

Agenda
Planning Commission
Regular Meeting
CITY AND BOROUGH OF JUNEAU
Ben Haight, Chairman
August 13, 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 7:02 p.m.

Commissioners present: Ben Haight, Chairman; Michael LeVine, Nathaniel Dye, Ken Alper, Shannon Crossley, Dan Hickok, Travis Arndt

Commissioners absent: Paul Voelckers, Vice Chairman

Staff present: Jill Maclean, CDD Director; Jane Mores, Law Department; Amy Liu, CDD Staff

Assembly members: Wade Bryson

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

III. APPROVAL OF MINUTES

A. July 9, 2019 DRAFT Minutes – Planning Commission Regular Meeting

MOTION: by Mr. LeVine to approve the July 9, 2019, Planning Commission 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 –

Motion: by Mr. Dye to move USE2019 0018 to the regular agenda for discussion

The motion passed without objection

VI. **CONSENT AGENDA** moved to Regular Agenda as Item B at the request of Mr. Dye for a discussion on conditions

~~USE2019 0018:~~ A Conditional Use Permit

~~Applicant:~~ Nugz LLC

~~Location:~~ 9331 Glacier Highway

Staff Recommendation

~~It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a marijuana cultivation facility.~~

~~The approval is subject to the following conditions:~~

- ~~1. Security cameras must capture a 360 degree view of the outside and inside premises. Staff recommends as a condition of approval that prior to temporary certificate of occupancy, the applicant must submit a security plan, showing camera and alarm placement that meets this requirement.~~
- ~~2. CBJ approved signage shall be posted for the van accessible parking space prior to final certificate of occupancy.~~
- ~~3. Striping for all required parking spaces be provided prior to final certificate of occupancy.~~
- ~~4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.~~

~~**MOTION:** by M to accept staff's findings, analysis and recommendations and approve the consent agenda.~~

~~**The motion passed with no objection.**~~

VII. **UNFINISHED BUSINESS**

WCF2019 0007: A Wireless Communications Facility Permit with potential lighting required by FAA

Applicant: City & Borough of Juneau

Location: Engineers Cutoff

Staff Recommendation

Staff recommends that the Planning Commission adopt the Director's analysis and findings and grant the requested Special Use Permit. The permit would allow replacement of an existing communication tower with a 40-foot tall, self-supporting tower.

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 of the National Association of Tower Erectors and local building code requirements for loads.

Motion: *by Mr. Dye to reopen public testimony to receive new information from staff and the public regarding the application.*

Mr. Dye declared that he has read the Draft minutes and is familiar with the subject and the conversation from the last meeting. Based on the motions made then, he believed we are in the deliberative state and need to reopen public testimony. Mr. LeVine spoke in favor of the motion and Ms. Maclean added the hearing has been publicly noticed allowing for public testimony.

The motion passed with no objection.

Prior to the staff presentation, Ms. Maclean pointed out CBJ personnel in attendance: Alan Steffert, CBJ Engineering; Erann Kalwara, JPD; Erik Gazdig, JPD; Deputy Chief David Campbell, JPD, are able to speak to the application.

Ms. Liu presented updates on the Wireless Tower project. Prior to the July 23 Planning Commission hearing, the applicant had requested review of a 40-foot tower with up to a 20-foot antenna. Per Commission direction, the applicant is requesting review of a 40-foot tower with no additional antenna height.

Follow up included three topics.

1. Lighting – to determine whether a request for a lower obstruction would result in a lesser lighting requirement.
2. Review of design and location – to examine whether the proposed design and location are essential for meeting JPD and CCFR needs.
3. Timeline as it relates to grant funding.

Public notice included notification within 1,500-foot radius of the site, three public notice signs, and ads published twice in the newspaper. One public comment was received which included questions regarding the design, purpose and cost of the project. Staff has responded with pertinent information.

FAA indicated that no lighting or marking is required for a 40-foot obstruction.

Staff gleaned more information about how the design increases capacity and stability over the current tower. The current tower does not have room for additional antenna. To expand services and improve performance more structures are required. The proposed stand-alone tower provides more stability over the current guyed tower. The location is optimal because it provides direct line of sight and is already an established tower site and is therefore accessible for immediate repairs and ongoing maintenance.

