



Date: March 3, 2006

To: Tom Nelson
Director, Planning Department
Municipality of Anchorage

From: Meghan Stapleton
Director, Corporate Communications
Alaska Communications Systems Group, Inc.

Re: Title 21 / Project 21 Public Review Draft #2
Comments on behalf of Alaska Communications Systems (ACS)

Tom:

We thank you for this opportunity to address our concerns with the proposed language that will impact telecommunications companies in the Municipality of Anchorage.

Meghan



Overall comments regarding Title 21: PUBLIC REVIEW DRAFT #2:

The Municipal Assembly has encouraged that ACS participate in these proceedings and provide comment for inclusion in documents prepared for public review. The comments submitted today are meant to serve as a supplement to the comments submitted to the Municipality of Anchorage in June, 2005 during the Public Review Draft #1 – and which were apparently not included in the Municipality's second draft. We look forward to continued opportunities to participate in the review process prior to the release of the PUBLIC REVIEW DRAFT #3.

Overall, the proposed changes to Title 21 seem to be rather ambiguous; they do not adequately define the basis upon which the Planning & Zoning Commission is to approve or deny requests. Rather, it appears the Commission is granted the unlimited authority to make interpretation on a case-by-case basis without providing necessary structure for process and approval / denial of applications. Several times the Title gives Planning & Zoning the ability and authority to impose conditions to the extent they deem necessary. This leaves telecommunications companies subject to the Commission's potential politically-driven agenda, rather than the needs of the Municipality of Anchorage's residents and businesses. Additionally, there appears to be no level of guidance to drive the process and therefore, new conditions may be randomly placed on businesses as they go through what is perceived to be the process. It's a proposition that has the potential to be time consuming and costly with no defined end. At worst, an approval could potentially be dragged out for years. Defining the process provides mutual respect and perspective for both sides. ACS would like defined rules that guide the approval process Planning & Zoning must follow – for example, a decision matrix that will provide the foundation of the discussion and decision-making.

The same applies to broad and subjective terms within the text, such as "adverse effect." ACS believes the definition of "adverse effect" could be liberally applied. Take this example: cell antenna / tower sun blockage on a raspberry patch could, under this verbiage, constitute an "adverse effect" because it is not otherwise defined.

The draft also fails to acknowledge that telecommunications networks are carefully designed to provide the best overall experience to customers in an efficient manner. This design is critical in order to allow both for necessary services (e.g., 911 capabilities) and affordable prices. Unfortunately, the proposed changes to Title 21 seemingly disregard the hard science that goes



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into network design and construction. For example, the draft changes would allow the city to deny a permit for construction on the basis of the technology chosen by the provider. We do not believe that technology selection is the role of the Municipality, rather, it is the responsibility of the telecommunications provider to deploy services demanded by its customers. Additionally, the draft states that the Municipality can find suitable a technology other than that proposed by the provider – regardless of cost to the provider. This, too, is untenable since the Municipality is poorly situated to suggest or mandate technology choices. In fact, this adds to the already conflicting role the city now plays in its attempt to locate towers where it deems fit rather than where engineering studies dictate they be constructed. Such actions introduce inefficiencies into the providers' networks which actually create the need for more towers to cover the same area – the very action the Municipality seeks to avoid! Telecommunications providers are in a highly competitive business which seeks to invest efficiently to meet its customers needs and to provide infrastructure for the safety of the city's constituents. This can only be accomplished through careful, scientific planning and is derailed when dictated by potentially uninformed, politically-driven discussions.

And finally, as an overarching comment, it is essential that requirements/restrictions imposed in the instant proceeding apply to all entities, including the Municipality itself, which operate within the Municipality of Anchorage.



Specific Comments regarding Title 21: PUBLIC REVIEW DRAFT #2:

21.01: General Provisions

No Comment

21.02: Boards, Commissions, and Municipal Administration

No Comment

21.03: Review and Approval Procedures

No Comment

21.04: Zoning Districts

21.04.070 Other Districts

B: AF Antenna Farm District

1. Purpose:

Problem: As an attempt by the Municipality of Anchorage to target parcels for large density tower and antenna development for communications, there is no provision for the type of communications, i.e. microwave, cellular, AM FM. There was no requested input from the communications industry on locations, density, nor design types and use.

