

Machizukuri Talk

2020. 07. 15

Summary

Niseko Machizukuri Kenkyukai (Machi-ken) submitted about 1,000 signatures to the Mayor of Niseko on March 23, 2020. We requested that the town and residents have a forum to exchange views on recent development in the town and “Quasi-urban Planning”. On July 15, 2020, the town and residents had an opportunity to discuss this with a total of 15 people - seven from the town hall and eight residents, mainly members of Machi-ken and Obirame-no-kai. After submitting the signatures, we studied more about the Quasi-urban planning areas, and based on our new knowledge of the characteristics of “Landscape ordinance”, we talked about the legal regulations of Quasi-urban planning areas, the briefing of the development for locals members and so on. At the end of the meeting, we all agreed to organize similar meeting on a regular basis so that we can discuss issues about development in Niseko and ideas of Niseko’s city planning.

Opinions on Quasi-Urban Planning Area (Residents)

1. Machi-ken members read the minutes of the meeting on the introduction of Quasi-urban planning in 2008 and compared then and now. The minutes state that the area could be expanded in the future if necessary. Also, the minutes mentioned that the possibility of re-examining regulations and other factors in the future. We believe it’s a good idea to conduct a survey of the current situation now, more than 10 years after the Quasi-urban planning has been established. It will be a good time to review the regulations, including numerical values and sharing the results of the survey with Kutchan Town to see a big picture of future of Niseko area.
2. To me, it seems that Niseko's regulations on Quasi-urban planning seem to be more loose than Kutchan. For example, Kutchan's official building code advises that snowfall distances should be calculated and set back by that amount. I would like to discuss the

differences between Niseko and Kutchan and find out what the residents of Kutchan think of the current situation.

3. Inviting someone from Kutchan to talk about the legal regulations and other issues and organizing a study session to share information on the current situation in Kutchan will be useful for us and them both.

Opinions on Quasi-Urban Planning Area (Niseko Town)

1. “Quasi-urban planning area” and “Landscape ordinance” of Niseko town are keeping large scale development away from us. Topography and infrastructure also contribute to the inability to develop easily. After considering the situation in Kutchan 10 years ago, we managed to add some restrictions and we believe that there is minimal congested development in Niseko compared to Kutchan.
2. When we put in regulations, we do a survey of the current conditions, survey the area, and then determine the line of regulations that can be put in place based on the conditions of the district. Since the regulations will be placed on existing buildings, we can't just put out a bunch of buildings that are subject to the new regulations.
3. According to the Civil Code, there is a provision that the distance is basically 50cm, but there is an indication that the distance is not limited to that depending on the situation of the area. For example, it is customary to build a house even if the distance is less than 50cm if it is in an urban area where there are walls right next to the building.
4. Kutchan is divided into 12 zones, and the coverage ratio is 30% or 40%, which is stricter in some areas than in Niseko, however certain zones have a floor area ratio of 400% which means you can build much higher.
5. Kutchan regulates distance from boundary line as 1.5m for small buildings and 2.5m to 3m for large buildings. This means it's possible to allow only 3m distance from the neighboring property, which makes you feel condensed even the coverage ratio is 30%. When we saw how closely you can build in Kutchan, we decided to set the distance from boundary lines as 3m so that we can have bit more space than Kutchan.
6. This is my personal view but it is clear that there are some cases which cannot be dealt with the ordinance alone.
7. In the Landscape Ordinance, changes in land shape of 5,000 square meters or more in area are subject to consultation. Cut-outs or fills of the land involving alterations of 30cm

or more are also subject to consultation. However, since some people doubted whether it was fine to have the definition for “changes of land shape” be so limited, we also consider any changes that alter land use as a change in land shape, even if there are no actual cut-outs or fills of the land. This has applied to projects from the last few years. However, it can become very difficult to beat a developer’s case if we get involved with them legally. As we anticipate it will be more difficult in the future, we revised the rules regarding this point on April 1st after speaking with the City Planning Board in 2019.

