

Agenda

Planning Commission - Title 49 Committee City and Borough of Juneau

October 1, 2018
Marine View Building, 4th Floor
12:00 PM

- I. **ROLL CALL**
- II. **APPROVAL OF AGENDA**
- III. **APPROVAL OF MINUTES**
 - A. Draft Minutes - August 20, 2018 Title 49 Committee Meeting
 - B. Draft Minutes - August 27, 2018 Title 49 Committee Meeting
- IV. **AGENDA TOPICS**
 - A. Review of Proposed Revisions to CBJ Code re: Stream and Lakeside Buffers
- V. **COMMITTEE MEMBER COMMENTS AND QUESTIONS**
- VI. **ADJOURNMENT**

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

Monday, August 20, 2018
Community Development Department
Large Conference Room, 12:30 pm

Members Present:

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

Staff Present:

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

I. Call to Order

Meeting called to order at 12:34 pm.

II. Agenda Topics

A. Alternative Residential Subdivisions (ARS)

Ms. Maclean shared the draft ordinance with the changes (see tracked version) made after the last meeting. She noted there were no substantial changes.

Mr. Voelckers recalled conversation from the last meeting regarding development that needed to protect long term flexibility it could be platted as such but not developed, using language like stub streets. Yes, said Ms. Maclean, she will add this in.

Any comments on process, asked Mr. Dye?

49.15.920 General provisions.

(6)(j) *Buffer*

Mr. Voelckers said he found (6)(j) *Buffer* vague. Should he assume this means a buffer within setback requirements? Perhaps it should say within setbacks of a parent lot? Ms. Maclean said it would not always be within setbacks. Planned Unit Developments (PUD) require 25 ft. Ms. Maclean pointed out that a setback is not a buffer, only the distance of a structure from the property line. Mr. Voelckers said he was concerned that this important concept was not defined adequately. If there is no stab at geometry here, where can this information live?

Ms. Maclean said for some PUD developments, 25 feet is too much; the idea is to give the Commission flexibility for example for a property that abuts state land which will never be developed. For a property in a D3 zone with higher density, we might want a larger buffer - flexibility depending on the site. Mr. Voelckers said this is a catch 22; it is great to preserve flexibly, but the Planning Commission doesn't see this until late in the process. He feels the need to give guiding principles. Mr. Levine pointed out that (6)(j) states "shall be a buffer" but this is not specified. Mr. Dye asked if it is tied to bonuses. Also, for properties that abut those with different densities, setbacks drop to the lower densities, correct? Mr. Miller said the minimum buffer is based on whatever setback is required and more may be needed. The Commission has the ability to change it but needs to send a developer down a path whereby he doesn't need to redo the whole thing later.

Mr. Voelckers offered some specific grammatical edits. He said he thinks “off-site” in this section is confusing. Mr. Levine suggested replacing it with “surrounding”.

Mr. Levine said it would be better if there was a statement of purpose for buffers. The language does not say why you may need one and what is trying to be achieved. He suggested adding what a minimum buffer is and that this can be expanded for whatever reason like neighborhood harmony; give some criteria. Ms. McKibben said there is a definition of buffer strip in the code, and she read from 49.80.120 - *Buffer strip* aloud. Mr. Levine said he would not use the word “strip”. Mr. Dye asked if “vegetative” is defined in code. No, said Ms. McKibben, but it generally refers to green growing things.

Mr. Miller pointed out that no parking may be permitted there. He described a situation where he used non-vegetated screening; he built a tall berm that stopped all the noise coming from the pit area towards the housing area and it worked well. If something like that keeps out noises from a neighboring property, why should the developer not be able to put parking right next to it? Mr. Dye said he could see a carport acting as a screening wall that buffers. Mr. Voelckers said it might be pushing things too far because the language is already liberal with density and things. If requiring a buffer, there should be a definition of what the minimum is. Mr. Miller’s example is discretionary, said Mr. Voelckers.

Mr. Miller said if a building is next to an industrial area, then that does not trigger this requirement but is there more for the harmony of the development.

(6)(k) *Parent Lot*

Mr. Levine asked why do we care about who owns the parent lot? Mr. Palmer said there are nuances; somebody has to keep the project affiliated with the use, like if a developer remains a majority shareholder. The underlying concept is whoever owns the land is responsible for utilities. There is language in the PUD regarding the criteria which has been adopted here. Mr. Voelckers said he feels there is ambiguity about the underlying responsibility. Mr. Palmer said the goal is to make a model that is tight enough to avoid the risk that a developer has not enough significant interest so that there could be a separation between what homeowners want.

(6)(m) *Permitted uses*

Mr. Voelckers was concerned about the phrase “associated accessory structures”. These can be micro lots with no size at all; how far down this road do we want to go, he asked? Ms. Maclean said accessory structures are a shed or a garage, and it all depends on the lot sizes. Some may be tiny while others could be large. This allows for flexibility but the structure must have specific residential uses and be accessory to the residential structure. Only if the lot met the standard size for zoning could there be an additional residential structure.

Mr. Voelckers was curious if there was a need to reference another part of code in regards to the sentence about a home occupation or a child care home being permissible. Mr. Palmer did not think it was needed because of the first sentence of whole ordinance stating “requirements of this title apply except as provided in this article”. He said he prefers to not cite code if there is no need.

(6)(n) *Street sign*

Mr. Levine asked why only one sign is required and wondered if there might be instances where more are needed. Mr. Dye asked if the sign is for a private street. Mr. Voelckers suggested saying “signage” instead. Mr. Dye suggested “signage may be required” but asked if the development is a 2-unit lot, is a sign required? Isn’t there a case where signage might not be required? Ms. Maclean said she did not like using “may”. Was this

engineering that put this section in, she asked? Mr. Levine suggested checking with Streets or whoever cares about street signs.

(6)(o) Mailboxes

Mr. Dye questioned the stipulation that the director determines placement of a mailbox. Ms. Maclean said this also was put in by other departments. Again, staff needs to check on this.

49.15.920 ARS Review Process.

Mr. Levine asked if the preliminary plat process is the same as everything else. He does not like the idea of approving something based on a preliminary plat and then things get changed; he does not like having requirements that people do not meet and are difficult to enforce. Mr. Miller said at the preliminary plat stage, everything is being paid for out of pocket. There is no income for the developer until a final plat is approved. Trying to do all those things on the preliminary plat is arduous. If there are conditions identified that have to be met, then those conditions need to be enforced. Mr. Levine remembered an instance where there was an issue about drainage. He said he is okay with this section but for him it flags a grievance in need of airing.

49.15.930 – Preliminary ARS plan approval.

(b)(3) Design

Mr. Voelckers said he felt this section comes back to the idea about beauty being in the eye of the beholder. He suggested the focus should be on siting, access, massing and architectural features and not to worry about color. Mr. Miller said, What about parking? He felt this needs to be identified. Mr. Voelckers agreed about keeping parking in this section.

Mr. Voelckers felt the need to add a new category to be (b)(5), density bonus provisions. The ordinance does not do anything here to illustrate this. He suggested having the applicant state what they think they deserve due to the provision of density features and total claimed. Then the “description of phased development” section should become (b)(6), he said.

Mr. Dye asked if bonuses are discussed in pre-application meeting. Ms. Maclean said they may be and/or they are discussed while an applicant works with a planner on their application. Mr. Dye asked if staff typically states what is intended or if this is an open conversation? Is there concern with encouraging a developer to throw out the first number for discussion, he asked? Mr. Voelckers said so much language has been added that did not exist before and so he feels it necessary to be specific about laying out the case. Mr. Miller doubted someone new to this ordinance can read it and get it right the first time. There will need to be a conversation with staff to arrive at the final plat, but this can be figured out via the preliminary plat.

Ms. McKibben said not to look to the current process as a model. Bonus points are vague at present. Staff should bring this up at a pre-app conference. She said she envisions that by the time something goes before the Planning Commission, bonuses will be laid out clearly and staff will have done the evaluation.

(b)(5) Description of phased development

Mr. Levine asked if he was correct in understanding that a preliminary development plan is supposed to let the Planning Commission see what the whole thing might look like at end. Mr. Miller asked if a preliminary plat is supposed to show the whole thing. Ms. Maclean said if a developer is only sure of what is being done in Phase 1, s/he would have a full plat for 1 and a draft for any other phases. Mr. Voelckers said he felt a developer has to show cumulative impact. Mr. Levine said he was concerned that this doesn't address this concern. A developer is not beholden to it because it is coming later. He understood the point of not allowing phasing is to be able to evaluate whole project at once. Ms. Maclean said that if Phase 2 is totally different from Phase 1, the Planning

Commission can deny that second phase; they are not beholden to approving it just because they approved Phase 1. Bonuses for Phase 1 are based on what that land can absorb. There would not be a whole lot that would change. Mr. Levine stated a concern for a property that can hold 15 units but only builds 7 and later wants to add an additional 8. Mr. Dye said does he understand correctly that sketch plats presented for Phase 1 are not relevant when 2 and 3 are applied for? Mr. Levine said that without more concrete information, he feels the Commissioners are not evaluating a project correctly.

Ms. Maclean mentioned a situation where a project did not trigger a Traffic Impact Analysis with a first phase but later likely to do so. So the developer had to provide what the cumulative impact might be. Mr. Levine suggested the ordinance could require the analysis to be based on the maximum units that could be allowed in the future. Mr. Miller said he was told he had to do this and that would be fine for Planning Commission. However what is a developer of tiny homes to do, if s/he plans for 3 phases, builds the first 10 units and can't sell them all? At that point the developer would need to make a change because it turns out that the market is not going along with the plan s/he had mind.

