

**City of Bethel
Planning Commission**

Regular Meeting of October 12, 1995

I. CALL TO ORDER

The meeting was convened at 7:30 PM, at the City Finance Conference Room, Bethel, Alaska, by Chairman Guinn.

II. ROLL CALL

Present: Guinn, Hickson, McComas, Metcalfe

Absent: Hamilton, Andrew, Warner

III. APPROVAL OF MINUTES

motion M/M by McComas, 2nd by Hickson to approve the minutes of the September 21, 1995, regular Commission meeting as presented.

IV. APPROVAL OF AGENDA

motion M/M by Hickson, 2nd by Metcalfe to approve the agenda with the addition of Item D. Voice vote. Motion carried unanimously.

V. COMMUNICATIONS

The Planning Department received a complaint from Dick Andrew and Louie Andrew against Carl Russell and the Acting Planning Manager. The complaint against the Acting Planning Manager cited a flagrant deviation from City ordinances. Permission was given to build a porch addition behind Mr. Russell's building which is in the road right-of-way. Permission was given to build this structure when it was promised that the area would be cleaned up and the new construction would be moved by November. There has been a significant improvement in the cleanliness of area.

Concerning the complaint against Mr. Russell the eviction process was started. The Planning Department requested the City attorney's advice on the most expedient way to proceed.

VI. PLANNER'S REPORT

The new Planning Manager, Franklin Etheridge, resigned on the 27th of September. The City is once again advertising for this position.

Quarterly reports have been sent to the Corps of Engineers and the Alaska Coastal Management Program (ACMP). The report for the Corps is to maintain our general permit and the ACMP report fulfills a requirement of our grant.

VII. PEOPLE TO BE HEARD

There were no people to be heard.

VIII. OLD BUSINESS

There was no old business

IX. NEW BUSINESS

ITEM A: REQUEST FOR VARIANCE LOT 14, BLOCK 3, TURNKEY III SUBDIVISION - GRACE LIEB

Grace Lieb was represented her contractor, Jimmy Guinn, who proposed a 16' x 24' addition to the present structure plus an arctic entry which would require a setback variance.

Commissioner Guinn explained the ASHA housing complex problem.

motion M/M by McComas 2nd by Metcalfe that the variance be granted. Voice vote. Motion passed unanimously.

ITEM B: REQUEST FOR VARIANCE TRACT A, TURNKEY III SUBDIVISION - YUKON KUSKOKWIM HEALTH CORPORATION

John Guinn excused himself from chair. Buford McComas became the acting chairman.

YKHC was represented by Greg McIntyre who proposed moving an FAA duplex onto the lot requiring a lot line variance. YKHC owns Tract A and Lots 10, 11, and 12. The duplex would cross the lot line between Tract A and Lot 10. There will be the required distances to meet set back distances and at least 20' between all buildings. Planning has been made to preserve the natural drainage.

motion M/M by Hickson 2nd by Metcalfe to approve the variance subject to the Planning Departments recommendations. Voice vote. Motion passed unanimously.

ITEM C: REQUEST FOR VARIANCE PRELIMINARY PLAT BLOCK 2, MARTINA OSCAR SUBDIVISION - KARLUK DESIGN

BMC 135.30.020 E2 and 135.030.040 require 70' radius cul-de-sac turn arounds. Karluk Designs requests a variance from this ordinance to a 50' radii.

Corospondence from Paul Whipple, of Karluk Design, was presented as testimony on behalf of the variance.

motion M/M by McComas 2nd by Hickson to approve the variance request for 50 foot radii cul-de-sacs in Block 2, Martina Oscar Subdivision. Voice vote. Motion passed unanimously.

ITEM D: PLANNING DEPARTMENT NEEDS

The needs of the Planning Department and associated problems were discussed. The City Manager, Ken Weaver, suggested that the salary for the Planning Manager be increased to \$50,000.00 annually to allow the City to acquire and keep qualified applicants.

