

CITY/BOROUGH OF JUNEAU

★ **ALASKA'S CAPITAL CITY**

**PLANNING COMMISSION
NOTICE OF RECOMMENDATION**

Date: June 14, 2012

File No.: CSP2012 0012

City and Borough of Juneau
CBJ Assembly Members
155 S Seward Street
Juneau, AK 99801

Application For: Planning Commission Recommendation to the City and Borough Assembly regarding a lease renewal for an existing telecommunications tower at West Juneau reservoir site.

Legal Description or ROW name: USS 3853 Lot 1 Fraction

1Property Address: 3000 Jackson Road

Parcel Code No.: 3-D05-0-100-002-1

Hearing Date: June 12, 2012

The Planning Commission, at a regular public meeting, adopted the analysis and findings listed in the attached memorandum dated June 1, 2012, and recommended that the City Manager direct CBJ staff to renew the telecommunications tower lease in accordance with the following suggestions:

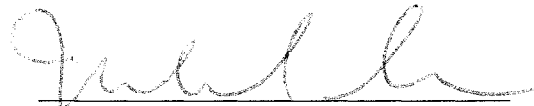
1. When a new antenna or other radio frequency emitting device is added to the tower, review for compliance with FCC maximum electromagnetic radiation emission levels may be required.
2. The applicant will maintain the tower in a dark color.

Attachments: June 1, 2012, memorandum from Laura A. Boyce, Planner, Community Development, to the CBJ Planning Commission regarding CSP2012 0012.


This Notice of Recommendation constitutes a recommendation of the CBJ Planning Commission to the City and Borough Assembly. Decisions to recommend an action are not appealable, even if the recommendation is procedurally required as a prerequisite to some other decision, according to the provisions of CBJ §01.50.020(b).

Project Planner:


Laura A. Boyce, AICP, Planner
Community Development Department


Michael Satre, Chair
Planning Commission

City and Borough of Juneau
CBJ Assembly
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 6/15/2012
Filed With City Clerk Date

cc: Plan Review

NOTE: The Americans with Disabilities Act (ADA) is a federal civil rights law that may affect this development project. ADA regulations have access requirements above and beyond CBJ - adopted regulations. The CBJ and project designers are responsible for compliance with ADA. Contact an ADA - trained architect or other ADA trained personnel with questions about the ADA: Department of Justice (202) 272-5434, or fax (202) 272-5447, NW Disability Business Technical Center (800) 949-4232, or fax (360) 438-3208.


MEMORANDUM

CITY & BOROUGH OF JUNEAU

155 South Seward Street, Juneau, Alaska 99801

DATE: June 1, 2012

TO: Planning Commission

FROM: Laura A. Boyce, AICP, Planner
Community Development Department 

FILE NO.: CSP2012 0012

PROPOSAL: A lease renewal on CBJ land for an existing communications tower at the West Juneau reservoir site

GENERAL INFORMATION

Applicant: City and Borough of Juneau

Property Owner: City and Borough of Juneau

Property Address: 3000 Jackson Road

Legal Description: USS 3853 Lot 1 Fraction

Parcel Code No.: 3-D05-0-100-002-1

Site [parcel] Size: 7.33 (Lease area 3,200 square feet)

Zoning: Rural Reserve (RR)

Comprehensive Plan
Future Land Use Designation: ULDR Urban Low Density Residential

Utilities: No Sewer, Public Water

Access: Jackson Road

Existing Land Use: CBJ Water Tower, Private Telecommunications Towers

Surrounding Land Use: North - RR; Dan Moller Trail Parking Lot; Jackson Road
South - RR; Vacant State Land; No Road Connection

East - RR; RR; Vacant State Land; No Road Connection
West - D-5; Vacant Private Land

ATTACHMENTS

Attachment A	Vicinity Map
Attachment B	Application Materials
Attachment C	Public Notice

PROJECT DESCRIPTION

The applicant, DCS Tower Sub, LLC. (DCS), requests to continue a lease with CBJ at the West Juneau reservoir site to allow for the continued use of DCS's existing wireless communications tower/facility.