Mr. Voelckers suggested stating under (5)(B) "at maximum level of projected density". Would this satisfy the concern, he asked? Mr. Levine asked why the rest is relevant. If a developer is not beholden to do this in subsequent phases, then don't say it. Mr. Levine asked the group to imagine a situation where half way through the project is derailed and the initial plan just doesn't work out. A developer would need to come up with a new plan. Ms. Maclean said sections B through F give clear direction and she likes that. These points are very specific about what the applicant needs to provide. Mr. Miller said he would like to change the wording to "maximum density". Mr. Levine said he wants to make sure the Planning Commission encouraged the most use of the land and knows what the total possible might be. He would like to run all the numbers and all the potential bonuses. Mr. Voelckers said that would demonstrate the cumulative key impact. If there is less, then that is ok. More is the problem, he said. Mr. Greene said what if the applicant does not own all the land? Mr. Miller said he can see this happening; a developer might be buying parcels piecemeal. Mr. Levine said the best thing to do here is evaluate the maximum use.

Mr. Greene said what if a developer does not want to be accused of phasing and so s/he is not presenting it that way because s/he doesn't own the land yet although s/he intends to purchase it when able. Mr. Dye said that this has happened in the past.

(d) Commission action

Mr. Voelckers said for (d)(1) he suggests "design provided for well-organized housing". And he suggested adding an item 9 here that adds in the analysis of bonus points. There should be some subjective analysis of the bonus, he said. The language should stipulate that the applicant show it and that the Planning Commission look at it. Mr. Palmer said for (d)(1), if a neighbor wants to challenge the standard of being well-organized, how can this be defended? Mr. Voelckers said "clustered" is a less useful term, in his opinion. "Well-organized" means buildings are not painfully close, etc. and although the term is also subjective, it is less imprecise than "clustered", which could be awful. At the end of day, we have to have discretion, he said. Mr. Miller said topography is a good example where "well organized" might be better than "clustered". A project might not be able to be clustered and still retain a pond, for example. He said he likes this idea. Mr. Levine said the criteria could be reorganized to provide effective siting, but he did not have strong feeling about this.

(e) Expiration

Mr. Levine said he felt the language should just say that the plan expires when it does. Why need language about "unless", he asked? Mr. Palmer said this may present a need to change the way this body looks at phasing. This is copied from the PUD and the idea is when someone does a phased project, they have to plan for

the whole thing. They are bound by whatever was approved. If a sketch plat is approved, the developer must abide. S/he could come back to modify it, if they want. Mr. Palmer said later in the ordinance there is language about amending a plan. Mr. Levine reiterated that if the Planning Commission approves a prelim plan, then the applicant is bound by that sketch. Mr. Voelckers said he thinks the stuff about amending plans is pretty good and has rigorous language.

Mr. Dye wondered if for a larger development the 18 months expiration date is enough time. Is there any reason to give more of a cushion, he asked? Mr. Miller said in most cases that is enough time and the developer can ask for an extension and get it easily.

49.15.940 - Final alternative residential subdivision plan approval

Mr. Voelckers and Mr. Greene left the meeting at 1:33.

Mr. Miller said he wanted to rehash the discussion about presenting a preliminary plat showing the maximum level of density. What kind of pushback will we get, he asked? He said he remembered an example of rezoning a lot to D18 but the developer only built to D5 after all that. If we make it so the project has to be looked at for maximum density, what is it going to be like at a pre-application conference when the developer says s/he ONLY wants to build less? Mr. Levine said the reason for doing it is so you can impose conditions on the approval. Ms. Maclean said the reasons were twofold – one to encourage developers to build to the fullest density. The other reason is for the developer's benefit so they are not precluded from building more because of right-of-ways and sidewalks, for example.

Mr. Miller said he thinks this is the right thing to do. Mr. Dye agreed. Mr. Palmer said that language at (d)(7) suggests being bound by a preliminary plan although it can be massaged. Mr. Levine said that pressure on the Planning Commission to approve changes to a prelim plat is enormous. So why not front load in order to avoid the argument, he asked?

Density chart

Mr. Miller said it was interesting, he thought there needed to be a sliding scale in order to work, but this chart shows not so. Maybe there could be a range of 25-50%, he suggested? For a maximum he would not want to make it more than 50%.

The remaining committee members looked into details of the chart to suggest switches to specific amounts and percentages.

Mr. Levine asked what is it going to look like in a D18 zone to have 15 extra units. Mr. Dye asked what the density per acre was in the Federal Flats neighborhood. About 12 per acre, was the response. Mr. Levine said he would like to defer to someone with more knowledge about what the upper levels look like at the higher density.

Mr. Miller and Mr. Dye said they would want to hear Mr. Voelckers opinions regarding density. Mr. Dye said it seems super complicated it him. Mr. Levine said he could solve some maximum points depending on the zone and this could solve the problem, but he did not know what those points should be. This is way out of my league, he said, all the details of numbers in the chart.

Ms. Maclean asked if the members were okay with 15 and 25. Yes, said all, and please get Mr. Voelcker's opinion.

Ms. McKibben said this is different from a regular density determination, is that what you want? Mr. Levine said this should be done in the same way as everything else. Ms. Maclean said she is concerned the sentence doesn't state the practice.

In the end, it was recommended to be 50 and 25.

Ms. Maclean asked where the ordinance was to go next. Mr. Dye said he felt okay sending it to the next level if staff and Chairman Haight agreed.

Ms. McKibben said she was confused about the expiration time for the preliminary and final plats. Does the preliminary plat expire if a final plan is not approved? If this ordinance is modeled on the PUD, it should be known that developers build buildings before the final plat. The expiration of the final is predicated by issuance of building permit. Is that what is intended, she asked? Staff spent time aligning expiration dates between this proposed ordinance and PUDs.

III. Next Meetings

- Monday August 27, 12:00 – 1:30 pm, Accessory Apartments and Common walls

VI) Adjournment

The meeting adjourned at 2:07 pm.

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

Monday, August 27, 2018
Community Development Department
Large Conference Room, 12:30 pm

Members Present:

Nathaniel Dye, Paul Voelckers, Michael Levine, Carl Greene

Members Absent:

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), Laurel Bruggeman (CDD Planner), Marjorie Hamburger (CDD Admin)

I. Call to Order

Meeting called to order at 12:03 pm.

II. Approval of Minutes

A. August 13, 2018 Draft Minutes

MOTION: *by Mr. Levine to approve the August 13, 2018 minutes*

The motion passed with no objection.

III. Agenda Topics

A. Accessory Apartments

Ms. McKibben said that a lot of work was done to this in the last major code revision, adopted in 2015. At that time, the community was greatly concerned about having these apartments in their neighborhoods but they have become more familiar now. She went through her PowerPoint presentation (this can be found with the meeting packet) which provided information on permitting and walked through the code. She pointed out that there is no inconsistency in the code as it stands.

Mr. Voelckers asked about Mr. Miller's issue of concern about the inconsistency of the code allowing for different sizes. Ms. McKibben pointed to page 4 of her memo regarding two single family dwelling per lot and reiterated that "the record is unclear as to how we arrived at allowing one 600 square foot apartment and one 1,000 square foot apartment on a lot more than 250% of the minimum lot size." However, she said, it seems clear that the decision was intentional.

The table in the staff report needs to be looked at, said Ms. McKibben, when Commissioners are thinking if they want to include duplexes.

Mr. Levine asked why the community should care how big the apartments are. He said he felt the community concern is mostly just about who lives there. The apartments are accessory to the primary use of the property, said Ms. McKibben. On the scale of small to large, the CBJ code settled on these numbers: 600 sq. ft., 2 or fewer bedrooms, 50% of overall lot size. So size was capped at 50% of the primary dwelling up to 1,000 sq. ft, she said. Why asked Mr. Levine? The apartment is intended to be incidental to the primary use and subordinate, so those working on the code in 2015 came up with those figures. Density means units - more bedrooms equals more people and more traffic. Mr. Levine said isn't the concern more about how many people are in there and what the apartment looks like? Why else should the community be concerned, he asked? The only thing that matters is density, so limiting the apartment to two bedrooms makes sense to him, also scale.

Mr. Voelckers said the threshold is to get to two bedrooms. Mr. Levine said it makes sense to him why the code is limiting in that way. Ms. McKibben said it is less about what it looks like and more about scale and trying to keep the apartment accessory to the primary use. Mr. Levine said 1,000 square feet is a nice size.

Ms. McKibben directed members to look at the table (page 3 in memo) showing the range of what could be allowed in the various zoning districts. Mr. Voelckers asked if something like this table will be included in the new, amended code. It seems useful, he said. Ms. McKibben said a separate table of dimensions could be created, maybe, or there could be other ideas, but she agreed that this table is a good concept.

Ms. McKibben threw in the idea of the proposed common wall for context. In 2014 when work was done on the code, a staff conversation discussed if an accessory apartment should be allowed with a duplex. Ms. McKibben proposed they consider a small apartment or a duplex on a lot 150% or larger of minimum lot size. She suggested the Commission could consider allowing two small accessory apartments with a Conditional Use Permit (CUP).

Mr. Voelckers asked for explanation of the graphic showing common wall lots with accessory apartments (see PowerPoint, slide 8). Ms. McKibben said this was a proposal for the committee to consider. The suggestion is to consider one duplex with one small apartment and consider allowing 2 small accessory apartments with a CUP. What is the advantage to having the CUP, asked Mr. Levine? Ms. McKibben said it is consistent with the philosophy about requiring CUPs – the process provides notice to neighborhoods and includes Planning Commission review. Mr. Voelckers said it felt right to him. Two more on each side of duplex begs the question if they are the same thing. Mr. Levine said he agreed with requiring a CUP for the second apartment, then.

Ms. Maclean asked what would be the reason the commission might deny this. What findings would need to be there to lead to denial? Ms. McKibben said it would have to be about neighborhood harmony, safety, and parking. Each full size unit needs 2 parking spaces, and the geography of Juneau doesn't always provide for that. These things should be reviewed through the building process. So it falls down on allowing the neighborhood to comment. Ms. Maclean asked what if someone doesn't like one neighbor but likes another, so s/he only protests against the one due to personal issues. Ms. McKibben said there have been situations with neighborhood opposition and lot which was undersized but the Planning Commission still approved, although that was rare. Most of the concern is in downtown Juneau and Douglas.