21.05: Use Regulations

21.05.040: Public/Institutional Uses: Definitions and Use-Specific Standards:

21.05.040

K: Telecommunication Facilities:

1. Definitions:

d. Type 4 Tower:

Problem: Type 4 antennas: ACS would like to see a clear definition on this paragraph about what the city is trying to accomplish. The city may be better served by having different zoning districts with varying requirements for appearance. Again, this is written with very broad language and ACS would like this information to be defined.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

a. Setbacks:

Comment: Extensive restrictions to our industry with regard to property setback to accommodate a leased parcel for tower construction. Current tower installations like Holiday and Sourdough would require larger leased parcels to meet setback requirements.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

b. Tower Structure Height:

ii. Base height:

Problem: ACS questions the derivation of the numbers - tower height restrictions in zoned districts. What are the recommendations based upon? ACS would appreciate insight into the suggested scales used in creating Title 21 changes. Furthermore, the fact that additional height can be obtained by variance and number of other entities collocating seems to violate and contradict verbiage as well as the intent in conflicting language throughout the rest of the document.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

b. Tower Structure Height:

iv. Qualifying antenna:

Comment: 15 feet additional height for each qualifying antenna with a maximum of no more than 30 feet additional height. Stipulation may require ACS to design for co-location at all sites in order to obtain ACS design tower height.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

b. Tower Structure Height:

v. Separation:

Comment: Offset on any tower 200 feet plus from any community interest or local interest tower 5,280 feet.

Question: What is the definition of local interest tower? (MOA/State owned or operated?)

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

d. Collocation:

Problem: Does this mean that all towers must now be built to collocation requirements? If so, are carriers automatically granted the additional height?



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21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

d. Collocation:

iv. Timing:

Problem: The time frame for another carrier to respond needs to be shortened to 30 days. By giving the competing carrier 6 months to respond, the competitor has the ability to delay the others' project and put them at an unfair disadvantage. Additionally, the city will prohibit the project from moving forward.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

e General Standards:

v. Tower color:

Comment: "...neutral in color and, to the extent possible, shall be compatible with the appearance and character of the neighborhood..." ACS believes that this language requires clarification – what is meant by "appearance and character of the neighborhood?"

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

j Administrative site plan review:

i. Applicability:

Comment: Administrator will review all sites for visual impacts to community / neighborhood and will require public comment.

Problem: There are no definitions.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

j. Administrative site plan review:

ii. General:

A. Approving site plan permit:

Administrator may impose conditions to minimize adverse effects of the proposed tower -- this is very open language and the MOA could impose arbitrary conditions at will. Again, this is a very broad paragraph and requires subjective interpretation. ACS would prefer objective criteria when defining conditions, such as used by the FCC for clarification. For instance, the city needs to define what "adverse effects" are and the same applies to the statement: "may impose conditions to the extent necessary." Otherwise, this gives the city the ability to deny the request for almost anything.



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21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

j. Administrative site plan review:

iv. Minimum Separation Distance From Protected Land Uses:

B. Minimum separation distance:

Problem: This paragraph needs to be deleted; there is no basis to require these setbacks.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

j. Administrative site plan review:

v. Public Participation Process:

Problem: Public process will take 35 days - administrative and plan review up to 60 days. This doesn't work with any other typical construction in Alaska.

The process is too long and difficult to schedule. You have one year to finish construction or lose your permit. This would indicate site selections must be done in the winter at least six months or more ahead of construction to be effective.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

j. Administrative site plan review:

vii. Factors Considered In Granting Site Plan Approval For Tower Structures:

Problem: This paragraph needs to be deleted. The city is applying conditional use standards for a site that only requires site plan approval. Therefore, every site that a telecom provider applies for will likely require conditional use.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

k. Qualification Of Type 4 Tower Structure And Antenna:

Problem: Again, this paragraph talks about Type 4 antennas and how they should be designed, but there is no clear definition as to what those standards are. The ambiguity provides no foundation or consistency and Municipal conditions could remain fluid.