The proposed tower is receiving a \$150,000 grant from the Department of Homeland Security. The initial deadline was September 30, 2019. The deadline has been extended to May 30, 2020. Any additional extensions are not guaranteed. To meet this deadline and receive the funding, the tower must be operational and expenditures must be complete by the stated deadline.

Questions for staff:

Mr. Dye asked about Item 11 on page 109. He asked if the applicant was someone other than CBJ, would they have to have the signed drawings stamped prior to the hearing. Is it standard practice to allow these to be submitted after construction? If not, why is CBJ exempt? Ms. Maclean answered that this is included as a condition of approval prior to and not after construction. Mr. Dye pointed out that the applicant statement noted it would be supplied after construction. Ms. Maclean said that it may have been the applicant's statement but she believes it should be a condition of approval as required of others. Ms. Liu added that it is a condition of approval as it is written. Mr. Dye questioned whether this is a complete application considering the applicant's statement as written.

Ms. Maclean added additional comments were received after the Staff Report and Ms. Kalwara from JPD can speak to these. The comments were received from Snowcloud.

Mr. LeVine asked for clarification from Ms. Mores regarding the memo describing whether this tower is a new tower or a modification of the old tower. His understanding is that, according to the memo, it is most likely a new tower but because it is being constructed in the vicinity of other towers a balloon test or other visual site study is not necessary. Jane Mores answered that she did not address the balloon test directly but because of the safety concerns due to the other nearby tower and because the tower will not be lighted, there is a reasonable reason to determine the safety issue is enough to excuse the requirement for a visual test. She added that the Code is not completely clear. If there were no safety issues and if this is a new site, then there is no exception in the Code. Her recommendation was if there are safety concerns, they should be explained so that can be shown on the record. The purpose of the balloon test is to show something that has not been there before and to see what it would look like. Mr. LeVine is concerned that if there is no exception in Code for the balloon test, then he was unsure an exception could be made this time.

Mr. Dye asked for information regarding security and fencing of the area in accordance with 49.65.930(b). Ms. Maclean responded that because they were originally considering this a replacement, they were going to leave the site as is. However, if we are considering it a new tower and there is a need for this tower to be secured then we would be willing to meet that requirement. It is in a relatively remote location but it is open to the public and there are hiking trails in the area.

Ms. Kalwara spoke to the email and supplied answers to the questions contained therein.

1. CBJ MIS and CDD staff with access to the vicinity are required to have security clearance in order to have unescorted access to the Data.
2. The City of Hoonah has a similar grant but their grant does not allow this type of work. Our grant specifically does allow it.
3. Regarding colocation, JPD is concerned about having private entities accessing the tower. The site will contain equipment and data requiring anybody accessing it to either have security clearance or be escorted by JPD. Right now, it is a city-owned site with city-owned equipment and it should remain that way.
4. This would be a better question for either Mr. Steffert or Mr. Gazdig to answer.
5. No, we do not need a new tower just to have a generator on site. We need it to support JPD radio communication.
6. This might also be a question for Mr. Steffert or Mr. Gazdig as well. She is unsure about the pad but if it needs to come out, then it will be done.

Mr. Dye asked if there is a plan for fencing or securing the area to keep people from climbing the tower or accessing the site. Ms. Kalwara is unaware of any issues with people climbing the current tower. The data itself will be contained in the shed. The shed will be secured with a security system and locked with a key kept in JPD possession.

Mr. Dye asked about the logistics of allowing non-CBJ entities to collocate on the tower. Ms. Kalwara stated that the proposed tower will not have the room for non-CBJ to collocate. It will contain all of the equipment already on the current tower and allow for some expansion for CBJ needs going forward.

Mr. Haight pointed out that there are already other towers in that space and asked if this is already considered collocation. Mr. Dye added to the question asking if 4 towers located together counts as a single WCF. Mr. Haight asked Ms. Mores what it would require for CBJ to lease space on a CBJ tower to a local company. Mr. Mores said that would most likely be accomplished via a competitive solicitation process. Ms. Mores addressed the collocation question explaining that by definition the term collocation really means the mounting or installation of transmission equipment on an eligible support structure. Therefore, using the term 'collocation' to describe tower located nearby each other is not the correct industry usage of the term.

Mr. Haight asked Mr. Steffert to address the questions Ms. Kalwara had not answered.

