Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
July 23, 2019

I. ROLL CALL

Ben Haight, 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 6:59 p.m.

Commissioners present: Ben Haight, Chairman; Paul Voelckers, Vice Chairman; Michael LeVine, (by phone), Shannon Crossley, Dan Hickok, Travis Arndt, Ken Alper (joined by phone at 7:17pm)

Commissioners absent: Nathaniel Dye

Staff present: Jill Maclean, CDD Director; Jane Mores, Municipal Attorney; Amy Liu, Planner I; Alexandra Pierce, Planning Manager

Assembly members: none

II. REQUEST FOR AGENDA CHANGES AND APPROVAL OF AGENDA - none

III. APPROVAL OF MINUTES

A. June 25, 2019 Draft Minutes – Regular Planning Commission Meeting

MOTION: *by Mr. Voelckers, to approve the Planning Commission June 25, 2019, regular meeting minutes noting any staff corrections or commissioner comments.*

The motion passed with no objection.

IV. PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - none

V. ITEMS FOR RECONSIDERATION - none

VI. CONSENT AGENDA - none

VII. UNFINISHED BUSINESS - none

VIII. REGULAR AGENDA

WCF2019 0007: A Wireless Communications Facility Permit to replace an existing communication tower
Applicant: CBJ Engineering and Public Works Department
Location: Engineers Cutoff

Staff Recommendation

Staff recommends that the Planning Commission **APPROVE** Special Use Permit WCF2019 0007, which will allow replacement of an existing communication tower with a 40-foot-tall self-supporting tower and up to 20 feet of antennas and other radio equipment.

The approval is subject to the following conditions:

1. Prior to final certificate of occupancy, signage shall be installed to meet the requirements of CBJ 49.65.930(c).

2. Prior to issuance of a building permit, the applicant shall provide a signed and stamped letter indicating the proposed WCF complies with industry practices.

Staff Presentation
Ms. Liu gave the presentation explaining the permit would allow replacement of an existing 40-foot tall, guyed communication tower with a 40-foot tall, self-supporting tower and up to 20 feet of antennas and other radio equipment accompanied by an 8-by-8 generator shed. The net effect would be one tower, as the existing tower will be replaced. The motivation for this replacement is the existing tower cannot structurally support more antennae necessary for Juneau Police Department (JPD) and Capital City Fire & Rescue (CCFR) needs.

Public comment was received in response to public notice requirements. Comments received prior to and after the public notice deadline were generally in agreement with the tower but in disagreement with the FAA lighting requirement of a blinking white light during the day and a blinking red light during the night. Staff follow up with FAA determined the lighting requirement was based on the 60-foot maximum proposed height of the tower. There is a period in which the applicant can request a new determination if a different height is confirmed for construction.

The project site is in the D1 district. Title 49.65.950 requires a Special Use Permit because the tower will be lighted. Currently the site accommodates several towers including a 60-foot tall FAA tower with a red blinking light.

The visual impact assessment concluded Juneau areas most likely to be affected by the tower and sighting of the lighting included the airport, Valley industrial area, Auke Bay ferry terminal and some areas of North Douglas.

Mr. Voelckers asked for clarification as to the timeline of the project; was the project first advertised prior to the light requirement? He also asked about the timeline of notice and the FAA determination.

Ms. Liu answered she believed the notice was sent after the lighting determination was made. The notice did not specify a lighting determination. It was a brief description stating that an existing tower was being replaced by a new tower.

Mr. Voelckers noted the original application stated there was no lighting or lighting was not applicable. At a minimum, that was incorrect. He asked again when the lighting determination came along.

Ms. Liu replied the applicant received light determination on June 17. Public notice was published July 12 and July 21 in the Juneau Empire "Your Municipality" section. Notice of public hearing would have been mailed more than two weeks prior to the Planning Commission meeting, and three public notice signs were posted on July 5, 2019

Mr. Haight asked about the elevation of the existing FAA tower at the base. Ms. Liu did not know, and Ms. Maclean added that the applicant, Alan Steffert from CBJ Public Works & Engineering, was in the room and might be able to discuss the details.

At 7:17 pm Mr. Alpers joined by phone.

Mr. Voelckers asked if the existing tower to be replaced was 40 feet tall plus 20 feet of antennae or if the replacement would be taller that what is currently in place.