8. It is difficult for us, the town to decide whether to take the position of the residents or the developer, and there are many areas where they can only operate within the law. If you have any suggestions on how we can improve on these issues, we are keen to hear your opinions.
9. Kutchan mentioned the distance of snowfall in its guidelines, but this is not legally binding, so if the developers get in the way of this, that's the end. In reality, the town of Kutchan is having a hard time dealing with this matter.
10. There is a standardized method for calculating the snowfall distance, but it varies depending on the slope and area. In the case of Niseko, the snowfall varies greatly from place to place, making it difficult to define a uniform distance. In the town center area, sloping houses cannot be built on slopes, and so we do not calculate the distance of snowfall for this reason.
11. According to Hokkaido's Building Code Enforcement Ordinance, measures must be taken to prevent snow from falling on neighboring properties, so it is necessary to take some kind of precautions to prevent snow from falling, such as snow stops. Your opinion will help us to consider whether or not the current figure of 3 meters is appropriate.
12. Kutchan has a formula for calculating eaves height and building height, and in the Yamada area there is a maximum of 3 meters in terms of height regulations, and even if the height exceeds 10 meters, it varies from place to place, and in some areas there are no height regulations.
13. If the Landscape Ordinance was the only rule we have, we could have made various suggestions and opinions from the beginning of the plannings. However, since Quasi-urban planning legally guarantees a height of up to 15 meters, it is difficult to lower the height. In other words, developers have a right to build 15 meters high buildings. Then, it becomes a question of the balancing in between property rights and our living conditions. We are wondering whether it is really good to regulate from this point.

Opinions on Landscape Ordinance (Residents)

1. The Niseko Town Landscape Ordinance is based on information sharing and public participation, and is unique in that it requires developers to hold public information meetings. Unfortunately, most residents are unaware of this. Can't the ordinance be made more widely known and made into a tool that is easy for residents to talk with developers?
2. The guidance notes by the Town for developers encourage them to explain the project to adjacent residents even if they are not required to hold an information meeting, or to hold an information meeting if requested. The document stresses the importance of communication between residents and providers, but unfortunately, there are some cases where this is not sufficiently communicated. Could the town give a little more guidance to those developers who think they have met all the figures and conditions within regulations and therefore do not hold an information meeting for residents?
3. Please reconsider the definition of concerned residents who are eligible to participate in the information meetings by developers. I would like to see a broader scope of participation, as some recent developments have affected a wide area and the entire town. It would be great if the residents can access to the report of these meetings which are submitted to the town after the meetings.
4. From the developer's side, there are some aspects of the project that are difficult to change after construction has begun. How can the residents respond to such cases? If they can't compete with the Landscape Ordinance alone, wouldn't it be better to consider reviewing the Quasi-urban planning area?
5. If the town wants us, the residents to stand up and discuss the issue on our own, we need to have deeper knowledge to compete with the developers or consultants who attends public information meeting. When we attend these meetings, we often come across the fact that residents don't know enough about the regulations or the rules to ask necessary questions at these meetings. It would be great if the town could support us in acquiring the knowledge so that we can argue with developers on the same (or similar) level.
6. It's a pity that most of the residents are not aware of "community agreement" included in the Landscape Ordinance which is a very reliable tool when used well. It is frustrating that the residents do not know how to use the landscape ordinance well.

7. I think it would be a good idea to consider the landscape that the residents want to protect in a comprehensive manner, such as “the designation of important landscapes” and “hometown viewpoints”. If there is a strong will and movement of the residents who want to protect the area, the developer will understand the residents and will have no choice but to proceed with the plan favorably. In order to make more use of the Landscape Ordinance, I believe it is also necessary for the residents to make an effort.
8. The explanatory materials for the Landscape Ordinance on the website include a description of the screening criteria in the landscape ordinance construction rules, but the content is not sufficient. Since it is only listed as a reference, it is only a request, but important points such as leaving vegetation as much as possible and consideration for snow accumulation spaces are clearly stated. We think it is necessary to have these topics thoroughly understood again by the developers.
9. It is difficult for the residents to encourage developers to respond to the topics above (8) in advance before the project starts. Recently, I'm more aware of the need for developers to communicate the details of their projects to the community in advance. If the developers can hold a public information meeting based on this, there is a high probability that the residents' questions and uncertainties will be resolved.
10. How about encouraging the attendance of the owner of projects as well as the consultant when they visit town office to discuss their building plans at the first point of contact? Would it be more meaningful to encourage communication between the owner/developer and the resident side?
11. Rather than just imposing regulations, could we introduce incentives for the developers to improve their reputation if they engage environment friendly approach and proactive communication with local residents? It is necessary to devise ways to bring out the positive aspects of the developers, rather than holding them back.
12. Generally speaking, when the developers are overseas companies, they set up local subsidiaries to handle the operation of the project together with a consultant. There have been cases where construction work has been started without any changes to the project despite the fact that the developer promised to hold another meeting to address issues that were not fully answered at previous meeting. In some cases, the meeting was held only after residents inquired again, which was a violation of the obligation to inform the meeting at least 10 days in advance, but they announced it the day before the meeting was to be held. The company must have felt that holding an information meeting for residents would complicate the situation of their project.