X. ADJOURNMENT

motion M/M by McComas 2nd by Hickson to adjourn the meeting. Voice vote. Motion carried unanimously.

PASSED AND APPROVED THIS ____ DAY OF _____, 1995.

John Guinn, Chairman

ATTEST:

Richard Nolan, Acting Planning Manager

V. COMMUNICATIONS

No communications.

VI. PLANNER'S REPORT

The position of City Planner is once again being advertized. The closing date for applying is December 15th. The City Council has increased the salary to a high of \$55,000.00 which will encourage a greater number of qualified people to apply.

There has been a lot of interest in this position and the list of applicants is growing. Ken Weaver will be contacting the Planning Commission soon to get its input on the list of eligible Planner hopefuls.

A letter was sent to Carl Russell requiring him to move his buildings from City property by the 15th of November. He received the letter on the 18th of October and, if you saw the November 2, 1995 Tundra Drums article, is rather upset.

It brings up a question: "Are we now required to pursue this same process with every individual who is encroaching on City property?"

VII. PEOPLE TO BE HEARD

VIII. OLD BUSINESS

There is no old business.



CITY OF BETHEL

P.O. Box 388 Bethel, Alaska 99559
907-543-2297
FAX # 543-4171

THE CITY OF BETHEL IS ACCEPTING APPLICATIONS FOR THE FOLLOWING VACANCY:

- POSITION: City Planner (Assistant to the City Manager for Planning and Community Development)
- DEPARTMENT: Administration
- SUPERVISOR: City Manager
- DUTIES: Provides a unique opportunity with a growing rural community for hands on community planning. Must have a thorough knowledge of rural land use planning, administration, community relations, subdivisions and zoning. Also manages grant funded programs in the planning and community development including preparation of grant proposals.
- QUALIFICATIONS: Bachelor or Master's degree in planning or related field and one (1) year experience in planning or an equivalent combination of education and experience.
- SALARY: \$55,131 annually, DOE, plus excellent fringe benefits.
- CLOSING DATE: December 15, 1995

INTERESTED APPLICANTS SHOULD SUBMIT RESUME AND CITY APPLICATION TO:

City of Bethel
Personnel Director
P.O. Box 388
Bethel, AK 99559
(907)543-2087

THE CITY OF BETHEL IS AN EQUAL OPPORTUNITY EMPLOYER

HICKS, BOYD, CHANDLER & FALCONER

ATTORNEYS AT LAW
SUITE 200

825 WEST EIGHTH AVENUE
ANCHORAGE, ALASKA 99501

TELEPHONE: (907) 272-8401
TELECOPIER: (907) 274-3698

M E M O R A N D U M

TO: Richard Nolan
Acting Planning Manager

FROM: Brooks W. Chandler
City Attorney

RE: Your Memorandum of October 5, 1995

DATE: October 9, 1995

=====
This responds to the above-referenced memo as follows:

With regards to your first topic, evicting a squatter from a right-of-way is not guaranteed to be quick. The first step in the process is to write the owner of the building a letter giving him a specific time period to remove his building and property from the right-of-way. I suggest thirty (30) days. A suggested form of such a letter is enclosed. If the owner of the building does not respond to the letter, the City then has the following options:

1. Remove the property ourselves. This is the quickest way to get rid of the property, however, it does expose the City to a claim for improperly removing the property, losing things that are removed, destroying things of sentimental value and similar claims.
2. Sue the owner of the building for trespass and request that they be evicted by the court. You should anticipate that it would take up to six months to get a formal court order evicting/ordering the shack removed. The advantage of proceeding in this manner is that the City would be insulated from claims relating to removal of the property if we were doing it after having received a court order. The court order could be enforced by either our police department or the state troopers, if the property owner continued to refuse to remove his building.
3. A third alternative is to act through the planning department to declare the shack a common law "nuisance" as an eyesore. We do not recommend this procedure as "one man's junk is another man's treasure". If the property is clearly within a properly platted and recorded street right-of-way, the legal obligations of the City are much more clear cut through pursuit of an eviction.

