

## MINUTES

### Regular Planning Commission Meeting

City and Borough of Juneau

Mike Satre, Chairman

May 27, 2014

#### I. ROLL CALL

Michael Satre, Chairman, called the Regular Meeting of the City and Borough of Juneau (CBJ) Planning Commission (PC), held in the Assembly Chambers of the Municipal Building, to order at 7:00 pm.

**Commissioners present:** Michael Satre, Chairman; Karen Lawfer, Ben Haight, Bill Peters, Paul Voelckers, Gordon Jackson, Nicole Grewe

**Commissioners absent:** Dennis Watson, Vice Chairman; Dan Miller

**Staff present:** Hal Hart, Planning Director; Travis Goddard, Planning Manager; Laura Boyce, Senior Planner; Ben Lyman, Senior Planner; Eric Feldt, Planner II; Sarah Bronstein, Planner I; Robert Palmer, Assistant Attorney II; Rob Steedle, Deputy City Manager; Greg Chaney, Lands and Resources Manager

#### II. APPROVAL OF MINUTES

- May 8, 2014 – Special Planning Commission Meeting

**MOTION:** *by Ms. Grewe, to approve the minutes of the Special Planning Commission Meeting of May 8, 2014, with any minor modifications by any Commission members or by staff.*

The motion was approved by unanimous consent.

III. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - None

IV. PLANNING COMMISSION LIAISON REPORT – None

V. RECONSIDERATION OF THE FOLLOWING ITEMS – None

**VI. CONSENT AGENDA**

CSP2014 0005: Reconstruction of the Douglas Fish and Game and Corrections Building.

Applicant: State of Alaska Housing Authority

Location: 802 3<sup>rd</sup> Street

**Staff Recommendation**

Staff recommends that the Planning Commission adopt the findings that CSP2014 0005 is consistent with locally adopted plans with the following advisory conditions:

1. Pursuant to CBJ 42.20.095, *Disturbing the Peace*, the contractor will not be allowed to operate any heavy construction equipment before 7:00 a.m. or after 10:00 p.m. Monday through Friday, or before 9:00 a.m. or after 10:00 p.m. Saturday and Sunday, unless a permit is obtained from the CBJ Building Official.
2. Any exterior lighting shall be designed and located to minimize offsite glare and shall be “full cutoff” design.

CSP2014 0007: Use permit for temporary construction staging area on ~2,500 sq. ft. of CBJ land located on Amalga Harbor Road.

Applicant: City and Borough of Juneau

Location: Amalga Harbor Road

**Staff Recommendation**

Staff recommends that the proposed project, to utilize CBJ owned parcel USS 3662 Lot 3A for temporary staging of construction equipment, be found consistent with Title 49 and the plans adopted therein, and that the Planning Commission recommend that the Assembly approve the proposed project.

Mr. Voelckers had a question about CSP 2014 0010, so it was pulled from the Consent Agenda and placed on the Regular Agenda.

**MOTION:** *by Ms. Grewe, to approve the Consent Agenda with any findings, analysis, and recommendations by staff, minus the item pulled by Mr. Voelckers to be placed on the Regular Agenda.*

The motion was approved by unanimous consent.

**VII. CONSIDERATION OF ORDINANCES AND RESOLUTIONS – None**

**VIII. UNFINISHED BUSINESS - None**

**IX. REGULAR AGENDA**

CSP2014 0010: Application for a private easement on CBJ-owned property in order for an adjacent property owner to construct a driveway.  
Applicant: James Stedman  
Location: 2765 Fritz Cove Road

**Staff Recommendation**

Staff recommends that the Planning Commission make a recommendation to the Assembly to approve this project proposal as described in the development application.

Mr. Voelckers asked what the Borough’s use for this property was. He said there appeared to be inconsistencies.

Ms. Bronstein said that in order for the applicant to access his property which was very steep, he needed to crisscross over CBJ property in order to reach his own property at the top of the hill.

Mr. Voelckers asked if there are other incidences within the Borough where CBJ property is used to access private property.

Mr. Chaney said there are other cases within the Borough where this is done, and that the applicant will need to pay the Borough fair market value for use of the easement. It is a nonexclusive easement said Mr. Chaney, which means the Borough can use that easement as it sees fit as well.

