

**CITY OF BETHEL**  
**BOARD OF ADJUSTMENT**



**Website:** <https://www.cityofbethel.org/council>

**Location:** Council Chambers, City Hall, 300 Chief Eddie Hoffman Highway, Bethel

**Board Members:** Perry Barr, Haley Hanson, Fred Watson, Alyssa Leary, Mark Springer, Cece Franko, Michelle DeWitt

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**APPELLANT:** Dan and Dawn Hackney, 175 Alex Hatley

**APPEAL:** Decision by Planning Commission to Deny appeal 2019-01 of the City of Bethel’s Planning Director’s August 30, 2019 Notice to Correct Violations and adopt without amendment the Planning Director’s Findings and Conclusions.

**DATE AND TIME:** February 4, 2020, 6:30 p.m.

**LOCATION:** Bethel City Council Chambers, 300 State Highway, Bethel Alaska

**SUMMARY:** On August 30, 2019 the Planning Director, Ted Meyer, issued a Corrective Action Plan to Dawn and Dan Hackney, claiming violations of the Bethel Municipal Code at 175 Alex Hatley. **P 47-48 of Record.**

On September 9, 2019 Jared Karr, ESQ, Representing Attorney, Appealed the decision by the Planning Department regarding 175 Katie Hatley (corrected to 175 Alex Hatley), Dan and Dawn Hackney. **P 55 of Record.**

On November 14, 2019 the Planning Commission held a hearing to consider the appeal. At this hearing, the Commission adopted/confirmed the findings and conclusions issued by the Planning director on August 30, 2019. **P 9-15 of Record.**

On December 18, 2019, Jared Karr, ESQ, Representing Attorney for Dawn and Dan Hackney, submitted an appeal to the Board of Adjustment. **P 2-8 of Record.**

The grounds for appeal state:

Actions and findings of the Planning Commission that are disputed in the November 18, 2019 Order: All matters involving the authorization of the City of Bethel for the Hackney’s to build and use their property as a two-story addition that houses transient lodgers; that planning staff did not authorize such construction and use; that written authorization by planning staff is the only mechanism to bind the City of Bethel; that the Hackney’s violated Bethel Municipal Code; That the Hackney’s must comply with the September 26, 2019 Corrective Action Plan; and that there is a “Kitchen for the Guests downstairs.”

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**List of Exhibits in the Record**

<b>Exhibit 1</b>	<b>P. 1</b>
12/18/2019 Appeal from Jared Karr, Hackney’s Representing Attorney, December 18, 2019	P. 2-8
11/18/2019 Planning Commission’s Decision Considered November 14	P. 9-15
<b>Exhibit 2</b>	<b>P. 16</b>
11/14/2019 Planning Commission Meeting Minutes	P. 17-19
11/14/2019 Transcription of Planning Commission Hearing (Expected January 30)	P. NA
<b>Exhibit 3 Planning Commission Record from the November 14, 2019 Hearing</b>	<b>P. 20</b>
Proof of House Number/and or Change	P. 21-22
Notices of Public Hearing issued by Planning Department and Map of notice distribution	P. 23-25
City Planner’s Summary of Findings for the November 14, 2019 Hearing	P. 26-30
List of Exhibits in Planning Record	P. 31-32
7/20/2018 Residential Site Plan Permit	P. 33-37
7/24/2018 Planning Department Approval of the Residential Site Plan Permit	P. 38
Planning Department Addendum to Site Plan Permit increasing structural dimensions of garage	P. 39-40
*Planning Record indicates issuance on January 9, 2019 the document doesn’t appear to be dated.	
2/19/2019 Hackney’s drawing of skywalk from existing home and new garage	P. 41
6/7/2019 Complaint from property neighbors alleging violations of BMC	P. 42
8/19/2019 Images of 175 Alex Hatley taken/Google Earth Aerial photo of property	P. 43-46
8/30/2019 Planning Department Notice to Correct Violations	P. 47-48
9/9/2019 Hackney’s appeal of the Planning Department’s Notice to Correct Violations	P. 49
9/13/2019 Hold in abeyance, appeal of the Notice to Correct Violations	P. 50-51

9/26/2019 Planning Department's Corrective Action Plan to establish code Compliance	P. 52-54
10/10/2019 Hackney's Notice of Appeal of Planning Director's Decision	P.55
10/28/2019 Planning Department's notice to Hackney's grounds of appeal is inadequate	P. 56-57
10/28/2019 Hackney's appeal of the Planning Department's Notice of Inadequate appeal	P. 58-59
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City of Bethel Official Land Use Map	P. 61
Bethel Municipal Code 18.32 Residential District	P. 62-64
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Bethel Municipal Code 18.72 Zoning Appeals	P. 86-89
Bethel Municipal Code 2.45 Administrative Adjudication	P. 90-95
Entry of Appearance for Planning Commission Hearing, Jermain, Dunnagan and Owens	P. 96-98

# CITY OF BETHEL

## BOARD OF ADJUSTMENT

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## Items presented by the Hackney's for Planning Appeal Record

Some items within this portion of the Record are  
duplicates to items listed in Exhibits 1-3

This Exhibit List will only reference those items not  
listed in the Exhibits 1-3

8/5/2015 Site Plan Permit for 175 Alex Hatley to finish house and fill.	P. 100
1/19/2019 Court Documents Hackney Vs. Maratt	P. 116-121
8/19/2019 City of Bethel/State of Alaska Business License Information	P. 122-127
Spiral Note Book with handwritten Notes	P. 130-133
Bethel Airbnb Print Outs	P. 152-154
Subpoena to Appear/Produce Records issued to Patty Burley	P. 155
Photos of property area	P. 156-159
11/04/2019 City Manager's Report to Council to include Department Head Reports	P. 160-190

CITY OF BETHEL

Board of Adjustment Hearing

February 4, 2020 6:30 p.m.

Appeal No. 2020-01 – Hackney/175 Alex Hately

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# Exhibit 1

Appeal Statement from Jared Karr,  
Hackney's Representing Attorney

Dated December 18, 2019

Planning Commission's Decision

Considered November 14, 2019

Issued November 18, 2019

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*Bush Alaska*

JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

December 18, 2019

City of Bethel  
Board of Adjustment  
PO Box 1388  
Bethel, AK 99559

Re: Appeal of decision by Planning Commission, dated November 18, 2019, in regards to 175 Katie Hatley, Dan and Dawn Hackney

In compliance with BMC 18.72.020, Dan and Dawn Hackney hereby provide notice to the City of Bethel Board of Adjustment that it appeals the decision of the Planning Commission, "Decision and Order of the City of Bethel Planning Commission, dated November 18, 2019, in regards to 175 Alex Hatley.

Grounds for Appeal: All construction and use of 175 Alex Hatley were authorized by former Planning Director Betsy Jumper; former City Attorney Patty Burley reviewed the complaints against the Hackney's and informed the Hackney's that they were fine in what they were doing and assured them that they were allowed to 1) build the second story of their addition, and 2) use it as a B&B or transient rentals; the Planning Commission's Order detailing "Conclusions of Law" is riddled with findings that can only be determined by the finder of fact and includes argument by the City Planner; and the actions of the City of Bethel and the Planning Commission are in violation of established Alaska state and case law.

Actions and findings of the Planning Commission that are disputed in the November 18, 2019 Order: All matters involving the authorization of the City of Bethel for the Hackney's to build and use their property as a two-story addition that houses transient lodgers; that planning staff did not authorize such construction and use; that written authorization by planning staff is the only

mechanism to bind the City of Bethel; that the Hackney's violated Bethel Municipal Code; that the Hackney's must comply with the September 26, 2019 Corrective Action Plan; and that there is a "kitchen for the guests downstairs."

We wish to draw the City's attention to the holding of the Alaska Supreme Court in *Municipality of Anchorage v. Schneider*, 685 P.2d 94 (1984), a copy of which is enclosed. In that case, the Court specifically rejected the position taken by the City in this matter, and permitted a citizen to enjoy the benefits of a permit authorization even though it was made in violation of the relevant zoning ordinance. The Court began its analysis with the correct observation that "[t]he average citizen simply cannot know the extent of authority of every public official with which he must deal, and it is outrageous to deny him justice when he has been misled to his detriment by the acts and statements of public officials within the contours of their responsibilities." The Court then cited with approval the proposition that "a good faith permittee who in reasonable reliance makes a substantial change of position should be entitled to the protection of the doctrine of estoppel.... Increasingly, courts are recognizing the justice of applying estoppel where substantial work has been done in reliance upon municipal permits that were issued illegally or impermissibly."

The Court then observed that the Schneiders had relied on the Municipality's action, that their reliance as foreseeable and reasonable, and that their expenditure of \$24,000 in reliance on the permit was significant. In weighing whether or not to uphold the erroneously issued permit, the court held:

Finally, we conclude that enforcement of the settlement agreement is necessary in the interest of justice. Of primary importance to this determination is the fact that any public injury which may arise from applying the doctrine of estoppel to the Municipality in this case is quite limited. The proposed structure will not violate health or safety codes.... Finally, the record contains no evidence that the Schneiders' proposed construction will be seriously out of character with the present structures in the neighborhood.