MEMO TO: RICHARD NOLAN
October 9, 1995
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In addition, our review of the Bethel Municipal Code indicates that the City does not have a general nuisance ordinance, however, please check with Connie Tucker to make sure that such an ordinance has not been adopted and simply has yet to appear in the City Code. The Bethel Municipal Code does make it illegal to place "garbage, rubbish, waste material, broken glass, broken wire, dead animals, debris, scrap iron, destroyed automobiles or automobile bodies, truck or truck bodies, similar heavy, bulky objects or other waste" within platted streets or alleys of the City. BMC 13.12.250, 13.12.260, 13.12.270. To the extent the "junk" referred to in Mr. Andrew's letter qualifies as any of these things, Mr. Russell can be cited for a misdemeanor violation of these portions of the Bethel City Code. Each day the offending material remains within the right-of-way is a separate offense, and fines accumulate. Assessing a fine, however, is different than actually getting rid of the stuff. It might provide Mr. Russell an incentive to remove his property and that is why it is mentioned in the attached letter.

With regard to your second topic, the planning department has absolutely no responsibility whatsoever to enforce private subdivision covenants. You should not be using them in processing site plan permits. Those covenants are a matter to be resolved between other property owners in the subdivision and the person that is seeking to improve their property.

If you should have any questions, please do not hesitate to give me a call.

UNITED STATES POSTAL SERVICE

Official **OFFICE OF BETHEL**
RECEIVED

OCT 19 RECD



PENALTY FOR PRIVATE
USE: \$300

Print your name, address and ZIP Code here

City of Bethel
PO Box 302
Bethel, AK 99559

ATTN: PLANNING

SENDER:

Complete items 1 and/or 2 for additional services.
Complete items 3 and 4, if applicable.
Print your name and address on the reverse of this form so that we can return this card to you.
Attach this form to the front of the mailpiece, or on the back if space does not permit.
Write "Return Receipt Requested" on the mailpiece below the article number.
The Return Receipt Fee will provide you the signature of the person delivered to and the date of delivery.

Also wish to receive the following services (for an extra fee):

- Addressee's Address
 - Restricted Delivery
- Consult postmaster for fees.

3 Article Addressed to:

Carl Russell
Box 302
Bethel, AK 99559

4 Article Number:

510 785 567

5 Service Type:

- Registered Insured
- Certified COD

Express Return Receipt for Merchandise

7 Date of Delivery:

Addressee's Address (if requested) Fee paid

Signature of Addressee

Carl Russell

Signature (Agent)





CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559
907-543-2087
FAX # 543-4171

October 17, 1995

Mr. Carl Russell
P.O. Box 372
Bethel, Alaska 99559

Dear Mr. Russell:

We are enclosing a copy of a letter from Mr. Andrew who says that you own, or are making use of, a dedicated street right-of-way. Your use of such a right-of-way is a trespass on the City of Bethel's property rights. Unless your building and associated personal property is removed from within the street right-of-way by November 17, 1995, the City will either remove this property ourselves or seek a court order evicting you from the street right-of-way. The location of your encroachment is shown on the enclosed copy of a portion of the plat.

It appears to us from Mr. Andrew's description that you are in violation of Sections 13.12.250, 13.12.260, and 13.12.270 of the Bethel Municipal Code by reason of keeping prohibited materials within a street right-of-way. A copy of this portion of the Code is enclosed. Should you fail to remove this material by November 17, 1995, the City intends to enforce these sections of the Municipal Code by citing you for a misdemeanor violation. Such a violation carries a daily fine of up to \$500.00 per day. BMC 1.08.010.

We urge you to resolve this problem without the involvement of the courts. If you have any questions or dispute the statements made either in this letter, or in Mr. Andrew's letter, please let me know.