4. Regarding, whether the site can be improved for less money by cutting trees in the view shed, currently the telecommunications site is managed by KTOO and they are the ones who make decisions regarding when and who to call for tree cutting in that area.
6. Regarding the sling pad, it is his understanding that was installed by JPD some years ago. The pad is mounted on concrete piles with not much underneath it. However, below that is rock which would make suitable foundation for an unguyed tower. Right next door to the site is a large helipad so the pad in question is not the only option.

Mr. LeVine asked Mr. Steffert for information regarding any safety concerns or other reasons why there ought to be an exception to the requirement for balloon test visual impact study. Mr. Steffert explained that it is on a ridge subject to strong winds and there are several guyed towers in the area. He referred to the photos (blue folder additional material provided by Snowcloud) showing the other towers in the area and said that if we were to fly a balloon there, it would be likely to tangle in one of the other towers. That tangling, or the maneuvers required to untangle it, could cause damage to the other tower. Mr. LeVine asked if we would learn anything by conducting a balloon test here. Mr. Steffert said we would not learn anything by conducting the test in this area. We already know what it will look like as there are already other towers there.

Ms. Maclean spoke to the colocation explaining that the purpose of the Code section is to *encourage* colocation but it does not *require* it. It is her belief that based on the last hearing and the Commission request to go to a 40-foot tower that there is a tradeoff to be made. By lowering the height in order to avoid the lighting requirement CBJ has less space than if they had kept it at 60-feet. With that less space, it makes sense to keep it to CBJ use as they will need that for its own expansion requirements.

PUBLIC TESTIMONY:

Damien Horvath, representing Snowcloud said that they operate quite a bit of equipment in that area. He said that the current pad needs to be removed and a new one put in. In terms of security, there is always people up there trying to climb the towers. Because of this, they agree that the fencing/security issues are valid. As for colocation, Snowcloud has concerns if CBJ begins to put a lot of equipment in the area because they say CBJ is not known for frequency coordination and said that causes a lot of 'noise' for other wireless providers. They question why the current site could not be cleared and the new tower put in that same location or 10 feet added to the current structure.

Mr. Hickok asked who owns the site. Mr. Horvath explained it is his understanding that CBJ owns the site and KTOO manages it.

Mr. Hickok asked about the fencing. He asked if we are talking about fencing the proposed tower

or the entire area. Mr. LeVine asked what kind of protection or precautions Mr. Horvath would suggest. Mr. Horvath said that the safest thing would be to leave the tower where it is. He said that to fence the proposed area would be very tight.

MOTION: *by Mr. Hickok to accept staff's recommendations, and approve WCF2019 0007.*

COMMISSION DISCUSSION –

Mr. Dye referred to page 99 of the packet 49.65.930 where it states the tower will not be climbable and will have a locked trapdoor. He has concerns whether that will be sufficient and asked for staff clarification to the security of the area.

Mr. Steffert pointed out that it is not in CBJ interest that someone climb the tower and break something. Whatever security measures put in place beyond a security system will be their best efforts. Having a locked trap door is just a start.

Mr. Dye asked CDD staff if they feel they have met code according to 49.65.930. Ms. Liu explained that as for security of the data, locking the structure was a reasonable measure. As for making the structure non-climbable, that is an industry practice. There is a condition for required signage regarding 'no trespassing'. Staff was not made aware until this meeting that anecdotally there are frequently people in the area. In the light of this information, it is possible to condition the WCF application accordingly.

Ms. Crossley asked Mr. Steffert to explain how can you explain how it was decided to use new rather than existing site. Mr. Steffert explained that the existing site is sloped and requires a guyed tower. The new tower is required to not be guyed so we need a less sloped area. Also, we want to keep the radio equipment functional through the time of construction to allow for least amount of outage time.

Mr. Dye asked if this is the last buildable site to build a freestanding, unguyed tower. Mr. Steffert said that while he is not a radio engineer he can speak to foundations and the ridge is the place to be considering the bedrock in the area. Mr. Steffert said KTOO has said they will be moving their tower possibly freeing that space but he was not aware of their timeline for that move.

Public Testimony closed and Mr. LeVine requested the motion be restated. Mr. Hickok restated the motion.

DISCUSSION:

Mr. LeVine said that he is still concerned with the requirement for a balloon test. It is his interpretation of the Code that the test is required and he does not see an exception even for safety or other reasons.

Mr. Maclean suggested a recess to consult with Law on the matter.