Similarly here, the Hackneys have invested significant funds in reliance on information received from a public official acting within the scope of their authority. Their structure does not present any risk to the community, nor will it be out of character with any neighboring uses. We would ask that the City reverse this decision to avoid a miscarriage of justice.



Jared Karr

Attorney for Dan and Dawn Hackney

KeyCite Yellow Flag - Negative Treatment  
Distinguished by Alaska Trademark Shellfish, LLC v. State, Alaska, April 16, 2004

685 P.2d 94  
Supreme Court of Alaska.

MUNICIPALITY OF ANCHORAGE, Appellant,

v.

Richard J. SCHNEIDER and  
Mary M. Schneider, Appellees.

No. S-63.

|

July 6, 1984.

### Synopsis

Property owners moved to enforce settlement agreement with municipality which had been entered in municipality's action against the property owners for zoning violation. The Superior Court, Third Judicial District, Anchorage, Milton M. Souter, J., determined that municipality could not revoke building permit issued to property owners even though the permit was issued in violation of a zoning ordinance. Municipality appealed. The Supreme Court, Matthews, J., held that municipality was equitably estopped from revoking the building permit, even though it was issued in violation of zoning ordinance.

Affirmed.

West Headnotes (5)

[1] **Municipal Corporations**

☞ Powers of officers or boards

**Public Contracts**

☞ Authority and capacity of particular governmental bodies to contract

Person dealing with a municipality is bound to take notice of legal limits of its powers and those of its agents.

1 Cases that cite this headnote

[2] **Estoppel**

☞ Essential elements

General elements of equitable estoppel are assertion of position by conduct or word, reasonable reliance thereon, and resulting prejudice; a fourth element, most often explicitly stated in promissory estoppel cases, is that the estoppel will be enforced only to extent that justice requires.

35 Cases that cite this headnote

[3] **Estoppel**

☞ Municipal corporations in general

Rule that estoppel will be enforced only to extent that justice requires should play an important role when considering estoppel against a municipality.

15 Cases that cite this headnote

[4] **Estoppel**

☞ Municipal corporations in general

Municipality was equitably estopped from revoking building permit issued to property owners where, in September 1982, pursuant to a settlement agreement arising from municipality's action against the property owners for zoning violation, property owners were issued construction permit, but at time of the settlement, none of the parties knew that the issued permit was in violation of new zoning requirements, and where the municipality did not discover its error until February 1983, when the property owners had spent approximately \$24,000 in reasonable reliance on the permit.

22 Cases that cite this headnote

[5] **Compromise and Settlement**

☞ Subject-matter

There is strong public policy in favor of settlement of disputes.

3 Cases that cite this headnote

**Attorneys and Law Firms**

\*95 Thomas F. Klinkner, Asst. Municipal Atty., Jerry Wertzbaugher, Municipal Atty., Anchorage, for appellant.

Karl L. Walter, Jr., Anchorage, for appellees.

Before BURKE, C.J., and RABINOWITZ, MATTHEWS, COMPTON and MOORE, JJ.

OPINION

MATTHEWS, Justice.

The Municipality of Anchorage appeals the trial court's determination that the Municipality cannot revoke a building permit issued to appellees even though the permit was issued in violation of a zoning ordinance. Judge Souter held that Richard and Mary Schneider, the appellees, had reasonably relied on the permit and therefore the Municipality was estopped from revoking it. We affirm.

I.

The Schneiders own a lot in the Fire Lake Subdivision in Eagle River which was zoned R-2 by the Municipality until August 20, 1982. This zoning classification allows construction of up to eight dwelling units per lot, provided the units are incorporated into a single structure. On July 7, 1982 the Municipality brought an action against the Schneiders for maintaining two detached dwelling units on their lot, a violation of Anchorage Municipal Code (AMC) 21.40.040.<sup>1</sup>

In September, 1982, consistent with an agreement reached at a settlement conference \*96 attended by Richard Schneider, his attorney, and representatives of the Municipality, the Schneiders were issued a permit to construct an additional three units on their lot in order to connect the two existing detached dwelling units. Both the settlement agreement and the issuance of the permit, however, occurred after the Schneiders' lot and the surrounding property had been rezoned R-2A. In an R-2A zoning district, a lot may not contain more than two dwelling units.<sup>2</sup> None of the parties at the settlement meeting knew that the area in question had been rezoned.

On February 28, 1983, having discovered its error, the Municipality revoked the Schneiders' building permit. The Schneiders then filed a motion in superior court to enforce their settlement agreement with the Municipality. The court found that, although construction had not yet begun, the Schneiders had spent approximately \$24,000 in reasonable reliance on the Municipality's representations embodied in the settlement agreement. The court concluded that the Municipality was estopped from revoking the building permit it had issued and that it was bound by the settlement agreement to allow the Schneiders to complete three additional dwelling units on their lot.

II.

[1] The traditional rule is that estoppel may not be invoked against a municipality which has erroneously issued a building permit in violation of its zoning ordinances. 9 E. McQuillan, *The Law of Municipal Corporations* § 26.213, at 545 (3d ed. rev. 1978); 3 A. Rathkopf, *The Law of Zoning & Planning* § 45.05 [3][a] (4th ed. 1983). This rule is based on the proposition that a person dealing with a municipality is bound to take notice of the legal limits of its powers and those of its agents. 10 E. McQuillan, *supra*, § 29.04, at 207-08; *see also King v. Alaska State Housing Authority*, 512 P.2d 887, 891 (Alaska 1973) ("all persons dealing with a public corporation ... are deemed to know its limitations.").<sup>3</sup>

At least one commentator, and a growing number of courts, have questioned this rule on the ground that its application often produces inequitable results. 2 C. Antieau, *Municipal Corporation Law* § 16A.05, at 16A-12 (1984).<sup>4</sup> Antieau points out that

[t]he average citizen simply cannot know the extent of authority of every **public official** with which he must deal, and it is outrageous to deny him justice when he has been misled to his detriment by the acts and statements of **public officials** within the contours of their responsibilities.

*Id.* In the particular context of zoning permits, Antieau states:

[I]t is suggested that there should be no general rule denying **estoppel** solely because \*97 a permit issued by a municipal officer turns out

to have been issued illegally or without authority ... [A] good faith permittee who in reasonable reliance makes a substantial change of position should be entitled to the protection of the doctrine of estoppel.... Increasingly, courts are recognizing the justice of applying estoppel where substantial work has been done in reliance upon municipal permits that were issued illegally or impermissibly.

*Id.*, § 16A.10, at 16A-22-23 (footnotes omitted).

The policy on which the rule of estoppel is founded is that a municipality acts for the good of its citizens rather than a narrow proprietary interest. Thus, the argument goes, it would be unjust to the public to enforce estoppel against a municipality.<sup>5</sup> While we recognize the general validity of this policy, we believe it can be adequately served within the doctrine of estoppel.

[2] [3] The general elements of equitable estoppel are (1) assertion of a position by conduct or word, (2) reasonable reliance thereon, and (3) resulting prejudice. *Jamison v. Consolidated Utilities, Inc.*, 576 P.2d 97, 102 (Alaska 1978). A fourth element, most often explicitly stated in promissory estoppel cases, is that the estoppel will be enforced only to the extent that justice so requires. *Glover v. Sager*, 667 P.2d 1198, 1202 (Alaska 1983). We believe that this factor should play an important role when considering estoppel against a municipality.<sup>6</sup> Often, even where reliance has been foreseeable, reasonable, and substantial, the interest of justice may not be served by the application of estoppel because the public interest would be significantly prejudiced. However, this is not true in every case. When the public will not be significantly prejudiced, and the other elements of the theory are present, the majority rule which forecloses the use of estoppel causes arbitrary and unjust results.

We have recently indicated that estoppel is a defense against a public agency. In *Fields v. Kodiak City Council*, 628 P.2d 927, 931 (Alaska 1981), we stated:

The defense [of estoppel] typically applies where a property owner

receives a permit that was beyond the power of an administrative officer to grant, the owner detrimentally relies on the validity of the permit, and the local government attempts to revoke the permit and then enforce the ordinance.

While we rejected Fields' estoppel claim as irrelevant to the issue presented on appeal of whether the board of adjustment's denial of the requested variance was supported by substantial evidence, we noted:

We do not mean to imply, however, that Fields is not entitled to estop the city or borough from actually enforcing the zoning ordinance against his nonconforming use. Indeed, on the limited record before us it appears that Fields may have a strong claim for estoppel. That claim, however, should be raised as a defense to an enforcement action or as a claim for declaratory relief. Our disposition of this case is without prejudice to \*98 Fields' right to raise estoppel in an appropriate proceeding.