**MOTION:** *by Ms. Grewe, to approve CSP2014 0010 with staff’s findings, analysis and recommendations.*

The motion passed by unanimous consent.

AME2014 0006: Proposed amendment to Title 49 amending the Land Use Code related to accessory apartments.  
Applicant: City & Borough of Juneau  
Location: Borough-wide

**Staff Recommendation**

Staff requests that the Planning Commission discuss the points in this memorandum and provide guidance on the following questions:

- 1) Should the size limits on accessory apartments be increased outright? Or,
  - 2) Should a new larger accessory apartment land use be created, with its own permitting requirements, in order to address neighborhood harmony issues?
  - 3) If either 1 or 2, what should the “larger” size limit be? A net floor area limit, a bedroom limit, a percentage of the area of the primary dwelling limit, or a combination of those limits?
  - 4) Should accessory apartments of any size ever be allowed in conjunction with duplexes?
- And,

- 5) Should the provisions regarding accessory apartments and multi-family, commercial, and mixed-use zones be amended to clarify when they are allowed, or to disallow them entirely in these zones?

The proposal is that the sizes for accessory apartments be increased, said Mr. Lyman. The current size for accessory apartments is 600 square ft., he said, with either a studio size or a maximum of one bedroom.

It is currently a tiered hierarchy, said Mr. Lyman, where the larger lot size the more accessory apartments there could be. Mr. Lyman stated that they are looking for clarification on whether they should change the code and clarify when or if accessory apartments are allowed in these multi-family zones, or if they should state that they are not allowed. Mr. Lyman stated that right now the code is not terribly clear on this matter.

Mr. Voelckers asked why parking requirements would need to change. He asked why parking requirements would not be triggered by the number of bedrooms.

Mr. Lyman responded that only multi family dwelling units have parking requirements based upon the number of bedrooms.

Ms. Lawfer asked if there have been inquiries about accessory apartments.

Mr. Lyman responded that yes there have been inquiries, which is why the item is before the Commission this evening.

#### PUBLIC COMMENT

Russ McDougall said that he was being hindered from subdividing property due to the existing code. He said this is one of the details in the code which restricts affordable housing in Juneau. He recommended raising the accessory apartment size to 1000 ft.

Brad Fleutch, a resident on North Douglas Highway, said that the criteria for having an accessory apartment should be based upon functional criteria such as parking availability, and having sewer and water, and transportation access rather than on lot size. Mr. Fleutch added that the current code on accessory apartments is adding to the extreme problem with affordable housing in Juneau.

#### COMMISSION COMMENTS

Mr. Voelckers stated that he felt that starting with lot size as a way to begin with accessory apartments was a good way to go, and that parking and other items on the list would be taken care of by Ordinance. Mr. Voelckers said he was in favor of a two-tiered approach. The first tier would be linked to 100% to 125% of the lot size, and that would be a 600 square foot to a 650 square foot accessory apartment.

The second category would add up to a 950 square foot two-bedroom accessory apartment, said Mr. Voelckers. That category would be triggered with a lot size over 125% of the lot size. That would require the two parking spots, as Mr. Lyman has identified, said Mr. Voelckers. The final stipulation, said Mr. Voelckers, would be that 50% of the size of the primary residence could not be exceeded.

Mr. Peters commented that having worked on the ad hoc committee, that accessory apartments was a very hot topic. Mr. Peters said he was not necessarily in favor of the tier approach, but that he was in favor of an accessory apartment not to exceed 50% of the size of the maximum residence not to exceed 1200 square feet. Mr. Peters said the number of bedrooms could be left up to the home owner. He added he felt this should include duplexes.

Ms. Grewe said that she would fully support the proposal of Mr. Voelckers. She said she liked the tier approach, because it increased the size, while keeping design in mind. At the same time, she said, it helped to address the challenge before the community of the housing problem.

Ms. Lawfer stated that while she was in support of the general idea of the change in the Ordinance, she had a little bit of concern about modifying the idea of single-family zoning.

Chairman Satre said they are just beginning with the Ordinance, and that they could start with Mr. Voelcker's suggestions as a base, while keeping Ms. Lawfer's concerns in mind as well.