Mr. Levine said he is sympathetic to the idea that the Commission is not in the business of having things come to the consent agenda and be a waste of people's money. Ms. McKibben agreed with having more in-house approval. As the community becomes more accepting of this apartment idea, approval becomes easier. Mr. Voelckers said he hears Ms. Maclean's point. Mr. Levine pointed out that sometimes the process of airing grievances in a public meeting helps to resolve them.

Ms. McKibben said if the committee is in favor of the idea of 2 small apartments, the question then becomes how to approve them, over the counter or before the Planning Commission. Mr. Dye asked if the property is 250% over lot size, why can't someone get two 1,000 sq. ft. apartments approved over the counter; that is Mr. Miller's, he said.

Mr. Voelckers said a basic numeric fairness is the concern. Ms. McKibben said she doesn't know why the code fell down there but it is clear it was intentional.

Mr. Voelckers said in conclusion he likes the three for the two apartments as it gives the chance for that forum. Mr. Levine said he does not feel strongly one way or another and defers to others who think more holistically. Why not have this as an option when the goal is to create more housing, he asked?

Ms. McKibben asked the committee to again look at page 3 of the staff report. Mr. Voelckers said in the definition of RR (Rural Reserve), a house is not mentioned, only cabins and such. Ms. McKibben said RR is treated like D1. It is a question to be asked, if the city continues to allow these other things in a RR zone, is whether or not to allow common walls but allow for 2 single family dwellings and 2 accessory apartments. Mr. Voelckers asked if this was an abstract idea or are there cases like this? It is abstract, said Ms. McKibben, but worth thinking about.

Ms. McKibben summarized and said she is hearing that the committee is in favor of going ahead with making changes to allow for duplexes as presented in the table. Does the committee want to talk about 600 and 1000 sq. ft. on a super large lot, she asked? How many, asked Mr. Dye? Ms. McKibben showed data included in the PowerPoint. Yes, then, we should look at that, said Mr. Dye. Why can't there be two 1,000 sq. ft. apartments? Mr. Levine said there would have to be a rule that you can't subdivide the property. Ms. Maclean said for each detached, single family dwellings each could have one apartment and the property could be subdivided if it can meet standards. Ms. McKibben said the chart shows lots, but not all are developed. Mr. Dye suggested pursuing this as option for in-fill development. He said he assumes someone would be thinking about design and parking.

Mr. Dye said what is the actual question needing an answer? Mr. Levine said it is about RR zones. Mr. Dye said it seems to need a whole other meeting to address that question. Do we need RR at all, he asked? Ms. McKibben said currently if a lot is in a RR zone and meets these requirements it can have an accessory apartment. Rural Reserve has not been looked at in relation to the purpose of the zoning district. Mr. Levine said basically D1 and RR have been treated as the same. If we want to change this, we need another meeting, said Mr. Dye. Maybe this could be reviewed after the Comprehensive Plan revision. Mr. Levine said if we want to have an RR zone, what are the rules that need to be applied? But, he said, there is not enough of a good reason to do this work at this time. Mr. Voelckers said he is also happy to talk about this in the future.

Mr. Levine said he doesn't see a compelling reason for there being a difference between 600 and 1000 sq. ft. apartments on big lots.

Ms. McKibben asked if the committee wanted this topic to come back to them or go directly to the full commission? Mr. Voelckers, Mr. Dye and Mr. Levine all said they were happy for it to go to commission.

It can go on the October 9 agenda, said Ms. Maclean. Mr. Voelckers said please include the cool graphic.

B. Common Walls

Ms. Maclean said when the committee last left off going through this ordinance the main discussion was whether or not to allow mixed-use development in non-residential zonings and also there were questions about the minimum lot size and reducing lot sizes. Otherwise, the work needed is to make sure things are consistent. Some things fell off the Table of Permissible Uses (TPU) and the Dimensional Standards table.

Ms. Maclean said Mr. Palmer was invited for input about providing for the mixed use. Mr. Voelckers remembered that he got wrapped up at the last discussion about whether commercial use could be on floors other than the ground floor. Ms. Maclean said that she gave up on that, and so she suggested leaving it open. Ms. Maclean asked how to go about the permitting for the subdivision of this. It is clunky right now regarding the process, not the policy. It needs some input, said Ms. Maclean.

Mr. Levine asked what the concern about allowing commercial use in common wall buildings. Is there any reason not to allow nonresidential uses in those districts, he asked? The short answer no, said Mr. Palmer. It may be a semantics question to reclassify things as something else. A bigger topic to discuss right now is that through practice we have been allowing common wall lots to be smaller than the minimum standard and we need to answer the question of why. Mr. Levine said it makes sense to allow smaller lots. Mr. Dye said he thought there wasn't any argument since sideyard setbacks are not required, is that not the reason why it could fit?

Mr. Levine said his reaction is that these things ought to be called something else when in non-residential areas. Call them common walls in residential zones and have these rules. Then make other rules for non-residential zones, he said. Mr. Voelckers said isn't there also a reclassification potential like at Vintage Park? Mr. Palmer said residential common walls are similar to non-residential, but they are both attached. Might we look at saying something completely different for non-residential? Mr. Voelckers asked if there was urgency right now. Mr. Dye asked what a mixed common wall would look like.

Mr. Felstead said building code wise there would need to be high fire separation. Mr. Levine reiterated that he is in favor of making this just about residential common walls and, if we want to have a commercial option, then make that a different thing. Mr. Dye said that Juneau has quite a bit of development already with commercial common walls.

Mr. Dye asked if the committee needed to talk about smaller lot size. Not if you are avoiding the commercial piece, said Mr. Palmer.

Ms. Maclean said there are new numbers in the draft ordinance using Mr. Miller's math. Mr. Dye said he thinks he wants to stay with the density of 2,800.

Ms. Maclean said the rest of the work is cleaning up tables and making things consistent. She wanted to know if the committee wanted to talk about the internal process. Do you want this to remain in 49.65 or move to 49.15, she asked? Mr. Voelckers said he thinks it makes more sense to appear in 49.15.

Ms. McKibben said she is curious to know how other communities handle this. Are their processes less intuitional, she wondered? Ms. Maclean said if a surveyor is off, doing a lot line adjustment is simpler like on the Ridgeview project with 24 common walls. Mr. Dye asked how that is not considered phasing. Ms. Boyce suggested changing the process at least for the building permit to require an as-built. Ms. McKibben said by moving this section out of 49.65, the content goes from not variable to variable. Mr. Dye said lot dimensions are

variable. If this piece of code moved to 49.15, he said he thinks about Mr. Miller's comments about pouring foundations and receiving administrative forgiveness for mistakes. He said it would scare him to locate the code in 49.15.

Ms. Maclean said updating the process to make it more user-friendly is of concern to her. Mr. Levine said the right thing to do is commit to having a conversation about zoning districts and strike them for now. Make those that exist non-conforming then, asked Ms. Maclean? Mr. Felstead said there are some that are going through permitting right now and so need protection. Mr. Palmer said there are legal situations for people who have put up substantial funds for their projects.

Mr. Voelckers said that Mr. Dye raises a really good point about preserving the LC zone for higher and better use. If ARS goes through, there are plenty of other new options on line, said Mr. Dye. Mr. Dye said he has a newfound mind set from working on the Auke Bay Plan implementation about how rules need to be changed if we want to change development. A conversation is needed to be had regarding if we should preserve commercial districts for their intent. Mr. Levine said we can grandfather people in for those who are in process. For zones MU2, LC and GC, get rid of them at this point and make it clear we intend to make other code for other zonings.

IV. Next Meetings

- Monday, September 17, 2018, 12:00 – 1:30 pm.

VI) Adjournment

The meeting adjourned at 1:04 pm.



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REVISED

DATE: September 24, 2018
TO: Title 49 Committee
FROM: Teri Camery, Senior Planner
SUBJECT: Review of AME2017 0001: Proposed revisions to CBJ Code 49.70.310 and 49.70.950(f) stream and lakeside buffers

A handwritten signature in black ink, appearing to be 'Teri Camery', is written over the 'TO:' and 'FROM:' lines of the memo.

ATTACHMENTS

Attachment A: Current Stream/Lake Ordinance, CBJ Code 49.70.310 and 49.70.950(f)
Attachment B: Draft Anadromous Waterbody Protection Language with line numbers
Attachment C: Wetlands Review Board Minutes

INTRODUCTION

The purpose of this memo is to provide an update on the latest version of the stream buffer language, provide background for new committee members, and to solicit the committee's comments on the revision.

INTENT OF THE PROPOSED REVISION

The proposed revision would eliminate the two stream setbacks (hereafter called "buffer") regulations in code at 49.70.310 and 49.70.950(f) and combine them into one. Currently each section has different requirements.

The proposed revision would not change the 0-25 foot and 25-50 foot buffers in current code. Instead, the revision would allow certain uses and activities in each buffer provided that those uses/activities comply with Best Management Practices and Riparian Landscaping Standards which would be adopted into code. Uses/activities that are specifically prohibited in these buffers are stated. Uses/activities listed that cannot comply with the Best Management Practices and Landscaping Standards may be allowed with an approved variance, unless

otherwise prohibited. Uses not listed in the ordinance, and not prohibited, could be allowed with an approved Conditional Use Permit.

The proposed revisions are intended to provide flexibility for a substantial list of common benign uses, conducted within certain parameters, rather than turning to the variance process when flexibility is needed. The variance process would provide relief when a proposal is unable to comply with the requirements.