*Id.* at 931 n. 3.

[4] We now turn to the facts of the present case. First, we believe that the Schneiders' reliance was both reasonable and foreseeable. The settlement agreement and the resulting permit gave the Schneiders clear authorization to take the steps they did. Second, the \$24,000.00 which the Schneiders spent for building materials based upon their reliance on the settlement agreement is substantial.

Finally, we conclude that enforcement of the settlement agreement is necessary in the interest of justice. Of primary importance to this determination is the fact that any public injury which may arise from applying the doctrine of estoppel to the Municipality in this case is quite limited. The proposed structure will not violate health or safety codes. Further, the proposed structure would have satisfied the terms of the zoning ordinance then in effect had the settlement been

reached a month earlier.<sup>7</sup> Finally, the record contains no evidence that the Schneiders' proposed construction will be seriously out of character with the present structures in the area.

[5] Also of significance in this case is the fact that the Schneiders' reliance arose from a settlement agreement. There is a strong public policy in favor of the settlement of disputes. See, e.g., *Godfrey v. Hemenway*, 617 P.2d 3, 8 (Alaska 1980). Failure to apply an estoppel theory in this case would only serve to re-open a lawsuit that both parties believed was settled. Indeed, although actually reached after the property in question had been rezoned R-2A, the settlement agreement

arose out of a lawsuit filed in July 1982, when the property was zoned R-2. Thus, given the equitable context of this case, the settlement agreement could be characterized as relating back to the situation existing when the suit was initiated.

In conclusion, we believe this case raises a situation in which the doctrine of estoppel should be applied against the Municipality to avoid injustice. Thus, the decision of the superior court is AFFIRMED.

#### All Citations

685 P.2d 94

#### Footnotes

1 AMC 21.40.040 provides in part:

A. The R-2 use district is intended to be a low-density urban and suburban multiple-family residential district, allowing up to 8 dwelling units.... The R-2A and R-2D use districts are intended as low-density urban and suburban two-family residential areas. Except for the greater number of dwelling units per lot permitted in the R-2 use district, the R-2, R-2A and R-2D use regulations are identical....

B. Permitted principal uses and structures:

1. single-family dwellings ...;

2. two-family dwellings (only a single principal structure may be allowed on any lot or tract);

3. multiple-family dwellings containing up to eight dwelling units in R-2 district only, provided, however, that only a single principal structure may be allowed on any lot or tract;

2 AMC 21.40.040B(2). See note 1, *supra*.

3 Courts have allowed **estoppel** against **municipalities** when the **public** officer has performed in an irregular manner, but has not acted *ultra vires* or outside his legal authority. See *Rogers v. First Sewerage Dist. of City of Lake Charles*, 171 So.2d 820 (La.App.1965); *Parker v. Township of West Bloomfield*, 60 Mich.App. 583, 231 N.W.2d 424, 428 (1975); *Abbeville Arms v. City of Abbeville*, 273 S.C. 491, 257 S.E.2d 716 (1979); *Pasadena Police Officers Ass'n. v. City of Pasadena*, 497 S.W.2d 388, 394 (Tex.Civ.App.1973); 2 C. Antieau, *Municipal Corporation Law* § 16A.04 (1984); see also *City of Kenai v. Filler*, 566 P.2d 670, 675-76 (Alaska 1977) (noting the distinction between an illegal, *ab initio* action not giving rise to **estoppel** and a technical or procedural irregularity which does give rise to the theory).

4 See also *City & County of Denver v. Stackhouse*, 135 Colo. 289, 310 P.2d 296 (1957); *Miller v. Board of Trustees of Town of Palmer Lake*, 36 Colo.App. 85, 534 P.2d 1232 (1975); *State ex rel. Barker v. Town of Stevensville*, 164 Mont. 375, 523 P.2d 1388 (1974); *Murrell v. Wolff*, 408 S.W.2d 842 (Mo.1966); *Tillberg v. Township of Kearny*, 103 N.J.Super. 324, 247 A.2d 161, 166 (1968).

5 The Wisconsin Supreme Court has stated this policy as follows:

Zoning ordinances are enacted for the benefit and welfare of the citizens of a municipality. Issuance of an occupancy or building permit which violates such an ordinance not only is illegal *per se*, but is injurious to the interests of property owners and residents of the neighborhood adversely affected by the violation. Thus when the city acts to revoke such an illegal permit it is exercising its police power to enforce the zoning ordinance for the protection of all citizens who are being injured by the violation, and not to protect some proprietary interest of the city. These citizens have a right to rely upon city officials not having acted in violation of the ordinance, and, when such officials do so act, their acts should not afford a basis for estopping the city from later enforcing the ordinance.

*Milwaukee v. Leavitt*, 31 Wis.2d 72, 142 N.W.2d 169, 172-73 (1966).

6 See 2 Antieau, *supra*, § 16A.06, at 16A-15 ("courts should be encouraged to weigh in every case the gravity of the injustice to the citizen if the doctrine is not applied against the injury to the commonweal if the doctrine is applied...."); see also *State ex rel. Barker v. Town of Stevensville*, 164 Mont. 375, 523 P.2d 1388, 1391 (1974).

- 7 Thus the case at hand does not present a situation where a building permit has been issued in violation of a long-standing zoning ordinance, for example, where a builder obtains a permit to construct a high-rise apartment or factory in an otherwise residential neighborhood. In such a case, the balance of the equities might be struck differently.

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**City of Bethel**  
Planning Commission

**DANIEL AND DAWN HACKNEY**  
Appellants,

vs.

**CITY OF BETHEL,**  
Appellee.

Case No. 2019-1

*AB*  
**~~[PROPOSED]~~ DECISION AND ORDER OF THE CITY OF BETHEL  
PLANNING COMMISSION**

**INTRODUCTION**

On November 14, 2019, pursuant to Bethel Municipal Code (“BMC”) Section 18.72.010, a hearing was held before the City of Bethel Planning Commission (“the Commission”) on Dan and Dawn Hackney’s (“the Hackneys” or “Appellants”) appeal of the City of Bethel planning director’s (“planning director,” “planning department” or “land use administrator”) August 30, 2019 Notice to Correct Violations. After considering all of the evidence submitted by the parties as required by BMC 18.72.010(D), the Commission confirmed the findings and conclusions of the planning department pursuant to BMC 18.72.010(E) by a unanimous vote of 7-0.

**FINDINGS OF FACT**

- 1) On July 20, 2018, Dan and Dawn Hackney, owners of 175 Alex Hatley, Block 1, Lot 11, Blueberry Field Subdivision, Bethel, Alaska, submitted a Residential Site Plan Permit application to the Planning Department for a 20-foot X 42-foot garage/storage/shop and mother-in-law unit.
- 2) The planning staff assistant testified at the hearing that she and the former planning director, Betsy Jumper, told Mr. Hackney that the mother-in-law unit or two unattached dwelling units were not allowed on one property in the Residential Zone. The application was approved on July 24, 2018 and a Site Plan Permit was issued to only allow for the construction of a 20-foot x 42-foot shop/garage/storage shed.

3) On January 9, 2019, Mr. Hackney submitted a request to the Planning Department to amend the approved July 24 Site Plan Permit by increasing the structure dimensions to 24-feet x 64-feet and referring to the structure as an attached garage. The Planning Department issued an addendum to the permit, approving the attached garage with the increased dimensions to 24-feet X 64-feet.

4) On February 19 2019, Mr. Hackney dropped off a 2018 As-built drawing at the planning department. The As-built drawing showed the existing Single Family house connected by a planned, hand-drawn deck to the hand-drawn new structure.

5) On June 7, 2019, the City of Bethel Planning Department, received an official complaint from four neighborhood residents alleging violations of the City of Bethel Site Plan Permit 18-34, for Daniel and Dawn Hackney of 175 Alex Hatley, lot 11, Blueberry Field Subdivision phase plat 84-13. The Complaint included allegations the Hackneys had (1) failed to provide an accurate description of their building plans in their site plan application and (2) built apartments or a hotel in a residential area, with a residence already on the property.

6) Ted Meyer became the planning director in August 2018. Pursuant to **BMC 15.12.090**, Mr. Meyer investigated the complaint and found it had merit. Part of the investigation included accepting an invitation from the Hackneys to tour the new building on their property. The second floor included four finished and furnished hotel-style rooms, each with enclosed bathroom, and a kitchen for the guests downstairs. A van full of guests was arriving as planning staff were departing.

7) On August 19, 2019, the planning department staff took photos of the Hackney property. The three photos and an additional Google Earth aerial photo show:

1. Existing Single Family house side by side with the new structure, with a connecting deck in between.
2. Existing Single Family house with the new structure in background.
3. A rear view of the new structure.