Mr. Steffert answered the existing tower is a guyed, approximately 30-foot high, triangular latticed steel tower with an estimated 10 foot antenna for a total of 40 feet. In comparison, the current FAA tower is approximately 20-25 feet higher at the base and 60 feet in height on top. The new 40-foot tower would appear lower than the existing FAA tower.

Mr. Haight asked about the distance from where the current FAA tower stands to where the proposed new tower will be located and what other towers were in the area.

Mr. Steffert replied the new tower would be at least 100 feet from the current tower. The FAA tower site is a leased area. It used to be a combined site for all the communication towers in that area but due to security concerns by FAA, other towers were removed. The new tower site is north of the leased area on the ridge about 100-150 feet away. There are currently four steel-latticed, guyed towers owned by several entities including CBJ police and fire and Christian Community Broadcasting. On site there are also satellite, radio, television, ham repeaters, and cell towers owned by other operators.

Mr. Voelckers asked if Mr. Steffert was involved in conversations with the FAA and how the decision was made that this new, shorter tower required lighting. Mr. Steffert said he could not

comment on how FAA comes to their decisions. An application would have to be made in order to find out how FAA made the decision.

Mr. Haight asked for the approximate heights of the other towers. Mr. Steffert answered they are approximately 30 foot lattice towers with masts above them. They are at differing elevations depending on where they are located along the ridge. The highest tower as measured by LIDAR is approximately at the exact height that the proposed tower will be with some variable depending on the final elevation due to the height of the footing for the final tower.

Mr. Arndt asked if the light would be at the top of the antennae or the tower. Mr. Steffert answered it would be atop the tower no matter how high the added antennae and lightning rod are.

Mr. Arndt said and Mr. Steffert agreed that the new light would be significantly lower than the light currently on the FAA tower.

Mr. Voelckers said there was some ambiguity in the staff report as to whether they would need 20 feet, 5 feet, or no added height increase when the tower is completed. Mr. Steffert answered there is no plan to put anything higher than the top of the tower at this time. The 20 feet additional was deemed, at the time of the application, to be the highest they would ever need to go with that tower.

Public Testimony

Gene Randall of 11346 N. Douglas Highway submitted email comments. He said he supported the enhancement of a safety-related communication tower in Juneau and had no problem with building a new tower. However, the permitting of WCF2019 0007 should be reconsidered because it is a new tower and will be lighted. As a lighted tower, CBJ's WCF ordinance requires a balloon test, which was not performed.

Mr. Haight asked if Mr. Randall could see the FAA tower from his house on North Douglas. Mr. Randall answered yes and added that the illustration showing the visibility of the current FAA tower was incorrect.

Margo Waring of 11380 N. Douglas Highway expressed concerns with the process as the original application was based on the idea of no lighting and should have been stopped once the lighting determination was made. The tower would not be visible were it not lit, but with the lighting, it will be very visible and will have an effect on the protected North Douglas view shed. An additional concern was that there is no limit on the number of lighted towers that can be constructed.

SueAnn Randall of 11346 N. Douglas Highway was concerned with the lack of a balloon test specified in the WCF ordinance and without that, the application was incomplete and should be rejected on that basis. Ms. Randall noted the CDD visual impact statement stated that a balloon test was not required because the proposed tower is not new, but she

pointed out that the application's Attachment A used the phrase "new tower" seven times. As evidence of noncompliance with the balloon test requirement, she pointed out email communication between Mr. Steffert and CDD Director Ms. Maclean.

Mr. Hickok asked whether Ms. Randall had a view of the water and could she see the lights on the water. Ms. Randall answered yes, she does and yes, she can see lights on the water. Mr. Hickok clarified he was asking about channel markers and rock lights. Ms. Randall answered channel markers and rock lights are no comparison to the tower lights. She described the current tower light saying on overcast or foggy days, the light flashes and comes across the water and streams in through the windows into her house. She had installed a film on her window to block the light. Additionally, the light had malfunctioned several times causing it to blink constantly. When that has happened, there is nobody to call.

Mr. Hickok asked who maintains the lights. Ms. Maclean said that was a question for the applicant.

Mary Irvine of 10757 Horizon Drive wanted to clarify errors in her written statement and asked that the Commission be as careful as possible to protect view sheds and to minimize impacts to the view sheds whenever possible by encouraging non-lighted towers or mitigation measures such as baffles or louvres. She expressed concern regarding whether there was much dialogue between CBJ and FAA regarding lighting requirements and the possibility of using baffles or louvres. Also of concern was that CDD had just met the minimum requirements in the public notification process. Ms. Irvine suggested this tower would be lit only because it is proposed to be an obstruction near the airport. She asked if it would be possible for these arrays to go on two non-lighted towers in another location. Ms. Irvine suggested putting a light on the existing tower as an alternative to a balloon test.

