

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Michael LeVine, Chairman
March 14, 2023

I. LAND ACKNOWLEDGEMENT – Read by Commissioner Cole.

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

Michael LeVine, 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 7:07 p.m.

Commissioners present: Commissioners present in Chambers – Michael LeVine, Chairman; Mandy Cole, Vice Chair; Travis Arndt, Clerk; Erik Pedersen, Vice Clerk; Matthew Bell; Paul Voelckers; Adam Brown; David Epstein

Commissioners present via video conferencing – n/a

Commissioners absent: Nina Keller

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

Staff present via video conferencing – None

Assembly members: None

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

IV. APPROVAL OF MINUTES

A. February 28, 2023 Draft Minutes, Regular Planning Commission

MOTION: *by Mr. Pedersen to approve the February 28, 2023 Planning Commission Regular Meeting minutes with a correction to change Vice Chair designation from Mr. Voelckers to Ms. Cole.*

V. BRIEF REVIEW OF THE RULES FOR PUBLIC PARTICIPATION by Chair LeVine

VI. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS – None

VII. ITEMS FOR RECONSIDERATION – None

VIII. CONSENT AGENDA – None

IX. UNFINISHED BUSINESS – None

X. REGULAR AGENDA

Cases **USE2023-0001** and **PWP2023-0001** were presented together.

Case Number: **USE2023 0001:** Conditional Use Permit for an accessory apartment on an undersized lot.

Applicant: Mark Regan

Location: 1718 Evergreen Ave

Staff Recommendation

Staff recommends the Planning Commission adopt the Director's analysis and findings, and APPROVE WITH CONDITIONS the requested Conditional Use Permit.

Case Number: **PWP2023 0001:** Parking Waiver to waive one (1) parking space for an accessory apartment.

Applicant: Mark Regan

Location: 1718 Evergreen Ave

Staff Recommendation

Staff recommends the Planning Commission adopt Director's analysis and findings and APPROVE the requested Parking Waiver.

STAFF PRESENTATION – Ms. Maclean presented **USE2023-0001** and **PWP2023-0001** together.

APPLICANT PRESENTATION – Mark Regan, property owner, desires to sell the property at 1718 Evergreen. To do so, the unfinished dirt floor basement would need to be finished into a

completed basement apartment. Addressing the parking, there is currently a single carport dug into the hillside. Adding another would require further excavating into the hillside and would result in the loss of available on-street parking spaces. A parking waiver would make sense for this property.

Meredith Trainor, prospective property buyer, spoke in agreement with Mr. Regan and said that the proposed parking waiver would be what is best for the neighborhood because it allows for the neighbors to utilize the parking in the case that it is not needed for the property.

QUESTIONS FOR APPLICANT

Mr. Voelckers referenced public comments saying parking in the area is constrained and contrasted that with CBJ statements that there are some open spaces in the area. Ms. Trainor stated there are parking spaces that are usually available. If they were to put in a carport, that would take away access to that amount of space along the street.

Mr. Pedersen asked if the applicants saw any potential problems with the proposed conditions for the accessory apartment permit.

AT EASE 7:30 p.m. - 7:33 p.m.

Mr. Regan said the condition related to the parking waiver is fine. The advisory condition regarding informing tenants is also fine. He did have concerns regarding the requirement for a professional engineer report, he said they are facing closing deadlines on the purchase and there will not be time to hire an engineer and get any potential work completed in that timeframe. He asked the PC for information as to what the required mitigating measures might be.

Mr. LeVine asked for confirmation that the footprint of the building would not be changed with the construction of the accessory apartment. It was confirmed that the footprint would not change, the major change would be pouring a concrete 'foundation like' floor which would serve to make the dwelling more stable.

Ms. Cole asked if she was clear that creating a private parking space would result in removal of public parking from the road. Ms. Trainor confirmed that building a dedicated space for the property would actually remove two on street parking spaces.

QUESTIONS FOR STAFF

Mr. Arndt asked if, based on the ordinance proposed at the COW, this property being in a moderate zone would not be regulated.

Mr. Epstein spoke in support of removing Conditions 2 and 3.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis, and recommendations, and approve USE2023 0001 and striking conditions 2 and 3.*

Mr. Voelckers spoke in support of his motion saying he believes public welfare is well served by striking the conditions.