Sincerely,
CITY OF BETHEL

Richard Nolan
Acting Planning Manager

City orders resident to move house after 16 years

By John Plestina

The Tundra drums

After living in his home on First Street at the corner of East Avenue for 16 years, Carl Russell has been told by the city of Bethel to move his house. The city owns the land, but has never contacted him before.

The 18-year Bethel resident received a letter from Acting Planning Manager Richard Nolan on Oct. 17, giving him 30 days to remove his house and other personal property. He has been threatened with a misdemeanor violation that carries a maximum fine of \$500 per day.

Russell's house is situated on a city-owned lot in East Bethel. Addition that is an undeveloped road right-of-way. The site was the proposed North First Street during the 1970s.

He purchased the house 1979 with the understanding that it didn't include any land. The house was on the same lot for several years prior to 1979. Russell said the city has never charged him rent, nor contacted him regarding the house between 1979 and this year.

During the summer, Russell allowed Lloyd Nelson to build a small house on the same lot, because Nelson could not find housing for his family. Nelson also received a notice from the city to remove his house; he has sold it and it will be removed.

"It's really an old encroachment thing," City Manager Ken Weaver said. "It's from the Planning Commission."

'If I went before the City Council on this — I look at it this way — I wouldn't have a snowflake's chance in hell.'

— Carl Russell

Planning Commissioner Louie Andrew sent a letter to Weaver on Sept. 28, requesting immediate action against both Russell and Nelson.

Russell's problems apparently started when his neighbor, Dick Andrew (Louie Andrew's brother), wrote a letter to the city on May 3, complaining that Russell was encroaching on his side of the city's right-of-way, causing problems for water and sewage trucks to get to his property for pickup and delivery. He requested that the city take immediate action to cleanup Russell's property or move him out. Andrew's letter alleged that Russell's property was cluttered with "junk lumber, snowmachine parts and whatever and that junk goes into my yard."

Of Andrew's complaint that city water and sewer trucks can't get across Russell's lot to Andrew's property, Russell said, "That's B.S. "If I went before the City Council on this — I look at it this way — I wouldn't have a snowflake's chance in hell." Russell said.

He also doubts the city would give him more time to find a lot for his house or rental housing. "The impression I got from the city manager was that it wouldn't do any good to talk about it," Russell said.

"I don't see us going and throwing anybody out

Russell also said that barrels of human waste appeared on his lot when he returned from a hunting trip.

"On the 28th or 29th of August, Me and Lloyd (Nelson) went moose hunting and those drums of human waste were there — six or eight of them. Fifty-Five gallon drums," Russell said.

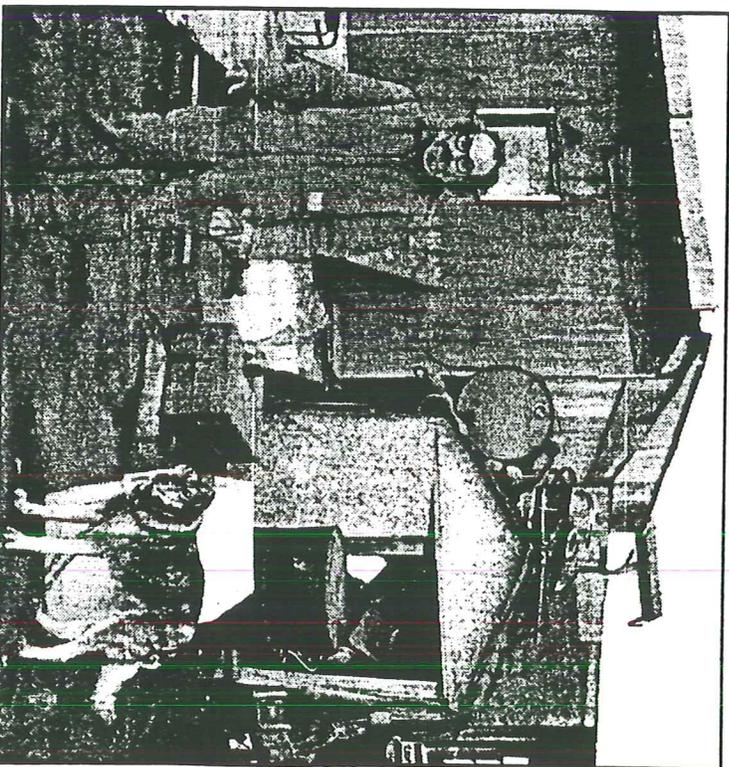
Weaver said he has written a letter to the Association of Village Council Governments Regional Housing Authority on behalf of Nelson, to aide the family's search for housing.

