

PLANNING COMMISSION
City and Borough of Juneau
Michael Satre, Chairman

COMMITTEE OF THE WHOLE
Wireless Telecommunication Master Plan and Ordinance
April 15, 2014

I. ROLL CALL

Mike Satre, Chairman, called the Committee of the Whole (COW) meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 5:08 pm.

Commissioners present: Mike Satre, Chairman; Dennis Watson, Vice Chairman; Karen Lawfer, Bill Peters, Paul Voelckers, Dan Miller, Gordon Jackson, Nicole Grewe, Ben Haight

Commissioners absent:

A quorum was present

Staff present: Hal Hart, Planning Director; Travis Goddard, Planning Manager, Eric Feldt, Planner II; Rob Steedle, Deputy City Manager; Robert Palmer, CBJ Assistant Attorney II

II. REGULAR AGENDA

TXT2009-00007: Continued discussion of Draft Wireless Telecommunication Ordinance and Master Plan.
Applicant: City and Borough of Juneau
Location: Borough-wide

Mr. Goddard said that staff members met with the Law Department this afternoon to discuss separating the Ordinance from the policy discussion.

Mr. Palmer told the Commission that his purpose at the meeting was to provide guidance on the Ordinance, and how it relates to policy and the Master Plan. He said he was also there to answer any questions Commission members may have.

The Draft Ordinance which has been posted on the web site is not likely to be a version the public is going to see because that Ordinance has not yet gone through review by the Law Department. Mr. Palmer said typically the Law Department gets an Ordinance after it has been

reviewed considering the policy direction from the Commission, and it then drafts an Ordinance reflecting those policies.

Mr. Palmer said currently the Law Department has an Ordinance, but they do not have the policy and how it relates to the Ordinance. Specifically, said Mr. Palmer, they would need to know the hierarchy of structures such as antennas, and what are the preferences of the Commission in terms of ranking those structures.

He provided the Commission with a chart, which he called the CityScape Matrix Summary. This chart contains a number of policy questions, and it gives a ranking schedule regarding how the Commission wants those policies ranked. He said this is the type of document that the Department of Law requires so that it can produce an Ordinance that reflects what the Commission wants in terms of policy.

Mr. Satre interjected and said that this was disappointing. He said the Commission is basically being provided with a community survey for nine Commissioners to fill out. Mr. Satre said he could guarantee that they would get nine separate answers. Mr. Satre said the Commission was originally poised tonight to deal with the Draft Ordinance, make amendments, then turn it over to the Law Department for fine tuning.

Mr. Satre said this makes it feel as if they are starting the process all over again.

Mr. Palmer answered that the Law Department understands the Commission's frustration, and is somewhat troubled itself about the current situation. He said the Law Department needs to get the chart or something similar from the Commission outlining their preferences, such as what type of structure would only require a building permit, and when is a Conditional Use Permit required. He said they needed that kind of policy language so they can formulate the Ordinance. He said the Law Department has not had the opportunity hammer out the Ordinance because they do not have a feel for where the Commission thinks it should be headed.

Mr. Watson said the time for the Law Department to address this would have been the night that the Assembly provided the Community Development Department (CDD) and the Commission with the time line. Mr. Watson said it is now mid-April, and they are being forced to start all over again. Mr. Watson said that he feels this has resulted in a big waste of his time, which he could have put towards other Planning Commission business. He said somewhere there has been a big error in communication on the part of the Law Department.

Mr. Satre asked without stepping backwards, if there was some way they could build on what they had and move forward.

Mr. Goddard said he did not think they were that far apart. He said the Law Department has recognized that a lot of the flaws in the Ordinance identified by the Commission were inherent in the Ordinance itself, as it now stands. The Law Department wants to repackage the Ordinance to make it more effective, said Mr. Goddard. Mr. Goddard said the memo created by CDD staff on April 3, and April 7, identify policy issues. He said once the Law Department

receives clear policy decisions from the Commission, it is ready to step in and draft the Ordinance, said Mr. Goddard.

Mr. Voelckers said he did not know how effective it would be to rehash a generalist exercise when what the document needs is to be fleshed out in the context of a real ordinance.

Mr. Miller said a lot of work remains in reviewing the Ordinance. He added the Commission had not even taken public testimony yet. Mr. Miller said what the Law Department desires in terms of policy decisions from the Commission may not be what it ends up with after further review.

