

**SPECIAL ASSEMBLY MEETING  
THE CITY AND BOROUGH OF JUNEAU, ALASKA**

Meeting Minutes - April 30, 2018

**MEETING NO. 2018-13:** The Special Meeting of the City and Borough of Juneau Assembly, held in the Assembly Chambers of the Municipal Building, was called to order at 5:00 p.m. by Mayor Ken Koelsch.

**I. CALL TO ORDER / ROLL CALL**

Assembly Present: Mary Becker, Rob Edwardson, Norton Gregory, Loren Jones, Jesse Kiehl, Ken Koelsch, Jerry Nankervis, and Beth Weldon.

Assembly Absent: Maria Gladziszewski.

Staff Present: Mila Cosgrove, Deputy City Manager; Amy Mead, Municipal Attorney; Laurie Sica, Municipal Clerk; Robert Palmer, Assistant Attorney; Rob Steedle, Community Development Director; Teri Camery, Senior Planner; Jill Maclean, Senior Planner; Allison Eddins, Planner I.

**II. AGENDA TOPICS**

- A. Protest of Planning Commission's Recommendation to Deny a Request to Rezone of USS 2391 Tanner Terrace Lot C Fractions; Lot 1A, Block D, USS 2391 Tanner Terrace; and Lots 1, 2, 7, & 8, Block C, USS 2391 Tanner Terrace; all located between 3853 Bayview Ave. and 11950 Glacier Hwy.

Ms. Cosgrove gave a brief report on the purpose of the meeting, which is to allow the Assembly to hear from the public impacted by the rezone request and to review the Planning Commission's denial of the request to rezone.

Ms. Mead said the Planning Commission heard the request for rezone and decided not to adopt the staff's findings. She provided a guideline memo to outline an approvable rezone request, which is a legislative act, and it is in the Assembly's purview to rezone or not, based upon whether all of the criteria are met. The Planning Commission chose to deny the application based on the status of the Auke Bay plan. The plan was adopted by the Assembly, but the regulations regarding the plan have not been adopted. Neighbors from the impacted neighborhood testified that the Traditional Town Center would apply to their neighborhood. The second concern was the height restrictions. The Auke Bay plan makes a policy call that the view shed of the water shall be protected, but how this is to be done has not been decided. Moving the rezone forward with its 45 foot height restriction in light commercial would be different than is anticipated for this area. Whatever the

Assembly determines, what is decided in this case can inform future standards in the new zoning district in the Auke Bay plan. Or this development could become a non-conforming use. These are the reasons no findings have been drafted for a proposed ordinance to date.

Mr. Jones said planning staff recommended a rezone with findings and the Planning Commission rejected that, but did not clearly make findings regarding the denial. Ms. Mead said there was discussion in the minutes about the timing issues for drafting regulations, and how it addressed this request. Chair Haight stated at the end of the meeting that the Planning Commission wanted to wait for the regulations to be adopted.

Public Comment:

*Joanne Schmidt* is the applicant of the rezone request. She said that the denial by the Planning Commission was faulty and relied on future zoning laws to be drafted. She feels the matter should be considered based on the law at the time the application is submitted. We feel our application takes in to consideration current law, the neighborhood and needs of the community. Should this rezone be approved, she anticipates development with additional housing without blocking view sheds. She is committed to working with others to align her development with the needs of the community.

*Austin Schmidt* is the applicant of the rezone request. We are considering an 8-10 unit building similar to that which exists now in the area, with no intention to disrupt the view shed. They are willing to work with the neighbors to create an affordable way to house Juneau in an upcoming area of Auke Bay. We want to improve the building that exists now and create something that is more pleasant and useable. We want to make this a cohesive project.

*Andy Meiners* is the president of the homeowners association and said he is not a NIMBY and is a proponent of progress. Neighborhoods are like a business. I've lived here for 17 years and have had clients at my business there for 10 years. Neighbors and clients come and go. The applicants indicate they want to rezone to a highest and best use. He thought the highest and best use is as a neighborhood, with residential property, and if you change the zoning, it will change the fabric of the neighborhood as it exists.