13. There are developers that place great value on honesty in their dealings with the environment and water, such as the installation of a water purification system tied to a biotope at a cost of nearly 3 million yen for a new construction project in Arishima, and the construction of a factory that decided to spend more money than originally planned on a drainage system in consideration of the impact on the ponds managed by the Obirame-no-kai. Some companies are responding to Niseko town's commitment to protect the environment. It's a burden, but it would be nice to be able to show that we can also have an advertising effect. I want to think about a system to bring out the best in them.
14. What if we feature examples of companies that share the town's commitment to environmental conservation in the PR media of the town? How about introducing them in a place where they can be read by anyone?
15. Niseko Town claims that it "regulates overdevelopment through a strict system that can stipulate penalties" but this seems a deceitful statement to me because the mayor has always talked about the importance of residents' actions. There are quite a few residents who have a false sense of security with what they believe to be effective town regulations. As a result, these people have little sense of urgency and little inclination to take action.
16. It's not just a matter of enacting an ordinance and leaving the rest up to the residents; the residents have to fight against it, so until the residents, who are the main actors, have the power to stand up, the town needs to patiently make them aware of the ordinance.
17. I have been living in Niseko for more than 20 years, but until the new construction started behind my house, I wasn't particularly aware of town administrative matters and didn't know anything about the Landscape Ordinance. I've finally realized that I need to study up on this, and it would be great if there were more opportunities for residents to learn about the Landscape Ordinance and other aspects of town planning.
18. It seems that activities of [Obirame-no-kai](#) so far have been successful in spreading the word that we are picky but we are honored to have our organization play a part in various projects in Niseko Town. The more people know that Niseko is a tough place to invest and that it costs a certain amount of money to move into the area, the more opportunities there will be to work with developers.

19. It would be great if public information meetings by developers were held on Saturdays and Sundays. And, I would like to see town officials attend and listen to what the residents are thinking, feeling and acting towards new development.
20. What is a landscape? There is no definition of this in domestic law or ordinances. We would like to study and learn if there are any reference points, including examples from overseas.
21. Machiken is planning to organize several study groups and share them with other groups, but it would be good for us and the town both if we can have an opportunity to exchange opinions several times a year, like today, where we could exchange information and ideas. Today's meeting was organized by Machiken, but I think it would be good if other groups could participate or organize the meeting.

Opinions on Landscape Ordinance (Niseko Town)

1. Since 2002, Niseko Town has spent nearly three years discussing various issues in order to leave a good environment for our children. The key to prevent over development is the water environment. We believe that protecting the water will lead to the protection of our children. It was during this process that Niseko Town came up with the Landscape Ordinance and the Basic Environmental Ordinance. Even if we thought it was a good idea at the time, things have changed over time. I would like to discuss with everyone what the current ordinances and regulations are and how they should be implemented in the future.
2. During my 11 years as mayor, I have refused a significant number of large developments, especially high-rise buildings. As a town with views of Mt. Annupuri and Mt. Yotei, buildings of 80 or 100 meters high are not appropriate. We have been refusing applications for such projects, saying that even though it would be difficult to legally regulate, it is not something that the town would agree with.
3. However, times are changing rapidly. What was good to discuss at the time is changing with the times. I would like to discuss with everyone, including ordinances and regulations, the way things are now and what we should do in the future, as we continue to build on these issues.
4. There are two-story condominiums in Annupuri now, but there are no large condominiums in town. The basic idea of Niseko town is to assume there is a possibility

that buildings will be abandoned in the future and act accordingly. The challenge is how to leave a good environment for future generations as a SDGs model city.

5. The root of the Landscape Ordinance is to let the community know that there is a construction plan, share information about it, and have a place to talk about it. If there is earthwork, we recognized it as an opportunity for developers to communicate with local residents.
6. Kutchan Town has an ordinance to protect and nurture its beautiful scenery. There are rules for notification of changes in the form of buildings, structures, land, and outdoor advertisements, but looking at the flow of procedures, it appears that the regulations are applied only for buildings. The screening standards are only set for buildings, and the Kutchan town examines the buildings once, and then applies for approval under the Landscape Law. As for development, the town only regulates under the City Planning Law.
7. The original plan for the apartment near Niseko Station was to build much higher. However, as a result of talking to the developer about the Landscape Ordinance, the influence to the yellow bridge and the view of the central warehouse near the station, they settled on the current height of about 11m. On the other hand, there is a height restriction of 15 meters if the project is in a Quasi-Urban Planning Area. In other words, it is the right of the developers to build up to 15 meters.
8. If your basic human rights or your living conditions are violated by the things standing there, you can fight from the viewpoint of the tolerable limit. Therefore, we have been discussing whether it is really good to impose regulations or not when we enacted the Landscape Ordinance.
9. Niseko town has always claimed to be a self-governing community and that's why we didn't set regulations, and we made it a legal requirement to discuss with everyone when building anything over 10 meters in height.
10. "Ordinance of Beauty" of Manazuru City, Kanagawa Prefecture is led by Professor Keiki Igarashi of Hosei University and it was the first regulation to be enacted in Japan. We learnt a lot from this ordinance.
11. It would be difficult to see how a hotel or other facility could come and do business where residents and the town are opposed to it. I believe that many businesses have left Niseko in the past because they thought that they would not be able to achieve their

projects. Throughout my work as mayor, I realize the power of the local residents means a lot.