8:00 Recess

8:08 Called back to Order

Ms. Mores quoted from the balloon test section stating the purpose of the test is to better inform the public in the case of a new freestanding WCF. Considering the purpose being to inform the public and considering the safety issues, if the commission makes findings clarifying the safety issues and include suggestion to Staff to consider a Code change, they would be in a defensible position to waive the balloon requirement.

Mr. Dye asked if the stamped drawings in condition 2 are required by the National Association of Tower Erectors in order to be considered a complete application. Ms. Maclean explained that the condition meets Code 49.65.960(s).

Mr. LeVine objected to the motion.

Mr. Dye spoke in support of the motion.

The motion passed on Roll call vote with all present members but Mr. LeVine voting in favor.

VIII. REGULAR AGENDA

A:

AME2019 0008: A rezone of 17 acres along Montana Creek Road from D3 to D5
Applicant: Coogan Construction
Location: Montana Creek Road

Staff Recommendation

Based upon the findings and conclusions stated above, staff recommends the Planning Commission concur with the Director's analysis and findings and **RECOMMEND APPROVAL** to the Assembly for a rezone of the subject parcel from D3 to D5.

Ms. Maclean explained in her presentation that this is a request to rezone 17 acres along Montana Creek Road near Skaters Cabin from D3 to D5. The presentation included slides illustrating the location in a vicinity map and an aerial photo as well as slides illustrating the current zoning and proposed zoning.

The site is 17.34 acres currently zoned as D3 (single family, 3 dwelling units per acre). The comprehensive plan land use designation is ULDR (Urban Low Density residential). The area has City water and sewer. It is accessed via Montana Creek Road and is currently vacant land where there was previously a sand and gravel extraction operation.

According to rezone requirements, the site must be 2 acres or more and a similar request cannot have been made within the past year. This lot meets those requirements.

According to the comprehensive plan and the land use code (Title 49) D3 should be located outside of the urban service area. Land within the urban service area with public water and sewer should be up zoned to at least D5 so as to offset the cost of CBJ public utilities. D5 is primarily for single family and duplex dwellings with up to 5 dwelling units per acre and allows for accessory units.

In comparison to D3, Rock crushing, sand and gravel operations, and mining operations are allowed D3 but not in D5. Some recreation facilities are allowed in D5 but not in D3.

Public comments received have included concerns regarding potential for increased traffic, winter maintenance along Montana Creek Road, overcrowding at Auke Bay Elementary School, and noise from surrounding established used.

Agency comments were requested. The Juneau School District responded that increased density on the subject lot has the potential to impact enrollment at Auke Bay Elementary School. In light of this proposal coupled with Pederson Hill and other recent developments, the School Board is considering re-drawing district maps. With the redraw, there is sufficient capacity in the existing school system. No other agencies expressed concerns.

According to CBJ 49.74.130(a), the Commission has certain options regarding the request. They may recommend approval, approval with modifications or deny the rezone request. Ms. Maclean reminded the Commission there have been rezones recently that do not follow boundary lines or streets and cautioned them that if they were to do that they be deliberate in how they draw the line to be very clear of the boundaries of the one district to another.

Staff findings were:

1. The request meets the submittal requirement and the rezoning initiation, zone change restrictions, and procedural requirements of the CBJ Land Use Code. The application was filed in July, is an expansion of an existing zoning district, is more than 2 acres, and is not similar to a request rejected in the past year.
2. Based on the preceding analysis, the proposal substantially conforms to the Land Use Maps and policies of the Comprehensive Plan.

Ms. Maclean added that she should have included in Public Comments that after the staff report was completed CDD received comments regarding Montana Creek Road being an easement. She consulted with CBJ Engineering that there are often streets referred to as easements when originally laid out but Montana Creek Road is a CBJ adopted street or right of way. Another public comment concerned fourplexes. Ms. Maclean said D5 does not allow