Commissioner Comments and Questions to the Applicant
Mr. Haight asked if the applicant had anything to add. Mr. Steffert asked if the Commission had any specific questions.

Mr. Hickok asked what it would cost and how much it would set back the project to perform a balloon test. Mr. Steffert said he had no idea what it would cost and asked what in what setbacks Mr. Hickok meant by his question. Mr. Hickok clarified asking how long the balloon would have to be flown and what would be the public notice requirements. Mr. Steffert said the balloon would have to be flown 24-72 hours. He explained that it would take time before that to organize and set up the balloon before the public notice was sent and finally the test could be performed.

Mr. Hickok asked if there was a timeframe on the project. Mr. Steffert said yes.

Mr. Hickok asked who maintains the lights. Mr. Steffert said the owner of the lights is responsible for the lights. The city has a contractor to maintain them.

Mr. Hickok asked who is notified when a problem with the lights occurs. Mr. Steffert thought alarm systems are built into the lights. The police radio system has Ethernet/internet connection so it can be notified of problems, and the generator would include an alarm and connectivity to the police control center or the CBJ Management Information Systems Department (MIS).

Ms. Crossley asked if there was discussion of putting up a light on the existing tower to test the visibility. Mr. Steffert said the nearest most similar tower would be about 20 feet away. Ms. Crossley asked if CBJ had considered putting a light on that tower to test it. Mr. Steffert answered no; the City does not own that tower.

Ms. Crossley asked the difference between the lumen counts on the FAA tower light and the lumens that would be required of the proposed tower lights.

Mr. Levine asked if the applicant or the Commission would have any say over the FAA light requirement or if there were anything the applicant or the Commission could do to change the requirement. Mr. Steffert said it was his understanding that FAA requirements would take precedent over Commission limitations. .

Mr. Levine said in a hypothetical world, if it were decided that the light caused too much impact to the view shed or the community, the City would not be able to convince the FAA not to require the light. The only alternative would be to relocate the tower. Mr. Steffert agreed that might be one alternative. Mr. Levine asked what, if anything, might be another alternative. Mr. Steffert knew of no other alternative. Mr. Levine asked if an alternative had been considered once it was discovered that the tower would require a light. Mr. Steffert answered the objective was to replace the existing tower with a larger tower that could hold more antennae as the current one is filled to capacity. Because a new tower would be replacing the old one, the requirement is to follow the WCF process, which involved making an application with the FAA. FAA is requiring that the new tower be lit. Given the choice, Mr. Steffert would prefer not to light the tower due to the added project costs and complications.

Mr. Voelckers mentioned the project had other components. This would be the first installation with a generator backup. Mr. Steffert agreed and explained the need for backup power generation in case the power goes out. There would be a shed housing the generator and a propane tank off to the side.

Mr. Voelckers asked why this site was selected. Mr. Steffert said that this line is the existing radio site and has a direct line of sight to the Saddle Mountain radio site and a direct line of sight to the Valley and Lemon Creek fire stations.

Ms. Crossley asked about the benefits to health and safety this tower would provide to the people of Juneau. Mr. Steffert answered it would be mostly an expansion of additional antennae and the generator.

Mr. Arndt asked if the lighting requirement was based on a 60-foot tower and the proposal is for only building to 40 feet, could the City reapply to FAA and try to eliminate the light requirement. Mr. Steffert said if he were sure that he was only going to go to 40 feet then he would reapply right away. He did not want to buy and install lights that would never be turned on.

Discussion and Questions to Staff

Ms. Crossley asked for elaboration on the North Douglas view shed issue. Ms. Liu pulled up the presentation and explained that staff's findings were based on the zone of visibility maps, camera views and False Outer Point photos.

Ms. Crossley clarified that she meant the North Douglas view shed reduction. Ms. Liu answered that the Comprehensive Plan has provisions for protection of viewsheds from public lands on North Douglas.

Mr. Voelckers had a question regarding the WCF ordinance language. Table 1 indicates that a non-concealed attached tower or a concealed tower are permissible for D1 – D18. The proposal is in D1. He asked if he was misinterpreting the table. Ms. Maclean explained that proposals that fit neatly into the table are approved by the Director and do not come before the Commission with a Special Use Permit. Whenever a project falls outside of those guidelines, or if it is lit, then the project will require a Special Use Permit and approval by the Planning Commission.