8) On August 30, 2019, the City Planning Department issued the Hackneys a Notice to Correct Violations stating that they had violated the Bethel Municipal Code since they had not received approval to build a second floor with a bed and breakfast (B & B) or other lodging units. The City determined that the Hackneys had committed the following violations:

(1) Non-compliance with Authorized Improvements, in violation of **BMC 15.12.070**;  
and

(2) Non-Compliance with BMC Residential Zoning Code, in violation of **BMC 18.32.020 and 18.32.030**.

9) The City planning department properly determined that the Hackneys violated the Bethel Municipal Code. The evidence presented at the hearing overwhelmingly established that

the Hackneys had constructed a B & B or other lodging unit on their property, in violation of their site permit and in violation of the Bethel Municipal Code restrictions on Residential Zones.

10) The City gave the Hackneys 30 days to correct the violations and invited them to visit the planning department to discuss the construction project and permissible uses of the property under the Bethel Code. The City further notified the Hackneys of their right to appeal the Planning Department's determination to the City Planning Commission. It explained that "the written appeal must be submitted to the Planning Department and must specify the grounds for appeal and specify the actions and findings of the department that are being disputed."

11) On September 9, 2019, the Hackneys appealed the City's August 30 Notice to correct violations. They stated their grounds for appeal were:

- (1) All construction and use of 175 Katie Hatley were authorized by the former Planning Director Betsy Jumper.
- (2) All actions and findings of the planning department are disputed.

12) On September 13, 2019, the parties and their respective attorneys met to discuss the August 30, 2019 Notice to Correct Violations. Based upon that meeting, the parties agreed to hold in abeyance the Hackney's September 9, 2019 appeal while a corrective action plan was formulated between the parties.

13) On September 26, 2019 the planning department issued the Corrective Action Plan to the Hackneys to bring the structure into code compliance. The plan included deadlines for submission by Mr. Hackney as follows:

- a. A detailed and scaled floor plan drawing of the constructed floor levels 1 and 2 of the new building
- b. A new Site Plan Permit application with a detailed and scaled site plan drawing with a type of use that is compliant with BMC 18.32.020, 18.32.030, and 15.12.
- c. A plan for the conversion of the second floor of the structure from transient lodging units to an approved BMC compliant use.

14) On October 10, 2019 the Hackneys rejected the Corrective Action Plan and requested their appeal of the August 30 Notice to correct violations "move forward."

15) On October 28, 2019, the Bethel Planning Department sent a notification to the Hackneys that their letter of appeal did not provide an adequate explanation for the appeal, as required in BMC 18.72.010A.

16) On October 28, 2019 the Hackneys notified the planning department that they were appealing the planning department's October 28 letter regarding the inadequate appeal.

17) On October 29, 2019, the planning department notified the Hackneys of the November 14, 2019 Planning Commission hearing for the Hackney appeal.

18) On November 14, 2019, the Planning Commission held a public hearing of the Hackneys' appeal from the Planning Department's Notice to Correct. As required by **BMC 18.72.010D**, the

planning department submitted a summary of the application process and statement of findings to support its actions in issuing a Notice to Correct Violations to the Hackneys.

19) The Commission heard the sworn testimony and arguments of both parties. It also heard the sworn testimony of members of the public. It considered the permit application, correspondence, materials received from the parties, the letter of appeal, the planning department summary of the application and statement of findings supporting the action of the land use administrator, the verbal testimony taken under oath, and arguments of the parties to the appeal. After considering all of the evidence, the Commission denied the appeal and confirmed the planning director's findings, ordering the Hackneys to come into compliance with the Bethel Municipal Code.

## CONCLUSIONS OF LAW

- 1) The Hackney property is located in the Residential ("R") district. **BMC 18.32.010** states that it is the intent of the residential district to provide protection to residential areas from encroachment from nonresidential activities.
- 2) Pursuant to **BMC 18.32.020**, the following are permitted and principal uses and structures in the Residential District:
  - A. Trails and boardwalks;
  - B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
  - C. Single-family dwelling units;
  - D. Duplex uses;
  - E. Greenbelts and land reserves;
  - F. Subsistence activities;
  - G. Any accessory use or use of structure associated with the principal use or structure on the lot.
  - H. The facilities of sewer, water and other utilities required to serve the lots in the district.
  - I. Home occupations, but not more than two (2) per dwelling unit
- 3) **BMC 18.36.020(K)(31)** allows hotels, motels, hostels, bed and breakfasts, bunk houses, and boarding houses in the Bethel General Use District. Bethel residents therefore have the option to build bed and breakfasts in the Bethel General Use District. The Hackneys had the option of building their bed and breakfast in the General Use District but chose not to.
- 4) Pursuant to **BMC 18.32.020G (Residential Zoning District Permitted and Principal Use and Structures)**, any accessory use or structure associated with the principal use or structure on the lot are permitted in the Residential District. However, an accessory is defined in **BMC 16.12.030** as being customarily accessory and clearly subordinate and incidental to the principal use or structure on the lot. The Hackneys' additional 4-unit Bed & Breakfast or other lodging unit on the property is clearly not subordinate and

incidental to the already existing Single Family dwelling unit, which is the principal use on the property. The structure at issue is consequently clearly not allowed by *BMC 18.32.020*.

- 5) The Hackneys state that their grounds for appeal are that all construction and use of the property were authorized by the former planning director Betsy Jumper. However, the initial site plan permit only gave the Hackneys permission to “construct a 20-foot x 42-foot shop/garage/storage shed” and the addendum to the permit only allowed for the construction of “a 24-foot x 64-foot garage.” The city planning department never gave the Hackneys written consent to build the structure at issue.
- 6) The approved Site Plan Permit is a one-sheet document and is the only approval mechanism used by planning departments to convey a Notice to Proceed to the developer to begin construction. The purpose of posting the permit is to notify the public that the project plans comply with local standards for land use, zoning, and development. The Authorized Improvements listed on the permit sheet are the only improvements that can be made by the property owner. Neither the July 20, 2018 permit, nor the January 9, 2019 addendum, allowed the Hackneys to construct the second floor lodging units.
- 7) The Hackneys are in violation of BMC Section 15.12.070 (Modifications) since they failed to obtain the written consent of the land use administrator (planning director) when they modified the approved plan.
- 8) The Hackneys are also in violation of BMC 18.36.020 (Residential District) since B & B’s and transient lodging are not permitted in the Residential Zone. (The Hackneys reside in the residential zone.)
- 9) There is no merit to the Hackneys’ appeal and it should be dismissed. The planning director’s August 30, 2019 decision which found that the Hackneys had violated the Bethel Municipal Code Sections 15.12.070 and 18.32.020 and required them to come into compliance with the Code should be affirmed.

### **ORDER**

The findings and conclusions of the planning department are hereby adopted as the findings and conclusions of the Commission. The decision of the planning director of August 30, 2019 which found that the Hackneys had violated the Bethel Municipal Code Sections 15.12.070 and 18.32.020 is **affirmed**. The Hackneys’ appeal is therefore denied.

The Hackneys must come into compliance with the Bethel Municipal Code and must comply with the September 26, 2019 Corrective Action Plan sent to them by the Bethel City

Planning Department. This order will become effective **ten (10) days** after the date this decision is rendered unless a timely appeal is filed.

### **RIGHT TO APPEAL**

Pursuant to BMC 18.72.020(A)(B) and (C) (Appeal of Decision by Planning Commission), the Hackneys may appeal the decision of the Planning Commission to the City of Bethel Board of Adjustment. The appeal shall be filed with the Board of Adjustment by submitting a written statement of appeal to the City Clerk with a copy sent to the Planning Department. The written statement of appeal shall specify the order, findings or conclusions of the Planning Commission that are being disputed and the grounds for appeal. The appeal must be filed within ten (10) calendar days from the date of the decision of this decision.

  
\_\_\_\_\_  
Lorin Bradbury  
Planning Commission Vice Chair

11/18/19  
Date

### **CERTIFICATE OF SERVICE:**

This is to certify that a true and  
Correct copy of the foregoing was  
Served by  mail ( ) hand ( ) fax  
On November 18, 2019 to:

Jared Karr  
Valcarce Law Office  
900 Third Avenue  
P.O. Box 409  
Bethel, Alaska 99559

Mary B. Pinkel  
Jermain Dunnagan & Owens  
3000 A Street, Suite 300  
Anchorage, Alaska 99503

Michael Gatti  
Jermain Dunnagan & Owens  
3000 A Street, Suite 300  
Anchorage, Alaska 99503

Ted Meyer 11/18/19  
Pauline Boratko/Ted Meyer

CITY OF BETHEL

Board of Adjustment Hearing

February 4, 2020 6:30 p.m.

Appeal No. 2020-01 – Hackney/175 Alex Hately



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# Exhibit 2

## Planning Commission Meeting Minutes from November 14, 2019

### Transcription of Planning Commission Hearing 19-01

Will be provided January 30, 2020

# City of Bethel, Alaska

## Planning Commission

November 14, 2019

Regular Meeting

Bethel, Alaska

### I. CALL TO ORDER:

A regular meeting of the Planning Commission was held on November 14, 2019 at the Bethel City Hall, Council Chambers in Bethel, Alaska. The Chair of Commission, Kathy Hanson called the meeting to order at 6:30 PM.