fourplexes. It does allow single family duplex and common walls but even common walls would be limited to pairs of two and not three or more. Mr. Alper asked if it would be allowed for there to be a situation where a duplex had an accessory apartment on each side thereby putting four units in a single building. Ms. Maclean said that would not be allowed with a duplex because the duplex already counts as the second unit for the lot. She pointed out that if there is a common wall (separate ownership with property line down the middle), they each could have an accessory unit. Even though a duplex and a common wall might look similar, one is on one parcel and the other is on two. Mr. Dye clarified that accessory apartments do not count as dwelling units toward density. Mr. LeVine asked if a mobile home park would be allowed in D5. Ms. Maclean said that yes that would be allowed. Mr. LeVine asked why this area has not already been zoned D5. Ms. Maclean explained that often subdivisions started out as gravel pits that are required to be prepped for development upon closure. When this particular area was ready for rezone to D5, there was a lot of neighborhood opposition. It has received a planned unit development allowing for smaller lots. Mr. LeVine stated he is thinking to when the current gravel pit closes in 2029, the new owner will want to up zone that to D5 and was concerned about the potential increase in housing and the impact on roads, etc., in the area. Ms. Maclean explained that the intent in the comprehensive plan is to increase zoning as utilities are expanded come online to help support those costs.

Public Testimony:

Lisa Arehart – 9154 Blackwolf Way- is concerned with some of the development plans that she has seen for the area. She has seen duplexes and fourplexes in the plan. Her belief is that if you buy property at D3 then you should develop it at a D3. She believes Juneau needs more housing but she does not believe we need to put such high density into a low-density area.

Questions for Staff:

Mr. Arndt asked where are the boundaries of the urban service area. Ms. Maclean explained that it encompasses the property in question. Mr. Alper clarified the area on the map designated at Montana Creek West PUD. He asked if the PUD would be developable. Ms. Maclean answered that it is part of the area set aside as open space. Mr. LeVine noted a ‘large, diamond shaped area’ in the maps and asked what that is. It is a private home.

Ms. Maclean added that if the rezone is approved, it would still require permitting for any development to take place. Regardless of whatever development plans people have seen, that is not what is before the Commission and is not what is being approved. Ms. Mores clarified that this is a recommendation for rezone and not a decision. The Commission is just making a recommendation to the Assembly. Mr. Hickok asked for the reasoning why the applicant had been given a PUD rather than being rezoned to D5 in the past. Is it not just to increase density? Ms. Maclean explained that it is not necessarily just to increase density. If, for example, a parcel is wet or otherwise not allowing for large separate lots, a PUD would allow for clustering structures toward buildable land. Mr. LeVine was concerned that one of the advantages of PUD is that it allows for setting aside open spaces but did not believe D5 had the same requirement.

His worry is with the loss of open spaces. Mr. Dye asked why there were designated open spaces in the current D5 district in the slides but they cannot be required now. Ms. Maclean explained that overtime, the rules governing subdivisions have changed. Prior to 2015, subdivisions were required to go through a conditional use permit process wherein the Commission could require open spaces (called green belts) could be required in D5 areas but that is no longer an option to the Commission. Rezones can only be conditioned in the case of public safety. Mr. Arndt asked who owned a particular large portion on the map. Ms. Maclean stated she does not recall exactly but that it is publicly owned. Mr. Arndt commented that it would then be likely a green area for a long time. Mr. Dye asked, based on Ms. Maclean's discussion on transition zones and the Commission's option to change boundary lines on rezones, could this rezone encompass the D3 lot as a transition from D3 to D5 upon cessation of gravel operations? Ms. Maclean deferred to Ms. Mores on whether the Commission *could* but suggested they not do so without the owner's knowledge.

MOTION: *by Mr. LeVine to accept staff's findings and recommend the assembly approve the rezone requested at AME2019 0008.*

Roll Call Vote:

Aye: Mr. LeVine; Mr. Dye; Ms. Crossley; Mr. Arndt; Mr. Hickok; Mr. Alper

Nay: Mr. Haight noted that we need the open spaces. He does like to support housing but does support open spaces as well.

Ms. Mores reminded the Commission that their procedure requires written findings be submitted to support recommendations made to the assembly.

Mr. LeVine suggested their findings include that D5 will allow for additional affordable housing, is consistent with the comprehensive plan designation within the urban service boundary and he would also like to recommend they maintain open spaces.

The findings passed without objection.

RECESS 8:49 pm

RETURN TO ORDER 8:53 pm

B: (moved from CONSENT AGENDA)

USE2019 0018: A Conditional Use Permit
Applicant: Nugz LLC
Location: 9331 Glacier Highway

Staff Recommendation

It is recommended that the Planning Commission adopt the Director's analysis and findings and grant the requested Conditional Use Permit. The permit would allow the development of a marijuana cultivation facility.