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21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

m: Conditional Use Standards:

General Problem: Due to the restrictions in the tower height and other imposed conditions noted above, the assumption is that ACS and other carriers, as noted above, would be forced to permit through the conditional use permit process. This will require more documentation, time and justification in front of the Planning & Zoning Commission.

Additionally, as a general statement concerning wireless tower construction: the above restrictions are extensive compared to any where else in the state. It should be researched as to the extent of restriction for tower construction in the lower 48 as a comparison. The proposed changes to Title 21 will place an additional burden on resources, and more importantly, impact customers who are residents of this great city and state. If ACS is to rectify a design problem with a new location, it cannot be effective nor timely by new construction or even collocation as the above ordinances restrict time for review in both instances.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

m: Conditional Use Standards:

i: General And Applicability of Conditional Use Requirement:

a: Granting A Conditional Use Permit:

Problem: Again, we need clear definitions. The language is far too broad.

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

m: Conditional Use Standards:

iv: Availability of Suitable Existing Tower Structures, Other Structures, or Alternative Technology:

A / B: Existing Tower Structures:

Problem: What is to be provided as proof for these two requirements?

21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

m: Conditional Use Standards:

iv: Availability of Suitable Existing Tower Structures, Other Structures, or Alternative Technology:

E: Sharing Existing Towers:

Question: What determines "unreasonable costs?" And over what period of time?



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21.05.040

K: Telecommunication Facilities:

2. Use-Specific Standards:

m: Conditional Use Standards:

iv: Availability of Suitable Existing Tower Structures, Other Structures, or Alternative Technology:

G: Alternative Technology:

Problem: This needs to be deleted. It gives the city the ability to turn down a permit based on its assumption that an alternative design/technology may be available, such as micro cells, and it provides the city with the ability to deny a permit and mandate the alternative design/technology regardless of what the alternative's costs may be.

21.06: Dimensional Standards And Measurements

No comment

21.07: Development And Design Standards

21.07.050 Utility Distribution Facilities

General Comment: This is a review of the underground ordinance and directive for new builds to go underground. This has been extensively reviewed and opposed by ACS but was passed by the Assembly. Discussion on ROW and MOA projects and reimbursement of utilities associated with these projects. Section supports the use of joint trench for overhead utilities.

Problem: The underground ordinance design is flawed and internally inconsistent. As structured, its mechanics can drive affected utilities' spend to the 2% cap prior to the completion of a year's planned undergrounding activities. This will likely result in project stalls/carryovers to subsequent years before completion.

21.07.080 Landscaping, Screening, And Fences

C: Landscaping Plan

Comment: It is unclear whether changes from Assembly work sessions made it into another version of this document. ACS is following the responsibility of landscaping utility easements. As it stands, the utility must notify effected residents in writing one week ahead of disturbing the area, but is not responsible to replace landscaping, only responsible for stabilizing it.



21.08: Subdivision Standards

21.08.030 Design Standards

M. Electrical and Telecommunication Utilities

General Comment: Regarding utility easement: shall be placed in ROW whenever possible. This may be either against the design standards or not in the best interest of the utility. ACS believes it may not be the best solution and an easement may be better suited for construction. While the next paragraph allows for easement, clearly the MOA prefers ACS to be in ROW. The language suggests this is without regard for design.

21.08.050 Improvements

N: Telecommunication And Electric Facilities Requirements

Problem: There is no provision within this section or elsewhere in Title 21 that would prohibit a developer to withhold access to joint trench, during construction, to a licensed telecommunications utility prior to recording plats. In an effort to ensure open competition this needs to be addressed and provided for within Title 21 under the subdivision section. Barrett Sub is a prime example of a developer prohibiting entry while electrical contractors had an open trench. Open access for all licensed utilities during construction should be a requirement of the design and review phase of the development.

Comment: The city needs to establish maximum depth that will be accepted by the utilities. For example, Westpark subdivision had utility crossings placed for power and telecommunications at a depth of 10 feet. This should be established up front within this section on allowable depth.

21.10 Signs

No Comment

21.12 Enforcement

No Comment

21.13 Rules of Construction

No Comment

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