The proposed language introduces the concept of Tier One and Tier Two uses, each with specific application requirements and fees. The intent is to provide a lower cost, streamlined, Tier One review for the simplest and most typical activities within the buffers that nonetheless require review to ensure conformation with basic standards. Tier One uses include construction of a fence, utility installation, removal of invasive species, and other common uses. Tier Two uses, also allowed through the departmental approval process, have a higher permit fee, more detailed application requirements, and a more detailed review process. Examples of Tier Two uses/activities include bank stabilization and removal of trees for public safety reasons. Denial of both Tier One and Tier Two permits would be eligible for appeal through an Appeal of the Director's Determination, while a use/activity that cannot meet the standards would be eligible for a variance.

Under the current regulations, any use or activity which falls under the Title 49 definition of development is prohibited. Historically these types of developments received a variance to the buffer requirements, usually with conditions that mitigated impacts to the waterbody. This unnecessarily prohibited many uses and activities that have little or no impact on streams. Specifically, the definition of development (49.80.120) includes the following:

- 1) Construction, reconstruction or enlargement of a structure involving more than 120 square feet;
- 2) A subdivision;
- 3) Conduct of a home occupation;
- 4) Change in use of a lot, including any structure therein;
- 5) Installation or emplacement of a mobile or modular home;
- 6) Removal of substantial vegetative cover;
- 7) Excavation, dredge, or fill activity;
- 8) Installation of a sign
- 9) For the purposes of Chapter 49.65, article I, the work performed in relation to a deposit, subsequent to exploration but prior to extraction of commercial quantities of a mineral commodity, aimed at, but not limited to, preparing the site for mining, defining an ore deposit, conducting pilot plant operations, and construction of roads or ancillary facilities;
- 10) Any site work in preparation or anticipation of the above.

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Under the proposed revision, buffer protection is no longer tied to the definition of development. Many of the uses and activities listed in the definition of development may be allowed with a Tier One or Tier Two Anadromous Waterbody Permit if they can comply with Best Management Practices and Riparian Vegetation Standards which minimize impacts to the anadromous waterbody and preserve habitat. Specifically, vegetation may be removed in the buffer for a variety of purposes including bank stabilization and restoration, viewshed enhancement, public safety, and trail construction and maintenance. Fences may be installed. Stormwater and drainage improvements may be developed.

It is important to note that the proposed revision does not allow placement of structures within 50 feet of the waterbody. The current ordinance also does not allow structures within 50 feet of anadromous waterbodies. In development of the draft ordinance, the Stream Working Group and Wetlands Review Board concluded that structures within the buffer adversely impact habitat and are an unacceptable violation to the purpose and intent of the buffer. However under the proposed ordinance, structures could be allowed with an approved Conditional Use Permit. Staff notes that the regulated floodplain includes the 50-foot buffer of streams in many cases, which also restricts development within this area.

Definitions The definitions section of the proposed regulations changes the definition of the Ordinary High Water Mark to match the 2013 Juneau Comprehensive Plan Ordinary High Water Mark definition. This change is in accordance with Comprehensive Plan Implementing Action 7.3 – 1A2 which calls for an amendment to the Land Use Code definition. The Comprehensive Plan definition is compatible with the Alaska Department of Fish and Game definition and standard practices, while the current Land Use Code definition is not.

The definitions section also creates a definition of “emergency,” as adapted from the draft Municipality of Anchorage stream ordinance. This definition provides clarity for emergency determinations made by the Director for activity within the buffer, another new feature in the proposed revision. The third definition defines erosion. Staff welcomes Title 49 Committee member suggestions on additional definitions that may be needed for clarity.

Stream Channel Alteration Staff would appreciate specific feedback from the Title 49 Committee on whether the Tier Two departmental review process or the Conditional Use Permit process is most appropriate for stream channel alteration. In the past, stream alterations have been addressed through the variance process. However, stream relocations may have significant impacts, including on habitat, changes to flood risk and public safety, and imposition of new development restrictions on adjacent property, because the buffers change when the stream is moved. The current draft regulations call for additional evaluation of these issues, using language borrowed from the Municipality of Anchorage. This additional review could be conducted by staff, with assistance from CBJ Engineering and Public Works, through a Tier Two departmental review permit. Alternatively, stream relocations could be reviewed by the Planning Commission through the Conditional Use Permit process addressing these same

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issues. These issues would be in addition to standard Conditional Use Permit criteria regarding neighborhood harmony, property value, public safety, and more. Staff recommends the Conditional Use Permit process to ensure full evaluation of impacts to neighborhood property and to provide notice to affected property owners.

Use and Review Charts The proposed revision includes charts that list which uses may be allowed in the inner and outer buffer and with which type of review process, Tier One or Tier Two. Staff has proposed three different options for consideration and would appreciate feedback from the Title 49 Committee regarding which chart is the easiest to understand.

Other key points in the proposed revision include:

- Clarification on how the buffer is measured in three ways: on tidewater lots, on typical stream banks, and with regards to limbing;
- Attention to many common development needs, including the need to trim or cut trees within the buffer to address public safety or potential property damage;
- Attention to the Juneau International Airport's need for limbing within the stream buffer for public safety reasons.

BACKGROUND

Ordinances/Information reviewed

Following is a partial list of the information reviewed for development of the draft language:

- Natural Channel Design, Inc., Road Culvert Replacement Technical Specifications, prepared for the Alaska Department of Transportation (AKDOT/PF) March 2012.
- Streambank Revegetation and Protection, A Guide for Alaska. Alaska Department of Fish and Game, Alaska Department of Natural Resources, March 1998.
- California Riparian Habitat Restoration Handbook, Second Edition, River Partners July 2009.
- Streambank Revegetation, Field Guide for Streambank Revegetation, Alaska Department of Fish and Game, June 1986.
- The Value of Riparian Vegetation. King Country Surface Water Management. (No date)
- Alaska Plant Materials Center. Alaska Department of Natural Resources, Division of Agriculture. (website)
- Vegetative Buffers in the Coastal Zone. Coastal Resources Center. University of Rhode Island. July 1994.
- Aquatic Buffer Model Ordinance. Environmental Protection Agency. (website)
- Model Riparian Buffer Ordinance. Lancaster County, Pennsylvania. (website)
- Buffer Model Ordinance. Stormwatercenter.net

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- Kitsap County Critical Areas Ordinance Fact Sheet. Port Orchard, Washington.
- Anchorage, Alaska Code of Ordinances, Section 21.07.020 Natural Resources Protection, part B, Stream, Waterbody, and Resource Protection
- Kenai Peninsula Borough Code of Ordinances, Chapter 21, Anadromous Waters Habitat Protection
- City of Issaquah, Washington Municipal Code Chapter 18.10 Environmental Protection; Critical Areas Regulation
- City of Kenmore Washington, Chapter 18.55.170, Streams – Performance Standards.
- Municipality of Skagway, Draft Riparian Buffer Zone ordinance
- Natural Resource Conservation and Biodiversity Protection, Sustainable Community Development Code Beta Version 1.5 College of Architecture and Planning, University of Colorado-Denver. (No date)
- Land Use Planning For Salmon, Steelhead, and Trout. A land use planner's guide to salmonid habitat protection and recovery. Washington Department of Fish and Wildlife, Aquatic Habitat Guidelines Program, October 2009.
- Streamside Development Permit Area, handout, City of Campbell River, BC, Land Use Services Department (no date)
- Streamside Submittal Requirements, City of Colorado Springs, www.springsgov.com
- Streamside Development Permit Area, Municipality of Saanich, BC.
- Riparian Corridor Combining Zone, Sonoma County, California.
- New Jersey Forestry and Wetlands Best Management Practices Manual.
- Field Identification of Ordinary High Water Mark, Galveston District, April 2012
- Wetland and Stream Buffers: A Review of the Science and Regulatory Approaches to Protection. City of Boulder Planning and Development Services. April 2007.
- Local Government Riparian Buffers in the San Francisco Bay Area. San Francisco Bay Regional Water Quality Control Board. July 2004.
- Stream Notes 3 – Riparian Buffers. Handout. North Carolina Wildlife Resource Commission et al.
- A New Home Builder's Guide to Responsible Development Near Rivers, Streams, and Wetlands. Montana Department of Administration. No date.
- Stream Setback Ordinance Fact Sheet. Kansas City, Missouri City Planning & Development Department.
- Forestland Buffers for the Connecticut River Watershed. Connecticut river Joint Commission, 1998.
- Riparian Setbacks. Technical Information for Decision Makers. Chagrin River Watershed Partners, Inc. January 2006.
- Mapping Impervious Cover to Correlate Land Use Activities with Salmon Health & Habitat on the Lower Kenai Peninsula. Cook Inlet Keeper for the U.S. Fish and Wildlife Service. December 2006.
- CBJ Stream setback variances, from approximately the mid-1990s through the present.

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Stream Working Group

The previous CDD Director, with support from the Planning Manager, determined that convening a group of experts to review the stream buffer revision would lend scientific credibility to the revision. Accordingly, staff formed an informal Stream Buffer Working Group in January, 2017, comprised of resource agency representatives to provide technical scientific support. The Stream Buffer Working Group included representatives of the U.S. Fish and Wildlife Service (John Hudson and Neil Stichert), Alaska Department of Fish and Game (Jackie Timothy), Alaska Department of Environmental Conservation (Gretchen Pikul), the Juneau Watershed Partnership (through the Wetland Review Board's Amy Sumner), and a landscape architect (Chris Mertl). The Working Group met twice, on March 9 and March 22, 2017, to provide input on the initial draft ordinance. The group was not an official city committee; therefore no minutes from these meetings are available. The Wetlands Review Board reviewed the ordinance on April 26, 2017, and June 15, 2017. Wetlands Review Board minutes, attached here, note the role of the Working Group. The U.S. Fish and Wildlife Service and Alaska Department of Fish and Game have continued to comment on more recent drafts.

Wetlands Review Board Meetings

The Wetlands Review Board reviewed the draft language and provided advisory comments at the April 26 and June 15, 2017, regular meetings.