The approval is subject to the following conditions:

1. Prior to approval of CBJ marijuana license, it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building, and it shall be demonstrated that security cameras have an unobstructed view of areas of regular activity without site blockages from lights, hoods, plants, fixtures, or other equipment in the building.
2. CBJ-approved signage shall be posted for the van-accessible parking space prior to final certificate of occupancy.
3. Striping for all required parking spaces be provided prior to final certificate of occupancy.
4. Debris must be removed from vegetative cover areas prior to final certificate of occupancy.
5. A complete copy of the applicant's approved state license application must be submitted to the department for review prior to operating.
6. All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.

Ms. Liu explained that per the Table of Permissible Uses, a marijuana cultivation facility in the Light Commercial (LC) zone may be allowed with an approved Conditional Use Permit.

The existing building is on fractions of Lot 3 and Lot 4; the subject lot contains the existing building for the proposed cultivation as well as a single-family dwelling immediately across from the building and encroaching across property lines. Subdivision is not proposed at this time so the encroachment is not addressed in this application. The existing building was approved in 2004 under USE2004-00034 as a commercial storage building with an apartment. It is located on an easement with access to Glacier Highway. The building is conforming to dimensional standards based on supplemental material for the 2004 Conditional Use Permit.

Staff requested comments from CBJ Building Division, CBJ Assessors Office and Capital City Fire and Rescue. The assessor's office and CCFR had no concerns. Building division explained sprinklers may be required in the future. This would be addressed at the building permit stage.

The total area of the building is 2,626 square feet. The exterior of the building will be unchanged. Modifications to the interior will include shelving, security systems and those needed to convert the existing apartment to an office space as well as a marijuana cultivation facility. There are no windows on the first story but there are on the second story and at the top of each bay sheet door.

No traffic impact analysis is required because the project is not anticipated to generate 250 average daily trips. Per 49.41.210, the facility is required to have three standard parking spaces with one of them van accessible. The current spaces do not have required signage and striping. These will be included in conditions of approval.

The project is not anticipated to generate any noise or external impacts out of harmony with the existing neighborhood. The vegetative cover requirement is met. However, there is debris at the site. As a condition of approval, the debris will need to be removed.

The project is in conformance with the Comprehensive Plan.

Commission Discussion

Mr. Dye asked for clarification as to which parcel was subject to the application because it was unclear in the packet. Ms. Liu explained that the labels had shifted in the presentation due to an error in formatting. She showed on screen the correct location of the proposed site. Mr. Alper asked for clarification regarding access to the building and the existing easement. He asked how did the easement got there and if it was required for the facility to have access to a major road. Ms. Liu explained that the easement would not be an issue and other inconsistencies in the property would be out of scope for this project.

Mr. Dye asked about condition number 5 and whether this is usual for marijuana cultivation. Ms. Liu explained that this was based on the staff report for another cultivation application. She assumed the condition is added to emphasize that between the conditional use permit and the applicant obtaining a new license, the department will check for consistency and the Director has the discretion to determine if there is consistency or need for another review. Mr. Dye expressed concern that this condition would be duplicative. Ms. Mores clarified that in the section on CUs for marijuana established it says the applicant is required to submit a complete copy of the applicant's approved State license application to the department for review prior to operating. Mr. Dye expressed concern that he had not seen that condition in prior applications.

APPLICANT Testimony

David Smith, applicant, explained that the easement was a result of when the ELKS lodge used to be a home and there was another behind it. That easement was how to get to the house.

NO OTHER PUBLIC TESTIMONY

Mr. Dye asked Ms. Mores for the code citation supporting condition number 5. Ms. Mores said it is 49.65.1245(d).

MOTION: *by Mr. LeVine to accept staff's findings, analysis and recommendations subject to following discussion about changing the wording of the conditions.*

Mr. Dye then suggested they strike second sentence of condition number 5.

Mr. Arndt clarified that condition number 5 would be that the applicant shall submit a completed application.

Mr. Dye suggested replacing condition number “Prior to approval of the CBJ Marijuana license it shall be demonstrated that surveillance cameras have an unobstructed view of each doorway in the building and shall be demonstrated that the security cameras have unobstructed view of areas or regular activities without sight blockages from lights, hoods, plants, fixtures, or other equipment in the building.

