

**PLANNING COMMISSION REGULAR MEETING
MAY 13, 2014 AT 7:00 PM
LIBRARY MEETING ROOM
MINUTES**

1. CALL TO ORDER

Chairman *Tom Bailer* called the Planning Commission Regular Meeting to order at 7:00 PM on May 13, 2014 in the Library Meeting Room.

2. ROLL CALL

Present for roll call were Chairman *Tom Bailer* and Commissioners *David Reggiani, John Greenwood, Tom McGann, Scott Pegau, John Baenen,* and *Allen Roemhildt.*

Also present were City Planner, *Samantha Greenwood,* and Assistant Planner, *Leif Stavig.*

5 people were in the audience.

3. APPROVAL OF AGENDA

M/Reggiani S/Greenwood to approve the Agenda.

Upon voice vote, motion passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

4. APPROVAL OF CONSENT CALENDAR

M/Reggiani S/Pegau to approve the Minutes of April 8th, 2014 Regular Meeting.

Upon voice vote, motion passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

5. DISCLOSURES OF CONFLICTS OF INTEREST

Baenen said he has done contracts for CTC in the past.

Bailer said that he doesn't believe that has anything to do with the cell tower.

6. CORRESPONDENCE

a. Public Notice from Corps of Engineers

b. Public Notice from the State of Alaska.

7. COMMUNICATIONS BY AND PETITIONS FROM VISITORS

a. Audience comments regarding agenda items

8. PLANNER'S REPORT

McGann asked if one of the building permits was for the Picnic Basket.

S. Greenwood said that they do not need a building permit because it is a temporary structure and they will be moving it.

9. NEW/MISCELLANEOUS BUSINESS

- a. Preliminary Plat Approval for Tina Hammer

M/Pegau S/Baenen to approve the Preliminary Plat request for Replat, Portion of Lot 3 Alaska State Land Survey No. 81-28, Plat 81-28, Creating Lots 3A and 3B Alaska State Land Survey No. 81-28.

Upon voice vote, main motion passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

- b. Final Plat Approval for Tina Hammer

M/Greenwood S/Reggiani to approve the Final Plat request for Replat, Portion of Lot 3 Alaska State Land Survey No. 81-28, Plat 81-28, Creating Lots 3A and 3B Alaska State Land Survey No. 81-28.

Upon voice vote, main motion passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

- c. CTC Telecommunication Tower Conditional Use Permit

M/McGann S/Pegau to approve the request by Cordova Telephone Cooperative, Inc for a Conditional Use Permit to construct a telecommunication tower and building extension on Township 15 South, Range 3 West, Copper River Meridian with the special conditions and as described in their application.

McGann said they have met the standards for issuance, but he is concerned with the verbage of the motion. The three bullet points in the memo should be in the motion. In regards to *Swartzbart*'s concerns, we may want to stipulate that the drawing is what CTC will do as the drawing meets his requirements.

M/Pegau S/Baenen to amend the main motion adding a special condition requiring the base of all microwave transmitters be located at least 35 feet above ground level.

Upon voice vote, motion to amend passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

M/McGann S/Pegau to amend the main motion by inserting the special conditions from the memo.

Upon voice vote, motion to amend passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

Pegau said that he thought this was going to be an easy one until he read the background (of the staff memo). There seems to be an issue not necessarily with the conditional use but the repeated violation of the lease agreement that this is a conditional use on. He is wondering if the real discussion should be on whether or not to renew the lease. It appears that this is the second time that someone has gone up and

found that modifications were being made without any notification. He is worried about approving a use when there is a chronic violator of the lease.

Greenwood clarified with **Swartzbart** that the height requirement requested was just for the microwave transmitter and not all the antennas.

Baenen asked if there was a microwave dish on the tower already up there.

Swartzbart said that the dish was located lower than 35 feet.

Reggiani asked **S. Greenwood** to clarify the lease agreement.

S. Greenwood said that the State owns the land; we (the City) lease it from the State; we have an agreement with CTC and Copper Valley Wireless as a sublease, but the State has to consent to the City leasing. The City has a contract with the Ski Club to operate the Ski Hill.

Reggiani said one of the criteria that the Commission made sure was in the Code was the adherence to setbacks. Page 45, item number nine states, "the tower must be located no less than a distance equal to the tower height from all lot lines." If the tower fell over it would be outside that lease area, that property is owned by the State and leased to the City, but not subleased to CTC. There probably isn't a way to put a 50' tower on a 50' by 50.' Does the City or State have any concerns?

S. Greenwood said the State was willing to send a letter of no objections. From the Planning Department we don't have concerns as there are other towers up there. The areas haven't been surveyed out, the 50' by 50' area is "floating."

M/Regianni S/McGann to amend the main motion adding a special condition that the City receive a letter of no objection from the State.

Upon voice vote, motion to amend passed 7-0.

Yea: **Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani**

Nay: None

Absent: None

Reggiani asked **Paul Kelly** (CEO of CTC) if the Copper Valley tower was already loaded.

Kelly responded that from observation the tower is loaded as it is and that they have an equal load to put on their tower. One thing not addressed is interference issues; if you co-located on a tower you can't get the space diversity between antennas.