Planning Commission

The Planning Commission's Title 49 Committee gave approval for a conceptual approach on the revision at the meetings in September and October, 2016. Additionally, staff provided an informational memo and draft of the ordinance at the Planning Commission Committee of the Whole meeting on June 13, 2017, seeking informal feedback.

Additional Review

Staff has reviewed the proposed revision with CBJ Engineering and Public Works, the Juneau International Airport, and the Southeast Alaska Watershed Coalition. Staff continues to work with the two most involved Wetlands Review Board (WRB) members and the Alaska Department of Fish and Game. A recent draft was sent to the Stream Working Group and two WRB members for review in December, 2017, for concurrence with the Tier One/Tier Two review approach, uses listed, and additional refinement of the Best Management Practices and Landscape Standard sections. The Working Group and WRB have not reviewed the latest version of the language provided to the Title 49 Committee, which includes significant changes regarding emergency authorization and stream alteration.

Conformance with the 2013 Juneau Comprehensive Plan

The 2013 Juneau Comprehensive Plan lists many policies, development guidelines, and implementing actions relevant to the proposed revision. These policies include the following:

Policy 7.3. To protect riparian habitat, including stream corridors and lake shorelines, from adverse effects of development and to provide a higher level of protection for non-urban shorelines in public ownership.

Development Guideline 7.3 DG1. Rivers, streams, and lakes should be managed so as to protect natural vegetation, water quality, fish or wildlife habitat, and natural waterflow.

Development Guideline 7.3 DG3. On privately-owned lands, require a minimum setback of 50 feet from the Ordinary High Water Mark (OHWM) of all creeks, stream corridors, and lake shorelines listed in the most recently CBJ-adopted Alaska Department of Fish and Game inventory of anadromous fish streams. This 50-foot setback is to be considered a basic or minimum setback from the waterbody and its riparian habitat until a biological functional analysis of the waterbody and adjacent habitat is conducted that identifies a specific greater or lesser setback distance appropriate to the development and functional value of the particular waterbody and associated riparian habitat and an ordinance amending that setback is adopted.

Development Guideline 7.3 DG4. Community Development Department staff will determine the OHWM on properties subject to development permits. OHWM determinations will be based on habitat and biological considerations according to the adopted OHWM definition in Title 49, the Land Use Code.

Implementing Action 7.3 – 1A1. Fund an effort to develop for adoption into the Land Use Code a riparian protection ordinance that tailors riparian standards to the particular stream-type, functional value, and location and which would be consistent with, and complementary to, related Title 49 regulations protecting wetlands, flood zones, and coastal areas.

Implementing Action 7.3 – 1A2. Amend the Land Use Code to update the definition of OHWM as soon as possible.

Policy 2.1 To build a sustainable community that endures over generations and is sufficiently far-seeing and flexible to maintain the vital and robust nature of its economic, social, and environmental support systems.

Implementing Action 2.1-1A9. Protect ecosystems surrounding the community and preserve their inherent biodiversity.

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The Comprehensive Plan supports the proposed revision. The proposed amendment specifically addresses Implementing Action 7.3 – 1A2 by updating the definition of Ordinary High Water. The proposed ordinance does not directly address the intent of Implementing Action 7.3-1A1 regarding a buffer study. Instead, CDD has offered a riparian protection ordinance with Best Management Practices and Landscaping Standards that are widely known to benefit water quality and habitat, therefore protecting associated wetlands, coastal areas, and flood zones. The proposed revision is also complementary to flood zone regulations. The 50-foot buffer has been implemented in the CBJ Land Use Code since 1987 and has public acceptance as a reasonable balance for stream protection and development.

Next Steps

Following review by the Title 49 Committee, the draft language will be provided to the CBJ Law Department for review. The revision will then go to the Planning Commission for a public hearing and a recommendation to the Assembly. The Assembly will hold a public hearing and ultimately adopt, amend, or not adopt the proposed regulations.

Current Stream/Lake Regulation

49.70.310 Habitat

(a) Development in the following areas is prohibited:

- (1) On Benjamin Island within the stellar sea lion habitat;
- (2) Within 50 feet of the banks of streams designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and
- (3) Within 50 feet of lakeshores designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update.

(b) In addition to the above requirements there shall be no disturbance in the following areas:

- (1) Within 25 feet of stream designated in Appendix B of the comprehensive plan of the City and Borough of Juneau, 2013 Update; and
- (2) Within 25 feet of lakeshores designated in Appendix B of the comprehensive plan of the City of Borough of Juneau, 2013 Update.

49.70.950(f)

(f) All structures and foundations located adjacent to streams or lakes listed in Table VI-2 of Appendix C of the Juneau Coastal Management Plan, shall have a 50-foot setback from each side of the stream or lake measured from the ordinary high water mark, where feasible and prudent; provided, docks, bridges, culverts and public structures whose purpose is access to or across the stream or lake are not subject to this policy, and provided further, uses which must be in or adjacent to the stream or lake in order to function, such as mining activities, fish culturing, water supply intakes and similar uses, are exempt from the setback requirement. The setback shall be vegetated or revegetated, where feasible and prudent, and such vegetation or revegetation shall be kept or arranged to maximize shade on the stream.

Definitions 49.80.120.

Development means any of the following:

- (1) Construction, reconstruction or enlargement of a structure involving more than 120 square feet;
- (2) A subdivision;
- (3) Conduct of a home occupation;
- (4) Change in use of a lot, including any structure thereon;
- (5) Installation or emplacement of a mobile or modular home;
- (6) Removal of substantial vegetative cover;
- (7) Excavation, dredge or fill activity;
- (8) Installation of a sign;
- (9) For the purposes of chapter 49.65, article I, the work performed in relation to a deposit, subsequent to exploration but prior to extraction of commercial quantities of a mineral commodity, aimed at, but not limited to, preparing the site for mining, defining an ore deposit, conducting pilot plant operations, and construction of roads or ancillary facilities;
- (10) Any site work in preparation or anticipation of the above.

Anadromous Waterbody Protection

Purpose and Intent

The Purpose and Intent of the Anadromous Waterbody Protection Ordinance is to protect and preserve the stability of anadromous fish through:

1. Controlling shoreline alteration and mitigating disturbances;
2. Preserving nearshore habitat and restricting the removal of natural riparian vegetation;
3. Controlling pollution sources;
4. Prohibiting certain uses and structures detrimental to anadromous waters and habitat; and
5. Decreasing significant erosion, sedimentation, damage to the buffers, ground or surface water pollution, and damage to riparian wetlands and riparian ecosystems.
6. Prohibiting certain uses and structures detrimental to the shore land area.
7. Regulating improved access to and within the habitat protection district [buffer]; and
8. Regulating building setbacks from anadromous waterbodies.

Application

The Anadromous Waterbody Protection Ordinance applies to all waterbodies listed in the most recent Alaska Department of Fish and Game Anadromous Waters Catalog [hereafter, Catalog].

Establishment of Buffers

All waterbodies listed in the Catalog shall have an inner buffer (0-25 feet) adjacent to the waterbody and outer buffer (25-50 feet).

Measurement of Buffers

- 1) The buffer shall be measured by the horizontal distance from the Ordinary High Water Mark, as determined by the Community Development Department.
- 2) When a development is both above and below the Ordinary High Water Mark, a Waterbody Permit shall be required unless otherwise exempted.
- 3) Standards shall apply to any portion of a tree (i.e. limbs or trunk) within the buffer.
- 4) On coastal lots, the transition point from the waterbody buffer to the zero setback of tidewater shall be at the point where Mean High Water and Ordinary High Water meet.

Anadromous Waterbody Permit Required

Any development within the inner (0-25 foot) or outer (25 -50) foot anadromous waterbody buffer requires a valid Anadromous Waterbody Permit issued by the Director of Community Development, unless otherwise directed or exempted.

Uses not requiring a permit

1. Placement of water quality or water quantity monitoring equipment by a resource agency
2. Placement of fish weirs by a resource agency
3. Placement of surveillance equipment
4. Mining activities conducted entirely below the Ordinary High Water Mark.

Prohibited Uses in the Inner and Outer Buffer

1. Storage of fuel or other hazardous materials
2. Storage of explosives.

Uses not listed

Similar use determinations shall be made by the Director. Uses not listed, not eligible for a similar use determination, or not otherwise prohibited may be allowed with an approved Conditional Use Permit issued by the CBJ Planning Commission.

Variances and Conditional Use Permits

Uses/activities that cannot comply with the Best Management Practices and Landscaping Standards listed in section____, or do not meet the Purpose and Intent of Anadromous Waterbody ordinance, may apply for a Variance unless otherwise prohibited. Uses not listed may apply for a Conditional Use Permit unless otherwise prohibited.

Uses Requiring an Anadromous Waterbody Permit

An Anadromous Waterbody Permit issued by the Department shall be obtained before construction or development begins within the inner or outer anadromous waterbody buffer. Each person who requires a permit under this article shall file an application with the department according to the requirements established in ----, Contents of Application.

Uses are categorized in two ways: 1) whether the use is allowed in the inner or outer buffer, described below in section---; and 2) whether the use is reviewed under the Tier One or Tier Two process, as described in Section ---.

Subsection: Uses allowed within the 0-25 foot inner buffer

The following uses and types of development are allowed within the 0-25 foot inner buffer with approval of an Anadromous Waterbody Development Permit, authorized by the Director, provided that those uses cannot be reasonably completed outside the inner buffer, and meet the Riparian Vegetation Standards and Best Management Practices listed in subsection____:

1. Bank and buffer restoration
2. Removal of non-native invasive plant species, as listed in an official document specific to the State of Alaska
3. Stormwater management to improve water quality and/or water quantity
4. Construction of a fence
5. Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody
6. Bridges, utilities, and related infrastructure, including culverts. These uses must also conform with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable.
7. Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures, or constitute a threat to public safety due to illegal activities. Removal of vegetation to address damage to structures shall require a letter of documentation from a licensed arborist. Removal of vegetation to address a public safety issue shall require a letter of documentation from a CBJ Public Safety Official.
8. Bank stabilization conducted in accordance with the ADF&G Streambank Revegetation and Protection Guide, where applicable. Bank stabilization projects requiring rip-rap shall require review and approval by the CBJ Director of Engineering. Additional requirements may apply. Bank stabilization must conform with CBJ 47.70 Article IV, Flood Hazard Areas, where applicable.