Ms. Cole and Mr. LeVine suggested modifying the term "conditions" to "condition" in the findings.

The motion passed with no objection.

MOTION: *by Mr. Voelckers to accept staff's findings, analysis, and recommendations, and approve PWP2023 0001.*

Mr. Pedersen and Ms. Cole spoke in support of the motion. Mr. Arndt recommended grammatical changes to the findings to reflect there are no conditions. Mr. Epstein spoke in support and pointed out that CBJ departments also supported it.

The motion passed with no objection.

Case Number: **AME2023 0001:** Repeal Wetland Review Board

STAFF PRESENTATION – Ms. Maclean stated the board has met its needs, has not met in several years, and needs to be repealed.

MOTION: *by Mr. Pedersen to accept staff's findings, analysis, and recommendations, and REPEAL AME2023 0001.*

The motion passed with no objection.

AT EASE 7:52 p.m. – 8:00 p.m.

Case Number: **AME2017 0001:** Streams & other Waterbodies Ordinance (anadromous waterbodies buffer).

STAFF PRESENTATION – Ms. Maclean presented **AME2017 0001** and explained the proposed Ordinance would amend CBJ 49.70.310 *Habitat* to revise the stream buffer ordinance.

QUESTIONS FOR STAFF

Mr. LeVine asked Ms. Maclean to summarize the table on page 6 of 18. Ms. Maclean explained the information in the table had previously been in the ordinance verbiage and was very lengthy and confusing. Putting it into table format makes it more user-friendly and understandable. The table lists uses and categorizes them as 1 (minor development) or 3 (major

development). Uses determined to be minor are approved at the department level. Major uses require PC decisions.

Mr. Arndt noted Page 4 Line 3 “the primary element or woody vegetation” saying the intention was where the trunk of the tree or the stalk of the brush touches the ground and asked if that is clear. Ms. Maclean said she would leave it to the preference of the PC whether to keep or change the language.

Ms. Cole cited page 5 (1) *Unlisted Uses* and page 4 table item number 12 “Uses not listed, or not otherwise prohibited” and noted they seem contradictory. Ms. Maclean agreed and explained (1) *Unlisted Uses* is the standard language in current code. She was comfortable striking either (1) or table item 12 according to PC preference. She added that, without this item in the table, the PC gives up its authority to determine unlisted uses to the Assembly.

Mr. Voelckers noted page 2 lines 8-18 seem to be only relevant to Benjamin Island within the stellar sea lion habitat. Should this be removed? Ms. Maclean explained when the coastal zone management section of code was repealed, this was in there. At that point, this section was moved here. Mr. Arndt and Mr. Voelckers noted that this seems to be out of place in the Marine Mammal Habitat Protections code section and suggested it would fit better in another or its own section. Mr. LeVine stated there is already nearly the same language in the Anadromous Stream Habitat section.

PUBLIC COMMENT

Dave Hanna - Back Loop Road – Mr. Hanna thanked the PC for bringing this forward. He suggested several changes including removing item 6 from the table on page 6 saying it is covered by item 7. He felt that (3)(A) on page 9 should be reworded. Regarding the two-week timeframe for emergency work on Page 13, he felt that requiring completion within two weeks may be too restrictive. He also suggested striking the requirement for an engineer certification.

Ms. Cole asked Mr. Hanna to clarify his thoughts regarding the two-week emergency timeframe. Mr. Hanna explained there could be a case whereby the work could be started but not completed within two weeks. Ms. Cole supports this as the exception and if it cannot be completed in two-weeks then this allows for emergency stabilization to give time for a Conditional Use Permit (CUP) to be processed.

QUESTIONS FOR STAFF

In discussion, it was pointed out that the ordinance references stormwater best management practices. However, they have never been officially adopted into code or regulation. Rather than requiring applicants to use particular best management practices, they could choose to obtain an engineer’s letter stating methods used meet proper thresholds.

Ms. Cole referred to the table on page 6 and asked if the Department would be comfortable with more of the items in the table being categorized as 1 (minor) and asked the Director for her feedback. Ms. Maclean explained that she felt that, at the very least, all of the items marked “3” and anything within the inner (0 – 25 feet) buffer zone should remain under PC purview.