Mr. Lyman reviewed various portions of the Table of Permissible Uses for the Commission and showed how various portions of it are in need of clarification regarding accessory apartments in various zones.

Mr. Goddard clarified that the staff will enact the two-tiered direction as provided by Mr. Voelckers. He asked if the Commission would also like to see a critical analysis provided by the staff on what it would look like for triplexes and duplexes with an accessory dwelling unit.

Chairman Satre said that would be fine. He added that at this stage it is pure visualization, but that a white paper would be helpful.

TXT2009-00007:                      Planning Commission review of and recommendation to the Assembly regarding the Draft Wireless Telecommunication Facilities Master Plan.

Applicant:                              City and Borough of Juneau

Location:                                Borough-wide

TXT2009-00007: Planning Commission review of and recommendation to the Assembly regarding the Draft Wireless Telecommunication Facilities Ordinance.  
Applicant: City and Borough of Juneau  
Location: Borough-wide

### **Staff Recommendations**

Staff recommends that the Planning Commission adopt the Director's analysis, and findings and recommend that the Assembly approve the draft Master Plan and Wireless Communication Facility Ordinance.

Chairman Satre said the next items on the agenda are Planning Commission review of and recommendation to the Assembly regarding the Draft Wireless Telecommunication Facilities Master Plan and Ordinance.

He said that first Mr. Feldt would go back and address Item 10 on his memo, (whether to have post-construction RF testing), and that then the Commission would address Item 14 on the memo which they had neglected to address during the Committee of the Whole meeting. Item 14 addresses why balloon testing was removed from the Ordinance.

Regarding Item 10 in his memo on post-construction RF (Radio Frequency) testing, Mr. Feldt said he understood there were still ongoing concerns by Commission members and by the public. He said that the staff was going to look into this further and that they would be presenting further and more conclusive information to the Commission at the Assembly Committee of the Whole June 16, (2014) meeting.

Mr. Feldt next addressed item 14 on his memo, which was to explain why balloon testing had been removed from the Ordinance. He said one reason it was removed from the Ordinance, is that it was very difficult to replicate the conditions of a tower with the constant movement of the balloon. Another reason is they felt that photo simulations may be a more accurate representation of what the tower may look like. Mr. Feldt said there are pros and cons to both the photo simulation and the balloon testing method.

Mr. Haight said what he was seeing were photos of the balloon test and narrative. He said he was wondering how different that would be from photo simulations.

Mr. Feldt said he has not thoroughly researched the issue, but that a balloon was viewable from more angles and more times of the day. He said the industry preferred photo simulations because they were easier to produce.

Ms. Mead said an advantage of a photo simulation is that the public can see exactly what the proposed tower is supposed to look like, how it is going to be painted, and how it is supposed to look as opposed to a balloon, which would portray the height only.

Mr. Voelckers said he felt the advantage of a balloon is that it was a physical representation that people could actually see, and they would be able to tell if they could actually see it from their home or not.

Ms. Grewe asked how the photos would be available for the public to view.

Mr. Feldt said the photos would be posted online for the public to view. He added they could also come to the permit center to view the photos in person.

Ms. Grewe stated that she felt the currently selected time of displaying the balloon for four hours was too short of a time.

Ms. Mead stated that the time was optional, and that the number of hours or days the balloon was displayed could be selected.

Ms. Lawfer questioned the validity of having a balloon test. She expressed concern about the balloons escaping and about the difficulty of putting a light on the balloon to test out what a lit tower would look like.

Mr. Peters also expressed concern about the balloon test. He also did not think that four hours would be long enough to adequately test the balloon. He liked the idea of photo simulation. However, he had concerns about photo simulation, especially about it adequately portraying what a distant view would look like for neighbors living far away. Mr. Peters also expressed concern with addressing the lighting issue with a balloon test.

Mr. Voelckers stated that he leaned slightly in favor of the balloon test, for the reason that it was more visible to the observer as a tower might be. He added that it should be for a longer period of time than four hours, and that the time period should encompass weekend hours.

Ms. Grewe said that she felt the balloon test provided a good form of very visible public notice. She said she was in favor of the balloon being flown for three consecutive days with one day overlapping on the weekend.