### II. ROLL CALL:

Comprising a quorum of the Commission, the following members were present for roll call: Kathy Hanson, Lorin Bradbury, John Guinn, Alex Wasierski, Scott Campbell, Stanley Hoffman Jr, and Council Rep. Haley Hanson. Shadi Rabi arrived at 6:32pm and Lorin Bradbury arrived at 6:36pm

Excused Absence: Tracy Beans

Also Present: Charlie Dan, Recorder; Ted Meyer, City Planner

### III. PEOPLE TO BE HEARD:

Steve Murat- would like to see a BNC road established between Larson Sub and Tundra Ridge

### IV. APPROVAL OF THE AGENDA:

<b>MOVED:</b>	John Guinn	Motion to approve the agenda
<b>SECONDED:</b>	Scott Campbell	
<b>VOTE ON MOTION</b>	Unanimous	

### V. APPROVAL OF THE MINUTES:

<b>MOVED:</b>	Scott Campbell	Motion to approve the June 13, 2019 regular meeting minutes.
<b>SECONDED:</b>	John Guinn	
<b>VOTE ON MOTION</b>	Unanimous	

<b>MOVED:</b>	Scott Campbell	Motion to approve the September 12, 2019 regular meeting minutes.
<b>SECONDED:</b>	John Guinn	
<b>VOTE ON MOTION</b>	Unanimous	

<b>MOVED:</b>	John Guinn	Motion to approve the October 10, 2019 minutes- no meeting due to lack of quorum.
<b>SECONDED:</b>	Scott Campbell	
<b>VOTE ON MOTION</b>	Unanimous	

### VI. SPECIAL ORDER OF BUSINESS:

### VII. NEW BUSINESS:

- A. On October 10, 2019 the City of Bethel Planning Department was notified by Daniel & Dawn Hackney with a request to move forward with their September 9, 2019 appeal of the Planning Department's notice to correct (BMC) Bethel Municipal Code violations at Blueberry Subdivision Block 1 Lot 11, 175 Alex Hatley. (action item).

**The Planning Commission, acting in a quasi-judicial body held a public hearing on Appeal 19-01.**

*Chair of the Commission Kathy Hanson opened up the public hearing 19-01.*

The following were present for the hearing: Kathy Hanson, Lorin Bradbury, Alex Wasierski, John Guinn, Shadi Rabi, Scott Campbell, and Stanley Hoffman Jr., and Haley Hanson.

*The Chair asked members of the Commission to disclose any conflicts of interest or Ex Parte Communications they may have had on the action before them.*

Lorin Bradbury- received calls/complaints about 175 Alex Hatley.

Kathy Hanson-received calls/comments about 175 Alex Hatley.

The oath was conducted for all parties providing testimony at the hearing.

**Testimony by Witnesses**

Representing Dawn and Dan Hackney (Appellants), Attorney, Jared Karr, called the following witnesses to testify on the appeal;

*Dawn Hackney, Appellant.*

*Patty Burley, former City Attorney. -*

Representing the City of Bethel Planning Director (Appellee), Attorney Mary Pinkle called the following witnesses to testify on the appeal;

*Ted Meyer, Planning Director.*

*Betsy Jumper, former Planning Director.*

*Pauline Boratko, Planning Administrative Assistant. -*

**Testimony by Interested Parties**

*Jane Burris-Kofsky. Spoke in Favor of the Appellant.*

*Glen Kofsky. Spoke in favor of the appellant.*

*Janet Kaiser. Spoke in favor of the Appellee.*

*Stephanie Butte. Spoke in favor of the Appellee.*

The Appellant was provided an opportunity for statement.

The Appellee was provided an opportunity for final statement. The Appellant was provided an opportunity for final statement.

The Planning Commissioners were provided an opportunity to ask questions of the parties.

<b>MOVED:</b>	Scott Campbell	Motion to deny appeal 2019-01 of the City of Bethel's Planning Director's August 30, 2019 Notice to Correct Violations and adopt without amendment the Planning Directors findings and conclusions.
<b>SECONDED:</b>	Alex Wasierski	
<b>VOTE ON MOTION</b>	Unanimous	

*Chair Kathy Hanson closed the public hearing on Appeal 19.01.*

**VI. PLANNER'S REPORT:** Ted gave his report.

**VII. COMMISSIONER'S COMMENTS:**

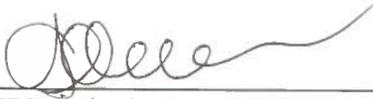
- S. Rabi- no comment
- A. Wasierski- no comment
- S. Campbell- I would like to commend you, Kathy, you did a great job.
- S. Hoffman- no comment
- K. Hanson- no comment
- L. Bradbury-with the hearings like tonight can we have pages printed one sided?
- J. Guinn- no comment
- H. Hanson- I'm looking forward to future meetings.

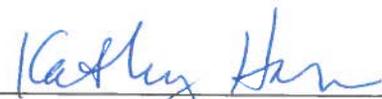
**X. ADJOURNMENT:**

<b>MOVED:</b>	John Guinn	Motion to adjourn the meeting.
<b>SECONDED:</b>	Shadi Rabi	
<b>VOTE ON MOTION</b>	Unanimous	

With no further business the meeting adjourned 9:28 pm

APPROVED THIS 12<sup>th</sup> DAY OF Dec, 2019

  
\_\_\_\_\_  
ATTEST: Charlie Dan, Recorder

  
\_\_\_\_\_  
Kathy Hanson, Chair

CITY OF BETHEL

Board of Adjustment Hearing

February 4, 2020 6:30 p.m.

Appeal No. 2020-01 – Hackney/175 Alex Hately

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# Exhibit 3

## Planning Commission's Record on Appeal



## CITY OF BETHEL

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559

*August 7, 2019*

## **PROOF OF HOUSE NUMBER/AND OR CHANGE**

**I, Pauline Boratko, the City of Bethel Planning Assistant, is changing an address back to the original address 175 Katie Hately to 175 Alex Hately. Please note that this is the Hackney Residence, a single family dwelling.**

A handwritten signature in cursive script, reading "Pauline L. Boratko", written over a horizontal line.

**Pauline Boratko  
City of Bethel  
Planning Assistant**

**Cc: AVEC, GCI, COB Fire Dept.; Police Dept., Public Works Utilities Dept., and Finance Dept.  
Hackney's**



## CITY OF BETHEL

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559

*August 22, 2018*

### **PROOF OF HOUSE NUMBER/AND OR CHANGE**

**I, Pauline Boratko, the City of Bethel Planning Assistant, changing an address to a property---  
175 Alex Hatley Lane to 175 Katie Hatley Lane.**

A handwritten signature in cursive script that reads "Pauline R. Boratko".

**Pauline Boratko  
City of Bethel  
Planning Assistant**

**Cc: AVEC, GCI, COB Fire Dept.; Police Dept., Public Works Utilities Dept., and Finance Dept.,**



## **City of Bethel**

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

*November 4, 2019*

*To whom this may concern: You are receiving this notice pursuant to Bethel Municipal Code 18.04.070 "Notice shall be mailed to the owners of each parcel of property any part of which is within six (600) feet of the exterior boundary that is the subject of the application"*

# **PUBLIC HEARING NOTICE** **APPEAL TO 175 ALEX HATELY** **CODE VIOLATION**

**Notice is hereby given** that on October 10, 2019 the City of Bethel Planning Department was notified by Daniel & Dawn Hackney with a request to move forward with their September 9, 2019 appeal of the Planning Department's notice to correct (BMC) Bethel Municipal Code violations. The legal description is: Plat # 84-3 Lot 11. The physical address is 175 Alex Hateley.

**Land Owner:** Daniel & Dawn Hackney P.O. Box 3288 Bethel, Alaska 99559

**Applicant:** same as land owner

**City of Bethel Contact:** Ted Meyer, Planning Director, City of Bethel Planning Dept., phone 907-543-5306.

**Time and Place:** The regular meeting of the City of Bethel Planning Commission, 6:30 PM, November 14, 2019 at City Hall, located at 300 Chief Eddie Hoffman Highway in Council Chambers.



**City of Bethel**  
Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

**PUBLIC HEARING NOTICE**  
**APPEAL TO 175 ALEX HATELY**  
**CODE VIOLATION**

Notice is hereby given that on October 10, 2019 the City of Bethel Planning Department was notified by Daniel & Dawn Hackney with a request to move forward with their September 9, 2019 appeal of the Planning Department's notice to correct (BMC) Bethel Municipal Code violations at Blueberry Subdivision Block 1 Lot 11. 175 Alex Hatley.