Russell and several other people told The Tundra Drums that they believe there are several other buildings that encroach on city property, but that Russell was singled out, because he may not be able to afford an attorney.

Both Weaver and Mayor Ruth "Wally" Richardson denied that.

"I know there are encroachments all over the place, but when it's brought to your attention and you don't enforce it, you're derelict," Weaver said. When asked if there are many other encroachments on city property, Weaver responded, "Oh, quite possibly."

"I believe trying to do equal enforcement," said.



John Plestina/Tundra Drums

Carl Russell in front of the 12-by-18 foot house he has lived in for 16 years on East Avenue. The city of Bethel has ordered him to move the structure.

**Stay alive.
Please
don't drink
and drive**

Stuart

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
POST OFFICE BOX 248
BETHEL, ALASKA 99559-0248
TELEPHONE (907) 543-2238
FAX (907) 543-5537

November 21, 1995

VIA FAX (907) 543-4171

Richard Nolan
Acting Planning Manager
City of Bethel
Bethel, Alaska 99559

Re: Carl Russell Alleged Trespass Street Right Of Way

Dear Mr. Nolan:

This office has been retained by Mr. Russell to look into the above referenced matter which is discussed in your October 17th, 1995 letter to Mr. Russell. Please direct all correspondence accordingly.

Mr. Russell is too hopeful that this matter may be amicably resolved without resorting to the courts. Please give me a call sometime to discuss this issue. I appreciate your time and consideration of this matter.

Very truly yours,

ALASKA LEGAL SERVICES CORPORATION


Tom O'Connor
Staff Attorney

IX. NEW BUSINESS

ITEM A: CONDITIONAL USE PERMIT LOT 1, BLOCK 3, MUMTRETLIK - GARIS KINEGAK

Garis Kinegak has asked for a conditional use permit for a commercial use in an area zoned residential. He would like to open a slot car and hobby shop at 120 Kinegak Street.

Reasons for granting a conditional use permit would be:

- 1) Drug and alcohol free environment,
- 2) Open 4 p.m. to 10 p.m. on weekdays and weekends to 11 p.m.,
- 3) Minimal neighborhood impact,
- 4) Creates another safe place for children to go during the long winter evenings.

Mr. Kinegak has shown the Planning Department a petition signed by most of the neighboring homes and there have been few in disfavor of this idea. As long as there are no valid objections to this project the Planning Department is in favor of granting the permit.



CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559
907-543-2087
FAX # 543-4171

NOTICE OF A PROPOSED CONDITIONAL USE IN A RESIDENTIAL DISTRICT

NOTICE IS HEREBY GIVEN that the Planning Commission of the City of Bethel will be holding a public hearing for a conditional use permit, proposed by Garis Kinagak.

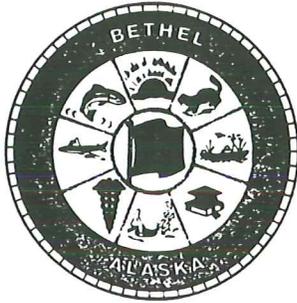
LOCATION AND NATURE OF CONDITIONAL USE PERMIT: the proposal calls for operating a Slot car race track and hobbies shop at **120 Kinagak, Bethel, AK 99559**, also known as **lot 1 block 3, Mumtretlek Subdivision**. Slot car track and hobby shop is classified as a commercial use and hence requires a conditional use permit in a Residential District. As a part of the conditional use permit process is an opportunity for neighbors and the general public to express their sentiments during the public hearing prior to the Planning Commission's decision whether or not to grant the permit.