#### PUBLIC TESTIMONY

Mr. Gene Randall said that Alaska, and especially Juneau, is characterized by natural, unspoiled scenic beauty. He said the aspects that make Juneau unique generate revenue. Mr. Randall said he feels confident that if the Ordinance about to be enacted was in effect nine months ago, that the "infamous" Spuhn Island Tower would never have been erected.

Mr. Randall added that he feels there continue to be three items within the Ordinance that need revision. The current language in the Ordinance specifying balloon testing for less than one day is wholly inadequate said Mr. Randall. The second concern, he said, is post-construction confirmation of radio frequency emissions. Mr. Randall suggested that a CDD inspector test the output of the wireless facility after it is erected. In addition, Mr. Randall said

he feels that the lit tower in the old Mendenhall Auto parking lot presents a driving hazard and that it should be addressed.

Mr. Randall stated that he felt the recommendations from the wireless providers AT&T and Verizon watered-down the concerns of the citizens and the community of Juneau in their own favor and urged the Commission to remember who they represented.

Ms. Lawfer asked Mr. Randall if he felt the Ordinance as it is currently written properly addressed the migratory bird issue.

Mr. Randall said he did not have the Ordinance in front of him, but that he tended to side with the remarks of Chairman Satre, and felt that it was the taller towers of 400 feet, and the guy wire towers which were of the most danger to migratory birds.

Resident Sue Ann Randall said that she wanted to address the letters from Verizon and AT&T. She said that Verizon built the Spuhn Island Tower, and that in their application they used photo simulation. Ms. Randall said even without any public notice, if she had looked out of her window and seen a balloon she would have been alerted to the tower construction. Ms. Randall said in her opinion a balloon does a lot more than simply indicate where a tower is to be constructed; it alerts the public to the fact that a tower is going to be constructed.

Ms. Randall said she also wanted to address electromagnetic testing after a tower is constructed. Ms. Randall said she felt it was just common sense to test something to make sure that it was going to work properly.

Fritz Cove Road resident Leslie Lyman said even once the Spuhn Island tower was erected, it still did not match the photo simulation. Ms. Lyman expressed her preference for using a balloon over a photo simulation to display the location of a planned tower. Our community is a treasure that we need to protect, said Ms. Lyman, not just for ourselves but for the many people that come to visit here that don't have the opportunity to live in an environment as beautiful and as pristine as ours.

Mary Irvin, a resident of North Douglas, said she had three specific comments about the Ordinance and one comment about the Master Plan. She said she felt that existing towers should be expected to come into compliance with the new Ordinance within a specified amount of time such as five years, for example.

Ms. Irvine informed the Commission that the FAA circular on lighting is the controlling law on lighted towers that the Municipality must adhere to. It's not just a circular, said Ms. Irvine, it's the guiding, controlling, law. Ms. Irvine requested that the Commission append that Circular to the Master Plan.

Ms. Irvine said she felt that mitigation, especially of lighted towers, was very important, especially in the form of louvers, shields and baffles. There is no language in the Ordinance for mitigation, said Ms. Irvine.

Mr. Voelckers asked the legal staff if they had any reason why the FAA circular could not be appended to the Master Plan.

Ms. Mead said there is FAA Circular language regarding lights included in the Ordinance even though the Circular itself is not appended to the Ordinance or the Master Plan.

Ms. Irvine said if it was not going to be appended to the Master Plan, then she requested that it be incorporated into the narrative of the Master Plan.

**MOTION:** *by Ms. Lawfer, to approve the Draft Wireless Telecommunications Master Plan dated May 15, 2014, with the staff recommendations that were presented as outlined in the memo by Mr. Feldt on May 27, 2014, with the modifications that he requested.*

Mr. Jackson said that he felt the Master Plan was well written, useful, and a good prelude to the Ordinance which would be presented to the Assembly.

Mr. Feldt verified with the Commission that minor changes could be made by staff without further action from the Commission.

Chairman Satre said that he felt the Master Plan was far too big. He said if there were just pages one through nine that would be a good thing, but that he was hesitant to adopt the remaining 70 pages. He said he felt the telecommunications industry discussion would look very silly in 10 years, and that the coverage maps would quickly go out of date. He said he did not see the need for the inventory portion of this either.