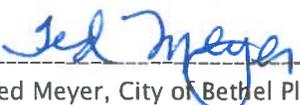
**Land Owner:** Daniel & Dawn Hackney P.O. Box 3288 Bethel, Alaska 99559

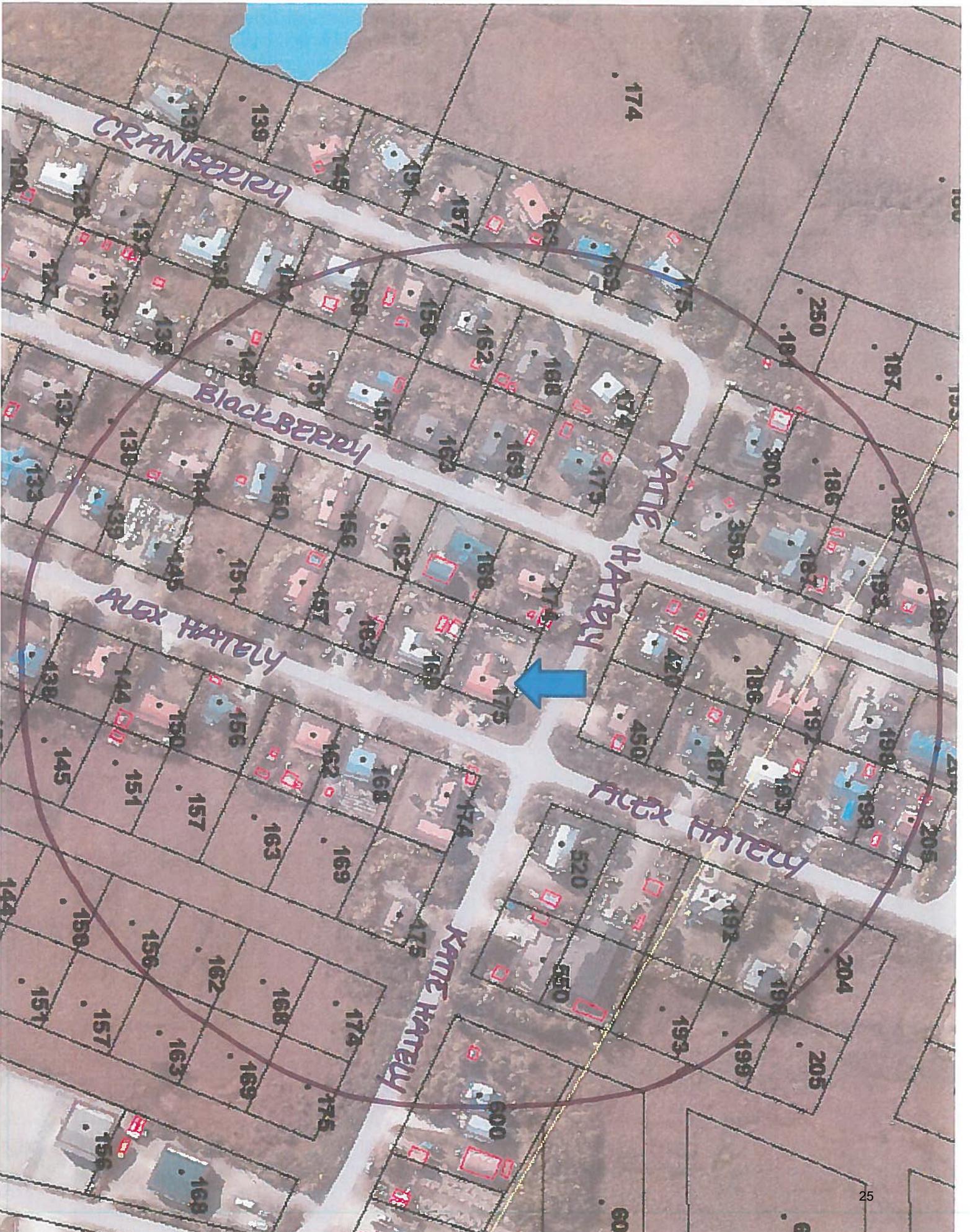
**Applicant:** same as land owner

**City of Bethel Contact:** Ted Meyer, Planning Director, City of Bethel Planning Dept., phone 907-543-5306.

**Time and Place:** The regular meeting of the City of Bethel Planning Commission, 6:30 PM, November 14, 2019 at City Hall, located at 300 Chief Eddie Hoffman Highway in Council Chambers.

I hereby certify that this Notice of Hearing –Appeal to 175 Alex Hatley Code Violation– has been posted at City Hall, the Post Office, Bethel Native Corp. and Swanson's Bulletin Boards on or before November 8, 2019. It is further certified that this Notice has been published in the Anchorage Daily Newspaper on November 7, 2019 and will be published in the Delta Discovery and Anchorage Daily Newspaper on November 13, 2019.

 11/7/19  
-----  
Ted Meyer, City of Bethel Planner





## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

### City Planner's Summary and Findings for the November 14, 2019 Planning Commission Hearing Regarding the Hackneys' Appeal of Notice to Correct Violations

#### INTRODUCTION

Pursuant to *BMC 18.72.010D*, the City of Bethel planning department submits the following summary of the application process and statement of findings that support the land use administrator's actions in issuing a Notice to Correct Violations to Daniel and Dawn Hackney on August 30, 2019. In its Notice to Correct, the planning department indicated that the Hackneys had committed the following violations:

1. Noncompliance with authorized improvements stated on approved July 24, 2018 Site Plan permit and on the approved January 9, 2019 addendum (*BMC 15.12.070 Site Plan Permit Modifications*).
2. Noncompliance with Residential Zoning Code (*BMC 18.32.020 Residential District – Permitted and Principal Uses and Structures*).

#### SUMMARY OF THE APPLICATION PROCESS

Dan and Dawn Hackney, owners of 175 Alex Hatley, Block 1, Lot 11, Blueberry Field Subdivision, Bethel, Alaska (**the property**), submitted a Residential Site Plan Permit application to the Planning Department on July 20, 2018 for a 20-foot X 42-foot garage/storage/shop and mother-in-law unit. (**Exhibit #1.**)

Planning staff told Mr. Hackney that the mother-in-law unit, or two unattached dwelling units were not allowed on one property in the Residential Zone. The application was approved on July 24, 2018 and a Site Plan Permit was issued to only allow for the construction of a 20-foot x 42-foot shop/garage/storage shed per the Site Plan Permit Application on file. (**Exhibit #2.**)

On January 9, 2019, Mr. Hackney submitted a request to the Planning Department to amend the approved July 24 Site Plan Permit by increasing the structure dimensions to 24-feet x 64-feet and referring to the structure as an attached garage. The Planning Department issued an addendum to the permit, approving the attached garage with the increased dimensions to 24-feet X 64-feet. (**Exhibit #3.**)

On February 19 2019, Mr. Hackney dropped off a 2018 As-built drawing at the planning department. The As-built drawing showed the existing Single Family house connected by a planned, hand-drawn deck to the hand-drawn new structure. (**Exhibit #4.**)

On June 7, 2019, the City of Bethel Planning Department, received an official complaint from four neighborhood residents alleging violations of the City of Bethel Site Plan Permit 18-34, for Daniel and Dawn Hackney of 175 Alex Hately, lot 11, Blueberry Field Subdivision phase plat 84-13. The Complaint included allegations the Hackneys had (1) failed to provide an accurate description of their building plans in their site plan application and (2) built apartments or a hotel in a residential area, with a residence already on the property. (**Exhibit #5.**)

Pursuant to **BMC 15.12.090**, the planning department investigated the complaint and found it had merit. Part of the investigation included accepting an invitation from the Hackneys to tour the new building on their property. The second floor included four finished and furnished hotel-style rooms, each with enclosed bathroom, and a kitchen for the guests downstairs. A van full of guests was arriving as planning staff were departing.

On August 19, 2019, planning department staff took photos of the Hackney property. (**Exhibit #6.**) The three photos and an additional Google Earth aerial photo show:

1. Existing Single Family house side by side with the new structure, with a connecting deck in between.
2. Existing Single Family house with the new structure in background.
3. A rear view of the new structure

On August 30, 2019, the City Planning Department issued the Hackneys a Notice to Correct Violations stating the Hackneys had violated the Bethel Municipal Code since they had not received approval to build a second floor with a bed and breakfast (B & B) or other lodging units. (**Exhibit #7.**) The City determined that the Hackneys had committed the following violations:

- (1) Non-compliance with Authorized Improvements, in violation of **BMC 15.12.070**; and
- (2) Non-Compliance with BMC Residential Zoning Code, in violation of **BMC 18.32.020 and 18.32.030.**

The City gave the Hackneys 30 days to correct the violations and invited them to visit the planning department to discuss the construction project and permissible uses of the property under the Bethel Code. The City further notified the Hackneys of their right to appeal the Planning Department's determination to the City Planning Commission. It explained that "the written appeal must be submitted to the Planning Department and must specify the grounds for appeal and specify the actions and findings of the department that are being disputed". (**Exhibit #7.**)

On September 9, 2019, the Hackneys appealed the City's August 30 Notice to correct violations. They stated their grounds for appeal were:

- (1) All construction and use of 175 Katie Hatley were authorized by the former Planning Director Betsy Jumper.
- (2) All actions and findings of the planning department are disputed. (Exhibit #8.)