BACKGROUND

DCS has applied to lease approximately 3,200 square feet of CBJ land at the West Juneau reservoir site to allow for continued use of DCS's existing wireless communications tower and facility. The existing 180 foot tall tower was originally approved with Conditional Use permit CU-31-95. The 180 foot tall tower includes an accessory control building.

ANALYSIS

The subject site is located at the end of Jackson Road at the West Juneau reservoir site near the existing water tower. The Dan Moller Trail parking lot is located nearby (See Attachment A). There are currently four towers located in the vicinity of the Water Tower. The current owners of the towers are AEL&P; ACS; White Oak Towers of Alaska, Inc.; and DCS Tower Sub, LLC. These four towers were approved by individual Conditional Use permits.

The proposed lease terms and conditions for the DCS lease are similar to those recently approved by the Assembly for the ACS tower at the same site (CSP2011 0006). The new lease document will update rent and bring terms and conditions in line with current CBJ leasing practices. The lease would be for a term of five years and allow for three five-year renewals. Subleasing would be allowed based on a revenue sharing schedule in which DCS would share a percentage of rent it collects from its sublessees with the CBJ. DCS's current business plan involves renting space on its tower for equipment owned by various service providers. Other terms of the lease would limit use of the site to maintaining, repairing, operating, and leasing a communications tower/facility. The Lessee shall ensure all equipment and activities on the leased premises operate in a manner which will not cause unreasonable interference with the operations of the CBJ or other authorized users in the vicinity of the leased premises.

According to the Land Use Code section 49.10.170(c) *City and borough land acquisitions, disposals, and projects*, "The commission shall review and make recommendations to the Assembly on land acquisitions and disposals as prescribed in title 53, or capital improvement project by any City and

Borough agency. The report and recommendation of the commission shall be based upon the provisions of this title, the comprehensive plan, and the capital improvements program.”

This lease requires a consistency review to ensure that the proposed project is consistent with adopted plans.

CONFORMITY WITH ADOPTED PLANS

The project was reviewed for consistency with the 2008 Comprehensive Plan (Plan). The Plan designates the site as Urban Low Density Residential (ULDR).

Urban Low Density Residential

These lands are characterized by urban or suburban residential lands with detached single-family units, duplex, cottage or bungalow housing, zero lot-line dwelling units and manufactured homes on permanent foundations at densities of one to six units per acre. Any commercial development should be of a scale consistent with a single-family residential neighborhood.

Though the site does not consist of any residential dwellings or uses, it has become a popular site for telecommunication infrastructure. These towers have been constructed next to a water tank and will not likely affect any future development.

The Plan does not speak directly about telecommunication towers or related infrastructure. However, given Juneau’s remoteness and the location of the Capitol, it is critical to maintain adequate telecommunication technology and service.

Staff finds the continuation of an existing tower in an area used by other telecommunication carriers an appropriate land use, and is consistent with the Comprehensive Plan.

Towers are identified as a permissible land use in the Rural Reserve zoning district, as noted in the Land Use Code. Those that are over 50 feet in height, such as this one, require an approved Conditional Use permit, which this one received in 1995. Towers must also meet all yard setback requirements. The height of towers is not restricted to the building height. The subject tower is complies with the required setbacks. It is not near any dwelling or privately-owned commercial buildings, other than adjacent auxiliary buildings (sheds). Therefore, it will not endanger nearby buildings in case of collapse.

HABITAT

The proposed lease area will not affect any mapped sensitive environments. The tower and accessory control building are already constructed and exist.