Subsection: Uses allowed within the 25-50 foot outer buffer

In addition to the uses and types of development allowed in the inner buffer, the following uses and types of development are allowed within the outer buffer with approval of an Anadromous Waterbody Development Permit, authorized by the Director, provided that those uses cannot reasonably take place outside of the buffer, and provided that those uses meet the Riparian Vegetation Standards and Best Management Practices listed in subsection____:

1. Removal of branches from trees for view shed enhancement.
2. Trail construction parallel to a waterbody

Subsection: Tier One and Tier Two Review

Tier One Anadromous Waterbody Permits are required for the following types of development:

1. Construction of a fence

- 96 2. Bridges, utilities, and related public infrastructure, including culverts
- 97 3. Removal of non-native invasive plant species, as listed in an official document
- 98 specific to the State of Alaska
- 99 4. Stormwater management to improve water quality and/or water quantity
- 100 5. Trail construction or trail maintenance for accessing a crossing or enhancement
- 101 to the waterbody
- 102 6. Trail construction parallel to a waterbody
- 103 7. Removal of branches from trees for viewshed enhancement.
- 104 8. Bank and buffer restoration that requires only removal or replacement of
- 105 vegetation

106 Tier Two Anadromous Waterbody Permits are required for the following developments:

- 107 1. Bank and buffer restoration with activities that exceed removal or replacement
- 108 of vegetation with hand tools
- 109 2. Bank stabilization
- 110 3. Removal of individual or select trees or vegetation that are causing or at risk of
- 111 causing damage to structures, or constitute a threat to public safety due to
- 112 illegal activities.

113 The following table provides a list of uses with the review level and allowed buffer zone.

Use	Review Level		Buffer Zone	
	Tier 1	Tier 2	Inner	Outer
Bank and buffer restoration with activities that exceed removal or replacement of vegetation with hand tools		X	X	X
Bank and buffer restoration that require only removal or replacement of vegetation with hand tools	X		X	X
Construction of a fence	X		X	X
Bridges, utilities, and related public infrastructure, including culverts	X		X	X
Removal of non-native invasive plant species	X		X	X
Stormwater Management to improve water quality and/or water quantity	X		X	X

Bank stabilization		X	X	X
Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures, or constitute a threat to public safety due to illegal activities		X	X	X
Removal of branches for from trees for viewshed enhancement	X			X
Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody	X		X	X
Trail construction parallel to a waterbody	X			X

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115 Second option to present the Buffer and Tier information:

Use	Permit Type	Buffer Zone
Bank and buffer restoration that requires only removal or replacement of vegetation with hand tools	1	Inner Outer
Bank and buffer restoration with activities that exceed removal or replacement of vegetation with hand tools	2	Inner Outer
Construction of a fence	1	Inner Outer
Bridges, utilities, and related public infrastructure, including culverts	1	Inner Outer
Removal of non-native invasive plant species	1	Inner Outer
Stormwater Management to improve water quality and/or water quantity	1	Inner Outer
Bank stabilization	2	Inner Outer
Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures, or constitute a threat to public safety due to illegal activities	2	Inner Outer
Removal of branches for from trees for viewshed enhancement	1	Outer
Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody	1	Inner Outer
Trail construction or trail maintenance parallel to a waterbody	1	Outer

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117 Notes:

118 1. Inner Buffer Zone 0-25 feet

- 119 2. Outer Buffer Zone 25-50 feet
 120 3. The number “1” indicates the use requires a Tier 1 Review Process
 121 4. The number “2” indicates the use requires a Tier 2 Review Process

122 Third option to present the Buffer and Tier information:

Use	Permit Type	Allowed within
Bank and buffer restoration that require only removal or replacement of vegetation with hand tools	1	0-50 feet
Bank and buffer restoration with activities that exceed removal or replacement of vegetation with handtools	2	0-50 feet
Bridges, utilities, and related public infrastructure, including culverts	1	0-50 feet
Construction of a fence	1	0-50 feet
Removal of non-native invasive plant species	1	0-50 feet
Stormwater Management to improve water quality and/or water quantity	1	0-50 feet
Trail construction or trail maintenance for accessing a crossing or enhancement to the waterbody	1	0-50 feet
Trail construction or trail maintenance parallel to a waterbody	1	25-50 feet
Bank stabilization	2	0-50 feet
Removal of individual or select trees or vegetation that are causing or at risk of causing damage to structures, or constitute a threat to public safety due to illegal activities	2	0-50 feet
Removal of branches from trees for viewshed enhancement	1	25-50
Storage of fuel or other hazardous materials	NA	PROHIBITED
Storage of explosives	NA	PROHIBITED

123 Notes:

- 124 1. The number “1” indicates the use requires a Tier 1 Review Process
 125 2. The number “2” indicates the use requires a Tier 2 Review Process

126 Tier One and Tier Two Application Requirements and fee

127 Tier One applications shall include:

- 128 (1) A graphic and legal description of the property and property boundaries;
 129 (2) A narrative statement describing the proposed action, potential impacts to habitat
 130 values as defined under Purpose and Intent, and measures to mitigate impacts to
 131 habitat values, if applicable.
 132 (3) Additional information as the department may request.

133 Tier Two applications

A pre-application conference shall be required prior to submitting an application for a Tier Two Anadromous Waterbody Permit. Tier Two application shall include:

- (1) A graphic and legal description of the property and property boundaries;
- (2) A map showing the existing topography, vegetation, drainage features, structures, significant natural and artificial conditions of the land, existing vegetation; and
- (3) A narrative statement describing the existing conditions, proposed activities, and site restoration plan, including:
 - (A) Proposed activities and methods, in conformance with the Best Management Practices and Riparian Vegetation Standards found in section –
 - (B) An explanation of how the development meets the Purpose and Intent of the ordinance, as established in section ---.
 - (C) Existing Site conditions
 - (D) An explanation of why the development must be located within the inner or outer buffer
 - (E) Anticipated temporary and/or permanent changes to habitat resulting from proposed activities
 - (F) The existing species of vegetation and proposed species to be used for revegetation
 - (G) Timeline for development activity, removal of vegetation, revegetation, and the method by which the activity shall be conducted, in conformance with the Best Management Practices and Riparian Vegetation Standards found in section ____.
 - (H) Maintenance schedule, if applicable.
 - (I) Removal of vegetation to address a public safety issue shall require a letter of documentation from a CBJ Public Safety Official. Removal of trees to address damage to structures shall require a letter of documentation from a licensed arborist.
 - (J) Additional information as the department may request.

Fee schedule: Tier One, \$75.00. Tier Two, \$200.

Application Review Procedures

Upon receipt of an application and the required filing fee, the department shall review the submission for completeness.

Upon a determination that the application is complete the department shall transmit the application to interested agencies. Referral agencies shall be invited to respond within 15 days unless an extension is requested and granted in writing for good cause by the director. Tier One

reviews with minor impacts may have a reduced agency review period at the Director's discretion. Tier Two reviews may be reviewed by an additional scientific board, such as the Wetlands Review Board, for advisory recommendations at the Director's discretion.

The Department shall issue an Anadromous Waterbody Permit Notice of Decision, with findings and conditions that ensure conformance with the Purpose and Intent of this ordinance. The permit will expire 18 months after the effective date if no Building Permit or Grading Permit has been issued and/or substantial construction progress has not been made in accordance with the plans for which the development permit was authorized. Application for permit extension must be submitted thirty days prior to the expiration date in accordance with CBJ 49.15.250.

Inspection

After approval of the permit, staff shall inspect the site prior to commencement of activity to ensure the site is properly marked and the site matches the plans submitted with the application. Staff shall inspect the site upon project completion to ensure maintenance of vegetation, conformance with approved plans, and conformance with the Purpose and Intent of the ordinance.

Best Management Practices that apply to all uses or types of development within the inner or outer buffer:

- 1) Delineate work limits prior to commencing any activities to preserve existing vegetation outside of the work area and minimize impacts to the buffer. To protect large trees near, but outside of, the work area, the boundary for the natural area to be preserved should be extended to the tree drip line to protect the root zone from damage. The work limits must remain clearly marked until all work is complete. Within the work limits, the disturbed area shall be limited to that required for construction including access. Complete or partial removal of and damage to native vegetation shall be limited to the minimum necessary to achieve the project purpose.
- 2) When existing vegetation must be removed from the buffer, the buffer shall be revegetated with native plant species that are present or appropriate for that area within one growing season. The buffer shall be revegetated and such revegetation shall be kept or arranged to enhance fish habitat. Areas previously degraded by human activity shall be revegetated.
- (3) Erosion and sediment control Best Management Practices shall be used during construction activities to protect waterbodies sediment deposition and turbidity due to adjacent soil disturbance activities. Selected BMP's must be implemented in accordance with the standards in the Alaska Storm Water Guide

204 <http://dec.alaska.gov/water/wnpspc/stormwater/docs/AKSWGGuide.pdf> (DEC,
205 2011).

206 (4) All discharge material shall be free from toxic pollutants in toxic amounts as
207 defined by state law.

208 (5) Uses and activities shall implement measures to minimize pollutant discharges
209 into the waterbody and buffer including but not limited to providing for water
210 management, establishing staging, fueling, and maintenance areas outside of the
211 buffer.

212 (6) Structures allowed within the buffer must be constructed so as not to impede
213 floodwaters or impede fish passage.

