Land cracks at contested site

Landvik is putting up a two-story retail and office or apartment building on South Franklin Street, next to Carroll Way, for developers Manuel Hernandez and Ken Housinger of Anchorage. Hernandez is co-owner of the Alaska Fur Gallery, which has a shop in Juneau.

The city first approved the project in spring 1999, over the objections of some nearby residents and other citizens concerned construction could trigger a landslide.

The project was again approved in spring 2000, and another appeal by those citizens was turned down in August after the developers submitted a new plan. Critics said that plan was even riskier because it involved driving a wider type of pile for a temporary retaining wall.

Now the settling of the slope — which the city said is rubble from pre-20th century landslides — has left a 3-inch-wide and 13-inch-deep gash next to one of three buildings in a 14-unit apartment complex on Gastineau Street.

“I really feel we are proceeding in a good, safe manner,” Landvik said.
The Planning Commission was not shown this photograph at the hearing, because they had already seen it three times. They were very familiar with our landslide.

The quote about evacuation above is from a report by Jim Heumann for the CBJ, 1/10/01.

The article about disaster-related stress is from U.S. News and World Report, 10/8/01.

DEAR JUNEAU ASSEMBLY:

We four artists and residents of Carrol Way and Gastineau Avenue appeal to you to save our important historic neighborhood.

Landslide is a terrifying event. We had one in 1997, shown at left. We were in danger of one last winter, shown by an engineer's report above.

We are not citizen activists opposing development. We appeal to you rather from fear of landslide.

The trauma and the fear are real, described below in an article about the New York terrorist attack:

These relapses, whether physical or emotional, appear to begin with the brain's response to serious life stress, a response that researchers are only beginning to unravel. Danger signals coming into the body are fed into the limbic system, the brain's emotional center, which in turn activates regions involved in the body's fight-or-flight response. In some cases, when all systems are responding in healthy proportion, this can result in quick responses and saved lives. But the body is wired to sustain this physiological reaction for only a brief time. It's ideal for a bear attack, or even a hurricane, but not, says James Griffith, professor of psychiatry and neurology at the George Washington University Medical Center, for this kind of threat. Because many people aren't yet confident of their own safety, "they are in a chronic state of hypervigilance."
In deciding this appeal, the Assembly is not deciding whether or not to allow the Belgian development which we fear. We asked the Planning Commission to leave the right of way where it was only in order to make their sheet pile wall and excavation to ground level a bit smaller and a bit farther down and away from the apartments.

That would make the project a little less dangerous for the residents, and the noise and shaking of heavy construction-- as well as the resultant commercial building-- a little easier on us.

Our description of the instability of this hill is far from irrelevant, as the answering briefs claim, not is it incorrect. It is such a frightening possibility that the hill may slump or fall again, that we asked the Planning Commission simply to buffer us from the danger by not allowing the already huge commercial Lot 1 to be enlarged.

We also asked them to retain the right of way in its original location in order to buffer us from the projected commercial development itself. We are aware that the green belt is not publicly-owned open space. But it has functioned as a green belt buffer which can be enjoyed by the public-- tourists as well as residents. That function is so absolutely necessary to the quality of life of this already severely impaired community, that we must ask to maintain it.

The buffer aspect of the land in question is more important than the green belt or open space aspect. Both answering briefs make a big point of the fact that if Lot 8 (the green belt) and Lot 1 (the commercial property) were not joined by this ROW vacation, a structure could be built on the green belt. But the structure would have to be a small house, as the lot is narrow. That small house, if it were ever to be built, would also function as a buffer between the apartments and the commercial building, or between the apartments and the activity and mammoth cruise ships of South Franklin Street.

Even though the applicant, Steve Landvik, told the Planning Commission he would retain the green belt, still we are made very nervous by commercial ownership of that small lot attached to the large Lot 1. He has told us he would have to do some grading on the green belt, and would not promise to keep heavy machinery off of it or workmen from trampling it. If the ROW were vacated, they would be able to build connecting porches or decks on it. And something else that is hard for anyone to imagine unless they actually live here-- for years now, we have seen workmen, engineers, surveyors and city employees at least weekly and sometimes even daily, and that very sight causes fear, because of the danger we have experienced.
The history of ROWs is not as simple as the intervenor's brief makes it out to be, that the property owners donated the land so should be able to reclaim it at will. Actually, the federal government sent surveyors to plat our neighborhood and others because the lot lines were indistinct and the deeds vague. Our neighborhood was made up of many little plots of land, based on natural divisions, and the surveyors took all that into consideration. Likely, they saw the need for interconnectiveness for the public between the two staircases, Carrol Way and Boroff Way. Likely also, there was already a foot path on the ROW.