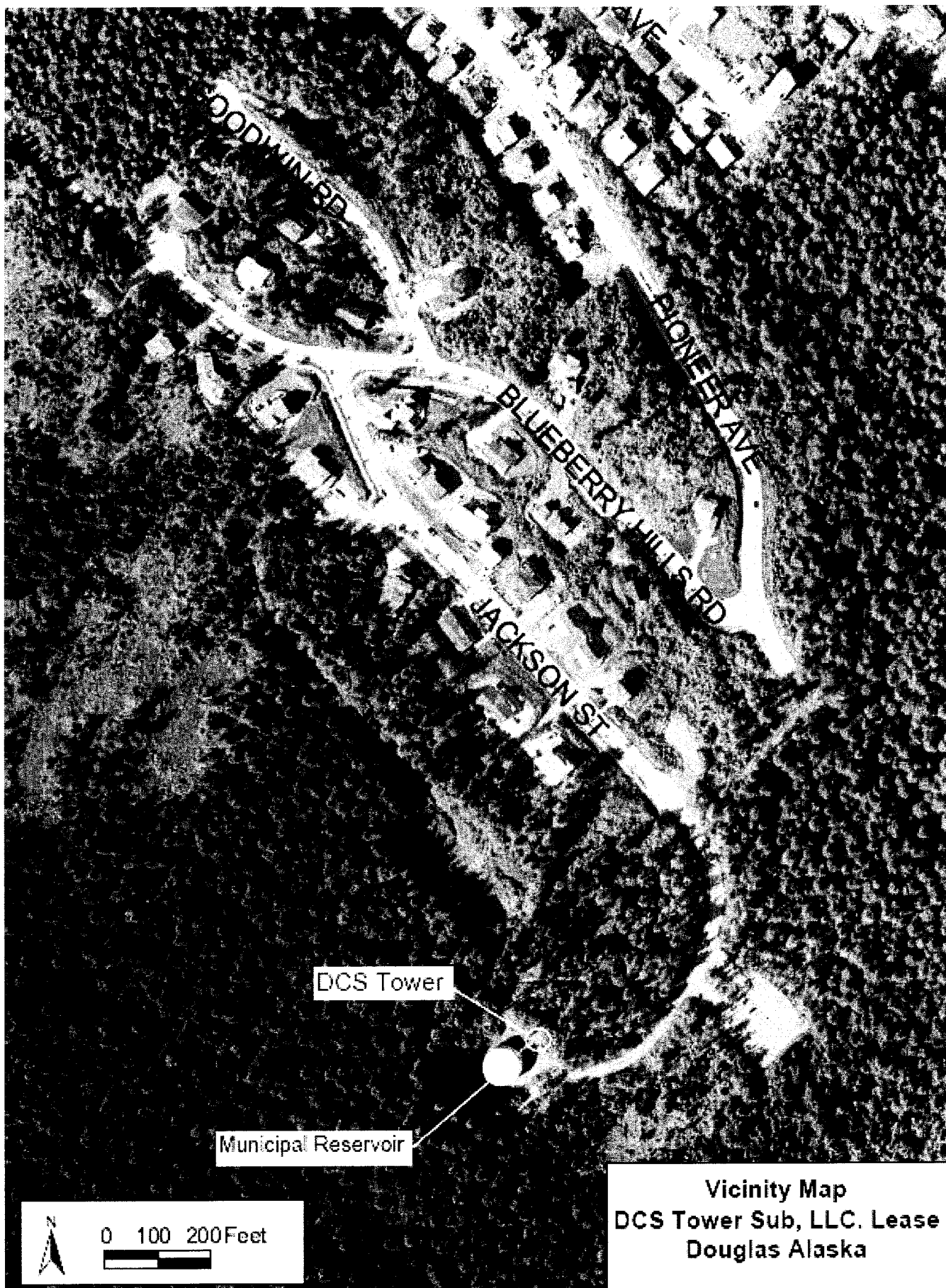
FINDINGS

Staff finds that the project is consistent with adopted plans.

RECOMMENDATION

It is recommended that the Planning Commission adopt the Director's analysis and findings and recommend approval of this City Consistency Review to the Assembly with the following suggestions:

1. When a new antenna or other radio frequency emitting device is added to the tower, review for compliance with FCC maximum electromagnetic radiation emission levels may be required.
2. The applicant will maintain the tower in a dark color.



ATTACHMENT A

CITY/STATE PROJECT AND LAND ACTION REVIEW APPLICATION

Project Number	Project Name (15 characters)	Case Number CSP 120012	Date Received 5/2/12
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TYPE OF PROJECT REVIEW:

☐ City Project Review
 ☒ City Land Acquisition /Disposal
 ☐ State Project Review

DESCRIPTION OF PROJECT

Lease of CBJ land for existing communications tower/facility

Please attach a cover letter to fully explain the project if there is not adequate space on this form.

CURRENT USE OF LAND OR BUILDING(S):

Communications tower/facility

PROPOSED USE OF LAND OR BUILDING(S):

Continuation of the existing use.