214 (7) Developments must comply with the CBJ Manual of Stormwater Best
215 Management Practices.

216 Riparian Vegetation Standards that apply to all uses or types of development
217 within the inner or outer buffer

218 (1) All uses and types of development within the inner and outer buffer shall include
219 a vegetation plan to maintain or restore the buffer to the following standards:

220 (A) The vegetation plan shall consider a diversity of native species appropriate for
221 the site conditions found in the Recommended Plan List in Appendix E of the
222 CBJ's Manual of Stormwater Best Management Practices (2010) and/or the
223 Plant Selection List in the Alaska Department of Fish and Game's Stream
224 Revegetation and Protection: A Guide for Alaska (2005). The vegetation plan
225 shall favor natural plant reclamation from neighboring plant communities
226 when possible. If the site was considered to be in a natural state prior to the
227 use/activity, the area shall require revegetation with the same species. The
228 plan shall also implement any standards from the Landscaping and
229 Lawn/Vegetation Management sections in the CBJ's Manual of Stormwater
230 Best Management Practices (2010), identified by staff as applicable to the
231 permitted development.

232 (B) Uses and activities shall not introduce or redistribute invasive species.

233 Mitigation Measures

234 Mitigation measures may be required by the Commission or Department to address impacts
235 and ensure conformance with the Purpose and Intent of this ordinance. Mitigation measures
236 include, but are not limited to:

237 Standard erosion and stormwater runoff control measures;

238 Restoration and maintenance of native vegetation and water quality protection
239 functions;

240 Removal of non-conforming structures from the buffer.

241 Stream Channel Alteration

242 A stream shall not be moved, ditched, or piped, except as follows:

243 The applicable state and federal agencies have authorized the alteration and, the Community
244 Development Department has authorized the alteration through the Tier Two review process
245 [or a Conditional Use Permit?] after review by the CBJ Engineering Department and with
246 consideration of potential impacts including the following:

247 Practical alternatives to moving, piping, or otherwise altering the channel;

248 The potential to increase flooding or erosion problems upstream or downstream;

249 Any potential obstruction of water flow.

250 The flow lines of the altered section of the channel as related to those in the existing
251 channel at the endpoints of the alteration.

252 The adequacy of the gradient/meander balance, grade control, and bed stability to
253 maintain the natural stream function of water conveyance and sediment transport.

254 Conformance with the CBJ Flood Ordinance, section ---

255 Conformance with the Purpose and Intent of this ordinance.

256 Emergency Permits

257 In an emergency, the Director of Community Development may issue a temporary permit, in
258 writing, to protect life and property from imminent danger or to restore, repair, or maintain
259 public works, utilities, or services destroyed, damaged, or interrupted by the emergency. The
260 written permit shall include the following:

261 A description of the activity;

262 A description of the emergency;

263 Why the activity is necessary to protect life and property from imminent danger or to
264 restore, repair, or maintain public works, utilities, or services destroyed, damaged, or
265 interrupted by the emergency.

An emergency permit shall only authorize the minimum amount of work required to mitigate the emergency situation. An emergency permit is not intended to provide for any work beyond that necessary to provide for a safe environment. Any additional work shall follow applicable permitting procedures set forth in this chapter. Work shall be conducted using Best Management Practices to ensure that any adverse effect on the anadromous water body and buffers is minimized.

Conditions may be attached to emergency permits to comply with the Purpose and Intent of this ordinance. A final report that includes the plans and specifications for the work that was completed must be submitted to the Community Development Department within 60 days of the date of the emergency. The Department may require mitigation to repair damage to the anadromous waters or adjacent buffers and ensure conformance with the Purpose and Intent of this ordinance.

Definitions

“Emergency” means a sudden unexpected occurrence, either the result of human or natural forces, necessitating immediate action to prevent or mitigate significant loss or damage to life, health, property, essential public services, or the environment.

“Erosion” shall mean significant sloughing, washout, or discharge of soil arising from manmade sources or causes.

“Ordinary High Water” means (1) in the non-tidal portion of a river, lake or stream; the portion of the bed(s) and banks up to which the presence and action of the non-tidal water is so common and usual, and so long continued in all ordinary years, as to leave a natural line or “mark” impressed on the bank or shore and indicated by erosion, shelving, changes in soil characteristics, destruction of terrestrial vegetation, or other distinctive physical characteristics; (2) in a braided river, lake or stream; the area delimited by the natural line or “mark,” as defined in part 1 above, impressed on the bank or shore of the outside margin of the most distant channels; or (3) In a tidally influenced portion of a river, lake or stream, setbacks shall be taken from mean high water elevation or from the ordinary high water mark, whichever offers greater protection to the water body.

MINUTES
WETLANDS REVIEW BOARD
April 26, 2017, 5:15 p.m. City Hall Room 224

Meeting Summary

Roll Call

Board Members Present: Irene Gallion, Amy Sumner, Dan Miller, Lisa Hoferkamp, Percy Frisby, Andrew Campbell

Board Members Absent: Nina Horne, Hal Geiger, Brenda Wright

A quorum was present.

Staff Members Present: Teri Camery, Senior Planner; Chrissy Steadman, Planner II

Public Present: Scott Rinkenberger, Airport Maintenance Supervisor; Tyler Adams, Airport Biologist

Meeting called to order at 5:20 p.m.

II. Minutes approved for the January 19, 2017 Regular Meeting

III. Agenda approved

IV. Public Participation on Non-Agenda Items.
None.

V. Board Comments.

Ms. Gallion requested that board meetings be moved to the valley for the summer. Ms. Camery said she would check into it.

Ms. Sumner noted the annual spring clean-up even this Saturday.

VI. Agenda Items

1) AME2017 0001 Anadromous Waterbody Ordinance Revision

Ms. Camery provided the background on development of the ordinance. She described the intention to provide flexibility in code for uses that have minimal harm if conducted with best management practices and a landscaping protocol. Flexibility may no longer be provided

through the variance process, so benign uses must be allowed for in code within certain parameters. Ms. Camery explained CDD's background research and the meetings with the resource agency representatives in the Stream Ordinance Working Group. She said that the first goal in developing the ordinance is to establish a sound scientific foundation with the scientific advice of the Working Group and the Wetlands Review Board. With this scientific basis, CDD will then take the ordinance forward for extensive internal review other planning staff, review by other departments who may be applicants (such as CBJ Lands, the Juneau Airport, Parks and Rec, and more), then to Planning Commission subcommittees, CBJ Law, and final to the full Planning Commission and CBJ Assembly for full public hearings.

Ms. Camery reviewed the Board memo, highlighting key issues to resolve from the existing ordinance.

Mr. Rinkenberger described the Juneau International Airport's issues with criminal activity along the Jordan Creek stream corridor, the past trimming within the 0-25 foot no disturbance zone, and the urgent need to revise the ordinance to allow for more clearing to improve visibility and reduce crime. Mr. Adams referred to ADFG's report on the area, and described how trimming could be done while preserving habitat values.

Ms. Camery noted that the Jordan Creek issue has been discussed extensively by staff and the Stream Ordinance Working Group, and that the issue has been specifically addressed in the draft ordinance.

Mr. Campbell noted that the airport has violated the stream buffer ordinance many times. He said that the cooperative efforts of the current airport staff are necessary and appreciated.

Ms. Gallion noted the need to protect the legitimate interests of stream protection and prevent aggressive developers from doing damage to streams.

Ms. Sumner asked about the application process for the department's Anadromous Waterbody permit. Ms. Camery explained that the application forms would be developed after the ordinance is approved. She explained that the ordinance has been written to provide flexibility for applicants with the understanding that there are many options for addressing habitat. However she noted the criticism of staff and the department for being subjective or inconsistent, so she is trying to find a balance between the two. Mr. Campbell suggested that the criteria for approval of the permit should be very clear. He noted that latitude can make the applicant feel treated unfairly, or make staff feel treated unfairly. Mr. Miller suggested expanding information on the permitting process in the purpose and intent section of the ordinance.

Dr. Hoferkamp asked what "reasonable" means and suggested that this should be defined.

Ms. Gallion suggested two tiers of permit approval regarding vegetation removal that is done for public safety reasons.

Ms. Gallion asked about stormwater management and discharge. Ms. Steadman noted that CDD would clarify this point.

Ms. Camery discussed issues regarding trail development within the 0-25 buffer and 25-50 buffer. Board members discussed wordsmithing options for addressing this issue. Mr. Miller highlighted ordinance language which notes that these allowed uses must be out of the buffer if that is possible. Ms. Sumner noted the need for trail maintenance.

Dr. Hoferkamp suggested prohibition of hazardous materials, rather than “fuel and other contaminants.” She also noted that the ordinance should encourage the use of impervious surfaces.

Board members noted the need for a definitions section.

Mr. Rinkenberger noted that power companies regularly trim within buffers and have done a lot of trimming at the airport. Staff and board members discussed ways that this could be addressed. Mr. Frisby suggested checking with the Regulatory Commission, and noted that they have rules and regulations regarding utility development that may trump city regulations. AEL&P should also be contacted.

Board members noted the need to clarify the difference between parking and storage of vehicles in the prohibited uses section.

Board members noted the need for limbing within the 25-50 buffer to be conducted by an experienced professional. The revision should set a professional standard.

Ms. Sumner explained the background behind development of the Best Management Practices section of code. Mr. Campbell suggested using this section to establish criteria for permit approval.

Mr. Rinkenberger noted the need to clarify whether the limbs or the trunk needed to be within the buffer to be subject to the ordinance. CDD will provide clarification in the ordinance.

Dr. Hoferkamp suggested timelines for vegetation in the Best Management Practices section.

Ms. Steadman noted the need to reference state law regarding toxic pollutants.

Mr. Campbell suggested other public safety measures that the airport might consider for Jordan Creek, such as lighting and/or cameras.

Ms. Gallion asked about the appeal process. Ms. Camery explained that the waterbody development permit would be appealable to Planning Commission as an Appeal of the Director’s Determination.

