

Meeting Agenda of the City and Borough of Juneau
Title 49 Committee of the Planning Commission

Monday, October 15, 2018
Community Development Department
Large Conference Room, 12:00 pm

Members Present:

Nathaniel Dye, Paul Voelckers, Michael Levine, Carl Green, Dan Miller

Staff Present:

Laura Boyce (CDD Planner), Jill Maclean (CDD Director), Rob Palmer (CBJ Attorney), Beth McKibben (CDD Planning Manager), Tim Felstead (CDD Planner), Marjorie Hamburger (CDD Admin)

Members of the Public Present:

Chava Lee, Kaylee Henriksen, Laura Baker, Erich Schod, Duff Mitchell, Crystal Schmitz

I. Call to Order

Meeting called to order at 12:05 pm.

II. Approval of Agenda

Mr. Dye requested that *AME2018 0005: Common walls* be discussed first, and this change was made. Mr. Levine requested a 20 minute time limit on common walls, so as to accommodate the public in attendance whose interest was urban agriculture.

III. Agenda Topics

A. AME2018 0005: Common Walls

Discussion was had however the minutes from the discussion were inadvertently deleted during the review of the minutes.

B. Urban Agriculture

Mr. Felstead said that in 2016 the Juneau Commission on Sustainability (JCOS) was approached by members of the public who requested increasing allowances for poultry. Currently, roosters are not allowed in D5 zones. JCOS wanted to look into how to accommodate more poultry. Also, CDD realized the TPU and the code accommodate for livestock, but it is an ongoing source of confusion. Therefore, JCOS formed livestock committee, which included members of the public, to work on a new draft ordinance regarding livestock. Staff researched the practices of some other communities. Nationwide there is a shift to more urban livestock keeping. The committee looked at impacts that might result and came up with a set of rules for neighborhoods. Both commercial and personal uses were talked about; this is one deficiency in the current code language.

The staff memo contains proposed changes, said Mr. Felstead. There has been lots of input from current livestock keepers, the UAF Cooperative Extension Service, Gastineau Humane Society's animal control, the CDD code compliance officer, and Alaska Department of Fish and Game. There was a public meeting in November, 2017, where the public had the opportunity to weigh in.

Mr. Felstead discussed how the Table of Permissible Uses would change. Farm animals would be separated into three different categories – poultry, small livestock, and large livestock. Rabbits and roosters were discussed extensively because it was unclear which category was appropriate for rabbits and roosters are contentious. The size of a property becomes a determining factor. Each category has a different formula to apply and this would be cumulative depending on the size of a property. The ordinance tried to consider noise complaints and leverages other parts of code including animal control and disturbing the peace. CDD's current Code Compliance Officer only reported complaints about one rooster. Fencing requirements were discussed and, on the advice from the Department of Environmental Conservation (DEC), included are restrictions about roaming near wells and private water bodies. Our draft could use definitions for this, he said. There is a requirement for food and bedding storage in the draft and a requirement for buffer distances for housing of livestock. These requirements are about odor concerns. Ms. McKibben asked if manure storage impacts water quality also. Yes, said Mr. Felstead.

Mr. Felstead said there are general minimum requirements for the type of structure used to contain livestock. The idea is there should be no odors, although it was discussed if there could be occasional odors, such as there is when gardeners spreading manure for fertilizer. The draft contains a section about the slaughter of livestock. Enforcement is not fully spelled out.

While staff was doing the research there were phone calls about keeping bees. Some suggested that language be added to address bee keeping. There have been no complaints yet regarding bee keeping, but this might be good to bear in mind.

The Committee asked the Title 49 Committee to weigh in on appropriate numbers and categorization, and Title 49 only had suggestions about the keeping of roosters. Minutes of that meeting are in the packet of materials for this meeting. Also included are reports from other communities discussing their livestock ordinances.

Mr. Levine said he wondered if bees are not allowed now. Is this addressing a problem we don't have, he asked? Mr. Felstead said there was nothing in the Table of Permissible Uses specific to bees, and they are not included in the farm animal definition. Mr. Levine asked if they are allowed if they are not prohibited. It depends, said Ms. Boyce. Mr. Levine asked if staff felt it was advantageous to include bees. Mr. Felstead said it would be preemptive; he sees that there are other communities with such regulations. Ms. McKibben said that the public has expressed interest. Mr. Voelckers asked if there was any perception of danger or real danger. Mr. Felstead said there have been no complaints of bees swarming. Other ordinances that have been introduced can minimize swarming issues. Mr. Dye surmised that maybe Juneau temperatures reduce this likelihood. Mr. Felstead said there are strict requirements in Alaska about the types of bees can be introduced. Mr. Levine said he thought Juneau can benefit from more bees, and he would not want to dis-incentivize people from keeping them.

Mr. Dye confirmed that defining waterbodies needed to be done. Stormwater ends up in ocean. Mr. Felstead said that DEC guidance is written for larger farming operations, however when speaking with them they did not express an important distinction. DEC does not want to separate large from small personal farm holdings, he said. Mr. Dye asked if there are concerns about city maintained stormwater. Mr. Felstead said he thought not, but there are concerns about streams and lakes. Ms. McKibben pointed out that animal waste is high in nitrates. She was curious to know if the research addressed impacts to nearby waterbodies. Mr. Dye said that the size of the community is an issue that is also important regarding the treatment of stormwater versus not doing so.