The intervenor's brief says that there never has been path on Rodenberg Way in anyone's living memory. But the staff report (R2) says, "A residence was formerly located on Lot 8, and a portion of the Rodenburg right of way may have been used to access the site." That residence is in my living memory. It was green. It was condemned and then set on fire by vagrants shortly after Larry Knudson bought it, in the early 90's. The heat of the fire threatened all of us. I remember the house well, and its tenants. That house did have a path going to the front door which was on the Carrol Way side. The house also had a downstairs apartment which opened facing the Channel, which also had a path to it. Of course, I do not know if either of the paths was on Rodenberg Way, but it is very possible.

Our neighborhood is in our historic district. The small and/or irregular lots give it character. Please leave the lots as the federal surveyors deemed appropriate, in light of our history. The photo below shows how the Trucano house has already been stripped of its front and side yard, which we told the Planning Commission. Please do not allow more damage to our historic character!
Both of the opposition briefs say that it does not matter that there are no connections to landings on Boroff and Carrol Ways for the ROW as replatted to the upper side of Lot 8. Maybe Boroff Way will be rebuilt some day with a landing. But Carrol Way cannot be changed easily, and maybe not at all. As I told the Planning Commission, the part of the Carrol Way staircase to which the "new" Rodenberg Way is supposed to connect, goes from the Knudson Apartments walkway directly to the entrance of the lower floor of the yellow house (where I live). The following photograph from the opening brief shows the walkway and the set of stairs in question. The stairs cannot be made steeper to accommodate another landing. The original ROW connects to the big, safe landing which is also in the photograph.

When you, the Assembly, look at this application and this decision, please consider the quality of the original request. Mr. Landvik, staff, and our neighbors Michelle and Woodie, all say that the ROW moved up will provide access. But that request was for a short ROW platted on paper from Carrol Way, which would only theoretically and not realistically provide access. (Not only that, but it was incorrectly stated to the Planning Commission that the new ROW would go behind both houses, when it was to go behind only one.) An application so flawed in its premises should not be granted at all, rather than just varied. No school, employer, bank loan officer, etc. would accept any applicant if the information given was found to be false!
The opposition briefs defend the lack of written notice to the apartment residents. The staff brief states that notice for change in use relates to a change to condominium or cooperative status. The intervenor's brief says it relates to a change to commercial uses or offices. Since they disagree, it appears that an official definition of this statute does not exist, and it is open to interpretation. The green belt land on Lot 8 has functioned as a "yard" for the apartments for nearly ten years. The raspberries are cultivated for residential uses. Larry's burn pile is there. The lot, owned by Larry Knudson until he died recently, was part of the apartment grounds. Larry bought it so that "no one can build anything there," as he told me, and as is supported by his letter to the Assembly (OB 17). The residential use of this land is to be changed to commercial use with this decision; and the residents deserved notice.

The intervenor's brief says that this change to commercial use will not effect the apartment complex itself. The danger of the proposed use will certainly affect the apartments and the residents. The last project destabilized the hill so that the apartments actually fell in elevation and were damaged, and the residents threatened with evacuation, loss of life, loss of possessions and homes, injury and everything else that goes along with a disaster.

The tenants of the apartments certainly deserved notice under the circumstances, but they were not even given the benefit of a sign! The answering briefs state that placement of the sign on the commercial Lot 1 was appropriate, as that lot is "directly involved" and will be "changed" and "affected." But the Planning Commission was told that "Lot 1 is not part of tonight's discussion."

She also asked Mr. Landvik to clarify what lots he represents before the Planning Commission. Mr. Landvik said he represented Lot 2 and he has an option to purchase Lot 8. Lot 1 is not a part of tonight's discussion.

Certainly, the commercial owners of Lot 1 knew of the vacation request, so they did not need a sign on their property to inform them. The general public had no need of being informed, because they would not even have known what Rodenberg Way was. And there is very little of the general public on that part of South Franklin in the summer anyway, with the tourist traffic. The people who needed to be informed were the residents who would be affected by the decision, I and my husband on Carrol Way, and the apartment residents on Gastineau Avenue.
The intervenor's brief ways that a public notice sign on the site or on either Carroll Way or Boroff Way would not have been visible from both staircases. But the following photo from the opening brief shows the view from Carroll Way. Boroff Way is clearly visible, and so is the center of the site. A sign either on Boroff Way or in the center of Rodenberg Way would have been visible from both Carroll Way and Boroff Way!

Most of the residents of the area use Carroll Way to reach South Franklin, rather than Boroff Way, which is lonely and prone to bears. The sign had to be visible from Carroll Way. The sign on Lot 1 was not visible even from the bottom of Carroll Way, even from across South Franklin. I walk around the neighborhood every day and did not see a sign, as I told the Planning Commission (OB3). The other residents, who are home less, had even less chance of happening on the sign.

