms. Camery said they have not pursued that as the funding would not be available.

Mr. Bell – If Tetra Tech was asked to do further analysis, would the CBJ entertain that thought? Director Maclean said this has been an ongoing issue and she felt even with the most intense study, it would still be a challenge to reach consensus.

Mr. Pedersen – It looks as though the CBJ took possession of properties in previously designated hazard areas. Ms. Camery said those properties were actually donated to the CBJ and there have been no parcels purchased based on hazard designation.

Ms. Keller – Has the Department completed a cost/benefit analysis considering the effect of the maps and ordinance on residents? Director Maclean said the Tetra Tech maps provide good information. What seems like a flaw in the study is more likely that this may not look like what people think an analysis would look like.

COMMISSIONER DISCUSSION

Mr. Voelckers said this is the hardest issue he has seen come before the PC. He expressed worry on the status of the maps more than on the ordinance. According to Tetra Tech this is part one of four, but CBJ has only received funding for this part. He felt the CBJ should finish the other parts.

Mr. Epstein felt the maps are not granular enough and felt they should be more granular, but he knows that is cost prohibitive. He is okay with the ordinance as written but the maps need more work.

Mr. Bell asked Mr. Voelckers to suggest how he would move forward. Mr. Voelckers suggested forwarding a recommendation to the assembly for maps in process and improved ordinance language.

Mr. Epstein asked Mr. Voelckers how he would change the verbiage of the ordinance. Mr. Voelckers suggested allowing a portion of a property rather than requiring the entire parcel to be included within a hazard zone when only a small portion of that property is actually within a hazard area and allowing grandfather language. He added that, in his opinion, the avalanche

portion of the ordinance is better written than the landslide portions and the language should be updated.

Ms. Cole said she is not ready to move this to the Assembly as it stands. Ms. Keller agreed and added the community needs more information to answer their concerns regarding how this impacts their properties. Mr. Epstein said people are already experiencing negative impacts and felt the PC should not move in a way that makes it worse without more information.

Mr. Voelckers asked what process Ms. Cole would recommend, adding that anything more will require more funds. Ms. Cole suggested forwarding the information to the assembly with a recommendation *not to adopt* and asking them to reconsider the current maps rather than taking it back to committees.

Director Maclean suggested forwarding a memo from the PC to the Assembly Lands Committee.

**** AT EASE **** 9:50 p.m. – 9:55 p.m.

MOTION: *by Mr. Pedersen to forward AME2021 0008 to the Assembly with a recommendation to NOT adopt the director's analysis and findings and to NOT adopt the proposed ordinance amending the code related to landslide and avalanche area and NOT adopt the landslide and avalanche area maps.*

Mr. Pedersen spoke to his motion saying he is open to amendments.

MOTION TO AMEND: *by Mr. Epstein to include a recommendation to the assembly to consider a method for notifying renters and homebuyers who are in the current avalanche/landslide zones according to the current maps.*

Mr. Brown asked how that would be regulated. Ms. Layne said that would be a policy call for the assembly to determine.

The motion to amend passed with no objection.

The amended motion passed on roll call with no objection.

Mr. Levine rejoined the meeting at 10:08 p.m.

XI. OTHER BUSINESS – None

XII. STAFF REPORTS

Director Maclean reported:

- Staff has been working on updates to the Accessory Apartment Grant program. It will be renamed Accessory Dwelling Unit program.
 - The grant is about to sunset and the assembly can renew it.

- They are looking at increasing the grant to \$13,000 with a \$50,000 option.
- Title 49 worked on subdivision along arterials (Chapter 35- CBJ 49.35.210-240).
- Asked the Governance committee to look at changing the meeting start time to earlier than 7:00 p.m.

XIII. COMMITTEE REPORTS

Governance: Mr. Pedersen will work with staff to call a meeting to discuss start times and to address timing of additions to packet

Lands: Met and passed to the Assembly the streams ordinance described by 'Wáahlaal Gíidaak.

XIV. LIAISON REPORTS –

- T&H moved out of Lands to draft an ordinance regarding the purchase of Pedersen Hill
- An ordinance amending the sensitive areas requirement of the land use code related to marine mammal and anadromous waterbody habitat protections was moved out of committee.

XV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS Director Maclean and Mr. LeVine thanked Ms. Cole for chairing the meeting.

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 10:19 p.m.

Respectfully submitted by *Kathleen Jorgensen Business Assists (907)723-6134* 