**Roll Call Vote:**

**Yeas:** Voelckers, Jackson, Grewe, Haight, Lawfer, Peters

**Nays:** Chairman Satre

MOTION PASSED

COMMISSION DISCUSSION OF ORDINANCE

Commissioner Satre said the Commission had discussed post-construction testing during the Committee of the Whole meeting, although it had not discussed the finer points of this. They also needed to revisit the portions of the Ordinance highlighted by Mr. Voelckers regarding bringing into conformance existing towers within the Borough with the new Ordinance, said Chairman Satre, the collocated structures, requesting of an engineer's report, and looking at the description of lighting.

Chairman Satre added there were also some drafting issues regarding the structural report. Chairman Satre asked if the Law Department and the CDD staff had enough information to address the items that Mr. Voelckers had raised during the committee of the whole meeting.

Ms. Mead stated that she had enough information to move forward. Ms. Mead stated as long as the Commission gave her direction as to what it desired, that she could have a draft for the Commission by its June 2 meeting.

Ms. Grewe stated that it was her strong preference that they move the Ordinance draft forward this evening. She stated that she felt they were putting the public at risk by delaying the process even further. She added she felt the issues that Chairman Satre had outlined could be moved forward by the Commission fairly quickly this evening.

She asked Mr. Voelckers if he felt comfortable having the issues he outlined directly to the Law Department to work on as edits for the Ordinance.

Mr. Voelckers responded that he was comfortable with that.

Ms. Grewe said that she would like to find a way to bring the existing towers into compliance with the new Ordinance, maybe just the lit towers. Perhaps this would involve mitigating the impacts of the lights. She would like the Commission to take up the issue of baffles, shields and louvers to the Law Department so that they can substantively craft some language.

Mr. Voelckers mentioned that a good place to insert Ms. Irvine's remarks on FAA standards was his suggested addition of section 6 on page 16 regarding lighting.

Ms. Mead stated that again she hesitates to be overly specific. She said they can require compliance with FAA standards, as they have done in the general compliance section. They could require the applicant to meet the language of the FAA directional standards she said, where it talks about the language of the baffles and the louvers and the shields.

Mr. Goddard mentioned that there is already language required of the applicant that minimal lighting be used if lighting is required, and that this is at the bottom of Page 5 of the Ordinance.

Ms. Mead said that she understands that the new section of the Ordinance talks about how to implement the new standards.

Ms. Grewe stated that she would amend page 17 of the Ordinance on line 9, to state that the applicant shall inform the Director in writing of the dates and times of the test at least two days in advance and that the balloon should be flown for at least 72 consecutive hours with at least one 24 hour period occurring on a Saturday or Sunday.

Mr. Peters said if more advanced warning was given to the public as to when the balloon was going to fly, then 48 hours would probably suffice.

Mr. Haight said that he supported 72 hours to fly the balloon, because the odds were that one of those days would be an inclement day.

Ms. Lawfer said that she wanted to make sure that there were incentives for collocation.

Ms. Mead stated that there are incentives built into the Ordinance already. She added that this is currently one of the issues under litigation.

Mr. Voelckers asked if the Director has the ability to modify the impacts of a proposal.

There is some discretion there, said Ms. Mead.

The Commission approved changes on the table on Page 10 of the Ordinance. The new concealed tower heights for Rural Residential on line 8 is now set at 100 feet instead of 70 feet, and for line 12 for Rural Residential, it is set at 120 feet instead of 60 feet.

Chairman Satre asked if the Commission wanted to add post-construction testing to the list for the CDD.

Mr. Haight said if this was to be implemented, that it should be done so by a qualified individual such as an RF engineer, not by CDD staff.

Mr. Goddard suggested that if the applicant does not obtain the post-construction testing, then they would not obtain the special use permit.

The Commission agreed with this suggestion.

Chairman Satre stated that the next item before the Commission was existing wireless towers.

Ms. Grewe asked if the current existing towers under their various permits have expiration dates.

She was told by Mr. Feldt that is not necessarily so.