And even if one chanced to walk by the lot on South Franklin Street, which was obscured totally from the bottom of Carroll Way by the new Fur Gallery building, still the chances were that the sign would be obscured by cars. The sign was leaned against a rock at ground level at the back of a parking lot! Definitely, the lack of posted notice at the site prevented residents from knowing what was going on. (I found out by chance from the newspaper, and had only the energy, because I was so afraid, to tell the three co-appellants.)
The answering briefs portray our brief as incorrect in its assessment of the history of the danger of the hill and as inflammatory, prejudiced and "personal." In the mere 10 pages allowed for this reply, we cannot defend ourselves against all their attacks. But we will try a few.

The intervenor's representative, Mr. Walsh, corrects my use of the name "Fur Gallery building." Of course, the literal name is the H&H Building. But locals do not call it that. We call it the Fur Gallery building, because it is being built by the owner of the Fur Gallery, and because it was called that in the original parking variance hearings on the project, as shown below:

(We would also like to note that the name Knudson Apartments, used in all the briefs, is also technically incorrect. They are called the State Apartments, but we use the popular name.)

From: Gary Gillette  
Sent: Thursday, August 02, 2001 4:32 PM  
To: Debra Purves  
Subject: H&H Building

I noticed that there is a double door leading to the top of the sidewalk canopy. I remember specifically when approving the design review for this that the door shall not be installed but windows instead. Typical of the developer and contractor to change design after or approval.

There are two other issues related to this. If access to the top of the canopy is allowed they need a row permit from the state. In the past the state said they do not allow accessible decks along state highways as they have had problems in Ketchikan with people throwing things off of them at people and cars. Further, if a deck is allowed a railing has to be installed. A railing would not be consistent with the character of the district. If you are not the one to deal with this please pass this on. I hope we nip this in the bud as it is not a precedent we want to see.

Thanks

The intervenor's brief says we make personal attacks on Mr. Landvik. But we are only stating facts that do indeed reflect on his credibility and trustworthiness. The architect's rendering above shows the Fur Gallery project as approved by Design Review and the Planning Commission. If you look at the building now as built, it looks very different on both floors, and the CBI itself is protesting the changes, as per the above memo from planner Gary Gillette.
We have recently found out that Mr. Landvik has proceeded without the required building permit, as shown at the left, threatened with a stop work order.

We also reproduce the stop work order alluded to in the opening brief. H-piles for a sheet pile template were driven on November 20, and on November 21, the very first day of sheet pile driving, Landvik was stopped for a violation of the grading permit, which specified allowable rainfall amounts.

Date 11/21/2000

To the Owner, Agent, Contractor, Workers or any other person or person engaged in doing or causing work to be done on this building:

Driving sheet piles when past 24 hr.

By authority of Section 19.01.090(b) of the Code of the City and Borough of Juneau, the Building Official has inspected these premises and has found work being carried on in violation of Section 19.01.110 of the Code. Pursuant to Section 19.01.090(d) it is therefore ordered that all parties concerned shall immediately

STOP WORK

Resumption of work and removal of this notice shall be authorized by the Building Official upon full compliance with the Building Codes.

Violation of this order is a misdemeanor punishable by a $1,000 fine. Repeat offenders may also be punished by 90 days imprisonment. Violators are guilty of a separate offense for each and every day during any portion of which a violation is committed, continued or permitted.

Hand delivered to Steve Landvik

Time of issuance: 12:45 pm.

By

Building Official
We do not have room to show our proof of all the violations of Mr. Landvik's that we allude to in our opening brief, which Mr. Walsh writes are incorrect. We have photographs that show that the falsified information in the engineering report submitted by Landvik is indeed false. There was a landslide (see p.2 of this brief for a photo); the cracks were deep, not surface; they occurred not over time but with the sheet piling; they were not just in the fill area but in the hill proper; and the subsidence under the Bonnet-Woodie house happened after the sheet piling, not the excavation. (As to our assertion that two sheet piles and all anchors were installed without the special inspector, a new look at the files shows that there was a special inspector for some of the anchors, but for one month, during which the damage to the hill occurred, there was no special inspector on site making daily reports as required. Terry Brenner agreed that "there was a gap there," in a recent conversation about the files.)

We mean no disrespect to the Planning Commission, but we are truly afraid of Mr. Landvik's operations on our hill, and we need the help of the Assembly. The answering briefs attempt to reassure that a hillside endorsement will be required, but the hillside ordinance specifically prohibits any grading before an application; and the whole massive commercial Lot 1 has already been graded! They say that the Fur Gallery project made the hill more stable, and that the "very minor" damage was made good by Landvik. But the photos above show destabilization under the apartments off to the side of the wall, and a large opening in my humble art studio door on the other side of Carrol Way (which Landvik has not made good.) Large sheet-pile installations cause destabilization in our loose hill. We have never said that development should be prohibited in our neighborhood, just that it should be small. Please, Assembly, help our defenceless community get a smaller new project by denying this ROW vacation!