Ms. Lawfer said she felt what the Ordinance needed to define was at what point in time is a Conditional Use required, or a more stringent review. Ms. Lawfer said that for her; defining setback requirements, height, lighting, and public notice were the four items which needed specific policy for the Ordinance.

Mr. Jackson said he thought they would be looking at a third draft of the Ordinance this evening. They have had two work sessions, in which the Commission has identified issues that should be considered. In addition to the Commission work sessions there have been several public meetings held on the topic, where useful information was obtained. Mr. Jackson said they are developing a proposed law which will be followed by the municipality of Juneau, and this is the first time they have seen a lawyer at one of their meetings. Instead, said Mr. Jackson, they have in front of them once again another survey. At some point they at least need a workable draft of the Ordinance before them for consideration, said Mr. Jackson.

Mr. Voelckers asked Mr. Palmer if there is the expectation that the Draft Ordinance that has been out for six weeks will be withdrawn entirely and something different supplanted in its place.

Mr. Palmer said that the Law Department has been working with CityScape closely on the Ordinance. What the Department of Law discovered in the last week, said Mr. Palmer, is that after reviewing the Ordinance together with the comments and reviews collected, is that they needed more policy direction on the Ordinance in able to “effectuate” it. In particular, said Mr. Palmer, they needed policy direction from the Commission on:

- ✓ What determines a building permit
- ✓ What requires a Conditional Use Permit
- ✓ Directions to address height
- ✓ Directions to address lighting
- ✓ Directions to address setback, and
- ✓ Public notice considerations

That is some of the primary information the Law Department needs in order to draft a rough version of the Ordinance for the review of the Commission, said Mr. Palmer, so that it can then take it to the next level.

If the Law Department gets the direction it needs tonight, they can have something out for review by the Commission by the end of next week, said Mr. Palmer. Mr. Palmer said he thinks the draft that will be presented by the Law Department will be substantially different than the current drafts of the Ordinance. He said it would be different enough that the Commission would want to put it out for public comment and take public testimony on the new version.

Mr. Satre said he doubts the Commission will now be able to meet the timeframe as requested by the Assembly.

Mr. Satre added that list handed to the Commission by the Law Department has nothing to do with drafting policy; it is more like a menu, from which they are to take selections. Mr. Satre said policy should be the framework from which statutes are developed, not necessarily a poll.

Mr. Palmer said the menu is one vehicle it is using to obtain the information that it needs from the Planning Commission. He then repeated the list he had given the Commission a few minutes earlier on the policy direction the Department of Law needs from the Commission.

Ms. Lawfer said she also wanted to address abandonment and towers that are no longer in use. She said the Commission has decided it needed to be addressed in the ordinance.

Mr. Watson said there is nothing in Title 19 which addresses that issue.

Mr. Goddard said in the April 7, Staff Report it indicated the original draft had a section which addressed abandonment and fall zones. It stated every 12 months the applicant would be required to do a structural report. The Commission had discussed lengthening that time to five years, said Mr. Goddard.

Ms. Lawfer said she wanted to know at what point the City could step in and take action if needed.

Mr. Goddard said it would be reported to Code Enforcement, which would send an initial notification of violation, followed by a second letter, and if no response, would then result in a full Code Enforcement action, which could result in potential citations and liens against the property owner.

Ms. Lawfer said she wants that reference in the Ordinance.

Mr. Goddard clarified that Code Enforcement would be pursued under Title 49, not Title 19.

Mr. Goddard said he felt the Law Department wanted clarification on Table 1, which distinguishes Building permits from Conditional Use permits, and to take a look at the preference section, and addressing the major policy issues outlined by the Law Department,

should put everyone on the “same page”. The Table was on page 15 of what used to be the Draft Ordinance.

Mr. Feldt said Table 1 was within the Draft Ordinance. It was the threshold permitting section of the Ordinance. If development falls within this table then only a Building permit is required. Neither public notice nor a public hearing would be required, he explained. The permit would be reviewed within the Planning Department.