DATE OF PUBLIC HEARING: Thursday, December 14, 1995

TIME AND PLACE OF PUBLIC HEARING: The City Office Building conference room, 7:30 PM.

Posted November 21, 1995

Stuart Greydanus, Acting Planning Manager



CITY OF BETHEL

P.O. Box 388 • Bethel, Alaska 99559

543-2297—Area Code 907

Garis Kinigak Bx 965
kt1, Bk3, Mum 120 KINIGAK

CONDITIONAL USE PERMIT APPLICATION

The applicant shall complete a Conditional Use Permit application which describes the following: (18.60.020 B.M.C.)

1. **Potential impacts on pedestrian and vehicular traffic circulation and safety.**

Pedestrian Impacts: the prevailing speed around mission Road is low so in my opinion the pedestrian impact would be minimal
Vehicular Impact: there would be a slight increase
Safety Impact: it would be minimal

2. **Potential output of noise, fumes, dust or other environmental pollution.**

Noise: I would have a stereo but it would not be loud in order to keep concentration on track

Fumes: None except from a monitor heater that is vented to the outside

Dust: I don't think there would be that much traffic to create dust

Pollution: None: if any it would be disposed of properly

3. **Special features designed to ensure the public health, safety and welfare of the residents.**

Sheet Rocked Building, heating system is vented to the outside, Fire Extinguishers, the track is 12 volt power, low voltage nobody would get seriously shocked. Public Rest Room, 2 exits in the building, very well lighted ^{inside} for safety, outside lights

I would like to start a Business at the End of mission Road on the Short Road Between mission Road and mission Lake which is call Kineguk Rd. the Business would Be a Slot car Race track and Hobbies

- ① it would Be called Bethel Speedway & Hobbies
- ② it ~~was~~ would Be owned By my wife & children
- ③ it would give the children of Bethel a good place to go
- ④ it would Be a drug & Alcohol Free environment
- ⑤ it would Be open From 4 pm to 11 pm ^{or 10 pm} week days on weekends it would Be open 12 pm to 11 pm
- ⑥ it would have an minimal Impact on our ~~the~~ Neighborhood

opposed

For

address

Vivie 190 M.R.
 Robert LeKewin 180 M.R.
 Ray Hunter 210 M.R.
 [Signature] 230 1st Ave
 Cohen Block 225 mission
 Jessie Peter 112 Schwable
 Vita Masley
 Family Affairs 245 Mission Rd
 Cliff Fisher 120 Schwable
 Eva Sieder 120 Schwable
 Lyle Sora 310 1st Ave
 Maggie Michaels 352 mission
 Ben [Signature] 235B
 SW [Signature]
 ~ 1 Oct 2011

Opposed

For
~~John Kingak 350~~
~~Douglas King 125 Bushwalke~~
Luitli Nelson 11
Rebecca Nelson 426 Nepakial
William Chin King 201st Ave
154
Stuart Braylans Toyeson

ITEM B: REVIEW OF TITLE 15, 17, AND 18 BETHEL MUNICIPAL CODE

The City Clerk has finished codifying the Bethel Municipal Code book and asked the Planning Commission to review the titles that relate to the Planning Department. We have been asked to look for omissions, conflicts, redundancy, mistakes and ways to make the titles more effective.

An example of things that could be omitted would be the requirement for hearing notification on the radio.

An example of conflicts or redundancy would be 15.10 Site Plan Requirements and Procedures and 18.16 Site Plan Permits.

Connie Tucker had hoped to be able to do this before she left but unfortunately we were unable to get it done. I don't think there is any real rush for this but it would be nice to get a start on changes that have been talked about.