Mr. Dye suggested adding condition number 6, “All waste containing marijuana product shall be stored in a locked enclosure until transported to the CBJ landfill.

Mr. Dye suggested a change to condition number 4 to change to “Discarded construction material be cleaned up”. Mr. LeVine suggested they state for the record that the intention of the condition is that large discarded construction debris that has possibility of obstructing vegetative cover and preventing it from growing must be removed.

MOTION: *by Mr. LeVine to accept staff’s findings, analysis and recommendations and approve subject to condition 1 being replaced with language as suggested by Mr. Dye, striking the second sentence of condition 5, and condition 6 added as proposed by Mr. Dye.*

The motion passed with no objection.

IX. BOARD OF ADJUSTMENT

X. OTHER BUSINESS

APL2019 0007: Notice of Appeal: APL2019 0007, an appeal of Director’s determination regarding VDM2019 0004 – consideration whether to hear appeal per CBJ 49.20.110

Applicant: Lisa and Thomas Daugherty

Location: 9223 N. Douglas Highway

Ms. Mores explained the appeal process and that this is not the time for in-depth discussion. Rather, they are here to decide whether or not the commission will hear the appeal.

MOTION: *by Mr. LeVine to hear the appeal*
Motion passed with no objection

Ms. Mores explained now they must decide whether to hear part or all of the appeal

MOTION: *by Mr. LeVine to hear the entire appeal*
Motion passed with no objection

Ms. Mores explained now they must decide whether to hear the appeal on the record or de novo.

MOTION: *by Mr. Dye to hear the appeal on the record*

Mr. LeVine asked for clarification between on the record and de novo as it pertains to what else could be added. Ms. Mores explained the pretrial and hearing processes with the potential for new information and witnesses but there could also be limits and sidebars that could be in place. Mr. LeVine asked if Ms. Mores is allowed to advise the Commission on this topic. Ms. Mores is not in a position to give advice on how to hear this issue as she has already consulted with the Director on this item.

Mr. Dye asked how many cases have been heard de novo as opposed to on the record in the past. Ms. Mores could not recall any cases during her 12 years held de novo.

Mr. Dye asked if it were possible to add new information if the case were heard on the record. Ms. Mores said that if both parties agreed, new information could be added.

Motion passed with no objection

Mr. Haight appointed Mr. Dye as presiding officer.

XI. STAFF REPORTS

Maclean reported Marjorie Hamburger is no longer with CBJ as she has moved to a new position. Chelsea Wallace has taken her place. Ms. Mores is also leaving CBJ in the near future.

The nonconforming ordinance will be presented for public hearing on August 27 taking public testimony then again in September. Mr. Arndt asked if possible, could the commission get a copy of draft as it stands. Ms. Maclean explained they are already planning to get draft to commission this week.

Next blue print meeting is August 29th, 6pm

Next title 49 meeting September 4, noon

Mr. Mores reported that the hearing officer has issued a proposed decision in the Harris appeal. It will be before Assembly on Monday, August 19. No objections were filed with respect to the decision. That decision affirms Planning commission's decision dismissing the appeal was affirmed.

XII. COMMITTEE REPORTS

Mr. Dye reported he missed last Downtown Blueprint about parks and he is looking forward to seeing what came of that meeting. The Title 49 committee met and discussed downtown zoning extensively. Feels they are making good headway. Next meeting is September 4.

Mr. LeVine reported Juneau Commission on Sustainability has been busy working on composting, updating their website and the sustainability plan. They will be getting a tour of a cruise ship to see their water and air treatment facility.

XIII. LIAISON REPORTS

Mr. Bryson reported at the assembly meeting on July 22, they passed onsite consumption, and passed senior housing tax abatement. They removed responsibility of lease negotiations from planning commission. This now goes directly from Lands to Assembly. They passed Vista Drive rezone. A 2% hotel tax increase will be on the ballot. Centennial hall and New JACC funding will be on ballot. Eaglecrest has presented to the Assembly regarding its development projects. The new aquatics board has been appointed.

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

XV. PLANNING COMMISSION COMMENTS AND QUESTIONS

Mr. Dye has been to the Planning Commission website and noted that the site lists members who are no longer on the commission.

Mr. LeVine requested when supplemental materials are emailed, please note those items in the subject line.

XVI. EXECUTIVE SESSION

XVII. ADJOURNMENT - 9:41 pm