12. Last year, we had several town gatherings and one developer attended the one in Arishima area . He said, "Niseko is the hardest place to invest. If all part of the town were within a Quasi-Urban Planning area, the regulations would be clearer and we could come up with a variety of plans. However, Niseko has a Landscaping Ordinance, public information meetings, and procedures at the town hall, and even if you invest and draw up a blueprint, sometimes you will have to change it completely. Niseko town is missing out on even good investments." However, if a uniform regulation is put in place, it becomes the right of the developers to build within regulation. I think the spirit of the current Landscape Ordinance is great as it is.
13. The Construction Division at the town hall is the first point of contact for developers when they come for consultation. Most of them are consultants and most of them are aware of the snow problem. As for the new apartment project in center area, we have informed the developers of the narrow space in between the house next to it. According to the civil code, 50cm of distance from the land next is secured, and it is the house next door whose rooftop snow falling on their land should take precautions. Since their opinion is proved by the civil code, we, the town officials couldn't argue further.
14. Even though the town may explain the process, the consultants will proceed in accordance with the legal building rules. Personally, I feel that details of communication with the town and consultant may not have reached the actual project owners.
15. The City Planning Board has a right to publish the name of the company in case of violation. However, these companies can quickly change their name to a new one and come back out again, which is not effective as a punishment to the public. I'm sure for a well-known company it would be effective to publishing its name, but this needs to be reconsidered.
16. If the names of the designer and construction contractors of the project were to be made public, it will be effective as a penalty. If it is a large hotel, I think it would be very painful. We are in the midst of studying this issue, but some experts are of the opinion that it would be a bit unwise to publish their names under the current regulations, so we may need to think about pros and cons.
17. Even if a third party, not the town, publishes the name of the contractor, it would be defamatory and could be sued. Publishing an individual's name without any proof is risky

in the days of internet where it spreads all at once and there is no basis to refute the lawsuit when it is filed.

18. Presence of the owner him/herself at public information meeting can be required in future. This is something we can think about.
19. I think that is bit difficult since the owner's residence is often outside of Japan. This is the reason why the owner hires consultants to deal with Niseko town and local residents.
20. One telecom company once said that Niseko's Landscape Ordinance is one of the strictest all over Japan.

Other topics

1. When we were working with Obirame-no-kai to write our opinion about Landscape Ordinance, we thought we should add a provision of water in existing ordinance. But we were advised that the standards by the Obirame-no-kai are quite stringent and should not be applied as a general reference value. However, we would like to explore the quality of the water in Niseko in addition to the discussion over scenery.
2. Niseko town will consider water supply, drainage, and river discharge as issues to be addressed in the future. We are also concerned about whether there are clear standards about the increasing number of condos; will these buildings be managed in 50 years? As for materials, concrete is good, but what about wood? At the same time, we see deforestation as an issue that needs to be studied more deeply.
3. What is a typical landscape of Niseko? Is Hirafu a bad landscape? If the landscape is to be damaged, what are the criteria? In the regulation, the criteria is described as "seriously damaging". I think about the difficulty in explaining clearly what the definition of "seriously damaging".
4. The regulation of property rights is always on my mind when I think of this town. How do we think about principle of freedom of land use? The Japanese government is promoting the liquidation of land. Please understand that we are in the process of liberalization of the land. In the past, you had to plant trees when they were cut down, but now there is no need to plant trees. How can local governments maintain their autonomy when the government is allowing them to do so freely? We have to think about how we can protect the autonomy of local governments in the situation where the national government allows them to do so.

5. Obirame-no-kai is the face of Niseko, we respect their work to preserve the environment in the spirit of self-government such as making Arishima Pond. The basic premise that we, too, are trying to protect our water is the basis for the creation of a basic environmental plan for the town of Niseko.
6. While valuing the view of the landscape, we would like to promote the development of a sustainable town that is not confused by transient money. We want to build a society that shifts the priority from economy to the quality of life.
7. Niseko town wants to encourage residents to exchange ideas at gatherings like today or invite an expert to study more, we would like to make full use of the town's network and create more opportunities to learn. If you have an expert you would like to invite, we will be happy to support you physically and financially.
8. I would like to organize a lecture of Prof. Shigemura (Professor of the Faculty of Engineering, Kanagawa University).

Edited and translated by Yuriko Yamada