AT EASE 8:49 p.m. – 9:01 p.m.

MOTION: *by Ms. Cole to accept staff’s findings, analysis, and forward a recommendation to the assembly to approve AME2017 0001 with the following modifications:*

1. *Page 2 - move Section B to its own section*
2. *Page 3 Line 24 - strike #3, and modify #4 (the new #3) with modification to read “(3) Vegetation that overhangs or overlaps any buffer shall follow the regulation applicable to the main trunk or stalk of the vegetation.”*
3. *Page 4 Line 13 - change Fish culturing to Aquaculture*
4. *Page 5 strike #1 and #2 and renumber*
5. *Page 6 Table - add a 3 in line 6, inner buffer column*
6. *Page 6 Table - add a 1 and a 3 in line 10 inner buffer column*
7. *Page 7 Line 20 - change to “The Director determines that the outcome of the proposed activity or the cumulative effects of activity or development in a buffer would likely cause severe impacts in the buffer after project completion, the application shall be subject to commission review”*
8. *Page 15 Line 3 - strike “within one growing season”*
9. *Page 16 Line 3 - strike “for an administrative variance” and replace with “may apply to the commission for approval”*
10. *Page 18 Lines 17-18 - strike both lines*

AT EASE 9:11 p.m. – 9:12 p.m.

Ms. Cole spoke to her motion, line by line:

1. This is in the wrong section and needs to be its own section.
2. This is to simplify the idea of overhang and limbs. If the trunk is within the 0-25-foot or 25–50-foot buffer than that will also govern the limbs. If the trunk is outside of 50-feet then it is allowed to be cut wherever the limbs end up with regard to the stream.
3. Fish culturing is specific to fish only and aquaculture is more general.
4. Strike #1 and #2 as they may not make sense with the table.
5. Added 3 to the inner buffer zone with the expectation that while the purpose may be to dissuade development along the inner buffer, there may be a need for vegetation removal and this allows a level of flexibility.
6. This employs the same kind of logic with trail development.

Ms. Maclean expressed concerns saying 0-25 feet is minimal and there should be some line of protection. She reminded the PC that they had denied Parks and Recreation from doing almost

the same thing telling them to relocate the trail. Mr. Voelckers recalled the case but added there still could be a case whereby a trail is against a rock cliff or other barrier and not relocatable.

7. Ms. Cole said she did not like the phrase “in or near a buffer” as this is really talking about “in a buffer”. She added that she thought the intent was that the outcome would cause the impact rather than activities of the construction phase.

Ms. Maclean felt ‘more than minimal’ is a benefit to the applicant because if it can go all the way to “severe” before the PC sees it, then it is more likely that the Director will deny the permit and the PC will never see it.

Mr. LeVine strongly disagreed with the addition of the “after project completion” phrase. Ms. Cole’s intention was to acknowledge that there may be disruption during construction but it would be restored at the end of the project. Ms. Maclean expressed concern with the change from “proposed activity” to “outcome”. She explained that the proposed activity is what she is reviewing applications for approval.

At the end of the discussion, the proposed wording is *“The Director determines that the outcome of the proposed activity or the cumulative effects of activity or development in a buffer would likely cause more than minimal impacts in the buffer after project completion, the application shall be subject to commission review”*

8. Ms. Cole felt “within one growing season” is restrictive considering it can be hard to meet that timeframe in our environment.

Ms. Maclean said the Department is understanding and allows for leeway in this but felt there should be some limit.

Mr. Brown suggested changing from “one growing season” to “two growing seasons”. Mr. LeVine suggested 2 years.

At the end of the discussion, the proposed wording became *“within 24 months of project completion.”*

9. The wording changed to *“may apply for a variance”*.
10. Ms. Cole proposed striking lines 17 and 18 because the definition is not needed.