PROJECT NUMBERS ASSOCIATED WITH PROPOSAL:

Is this project associated with any other Land Use Permits? ☐ No ☐ Yes Case No.: DR 29-95

Capital Improvement Program # (CIP) _____

Local Improvement District # (LID) _____

State Project # _____

ESTIMATED PROJECT COST: \$ N/A

For more information regarding the permitting process and the submittals required for a complete application, please see the reverse side. If you need any assistance filling out this form, please contact the Permit Center at 586-0770.	CITY/STATE PROJECT FEES				
		Fees	Check No.	Receipt	Date
	Application Fees	\$ _____	_____	_____	_____
Total Fee	\$ _____	_____	_____	_____	

**NOTE: MUST BE ACCOMPANIED BY DEVELOPMENT PERMIT APPLICATION FORM
&
EVEN IF THE PROPOSED PROJECT IS ASSOCIATE WITH OTHER LAND USE PERMITS, THIS
APPLICATION MUST BE FILLED OUT**

CITY/STATE PROJECT REVIEW REQUIREMENTS

Each application for a City/State Project is reviewed by the Planning Commission at a public hearing. The permit procedure is intended to provide the Commission the flexibility necessary to make recommendations tailored to individual applications.

Application: An application for a City/State Project Review will not be accepted by the Community Development Department until it is determined to be complete. The items needed for a complete application are:

Forms: A completed City/State Project Review Application form and Development Permit Application form. The "land owner or lessee consent" signature is mandatory for all landowners on the Development Permit Application form.

Fees: No fee required for projects that cost less than \$2.5 million. For projects costing more than this amount, the fee is \$1,600.00. All fees are subject to change.

Project Description: A detailed letter or narrative describing the project.

Plans: All plans are to be drawn to scale and clearly show the items listed below:

- A. Plat, site plan, floor plan and elevation views of existing and proposed structures and land;
- B. Existing and proposed parking areas, including dimensions of the spaces, aisle width and driveway entrances;
- C. Proposed traffic circulation within the site including access/egress points and traffic control devices;
- D. Existing and proposed lighting (including cut sheets for each type of lighting);
- E. Existing and proposed vegetation with location, area, height and type of plantings; and,
- F. Existing physical features of the site (i.e. drainage, eagle trees, hazard areas, salmon streams, wetlands, etc.)

Document Format: All information that is submitted as part of an application shall be submitted in either of the following formats:

- A. Electronic copies may be submitted by CD, DVD or E-mail in the following formats: .doc, .txt, .xls, .bmp, .pdf, .jpg, .gif, .xlm, .rtf or other formats pre-approved by the Community Development Department.
- B. Paper copies may not be larger than 11" X 17" (Unless a larger paper size is preapproved by the Community Development Department).

Application Review & Hearing Procedure: Once the application is determined to be complete, the Community Development Department will initiate the review and scheduling of the application. This process includes:

Review: As part of the review process the Community Development Department will evaluate the application for consistency with all applicable City & Borough of Juneau codes and adopted plans. Depending on unique characteristics of the permit request the application may be required to be reviewed by other municipal boards and committees. Review comments may require the applicant to provide additional information, clarification, or submit modifications/alterations for the proposed project.

Hearing: All City/State Project Review Permit Applications must be reviewed by the Planning Commission. Once an application has been deemed complete and has been reviewed by all applicable parties the Community Development Department will schedule the requested permit for the next appropriate meeting. The Planning Commission will make a recommendation based on staff's analysis and forward it to the Assembly for final approval/denial.

INCOMPLETE APPLICATIONS WILL NOT BE ACCEPTED

DEVELOPMENT PERMIT APPLICATION

Project Number	CITY and BOROUGH of JUNEAU	Date Received: 5/2/12
Project Name (City Staff to Assign Name)		