Mr. Levine asked about the decision that a balloon test was not warranted. The staff report said it was not needed because it was not a new tower. In the packet, there is information that a balloon test could be a hazard. On which basis did staff determine a balloon test was not warranted, and what is the defining factor to determine whether this is a new tower or not, he asked?

Ms. Maclean explained that the email in the staff report was written prior to the application being submitted. The balloon test safety concern had not yet come up. During review of the application, it was her determination that it was a replacement and not a new tower. This is why she found a balloon test was not warranted.

Mr. Levine asked Ms. Mores if that was the legal advice the Law department would provide. Ms. Mores said the code is not clear on making a distinction. She said it is a new location and a different height and this is a grey area. She saw reference to relocating a tower, but nothing about replacing and being able to move an existing one. The combination of the new location, different height and the material of the construction presents an argument that this could be considered new.

Mr. Voelckers said the Commission should err on the side of honoring the intent of the guarantees and assurances about mitigating the unintended effects of these towers. He suggested slowing down the decision-making process in order to ascertain whether there

would be a negative visual impact. The addition of the lighting is enough of a concern to do some more testing before moving forward, he felt. Mr. Voelckers agreed with Ms. Irving's testimony that testing with lighting might make more sense than using a balloon as it would be easier to see and more likely to address the issue of concern to the North Douglas residents. Regarding public notification, the argument could be made that there was less than best diligence. Why not be overly cautious in getting an understanding of the project, he asked.

Ms. Mores answered as to notice, the code requirements are stringent and those were met. More notice is always good, but as to what the code requires, public notice was not defective. Additionally, to the "gray" area regarding whether this is new tower or not, she could see the argument both ways. However, she pointed out, the existing platform did not allow for the replacement to be erected in the exact same spot, so a new location was required for a replacement.

Ms. Maclean added that as to the notice, the CDD does also send notice to the list of registered neighborhood associations. They received notice as well.

Mr. Voelckers said that he was not saying the City did anything wrong, but with this being on a ridge, people miles away could be more impacted than those living nearby the site. He thought that due to this, staff should err on the side of abundant notice rather than minimal.

Mr. Arndt suggested the current FAA application requiring the light was for a 60-foot tower, but if there will be no antennae above, then the applicant could go back to the FAA with a 40-foot tower proposal and the requirement might go away. He asked what concerns there might be.

The Chair called on Ms. Pierce to answer. She deferred to Ms. Liu.

Ms. Liu said that as to timeline, this item is grant funded with a date sensitivity. She did not have the details of the deadlines but presumed a strict process that adds some urgency to the project. As to Mr. Arndt's comment that a new determination can be sought, she said it would be a formal process and require a new application but it could be done.

Mr. Voelckers asked if it would have to be built first or if the FAA could review it prior to building the tower.

Ms. Liu said that in the conversation she had with Mr. Van Hastert of the FAA, he described a process in which the height is confirmed. She did not think he meant it had to be constructed, but when the plans are finalized and when the exact concept is finalized, then a new determination could be sought.

Ms. Crossley asked if that would be a new determination to come before the Planning Commission. She asked if there would be an opportunity to perform a balloon test between now and the erection of the tower.

Ms. Maclean suggested bringing the applicant back to describe the timeline of the grant to ascertain whether they had time to do a balloon test and put out more notification, should the Commission request that.

Mr. Haight asked if there was any objection of the Commission. There was none.

Mr. Steffert explained is the City is using a Homeland Security grant for the project. An extension had been requested, and the project was proceeding on the assumption that the extension will be granted. The length of the extension is unknown, but the City wants to get the tower built this year while grant money is available.

Mr. Voelckers asked for explanation of the FAA approval process. If they receive a tower plan with a 40 foot height, would they be able to make a determination based on that?

Mr. Steffert said he could do that, maybe tomorrow.

Ms. Crossley asked if it was a feasible exercise to perform a balloon.

Mr. Steffert answered that as for the North Douglas residents, they would not be able to see the balloon. It would be visible in other areas, but there are too many trees to allow the balloon to been seen in North Douglas. His issue with the balloon test was safety and the chance of the balloon being blown into adjacent towers and knocking out signals. Instead, what he did was to go around to various places with binoculars and looked to see if the tower would be visible.

Mr. Arndt asked if the balloon would be placed at the 40-foot elevation where the light would be or at the maximum 60 foot height.