COMMISSION PAGE BY PAGE DISCUSSION OF AME2017 0001

- Pages 1, 2, 3 – No changes
- Page 4 – Mr. Arndt suggested Line 22 be altered to read, “There is an adopted ~~the~~ Table of ~~permissible~~ Uses in ~~an~~ Anadromous ~~fish~~ Habitat ~~buffers~~, ...”
- Page 5 – Mr. Arndt and Mr. LeVine suggested:
 - Strike lines 4-24 and replace them with:
 - **(1) Uses listed with the number 1 indicate the use requires department approval**

- **(2) Uses listed with the number 3 indicate the use requires commission approval**
- **(3) Uses listed with digits 1,3 indicate the use follows the underlying development's approval process. If the project is a major activity requiring a major development permit, only one CUP will be required.**
- Page 6 – Table of Permissible Uses in Anadromous Waterbodies Buffers CBJ 49.70.315
 - 10.0 – Mr. Arndt suggested “Trail construction ~~and~~ **or** trail maintenance...”
 - 11.0 – Mr. Arndt suggested changing this item to distinguish 1,3 if the land is under common ownership and 3,3 if it crosses land with other owners.

Ms. Maclean felt it is important that these decisions come before the commission.

- Pages 7, 8 – No Changes
- Page 9 – Mr. Brown suggested Line 19 be clarified, “The director shall ~~endeavor to~~ determine whether the application accurately reflects the developer’s ~~intentions~~ **goals**, ...”

Ms. Maclean explained the department needs to be sure to understand what the applicant is proposing and guide them appropriately. She reminded the PC that applicants are not all building professionals.

- Pages 10, 11, 12 - No Changes
- Page 13 –
 - Mr. Bell asked for clarity on the requirement in line 14 to obtain an engineer. Ms. Maclean said this should not be in here and she supports removing lines 8-14. The commission agreed to strike lines 8-14.
 - Mr. Brown expressed concern with the two-week requirement in Line 4 saying two weeks may not be enough time. It was decided to leave it as is with the understanding that if conditions persist, they could request another emergency permit or use that time to apply for a regular permit.
- Page 14 –
 - Mr. Epstein suggested Line 4 be amended to, “**2010** CBJ’s Manual of Stormwater Best Management Practices ~~(2010)~~...” to match the verbiage at Page 15 Line 24.
 - Mr. Arndt suggested Line 11 be amended to read, “...may apply for ~~an~~ **administrative** variance.”
 - Mr. Arndt suggested pulling the Anadromous Fish Habitat Best Management Practices from the ordinance and posting them as has been done with the Stormwater BMP. Ms. Maclean did not agree that this would be the best course of action. She explained that the Assembly could remove it upon review but if the commission removes it and then the Assembly wants to add it then it would substantially slow the progress towards getting the ordinance passed. It was decided to leave it in the proposed ordinance and to note for the record that the PC believes the Assembly should consider not codifying the BMP at this point but instead reference them as is done with the Stormwater BMP.
- Page 15 –
 - Mr. LeVine suggested adding a section to read, “For all references to the 2010 CBJ Manual of Stormwater Best Management Practices, a developer may, in the

alternative, provide a drainage plan and vegetative plan signed by an engineer licensed in the State of Alaska certifying that the plans address stormwater BMPs and plantings required for slope stability and stormwater.

Mr. LeVine was unsure where exactly in the ordinance to put this. Ms. Maclean said she would work with Attorney Layne and put it in an appropriate location.

- Mr. Brown suggested striking “Areas previously degraded by human activity shall be revegetated” from Line 5. Ms. Maclean reminded the commission the purpose of the ordinance is protection of habitat. It was decided to delete the line.
- Page 16 – No Changes
- Page 17 – Mr. Arndt suggested delete “and” from Line 7 and add “, and improve habitat.” to the end of Line 8.
- Page 18 – No Changes

Ms. Cole rescinded her motion.

MOTION: *by Ms. Cole to accept staff’s findings, analysis, and forward a recommendation to the assembly to approve **AME2017 0001** with the agreed upon modifications.*

The motion passed with no objection.

XI. OTHER BUSINESS – None

XII. STAFF REPORTS – None

XIII. COMMITTEE REPORTS

Title 49 – Mr. Arndt: Next meeting will be third Thursday in April

PWFC – Mr. Voelckers: Discussion included the CIP list and New City Hall

XIV. LIAISON REPORTS – None

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

XVI. PLANNING COMMISSION COMMENTS AND QUESTIONS – None

XVII. EXECUTIVE SESSION – None

XVIII. ADJOURNMENT – 10:50 p.m.

Next regular meeting April 11, 2023

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