Ms. Weldon asked how many meetings he attended for the Auke Bay Plan. He said he had not been to any due to work.

Mr. Jones said some of the testimony was based on neighborhood covenants of

Tanner Terrace. Mr. Jones asked what the concerns were. Mr. Meiners said the covenants are between the neighbors and do not relate to the relationship with the city.

Mr. Kiehl asked Mr. Meiners to clarify his requested action of the Planning Commission. Mr. Meiners said a change to light commercial is a forever change. An 8-plex could be purchased and a convenience store could be added, that is the type of change he was concerned about.

*Julie Flint* said they live in the neighborhood, and have for approximately 25 years. There is not a lot of turnover. This little pocket of a neighborhood is the oldest, but one of the few neighborhoods in the area. If this changes it will be more traffic and will change the character of the area. Allowing a large chunk of commercial at the main roadway would detract from their neighborhood.

Ms. Weldon asked how many meetings she attended Auke Bay planning meetings she attended. Ms. Flint said she went to one and felt the decisions had already been made.

*Jerry Quigg* said the property owners of the 8-plex approached the homeowners at the time to group the lots together and we approved it on the condition that it was the "end of the show." The covenants say that only the first two lots can have multiple family housing. Basically we are a neighborhood and our covenants, which are civil, say that we will stay that way. Only the first front lots are allowed more than a duplex.

Mr. Jones said he had taken a tour of the area and asked Mr. Quigg for clarification of the area of the neighborhood.

Ms. Weldon asked how many meetings Mr. Quigg attended for the Auke Bay planning. Mr. Quigg said he was not in town at the time. He agreed with the Planning Commission that the plan is just a plan and it is still being reviewed and developed.

*Dave Kline* lives in the area nearby, not directly affected by the rezone, and is a member of the Auke Bay neighborhood association and was part of the Auke Bay Planning. He opposed the application for rezone. The overall goal was to simplify zoning and as it is now, it is a patchwork of zoning. The maximum height shows an Auke Bay center encompassing portions of this neighborhood. He said it was important to preserve existing neighborhoods. He is concerned about the view shed, which is unique to Auke Bay, and this rezone would affect the view of existing neighborhoods.

Mr. Jones said the intention of the plan was to create a walkable community with reasons to visit, create central parking, commercial lowkey, and in order to do that rezoning needs to take place in some cases. There is light commercial to the edge of this application, there is waterfront across the street - how do you get to the vision without rezoning? Mr. Kline said there were very few pockets of neighborhoods and we saw the commercial area being bounded by the School. The maps don't reflect our discussion at planning meetings. Mr. Jones asked if the future improvements from DOT will make a difference and he said the sidewalks will be a good improvements.

Mr. Kiehl asked about a town center that "fades to the edges" and said he didn't see that in the plan. He asked how the planning process went and Mr. Kline described it as a back and forth, with many resources, but the writing was a long process and he was sure that there were many people who felt left out of the process. He felt the process was open. The Planning Department did the best they could with the plans they had at the time.

Debbie Ballum spoke and submitted a letter. She and her husband Mark Schwan strongly opposed the zoning and a change to commercial. They have a deck with a beautiful view and would hate to have it blocked and hear noise from the road and development. Ms. Ballum said she attended the Auke Bay planning meetings and said that people out the road supported further development, but she did not want to see the character of the neighborhood change.

Murray Walsh said he was present on behalf of the applicant. The situation in front of the Assembly is different than from the PC. The applicants were told that there was no need to establish a type of development in order to request a rezone. The applicants state they will build housing similar to what is there and one that will preserve views. He asked the Assembly to consider establishing conditions on the rezone to outline the use of the property for housing and a requirement to maintain view sheds. The unfairness of paying for an application, appearing, and having a denial because of undrafted rules to be developed in the next year or two is unfair. He hopes the Assembly remedies the unfairness.