INFORMATION

Project Description Review of lease on CBJ land for existing communications tower/facility at the West Juneau reservoir site		
PROPERTY LOCATION		
Street Address Jackson Road terminus	City/Zip	
Legal Description(s) of Parcel(s) (Subdivision, Survey, Block, Tract, Lot) Fraction of Lot 1, USS 3853		
Assessor's Parcel Number(s) 3 D05 0 100 002 1		
LANDOWNER/ LESSEE		
Property Owner's Name CBJ	Contact Person: C. Johnson	Work Phone: ext. 0224
Mailing Address 155 S. Seward Street	Home Phone:	Fax Number:
E-mail Address cynthia_johnson@ci.juneau.ak.us	Other Contact Phone Number(s): H. Marlow at ext. 0205	

PROJECT / APPLICANT

LANDOWNER/ LESSEE CONSENT ***Required for Planning Permits, not needed on Building/ Engineering Permits***		
I am (we are) the owner(s) or lessee(s) of the property subject to this application and I (we) consent as follows: A. This application for a land use or activity review for development on my (our) property is made with my complete understanding and permission. B. I (we) grant permission for officials and employees of the City and Borough of Juneau to inspect my property as needed for purposes of this application.		
X	<u>Cynthia Johnson for the CBJ</u> Landowner/Lessee Signature	<u>MAY 1, 2012</u> Date
X	_____ Landowner/Lessee Signature	_____ Date
NOTICE: The City and Borough of Juneau staff may need access to the subject property during regular business hours and will attempt to contact the landowner in addition to the formal consent given above. Further, members of the Planning Commission may visit the property before the scheduled public hearing date.		
APPLICANT If the same as OWNER, write "SAME" and sign and date at X below		
Applicant's Name DCS Tower Sub, LLC		Contact Person: Tracy Touzet
Mailing Address 750 Park of Commerce Blvd, Suite 300, Boca Raton, FL 33487		Work Phone: 561-886-3912
E-mail Address ttouzet@gtpsites.com		Home Phone:
		Fax Number:
		Other Contact Phone Number(s):
X	_____ Applicant's Signature	_____ Date of Application

DCS Tower Sub, LLC

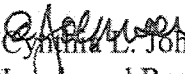
STAFF APPROVALS

Permit Type	Sign	Date Received	Application Number(s)
<input checked="" type="checkbox"/> Building/Grading Permit			
<input checked="" type="checkbox"/> City/State Project Review and City Land Action		5/2/12	09/12-0012
<input type="checkbox"/> Inquiry Case (Fee In Lieu, Letter of ZC, Use Not Listed)			
<input type="checkbox"/> Mining Case (Small, Large, Rural, Extraction, Exploration)			
<input type="checkbox"/> Sign Approval (If more than one, fill in all applicable permit #'s)			
<input type="checkbox"/> Subdivision (Minor, Major, PUD, St. Vacation, St. Name Change)			
<input type="checkbox"/> Use Approval (Allowable, Conditional, Cottage Housing, Mobile Home Parks, Accessory Apartment)			
<input type="checkbox"/> Variance Case (De Minimis and all other Variance case types)			
<input type="checkbox"/> Wetlands Permits			
<input type="checkbox"/> Zone Change Application			
<input type="checkbox"/> Other (Describe)			
***Public Notice Sign Form filled out and in the file.			
Comments:			Permit Intake Initials GFC

MEMORANDUM

CITY/BOROUGH OF JUNEAU
155 South Seward Street, Juneau, Alaska 99801

TO: Greg Chaney, Acting Director
Community Development Department

FROM:  Cynthia L. Johnson, Deputy Land Manager
Lands and Resources Office

SUBJECT: DCS Tower Sub, LLC Lease
Existing Communications Tower/Facility
West Juneau Reservoir Site

DATE: May 1, 2012

The Planning Commission is requested to review and make a recommendation to the Assembly on an application by DCS Tower Sub, LLC (DCS) to lease approximately 3,200 square feet of CBJ land at the West Juneau reservoir site to allow for continued use of DCS's existing wireless communications tower/facility.

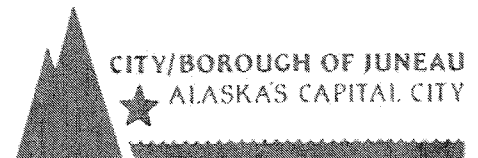
This application is similar in nature to the wireless communications tower/facility the Planning Commission favorably reviewed late last year for ACS Wireless Inc. at the same reservoir site.