Mr. Peters said he is in favor of language in the Ordinance specifying dates that existing towers are required to come into compliance, with lit towers especially required to come into compliance earlier than others. Mr. Peters suggested a two or three year window for lit towers and perhaps a five year window for all towers.

Ms. Lawfer said she is in support of the general principle, but that her concern is with towers that have had construction around them. She said that she definitely feels that lighting mitigation can be dealt with.

Mr. Haight said he felt the big elements were the setback and natural concealment elements which needed to be addressed.

Mr. Voelckers said all of the existing wireless communications towers were accepted out of compliance so to speak, so he didn't really understand what they were lacking in terms of an Ordinance. He said typically, unless certain items were life-threatening, they were typically soft-treated in existing structures in view of the new code. Mr. Voelckers said he didn't really understand what it meant to bring the existing wireless towers into compliance, since they have already been approved.

Ms. Grewe said her concern really rests with the lighted towers. She asked if anyone actually knows how many lit towers are currently in the community today.

Mr. Feldt answered that it is just a small fraction of the existing towers in Juneau. Perhaps eight towers.

Mr. Haight stated that he felt it would be helpful for the Commission to state how much it wanted to bring the existing towers into compliance within the limitations of the FAA regulations.

Mr. Peters stated that he felt the over-arching concern they were hearing from the public was regarding lit towers and how to go back and correct those towers.

Ms. Lawfer added that she felt language could be added to that section about protecting public health and safety.

Ms. Mead added she was pretty sure that the Spuhn Island tower would still have the same lighting under this code as it does now. There will need to be other pieces added in addition, including a waiver process and hearings. This will include a big procedural piece, said Ms. Mead, to allow for waivers. The Ordinance requires collocation to comply with the article, said Ms. Mead.

Ms. Grewe suggested that they raise the grandfathering issue to be addressed at the Assembly meeting.

Ms. Mead said they can research the background on the issue and be ready to present it to the bodies on June 16<sup>th</sup>.

**MOTION:** *by Ms. Grewe, that 2014 0032 be passed, and recommend that it be forwarded to the Assembly for its consideration, and that it take up the grandfather issue for discussion.*

It is the intent of the Commission that the applicant show post-construction proof of testing as a requirement in the application process. The final application is dependent upon that proof of testing. There is a pre-construction requirement and a post-construction requirement.

Chairman Satre stated that it is very rare that he disagrees with the Commission. He stated that he feels this Ordinance still goes too far for a variety of reasons. The setback is forcing the communication facility towards the center of a piece of property instead of towards the edge for a variety of reasons. We need to trust the process, said Chairman Satre. It gives a competitive advantage to the owners of existing towers, said Chairman Satre. Chairman Satre said he does agree that there are problems with the public notice process in Juneau, but he feels that it is across the board, not just with the wireless towers. Chairman Satre said he feels a Conditional Use permit process is a very adequate process for addressing these needs and that the current process as defined in the Ordinance is very restrictive. Chairman Satre said he will need to vote no on this Ordinance.

**Roll Call Vote:**

**Yeas:** Voelckers, Jackson, Grewe, Haight, Lawfer, Peters

**Nays:** Chairman Satre

MOTION PASSES

**X. BOARD OF ADJUSTMENT - None**

**XI. OTHER BUSINESS - None**

**XII. DIRECTOR'S REPORT**

Saturday, 9 a.m. to 1 p.m., there will be a charrette at Auke Bay, said Mr. Hart. There will be four volunteer architects present, as well as numerous community volunteers present. The staff at the City and Borough of Juneau will be writing elements of that plan, which they hope to complete in August.

**XIII. REPORT OF REGULAR AND SPECIAL COMMITTEES**

Ms. Lawfer said the Assembly Lands and Resources Committee met May 5. The subdivision near DZ should be opening up for public comment, said Ms. Lawfer.

The Commission on Sustainability met two weeks ago, said Mr. Haight. He said they discussed their annual report which they are preparing for submittal.

**XIV. PLANNING COMMISSION COMMENTS AND QUESTIONS**

Ms. Lawfer said she has received numerous comments from tourists this summer about Juneau falling apart due to the poor state of repair of Juneau structures.

**XV. ADJOURNMENT**

The meeting was adjourned at 10:00 p.m.