Mr. Jones asked if this only replaces additional housing and it is already zoned D-10 - why rezone. Mr. Walsh said this is to add another row of apartments closer to the hillside. The LC zoning provides an opportunity to add more. The town center envisions commercial on the bottom and residential on the top, but the applicant only wishes to build residential property.

Mr. Kiehl asked if the request was a rezone with conditions. Mr. Walsh said yes, the

stipulations are simple - residential only, don't interfere with the view and we can provide information on how the viewplane will be maintained. The existing 8-plex has a 25 foot ridgeline, we believe we can build into the hillside and have little or no impact on the existing housing. We proposed to address the problems of the neighborhood with our development.

Rick Currier and is Secy/Treasurer of the Tanner Neighborhood association. Our covenants say no commercial and not to exceed two stories in height. He explained the view shed. The street width there is minimal and there is no street parking allowed. If you add more units, it will make traffic and parking more difficult and he spoke about entering the traffic lane on the highway.

Lisa Currier said if the land is rezoned, for light commercial, we lose say as to what is allowed in the area. She identified the property surrounding their neighborhood being part of the rezone and they could all build to 45 feet and wall their neighborhood in. Doubling density decreases safety due to traffic. She felt her property would be devalued and would no longer seem like home.

Mark Schwan said if the two back lots are taken to build another structure, that removes parking for the area and the streets do not allow parking now, so he was not aware of where people would put their cars.

#### Assembly Action:

Ms. Weldon asked if there are height restrictions for the town center zoning yet. Ms. Mead said that there is difference between the comp plan maps and zoning districts. The idea is that there will be a new zoning district for this area which is in the process of development.

Mr. Kiehl said if the Assembly granted a rezone with conditions, and the PC develops a desired zone for this town center, could it potentially supercede the conditions on this rezone? Ms. Mead said that any current development could be a considered a non-conforming development. In order to approve the rezone, the Assembly must find that the proposed new zoning designation substantially conforms to the land use map designations and the uses within those designations. We have conditioned rezones for public safety issues such as access, but conditions which go to standards for a particular zoning area, that is in conflict with a finding that the new zoning designation substantially conforms with the current land use maps.

*MOTION, by Nankervis, to agree with the Planning Commission recommendation to deny the rezone.*

Mr. Nankervis said he has no reason to doubt the applicants. His concern is that when the property is rezoned, if the property is sold, those commitments could be gone. He appreciated the neighbors' concerns. I understand it is a pocket community and what they are trying to do with Auke Bay is a community with both businesses and residents. Agreeing with a rezone at this time could pit one goal against the other. He would like to see this revisited with the Planning Commission

Mr. Jones reluctantly agreed and said the area is in flux. There are several ideas that are being considered and there is a lot of difficult work to do. He appreciates the neighbors stating that they were not aware of the planning process and he encouraged the neighbors to attend Planning Commission meetings. He wished the Planning Commission would have stated more clearly their objections.

Mr. Kiehl opposed the motion based upon public testimony heard. The Auke Bay area plan is part of the Comp Plan, it says commercial below and residential above is integral to the plan, and it is hard to believe the Planning Commission would bring back anything much different. The applicants have done a remarkable job of bringing forward a project within the limits. He did not think there would be legal problems with conditioning.

Roll call:

Aye: Becker, Edwardson, Jones, Nankervis, Koelsch

Nay: Gregory, Kiehl, Weldon

Motion passed and the rezone request was denied, 5 ayes, 3 nays.

### III. ADJOURNMENT

There being no further business to come before the Assembly, the meeting adjourned at 6:15 p.m.

Signed: \_\_\_\_\_  
Laurie Sica, Municipal Clerk

Signed: \_\_\_\_\_  
Kendell D. Koelsch, Mayor