Table 1: (Proposed) Building Permit Approval Only for Those Listed Below
For Non-Lit Structures

WCF Type	Zoning Districts	Maximum Height	Min. Distance to D1 – D18 Districts	Example Figures
Collection	All	Not more than 10% or 20 ft. added to existing structure	NA	1 & 2
Concealed Roof-top and Attached	D1 – D18	≤ 10 Feet Above highest point of building	NA	3
Roof-top and Attached	D1 – D18	≤ 5 Feet above lowest highest attachment point of building	NA	4 - 6
Roof-top and Attached	Non-Residential and Mixed Use	≤ 30% of Building Height ≤ 20 Feet Above highest point of building	NA	4 - 6
Non-Antenna Support Structures	All	≤ 10 Feet	NA	7
Free Standing Towers				
New Concealed Tower	WI, WC, GC, LC, and RR	≤ 10 Feet above Max. Height of Zoning District	NA	8 - 10

WCF Type	Zoning Districts	Maximum Height	Min. Distance to D1 – D18 Districts	Example Figures
New Concealed Tower	WI, WC, LC, and RR	≤ 60 Feet	> 500 Feet	8 & 10
New Concealed Tower	I	≤ 90 Feet	> 500 Feet	8 & 10
New Concealed Tower	D1 – D18	Compliant with Max Height of Zoning District Essentially a Conditional Use Permit	NA	8 & 10
New Non-Concealed Tower	All except MU, MU-2, and I	Compliant with Max Height of Zoning District Essentially a Conditional Use Permit	NA	11 & 12
New Non-Concealed Tower	RR & I	≤ 60 Feet	> 500 Feet	11 & 12
DAS Nodes/Systems	(Need to define and have mages to properly insert in table)			
DAS Wired Hubs	(Need input here from CBJ)			
Note: except for collocations and towers, the height of the WCF Facility shall be measured from the lowest point of attachment to the building or structure to the highest point of the WCF or its accessory structure.				

Mr. Feldt reviewed the above table for the Commission.

Ms. Lawfer said the DAS (Distributed Antenna System) Nodes and Wired Hubs had not been addressed on Table 1. She asked if the definitions of routine use of these on pages 26 and 29 of the existing Draft Ordinance would be inserted in the Table.

Mr. Feldt said DAS would more than likely be included in Table 1. He said these types of systems are typically at lower elevations because they are feeding a large, dense, user group. He said they do not currently exist in Juneau, but that there are rooftop installations which have a very similar purpose. He said that AEL&P did not express objections to having DAS installed on its existing telephone equipment as long as it was safe and they could work with the carrier.

Mr. Haight said the visual effect of the DAS system is not really different than any existing system, so he said he was not sure if it needed to be listed in the table.

Mr. Feldt said that Non-Antenna Support Structures and Attached Structures could be similar to the DAS. He said he felt the main difference in the DAS was that it consisted of multiple components that provide a large area service, and that perhaps it could be included in one of the other two table components.

Mr. Haight said the DAS could be addressed in the Management Plan, but that it did not appear to be needed to be addressed in the Ordinance as a separate item.

Mr. Feldt said maybe CityScope could give further guidance as to why it felt it needed to be separately addressed. He said the staff will get back to the Commission on this.

Mr. Voelckers asked if the staff could review what the building application itself would consist of.

Mr. Feldt said the requirements of the applicant for the building permit are outlined significantly in the Ordinance itself. Basic existing requirements consist of:

- ✓ Site plan and location
- ✓ Electrical review
- ✓ Building inspectors for structural components and health and safety
- ✓ Radio frequencies compliant with FCC regulations

Mr. Goddard said those specific expectations are outlined in Section 940 of the Draft Ordinance. Those would be submitted with every application, said Mr. Goddard.

Mr. Haight said he was curious about adding separate columns for setback and concealment requirements to Table I. He said different areas would carry different compliance requirements.

Mr. Satre added that lighting may be an additional requirement as well.

Mr. Miller said several other line items in the Table could include distances from districts. Perhaps a taller tower could be allowed if it were further than 500 feet away.

Mr. Goddard said Section 920 of the existing Draft Ordinance carries with it a definition and requirements for concealment.

Mr. Voelckers said it appears the only adjacency the table concerns itself with is housing, when there are many other potential areas such as schools, for example. He added the Table does not address the view shed issue and how it complies with the Comprehensive Plan view shed protection.

Mr. Lawfer said she thought that Table I provided an excellent reference for someone considering the installation of a wireless facility, and what they could consider within the building permit process. If their requirements fell outside of the table, then they would need to apply for a Conditional Use Permit.

Mr. Haight asked if the example figures referred to in the Table could be removed and actually defined.

Mr. Feldt said he tried to assign each figure with a quick description, whereas using the figures themselves required an additional document. He said marrying the descriptions for the figures into Table I may be more efficient.