Construction of the Water Reservoir and Towers on State Land

In the mid-1980s the CBJ constructed a water reservoir on State land located above the Blueberry Hills Subdivision in West Juneau. The water reservoir was authorized by Right-of-Way Permit ADL 104284, issued by the DNR. Soon after, other entities began expressing an interest in co-locating various communication towers at the site. Over the span of several years, and after consulting with the CBJ, the State ultimately issued four permits/easements to allow for the construction, maintenance and operation of communication towers.

Transfer of Land to CBJ

The CBJ selected the land at the West Juneau reservoir site as part of its municipal land entitlement from the State of Alaska. The State transferred management authority for the land, including administration of the four tower permits/easements, to the CBJ in 2003.



The current owners of the four towers are: AEL&P; ACS; DCS Sub, LLC; and White Oak Towers of Alaska, Inc.

History of the DCS Tower/Facility

Construction of the existing DCS tower/facility was the outcome of an easement developed in 1996 between the State of Alaska (as landowner/grantor) and AK 03 Cellular Corporation d/b/a CellularOne (as grantee). In the ensuing years, the CBJ selected the subject land from the State of Alaska and the CBJ now has full management responsibilities for the site. DCS has assumed control of the tower easement from CellularOne.

DCS's current business plan involves renting space on its tower for equipment owned by various service providers. The State-issued easement did not address this sort of subleasing arrangement. Given that subleasing is an essential part of DCS's business plan as well as the fact that its current easement is set to expire in 2016, DCS is eager to enter into a new, longer leasing arrangement with the CBJ, one that accommodates subleasing. The CBJ, in turn, will benefit from the revenue-sharing formula in the new lease. Additionally, the more robust terms of the lease will better protect the CBJ's interests at the site.

Department Review

The Public Works, Engineering, Community Development, Parks and Recreation and Police departments were consulted and invited to comment on the proposed lease; there were no objections to DCS's continued use of the site for its communications tower.

Lease Terms and Conditions

The proposed lease terms and conditions for the DCS lease are similar to those recently approved by the Assembly for the ACS tower at the same site. The new lease document will update rent and bring terms and conditions in line with current CBJ leasing practices. The lease would be for a term of 5 years and allow for 3 five-year renewals. Subleasing would be allowed based on a revenue sharing schedule in which DCS would share a percentage of rent it collects from its sublessees with the CBJ. The use of the site would be for the purpose of maintaining, repairing, operating, and leasing a communications tower/facility. Lessee shall ensure all equipment and activities on the leased premises operate in a manner which will not cause unreasonable interference with the operations of the CBJ or other authorized users in the vicinity of the leased premises.

Planning Commission Review and Recommendation

The Lands and Resources staff request this lease application be reviewed by the Planning Commission and that the Planning Commission's recommendations be forwarded to the Assembly.