On September 13, 2019, the parties and their respective attorneys met to discuss the August 30, 2019 Notice to Correct Violations. Based upon that meeting, the parties agreed to hold in abeyance the Hackney's September 9, 2019 appeal while a corrective action plan was formulated between the parties. (Exhibit #9.)

On September 26, 2019 the planning department issued the Corrective Action Plan to the Hackneys to bring the structure into code compliance. (Exhibit #10.) The plan included deadlines for submission by Mr. Hackney as follows:

- a. A detailed and scaled floor plan drawing of the constructed floor levels 1 and 2 of the new building
- b. A new Site Plan Permit application with a detailed and scaled site plan drawing with a type of use that is compliant with BMC 18.32.020, 18.32.030, and 15.12.
- c. Conversion of the second floor of the structure from transient lodging units to an approved BMC compliant use.

On October 10, 2019 the Hackneys rejected the Corrective Action Plan and requested their appeal of the August 30 Notice to correct violations "move forward". (Exhibit #11.)

On October 28, 2019, the Bethel Planning Department sent a notification to the Hackneys that their letter of appeal did not provide an adequate explanation for the appeal, as required in BMC 18.72.010A. (Exhibit #12.)

On October 28, 2019 the Hackneys notified the planning department that they were appealing the planning department's October 28 letter regarding the inadequate appeal. (Exhibit #13.)

On October 29, 2019, the planning department notified the Hackneys of the November 14, 2019 Planning Commission hearing for the Hackney appeal. (Exhibit #14.)

## STATEMENT OF FINDINGS OF THE LAND USE ADMINISTRATOR

- 1) The Hackney property is located in the Residential ("R") district. *BMC 18.32.010* states that it is the intent of the residential district to provide protection to residential areas from encroachment from nonresidential activities.
- 2) Pursuant to *BMC 18.32.020*, the following are permitted and principal uses and structures in the Residential District:
  - A. Trails and boardwalks;
  - B. Non-motorized public access areas to the Kuskokwim River or other areas that require public access.
  - C. Single-family dwelling units;

- D. Duplex uses;
- E. Greenbelts and land reserves;
- F. Subsistence activities;
- G. Any accessory use or use of structure associated with the principal use or structure on the lot.
- H. The facilities of sewer, water and other utilities required to serve the lots in the district.
- I. Home occupations, but not more than two (2) per dwelling unit.

- 3) On June 7, 2019, the City of Bethel, Planning Department received an official complaint from four neighborhood residents alleging violations of the City of Bethel Site Plan Permit 18-34, for Daniel and Dawn Hackney, owners of 175 Alex Hatley. The complaint included allegations the Hackneys had (1) failed to provide an accurate description of their building plans in their site plan application and (2) built apartments or a hotel in a residential area, with a residence already on the property. (see **Exhibit #5**).
- 4) In response to the complaint, planning staff reviewed the Site Plan Permit application materials and upon invitation from the Hackneys, visited the property which included a tour of the 2nd floor transient lodging units. Staff observed four furnished hotel-style rooms, each with an enclosed bathroom, and a guest kitchen downstairs. A van full of guests was just arriving.
- 5) Based upon its investigation, the planning department determined the June 7<sup>th</sup> complaint had merit and wrote a notice to correct violations to the Hackneys on August 30, 2019. The planning department stated that it had determined the July 24, 2018 Site Plan Development Permit (for a 20-foot X 42-foot shop/garage/storage shed) and the approved January 9, 2019 addendum to the permit (to increase the size of the structure to 24-foot X 64-foot) did not include written approval to build an additional second floor consisting of B&B or other transient lodging units.
- 6) The planning department notified the Hackneys that their structure violated two chapters of the BMC:
  - A. **BMC 15.12.070 (Modifications)** (“Once the site plan permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator.”)
  - B. **BMC 18.32.020 (Residential District)** (B&B’s, transient lodging or hotels) are not included as a permitted or principal use in the Residential Zone.
- 7) **BMC 18.36.020(K)(31)** allows hotels, motels, hostels, bed and breakfasts, bunk houses, and boarding houses in the Bethel General Use District. Bethel residents therefore have the option to build bed and breakfasts in the Bethel General Use District. The Hackneys had the option of building their bed and breakfast in the General Use District but chose not to.

- 8) Pursuant to **BMC 18.32.020G (Residential Zoning District Permitted and Principal Use and Structures)**, any accessory use or structure associated with the principal use or structure on the lot are permitted in the Residential District. However, an accessory is defined in **BMC 16.12.030** as being customarily accessory and clearly subordinate and incidental to the principal use or structure on the lot. The Hackney's additional 4-unit Bed & Breakfast or other lodging on the property is clearly not subordinate and incidental to the already existing Single Family dwelling unit, which is the principal use on the property. The structure at issue is clearly not allowed by **BMC 18.32.020**
- 9) The Hackneys state that their grounds for appeal are that all construction and use of the property were authorized by the former Planning Director Betsy Jumper. Yet there is nothing in the planning department record to support the Hackneys' contention that the former planning director permitted the construction which resulted in the code violations at issue. The initial site plan permit gave the Hackneys permission only to "construct a 20-foot x 42-foot shop/garage/storage shed" and the addendum to the permit only allowed for the construction of "a 24-foot x 64-foot garage." There is therefore no written consent or anything in the department record to support the argument that the construction of a B&B or other lodging units was ever permitted by the City.
- 10) The approved Site Plan Permit is a one-sheet document and is the only approval mechanism used by planning departments to convey a Notice to Proceed to the developer to begin construction. The purpose of posting the permit is to notify the public that the project plans comply with local standards for land use, zoning, and development. The Authorized Improvements listed on the permit sheet are the only improvements that can be made by the property owner. Neither the July 20, 2018 permit, nor the January 9, 2019 addendum allowed the Hackneys to construct the second floor lodging units.
- 11) There is no merit to the Hackneys' appeal and it should be dismissed. The decision of the planning director on August 30, 2019 which found that the Hackneys had violated the Bethel Municipal Code Sections 15.12.070 and 18.32.020 should therefore be affirmed. The Hackneys should come into compliance with the Bethel Municipal Code by agreeing to and implementing the September 26, 2019 Corrective Action Plan sent to them by the Bethel City Planning Department.

  
\_\_\_\_\_  
Ted Meyer, City Planner, MUP

  
\_\_\_\_\_  
Date



## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

### November 14, 2019 Planning Commission Hearing Regarding Daniel and Dawn Hackney Appeal of Planning Department's August 30, 2019 Notice to Correct Violations

#### City Planner's List of Exhibits Regarding the Application Summary and Findings

#### LIST OF EXHIBITS

- Exhibit 1 July 20, 2018 - Dan Hackney's Site Plan Permit Application.
- Exhibit 2 July 24, 2018 – Planning Department approves Hackney's Site Plan Permit for shop/garage/storage shed.
- Exhibit 3 January 9, 2019 – Planning Department approves the Hackney Site Plan Permit Addendum increasing structural dimensions of garage.
- Exhibit 4 February 19, 2019 – Dan Hackney delivers As-built drawing showing planned skywalk linkage between existing Single Family house and planned new garage structure.
- Exhibit 5 June 7, 2019 - Complaint from Hackney neighbors regarding alleged Bethel Municipal Code (BMC) violations of the Hackney development.
- Exhibit 6
  - 1) August 19, 2019 – Three photos taken by planning department staff of the Hackney property showing the existing Single Family house and new structure containing the four B&B units.
  - 2) Google Earth aerial photo of Hackney property
- Exhibit 7 August 30, 2019 - Planning Department Notice sent to the Hackneys to Correct Violations.
- Exhibit 8 September 9, 2019 – The Hackneys appeal the Planning Department's Notice to Correct Violations.
- Exhibit 9 September 13, 2019 - Stipulation signed by attorneys for both parties that includes an agreement to hold in abeyance the Hackney September 9, 2019 appeal of the Notice to Correct until a Corrective Action Plan is formulated between the parties.
- Exhibit 10 September 26, 2019 - Planning Department issues Corrective Action Plan to the Hackneys to bring their development into compliance with the BMC.