Mr. Satre said perhaps the picture could be referenced in the Comprehensive Plan.

Ms. Lawfer wanted to address the issue of guy wires.

Mr. Satre asked if guy wires would be considered part of the tower or part of the support structure.

Mr. Feldt said another line stating “with guy wires” could be added to the table. He added that guy wires are currently addressed under general standards, and that they are prohibited in many districts because of how much land they consume.

Mr. Goddard said that would come into play at the site plan review stage. It would fall into the Conditional Use Permit realm, he stated.

Mr. Satre said what he thinks the Law Department is looking for is Commission approval of items such as Table I.

Mr. Miller said he was not sure that the ten foot requirement on a concealed roof-top and attached was the right requirement. He said he felt that was set too low. In the same vein, he said a chimney could not even be erected with the five feet above the lowest attachment point requirement on the Table. These items are set to guide the industry, so they should be made as attractive as possible, he added. The Commission decided to make those height requirements for concealed and non-concealed roof-top attached structures to have the maximum height restriction be set at the highest point of the structure rather than its lowest point.

Mr. Voelckers asked for the maximum height requirement in areas of Non-Residential and Mixed Use. Mr. Voelckers suggested the height be clarified by eliminating the percentage of the building height and leaving the 20 foot descriptor.

Mr. Miller asked if there was a list of how many existing towers were 55 feet in height or less.

Mr. Feldt said the majority of the free standing towers are greater than 55 feet in height.

Mr. Miller asked if there was a certain height above an existing horizon the industry liked to have.

Mr. Goddard said he has read that the arrays have signal direction of a certain strength, which falls off into effectiveness depending upon the direction of the signal.

Mr. Haight said the higher the tower the broader the area they can cover, so there is some incentive to do that.

Mr. Voelckers asked for the reasoning between excluding MU and MU2 from the New Non-Concealed Tower requirements.

Mr. Feldt said there is a lot of incentive to place towers on existing structures.

Mr. Miller asked how many existing towers are 90 feet or lower in height.

There are a few, said Mr. Feldt, with over half the towers over 90 feet in height.

Mr. Voelckers said he wondered if there was some way to encourage putting the larger towers to the edges of the community where they would be concealed more from the general community.

The vast majority of those lands would be RR, said Mr. Satre, which goes back to Mr. Miller's question of if a tower is a certain distance away that it could be higher in height.

Mr. Miller said the rim shot idea works well in Anchorage on the hillsides. In Anchorage, said Mr. Miller, there is power on the hillsides, unlike here.

Mr. Haight said there are a few that can be considered which have access to power, such as the Mt. Roberts Tram, which has towers on it now, and the water towers area. Mr. Haight said the other aspect to these locations is that concealment would be more natural with the towers located against the hillsides.

Mr. Satre suggested that the staff identify those types of locations mentioned by Mr. Haight, and see if it could come up with some distances.

Mr. Jackson said a rim shot could be located on each side of the channel, cutting back on the need for extra towers. He supported the rim shot tower idea as well, he said.

Ms. Lawfer asked if a tower required lighting, if that should immediately kick in to the necessity of a Conditional Use Permit.

Mr. Goddard said the name of the table could be changed to "Non-lit Wireless Communication Facilities".

The Commission was amenable to this edit on the Table title.

PREFERENCE LIST

Mr. Satre said if they changed the preference list they would have to go back and change the Table, which they had just edited. He said they are working backwards.

Mr. Haight said that nonresidential towers would have a higher preference than towers in a residential area.

Mr. Satre said that while he agreed to some point, there were some RR designated lands at key locations within the community.

Mr. Voelckers said they could list the specific districts, instead of just calling them “non – residential”. He said he would include Light Commercial with the residential areas.

The Commission agreed to include Light Commercial with residential areas for the purpose of location preference on the Ordinance.

Mr. Miller said there are several parts of this ordinance which bother him. He said this portion of the Ordinance (920) was not listed in a logical fashion, and was difficult for him to understand.

Ms. Lawfer said from her perspective it was made for the applicant to answer why they could or could not do each option.

Mr. Feldt said it was made for the reason Ms. Lawfer stated, but that he agreed that the flow could be edited to be easier to understand.

III. **OTHER BUSINESS** - None

IV. **REPORT OF REGULAR AND SPECIAL COMMITTEES** - None

V. **ADJOURNMENT**

The meeting was adjourned at 6:46 p.m.