Mr. Steffert said it was proposed to put the balloon at 40 feet.

Ms. Maclean said balloon tests are performed for towers, lit or unlit, and the balloon is put at the height of the tower, but there are the safety concerns, which have already been described. As to Ms. Crossley's question regarding cost, the last balloon test performed was approximately $3,000, and it is required to be hung for 72 hours, 24 of which must be consecutive Saturday or Sunday hours.

Mr. Arndt said that if the balloon would be going in at 40 feet that is the height of other towers already there. It is already known what can be seen. Mr. Haight added there are a number of concerns with balloon tests wrapping around the other guyed towers or blocking other antennae, which would block radio/other access. He was concerned that it would be difficult to get away from the antennae. He had concerns that the balloon test might not be valid.

MOTION: *by Mr. Voelckers to add a third condition that CBJ immediately amend the application to FAA certifying the maximum height to 40 feet and strongly petition FAA to waive the requirement for new lighting.*

Mr. Voelckers felt the balloon test would not achieve much due to the veil of trees but if a strobing light were hung, that would address the visual issues and the FAA could be petitioned to not require a useless light.

Mr. Hickok asked if the case could be moved to Unfinished Business on the next meeting to allow time for the FAA to respond about the light.

Mr. Voelckers asked Mr. Steffert how long it took to get the original determination. Mr. Steffert replied about three weeks.

Mr. Voelckers and Mr. Haight suggested that would be tabling the issue. Mr. Mores said she thought the case could be moved to Unfinished Business because code does allow the Commission to request more information for visual impact assessment under 49.65.970. Due to the question about whether it is a new tower or replacement of an existing tower, and the Commission could ask for an analysis as to why it needs to be a stand-alone, new, lighted, tower. She added that it was possible that the lighting requirement might be a new requirement and the existing towers might be "grandfathered in". The FAA could still require lighting the new tower even at the 40 foot height.

Mr. Haight said one thing to be cognizant of was that the current FAA tower is lit with a single red light rather than a strobing light. He was concerned that an appeal could trigger a requirement that the current FAA light change to a strobing light.

Mr. Voelckers offered to withdraw his motion if it was the will of the Commission to table the case for a period of time to try to get a resolution on the lighting.

Ms. Maclean suggested it could be tabled to the next meeting, and if the FAA response was not received by then, it could be tabled to the next following meeting.

Mr. Levine said he agreed that Mr. Voelckers would have to withdraw his motion and then the Commission could move to continue. He asked for Ms. Maclean to confirm. She agreed.

Mr. Voelckers withdrew the motion.

MOTION: *by Mr. Levine to continue WCF2019 0007 to the next regularly scheduled meeting, and during the intervening time, request additional information from the applicant about whether FAA will remove the lighting requirement if the height is changed, and also request some clarification from staff and the Law department about whether this is in fact a new stand-alone tower.*

Mr. Voelckers asked if there were any objections to the motion.

Mr. Arndt objected stating concerns about pushing the item back too much and losing the grant funding.

Ms. Maclean said staff would contact FAA to confirm a timeline if an answer has not been received in time for the next meeting.

The motion passed with no objection.

IX. BOARD OF ADJUSTMENT - none

X. OTHER BUSINESS - none

XI. STAFF REPORTS

Ms. Maclean reported on Assembly actions from the previous night's meeting. The Assembly voted to extend the Downtown Alternative Development Overlay District zoning for one year, adopted the tax abatement for senior assisted living, adopted changes to Title 53, and they adopted on-site consumption of marijuana smoking and edibles.

Auke Bay Ad Hoc Committee will meet July 24, 12:00 noon, in the Marine View building, 4th floor conference room.

Ms. Maclean added that the Commission received an appeal to a Director's decision regarding a property on North Douglas Highway. Ms. Maclean cautioned the Commission against speaking to the appellants or about the appeal.

XII. COMMITTEE REPORTS

Mr. Voelckers reported the Auke Bay Implementation Committee had a good meeting and have worked through the first draft of ordinance language. They are meeting again on July 24.

Mr. Arndt reported the Title 49 Committee met to work on downtown zoning.

XIII. LIAISON REPORTS - none

XIV. CONTINUATION OF PUBLIC PARTICIPATION ON NON-AGENDA ITEMS - none

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS - none

XVI. EXECUTIVE SESSION - none

XVII. ADJOURNMENT

The meeting was adjourned at 8:47 pm.