Reggiani said he was also concerned about the safety aspect from the access by the public. The City Code calls out for fencing and he understands the problems of a fence, but the Code specifies a minimum height of eight feet must be placed around the perimeter to limit access by the public. He asked Kelly if they had given thought to how to limit access.

Kelly said there are three towers there now and there has never been any fencing. If you were to put a fence up, someone could end up post-holing. It would make access to the site impossible for his crews.

Reggiani asked if there was a way to limit the ability for someone to get at significant elevation.

Kelly said that there isn't really. He thinks that the fence is a bigger hazard than the tower. Typically people stay clear of telecommunications. They don't have any problem with vandalism or anything like that.

Reggiani said that if there was a way to block significant height access he would like to have Kelly explore those options.

Pegau said that there are ways to limit access. Drawing on page 66 shows the ladder coming all the way down to ground level. Quite often the first ten feet are removed which does limit access. There's nothing that can prevent it one hundred percent, but it can be made more difficult.

Baenen said that he thinks there are ladder covers that you can put over ladders.

McGann said that he doesn't share the other commissioners concerns as he doesn't think it is a problem.

Greenwood said that he saw people sitting on top of the Ski Hill towers, and that if the commission can make it a little less easier for people to access they should. A ladder is inviting to climb.

Reggiani asked **Randy Robertson**, City Manager where the liability falls if someone were to climb the tower and fall off.

Robertson said that he had not explored that.

Reggiani said that he feels like they are falling short because as the motion sits they are considering a Conditional Use Permit without any focus on preventing public access.

Bailer said that he is for the motion, but shares **Reggiani's** concern.

M/Bailer to recess at 7:35 PM.

No objection; meeting recessed.

Bailer called the Regular Meeting back to order at 7:45 PM.

M/Reggiani S/Greenwood to amend the main motion to add a fifth special condition that would say in lieu of a fence, the tower design must limit public access above 20 feet.

Kelly said that he doesn't know of anybody that knows how to limit access to a tower above 20 feet. This is a special circumstance that has been imposed on us after we have met all the criteria. If there's a way to do it and the commissioners know about it and he does not, then impose it. You have to tell us how it's physically possible. He can't meet that criteria as far as he knows; it is physically impossible.

Reggiani said the intent of the motion is to work with the applicant. The minimum criteria is a fence with a minimum height of eight feet. At the very least, that criteria must be met. The intent of the amendment is to provide flexibility.

Kelly said that they are the first ones to build a tower under these regulations. No regulations basically existed before this. There are other things going on that really are a danger. There's towers everywhere. We were there before this lease and the donation from the State to the City transpired.

Reggiani said that if the whole intent of the fence is to limit access to the site, then it wouldn't be allowed to get buried. You (CTC) would be somewhat obligated to shovel the snow around it.

Kelly said that was literally impossible to do. You can make an exemption to the criteria.

Pegau said he wanted to point out that this is about the Conditional Use Permit that was submitted. That is what the commission is considering; not what has previously occurred.

Bailer said that putting some type of restriction on the ladder starts to restrict public access.

Baenen said that if you cover the ladder it shows that you made effort to limit access.

Reggiani said that what they are talking about would meet his concerns by focusing on the ladder portion of the design.

Kelly asked if he could just remove the ladder (several commissioners verbally agreed).

Reggiani said that if there was no ladder up to 20 feet, then that works for him.

Upon voice vote, motion to amend passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

Upon voice vote, main motion passed 7-0.

Yea: *Bailer, Greenwood, McGann, Pegau, Baenen, Roemhildt, Reggiani*

Nay: None

Absent: None

10. PENDING CALENDAR

Reggiani asked staff to include information about microwave transmitters and FCC regulations for the next packet.

Pegau said that he wanted to address the boat and house visible from AC parking lot (adjacent to tidelands on Sawmill Ave.)

S. Greenwood said that staff is currently working on the 1997 Abatement of Dangerous Buildings for the City Council and also looking at tax incentives along with this.

11. AUDIENCE PARTICIPATION

Swartzbart thanked the commission for working effectively as a board. He is impressed. CTC is able to carry on with their construction and be supervised.

12. COMMISSION COMMENTS

Baenen said he wouldn't have known about the microwave dish and so he was glad that *Swartzbart* came in. With him coming in they were able to do something about it.

Pegau echoed *Baenen* and said it was helpful to have *Swartzbart* bring that to their attention and that it was something easy to fix.

Reggiani agreed and thanked him for the pictures.

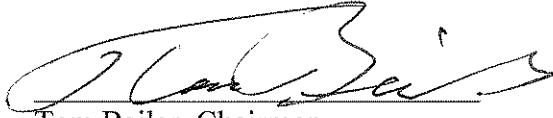
Roemhildt said thank you and that he shares the concern with the microwaves and he appreciates everyone's input on the issue.

Bailer thanked *Pegau* and *Reggiani* on keeping their eyes on the Code. He thinks they came up with a good alternative to the fence.

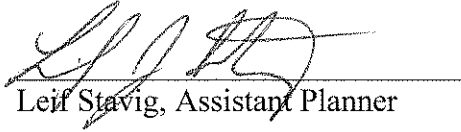
13. ADJOURNMENT

M/Greenwood to adjourn the Regular Meeting at 8:20 PM; with no objection, the meeting was adjourned.

Approved:



Tom Bailer, Chairman



Leif Stavig, Assistant Planner