Ms. Gallion and Dr. Hoferkamp noted the need for enforcement. Ms. Steadman explained the building permit inspection process and how this would improve compliance.

Mr. Campbell asked about the possibility for a larger buffer in undeveloped areas of the borough. Ms. Camery said she would check into this option, looking at low-density areas out the road. This might also be an option for additional city properties.

Board members expressed appreciation for the revised ordinance and the overall approach.

VII. Updates

There were no updates.

VIII. Planning Commission Liaison Update.

Mr. Miller and Mr. Frisby described the tougher approach on variances and the need for extensive code revisions to address this change and provide flexibility within code.

IX. Next meeting:

Regular Meeting. Thursday May 18, 5:15 pm, City Hall room 224.

The meeting was adjourned at approximately 7:10 p.m.

MINUTES
WETLANDS REVIEW BOARD

June 15, 2017, 5:15 p.m. Valley Library Large Conference Room

Meeting Summary

Roll Call

Board Members Present: Irene Gallion, Amy Sumner, Lisa Hoferkamp, Brenda Wright, Hal Geiger, Andrew Campbell

Board Members Absent: Nina Horne, Percy Frisby, Dan Miller

A quorum was present.

Staff Members Present: Teri Camery, Senior Planner;

Public Present: Scott Rinkenberger, Airport Maintenance Supervisor; Patty Wahto, Airport Manager; John Mikesell, Airport Wildlife Specialist

Meeting called to order at 5:20 p.m.

II. Minutes approved for the April 26, 2017 Regular Meeting

III. Agenda approved

IV. Public Participation on Non-Agenda Items.
None.

V. Board Comments.

Ms. Gallion asked about bank stabilization at 4401 Riverside Drive, and whether this development complied with setback requirements. Ms. Camery explained that bank stabilization is exempt from the setback under the current ordinance, however Planner Eric Feldt and John Hudson at the U.S. Fish and Wildlife Service had worked with the developer to address revegetation for the area.

Ms. Gallion also asked about clearing along the river at 4787 River Road. Ms. Camery said she would check into this.

Dr. Hoferkamp asked about clearing along Auke Creek. Ms. Camery said that she had received many calls on this area, because the Alaska Department of Transportation had cut trees right to the edge of the creek. However ADOT is building a retaining wall in this section, so the cutting

is required, and this activity is exempt from the current ordinance. She said that she talked with John Barnett at DOT and he sent her the revegetation plans for the area, which will be implemented after the retaining wall is in place.

VI. Agenda Items

1) AME2017 0001 Anadromous Waterbody Ordinance Revision

Ms. Camery provided the background on development of the current draft ordinance, including meetings with the resource agency representatives in the Stream Ordinance Working Group and the April 26 Wetlands Review Board meeting. She gave an overview of the changes that CDD had made to the ordinance in response to the last WRB meeting, and other changes made from internal review and more comments from the Alaska Department of Fish and Game and U.S. Fish and Wildlife Service.

Ms. Camery said that the Planning Commission Committee of the Whole was scheduled to address the ordinance at the June 13 meeting but was delayed by other issues at the meeting. She said that the draft ordinance has been sent to the CBJ Law Department for review, and Law may make significant changes. She also said that many changes still need to be made, particularly on the bank stabilization section. Therefore she is not asking for formal Board approval of the draft ordinance this evening; the ordinance will come back to the Board for a final review and approval at a later date. At this time CDD is requesting more discussion and comments from the Board as part of continuing refinement of the ordinance.

Ms. Camery explained the major components of the ordinance, and explained that the airport's public safety concern along Jordan Creek has been specifically addressed.

Dr. Hoferkamp asked about the CBJ Comprehensive Policies regarding streams, and whether these policies are enforced. Ms. Camery explained that the Comprehensive Plan provides guidance, and this guidance must be carefully considered in all developments. The stream ordinance must substantially comply with these policies. However the Comprehensive Plan does not have the force of regulation; only the CBJ Title 49 Land Use Code does. Ms. Camery cited the Comprehensive Plan policy calling for development of new variance criteria for habitat variances. She said this policy must be noted, however CBJ has changed its position regarding variances since this policy was developed. Legally, variances must be utilized only for extreme situations. The intent is to provide flexibility and habitat mitigation in code, not through the variance process.

Ms. Camery reviewed the new application process section, which Ms. Steadman had developed. Ms. Gallion and Ms. Sumner suggested edits, which they had provided through email. Ms. Sumner suggested a narrative explanation with an aerial photo.

Mr. Campbell suggested a graduated fee structure, and changes in the required documentation, so small developments will not have the same costs and requirements as large developments. He said that the process should not be so tedious that the public will not comply with this. Ms. Camery said that she would look into options to address this.

She also reminded the Board that currently, all of the listed activities in the draft ordinance are prohibited. And in the recent past, the only option would be to allow the activity through the Variance process with the Planning Commission. She agreed with the goal of promoting compliance.

Ms. Sumner commented on the layout of the ordinance and suggested that the application process should go after the requirements. Ms. Camery agreed that the ordinance needed renumbering and reorganizing and said that CBJ Law would likely dictate the order at a later time.

Dr. Geiger requested more background on the public safety issue in the ordinance. Ms. Camery described the airport's need to limb within the Jordan Creek no-disturbance zone due to criminal activity in the area. Ms. Wahto and Mr. Rinkenberger provided more explanation.

Mr. Campbell suggested adding security lighting to go along with the surveillance equipment in the list of allowed uses, to further address public safety issues.

In Section 49.70.320, Director's Review, Ms. Sumner suggested requiring Wetlands Review Board review for applications. Ms. Camery said that she would prefer that the Board's review be discretionary, rather than mandatory, according to the complexity of the development. Ms. Gallion suggested that the Board could be provided with a list of developments under review as a courtesy.

In Section 49.70.320(d), Ms. Gallion and Dr. Hoferkamp suggested that staff should inspect the site "throughout development of the project" or "during development."

In Section 49.70.320(b), Ms. Sumner said that "transmitting recommendations to the applicant" sounds too informal and vague, as if the applicant can accept, reject, or appeal conditions. Ms. Camery said she would revise this section.

Ms. Wright and Ms. Gallion discussed the need to use the latest Anadromous Waters Catalog. Ms. Camery said this would be another issue for Law to figure out, because Law often prefers an established written reference rather than references to latest versions. A system could be developed to update the code yearly with the latest reference, however Ms. Camery said that any code revision, even the smallest one, requires both Planning Commission and Assembly approval.

Ms. Sumner said that that allowed activities in the 0-25 buffer need to include recreational support such as ramps. Ms. Camery said these types of developments would fall under the category of public infrastructure.

Under item 8, the public safety section, Dr. Hoferkamp suggested deleting “illegal activities.” Ms. Gallion commented that this section could address Mendenhall River erosion too, as a public safety issue. Board members suggested adding language to say “this option may only be used after other options have been exhausted,” or something similar.

Ms. Wahto asked if removal of beaver dams would be allowed under this revision. Ms. Sumner and Ms. Camery felt that this activity would be below the Ordinary High Water Mark line and not within CBJ jurisdiction, only the Alaska Department of Fish and Game.

Ms. Gallion directed Ms. Camery to her emailed edits, suggesting that the letter from a public safety official should not be limited to a CBJ official.

Ms. Gallion said that the arborist requirement should be for a certified arborist, not licensed, because licenses are not available. Ms. Sumner suggested clarification of what documentation is needed for this section.

Regarding Nine, Back Stabilization, Ms. Gallion said that the current solution proposed for the Mendenhall River erosion would not meet the revegetation standards in this draft ordinance. Ms. Sumner said that an Engineer’s plan could potentially waive the vegetation requirements.

Ms. Gallion said that Tom Mattice would have the USDA contact for the Mendenhall project and suggested that staff contact him.

Ms. Sumner, a member of the ad hoc Stream Working Group, said that the group’s intent with this section was to promote bioengineering before resorting to rip-rap. The ordinance could require some level of documentation that bioengineering isn’t an option before rip-rap, or rip-rap without vegetation, could be approved. Ms. Camery said there would be significant changes to this section of the ordinance.

Regarding the Prohibited Uses section, Ms. Camery explained that parking was taken out. She said that parking could not legitimately be prohibited since the code has parking requirements. However parking is not listed as an allowed use, and would only be allowed through the variance process under extraordinary situations when there are no other locations available for parking.

Under the Best Management Practices Section number 7, Ms. Sumner suggested adding new development and redevelopment to the city’s stormwater manual listing.

Regarding vegetation standards, Ms. Wahto mentioned FAA requirements along Duck Creek for vegetation that doesn't attract wildlife. Ms. Camery said she would contact Ms. Wahto again to develop language that allows for this.

Ms. Wahto referred to a Corps permit requirement for an interpretive trail along Jordan Creek, with interpretive signs. Ms. Camery questioned whether the trail needed to be within the stream buffer, and said she would work with Ms. Wahto on this issue. The current draft of the ordinance allows for trail development but only if there are no options outside of the buffer.

VII. Updates

Ms. Camery explained that CDD will be presenting an ordinance to the Planning Commission to delete the ordinance that prohibits development near eagle nests, because CDD does not have the ability to track eagle nest locations. She said that the U.S. Fish and Wildlife Service used to fill this role, but does not anymore. She said that some people have suggested that the Wetlands Review Board could address eagles, but she said this is outside of the Board's role as established in the Juneau Wetlands Management Plan.

She said that the habitat impacts of the upcoming Phase III and Phase IV Statter Harbor Developments were minor, therefore this project was not taken to the Board for review.

VIII. Planning Commission Liaison Update.

No Commissioners were in attendance.

IX. Next meeting:

Regular Meeting. Thursday July 20, 5:15 pm Valley Library Conference Room.

The meeting was adjourned at approximately 6:50 p.m.