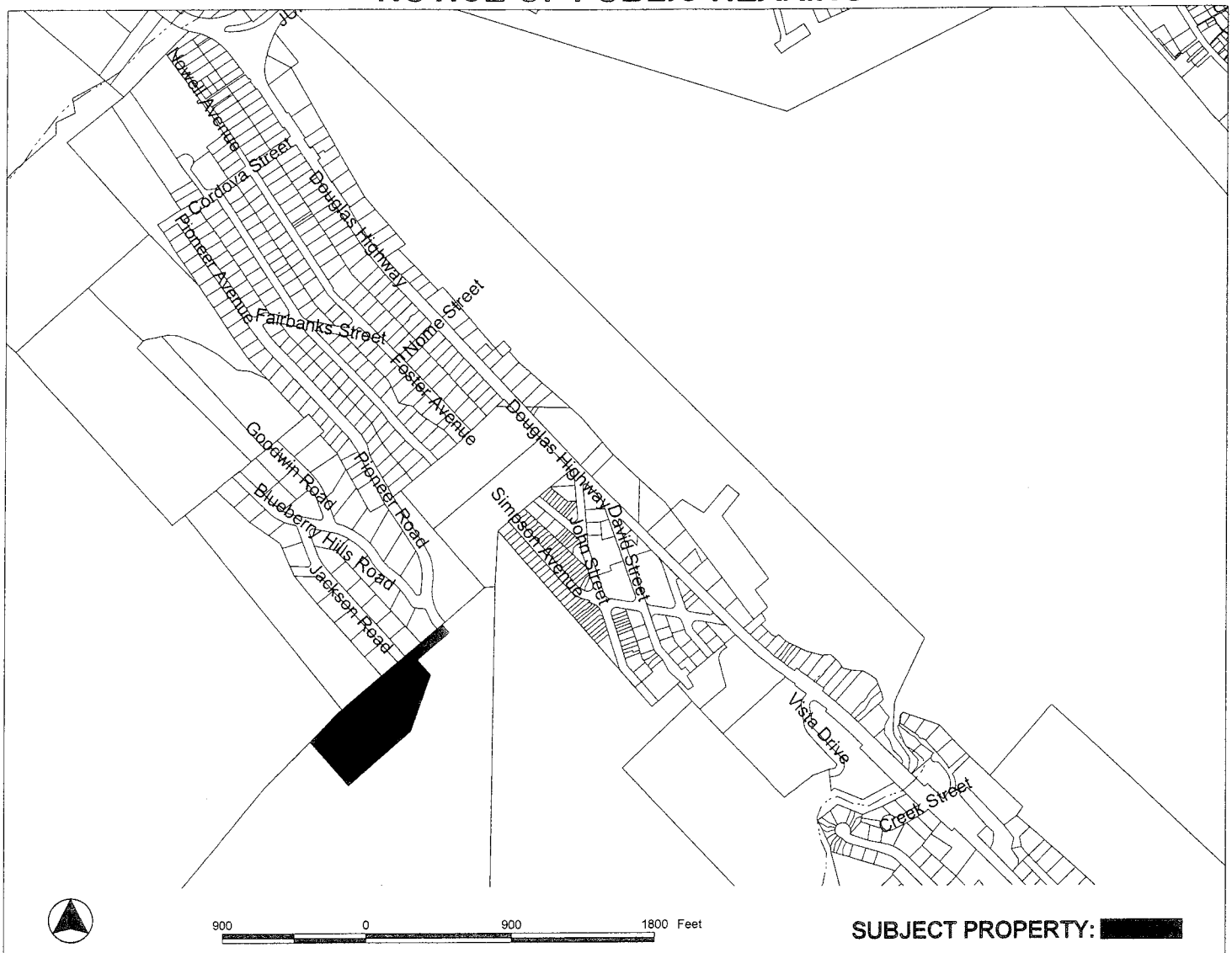
Please notify our office once this matter is scheduled on a Planning Commission agenda.

cc: Tracy Touzet, DCS Tower Sub, LLC
Heather Marlow, CBJ Land Manager

APPROVED
DATE: 11/11/11
BY: [Signature]



NOTICE OF PUBLIC HEARING



PROPOSAL: Lease renewal application for an existing telecommunications tower at West Juneau reservoir site.

FILE NO:	CSP 20120012	APPLICANT:	DCS TOWER SUB, LLC
TO:	Adjacent Property Owners	Property PCN:	3-D05-0-100-002-1
HEARING DATE:	June 12, 2012	Owner(s):	State of Alaska & City and Borough of Juneau
HEARING TIME:	7:00 PM	Size:	7.33 acres (lease area 3,200 sf.)
PLACE:	ASSEMBLY CHAMBERS Municipal Building 155 South Seward St Juneau, Alaska 99801	Zoning	Rural Residential
		Site Address:	3000 Jackson Road
		Accessed via:	Jackson Road

PROPERTY OWNERS PLEASE NOTE:

You are invited to attend this Public Hearing and present oral testimony. The Planning Commission will also consider written testimony. You are encouraged to submit written material to the Community Development Department no later than 8:30 A.M. on the Wednesday preceding the Public Hearing. Materials received by this deadline are included in the information packet given to the Planning Commission a few days before the Public Hearing. Written material received after the deadline will be provided to the Planning Commission at the Public Hearing.

If you have questions, please contact Laura Boyce by phone at (907) 586 0753 or via email at laura_boyce@ci.juneau.ak.us

ATTACHMENT C

Planning Commission Agendas, Staff Reports and Meeting Results can be viewed at www.juneau.org/planncomm.

Date notice was printed: May 30, 2012