Mr. Levine wanted to consider the odor and noise question. He said it seemed that the language was not specific about types of smells – the word “disagreeable” is subjective and “incidental to keeping” is something that is hard to agree upon. He suggested finding another way to define odor; perhaps “noticeable” is a better word. Also, he said, length of time might be something to consider, such as more than 48 hours. We cannot do what was done with marijuana and totally contain the smell. It does not seem realist to enforce this standard, he said.

Regarding the size of a property, Mr. Dye suggested a rooster could be kept on a nonconforming lot if the required dimensions can be met. Following there was much discussion about lot size. Mr. Miller said he did not recall how the 35-foot buffer was arrived at. If a rooster is kept 35 feet from a property line rather than 5 feet, what is the difference? This sounded subjective to him. During quiet hours of the night, a rooster should not be crowing, but during the daytime do we not care? Are we doing good by saying 35 feet, he asked? Mr. Levine said he could foresee a rooster kept in the dense, downtown Flats neighborhood on a 5,000 sq. ft. lot and all neighbors get together at Planning Commission meeting to complain; he would not look forward to that. Some folks have tried to keep roosters quiet and that has not always worked. Mr. Levine said he was conflicted about this because in theory he is in favor of keeping livestock, especially for sustainability purposes. But there is trouble allowing it in D5 zones. He did not know the right answer, he said, but he would appreciate if he could be given a sense of where things will land between lovers and haters of roosters. Mr. Felstead said he thought the community is in the middle right now. There are arguments for the keeping of roosters in terms of the health of flocks and predatory control for larger amounts of chicken keeping but also there is the issue of being a nuisance for the neighbors. Also, some members of the community work night shifts and need to sleep in the daytime.

Mr. Voelckers said he recalled from previous meeting conversations that requiring a 50 to 100 buffer would keep roosters out of the Flats-type areas by definition. He said he thought that a 35 foot distance from a lot line is meaningless. Ms. Maclean said she concurred. Also it was not her preference to employ an anarchistic approach. The Title 49 Committee and the whole Planning Commission need to consider that the Livestock Committee is comprised of members who are advocates for urban agriculture and not necessarily representative of the whole community. She said she is worried that at the end the ordinance might make everyone unhappy. Mr. Miller suggested putting the ordinance into effect for the larger lots with bigger buffers so as to get things started. This could allow people to get used to the sounds and the presence of livestock. If things are working well and there is a desire to expand the scope later, that could be easier to do because of the prescient and the community’s comfort with the concept. Mr. Miller said that the committee left off last time on this note, and he still thought this was the right way to go forward.

Mr. Felstead said that roosters are allowable in D5 zones with a Conditional Use Permit (CUP). The way the running area for roosters is applied is a measurement from the walls of a coop to the walls of the neighbor building. Mr. Dye said he ended up with a 40 foot calculation in D5 zone. Mr. Levine asked where else are D5 zones in Juneau. There are a number of them in the valley and downtown Douglas was the response. Mr. Levine said that it seemed to him that even with a CUP this would be going too far. Having this option now creates the risk of making people mad at each other in these neighborhoods. Mr. Felstead said the CUP idea would allow the Planning Commission to set conditions such as a larger buffer. Mr. Voelckers said that sounded fine, but the collective sentiment is that 35 feet is not enough and is too small a lot. Mr. Levine said he did not a mechanism in the current structure, but if a rooster owner were to get the whole neighborhood to sign off on getting a rooster perhaps that could help the Planning Commission approve a CUP. Ms. McKibben reflected on a lot in the valley that would require a rooster to be in the middle of the yard in order to meet separation standards but most folks want it on the edge of the property. If that is the only option, she said she might not choose to have the rooster. Mr. Greene said isn’t the idea for the rooster to be able to roam to keep predators away? He said that he has kept chickens but would not want a rooster on his size lot in the valley.

Ms. McKibben said that there are other ways to protect chickens from predators. Mr. Miller said that there are some big D5 lots in town that abut CBJ or forest service lands, so there are a few places that cause him to not want to write D5 off the list. Mr. Greene said this was a good point; he would want an assessment of a CUP application to include a walk around the yard. Mr. Dye asked what staff was hoping to get out of the committee at this meeting. This is just a kick-off conversation, said Mr. Felstead. The discussion is useful to get feedback on JCOS changes to the draft. At some point the committee will need to go through the ordinance line by line. Generally, do committee members agree that the number of animals should be determined by lot size? And regarding roosters, not all are created the same, he said. Also, a hen at the head of a flock can also crow.

Mr. Voelckers said he felt it necessary to operate on the assumption of the noisiest rooster being the test case. He said he thought starting incrementally is a good way, as suggested by Mr. Miller. If things are a success and people get used to it, then the keeping of livestock could expand. Mr. Levine asked if there is an allowance for some kind of animal not yet thought of. Can there be a petition process to save future commissioners' time, he asked?

Mr. Miller asked how soon should there be follow up. Ms. Maclean said next meetings need to be set and there is a need to space out Title 49 meeting better in relation to Auke Bay Implementation Committee meetings. Mr. Levine wondered if urban agriculture should go to the Committee of the Whole next in order to get the other commissioners to learn about the topic and offer comment. Mr. Dye said he wanted to see it one more time in the Title 49 Committee, and Mr. Voelckers agreed. Mr. Levine suggested having only this agenda item when next presented and carving out time to receive public input. Mr. Miller said he thought that a Committee of the Whole could be open to public testimony and allow for broader public participation.

IV. Next Meetings

- Monday, November 19, 2018, 12:00 – 1:30 pm. Good for Mr. Levine, Mr. Dye, Mr. Voelckers, Mr. Miller.

VI) Adjournment

The meeting adjourned at 1:22 pm.