- Exhibit 11      October 10, 2019 - The Hackneys reject the Corrective Action Plan and request their September 9, 2019 appeal of the "Notice to Correct Violations" move forward.
- Exhibit 12      October 28, 2019 – The Planning Department sends notification to the Hackneys that their September 9, 2019 letter of appeal was inadequate regarding their grounds for appeal.
- Exhibit 13      October 28, 2019 – The Hackneys appeal the Planning Department's October 28 notice of inadequate appeal
- Exhibit 14      October 29, 2019 Planning Department notifies the Hackneys of the November 14, 2019 Planning Commission hearing of their appeal.
- Exhibit 15      City of Bethel Official Land Use Map
- Exhibit 16      BMC 18.32 Residential District
- Exhibit 17      BMC 18.36 General Use District
- Exhibit 18      BMC 15.12.070 Site Plan Permit (Modifications)
- Exhibit 19      BMC 16.12.010 Definitions
- Exhibit 20      BMC 18.72 Appeals
- Exhibit 21      BMC 2.45 Administrative Adjudication
- Exhibit 22      Entry of Appearance filed by Jermain, Dunnagan & Owens

*Jed Meyer 11/7/19*

#1

Permit # 18-34



RECEIVED

JUL 20 2018

CITY OF BETHEL

P.O. BOX 1388, BETHEL, ALASKA-99559 http://www.cityofbethel.org
907-543-5306
FAX# 907-543-4186

CITY OF BETHEL PLANNING DEPARTMENT

RESIDENTIAL SITE PLAN PERMIT APPLICATION

Title 18 of the Bethel Municipal Code requires the review of a Site Plan prior to the erection of any improvement on real property within the city limits. Application for a Site Plan Review shall be filed with the City of Bethel Planning Department. Upon approval of the application, a permit will be issued and is required to be displayed on the property to be improved. By submitting this application you are authorizing public access to the displayed Site Plan Permit area. Approval of plans does not presume to give approval to oversights by the City of Bethel Planning Office nor grant authority to violate or cancel the provisions of any other federal, state or local laws regulating the use of development of this land.

Form with fields: Today's Date, Physical Address of Property, Name of Property Owner, Mailing Address, City, State, Zip, Phone, Signature of Owner, Signature of Developer, Mail permit to: Owner/Developer, Fill and Pilings/Building Construction. Includes handwritten entries for 20 July '18, 175 Alex Hately, Daniel & Dawn Hately, Bethel, AK, 99559, 543-7951, etc.

Please Do Not Write Below This Line. To be filled out by Planning Dept. Staff

Form with fields: Zoning (residential), Flood Hazard Zone (N/A), Authorized & Mandatory Improvements (constructs a 20' x 40' garage/shop), City of Bethel Reviewed (JTB), Date (JUL 24 2018), City of Bethel Approved (JTB), Date (JUL 24 2018).

<b>Intended improvements: Describe residential improvements or site activity.</b>	
Garage/Storage/Shop Mother-in-law (outlaw)	
20'x42'. No infill needed.	
Existing infill, sandbagged & seeded w/ erosion control jute netting...	
Lot Size: <u>100' x 120'</u> Sq. ft. Proposed total number of Buildings: <u>2</u>	
Number of Bedrooms: _____	
If placing fill indicate cubic yards or truckloads (if no fill is needed, indicate: 0):	
<b>Dimensions of Fill</b> (Required) Max. Height of fill: _____ (Required) Length of fill: _____ (Required) Width of fill: _____ (see also worksheet on page 4)	<b>Method of stabilizing sand pad slopes:</b> <input checked="" type="checkbox"/> Seeding <input checked="" type="checkbox"/> Sandbagging
<b>If improvements include construction, renovation, or floor area addition to a residence, indicate the following:</b>	
Sewer service type: <input type="checkbox"/> Hauled <input type="checkbox"/> Piped	
If hauled please indicate: Hauled water tank size (gallons): _____ Hauled sewer tank size (gallons): _____	
I attest that all information and measurements presented are correct.	
<b>Signature of applicant:</b> 	

**WHEN DO I HAVE TO OBTAIN A PERMIT(S)?**

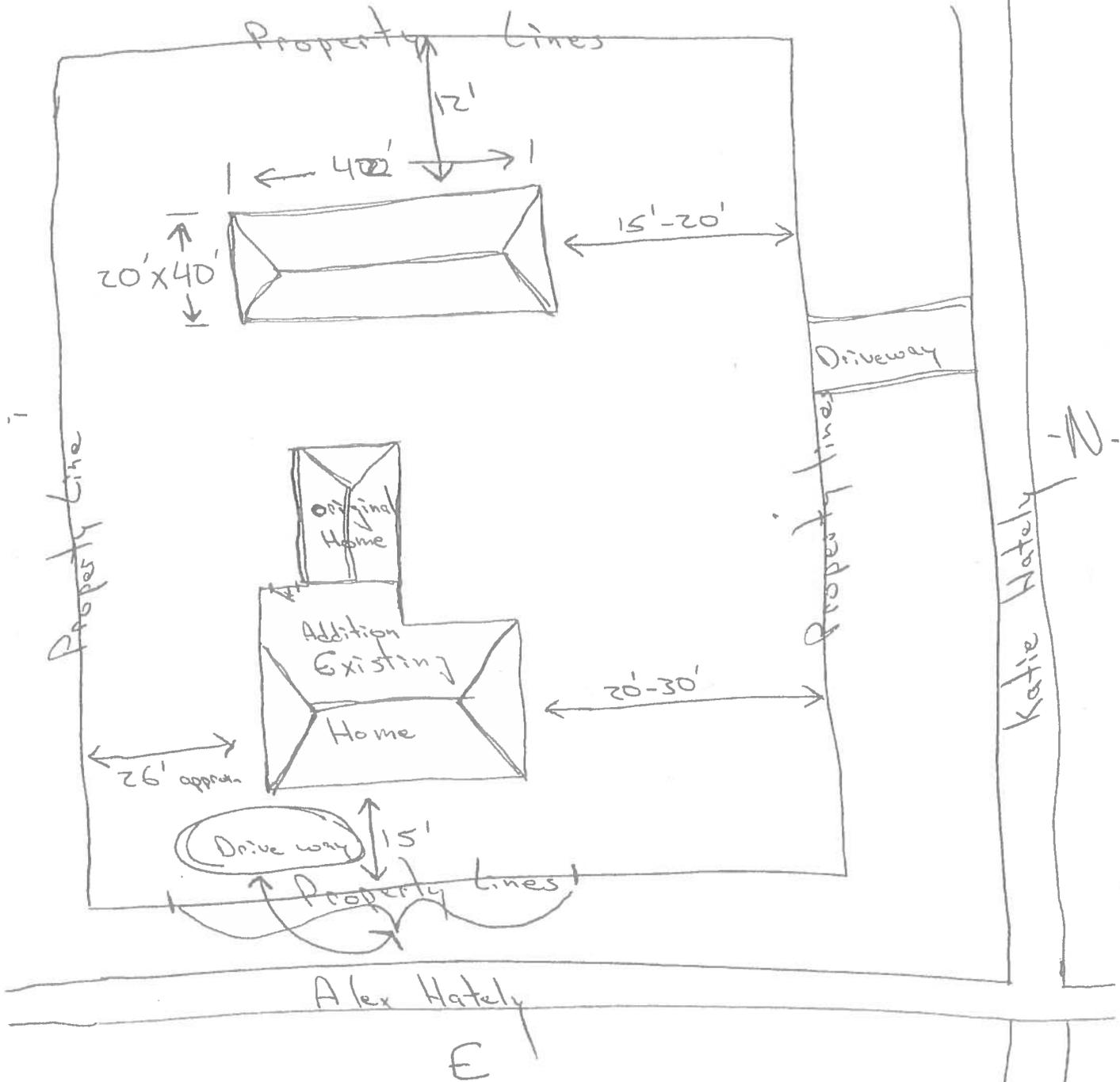
A permit must be obtained at least ten (10) calendar days before construction begins. The permit can be obtained from the City Planning Office which is located upstairs at 1155 Ridgecrest Drive and is open weekdays from 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. The Planning Department Office legally has ten (10) days to review the permit before approval, disapproval, or approving it with modifications. Remember, it is illegal to build, place fill, etc., without first obtaining a site plan permit.

Individual permits are required for fill, construction, and floodplain development. There is a fee schedule which is downloadable from the website (<http://www.cityofbethel.org>) or can be obtained from the Planning Department.

- W -

### Drawing of Site Improvements

Provide a rough drawing of the site, the buildings, the parking, the access, and the proposed improvements. (Note: if your project is in a floodplain or USACE wetlands area, please fill out the worksheet for fill dimensions on page 5. If you are going to need a culvert fill out the culvert form on page 6.)



City of Bethel Public Works Department

Culvert Installation Inspection Form

Name: Dan & Dawn Hackney  
Property Location: 175 Alex Hatley  
Mailing Address: P.O. Box 3288  
Contact Phone: 543-7951  
Request Date: 20 July '18  
Site Plan Number: \_\_\_\_\_

Pre-Installation Approval

APPROVED: \_\_\_\_\_ Date: \_\_\_\_\_ DENIED: \_\_\_\_\_

Signed By: \_\_\_\_\_

Brief Explanation: If denied:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Installation Inspection

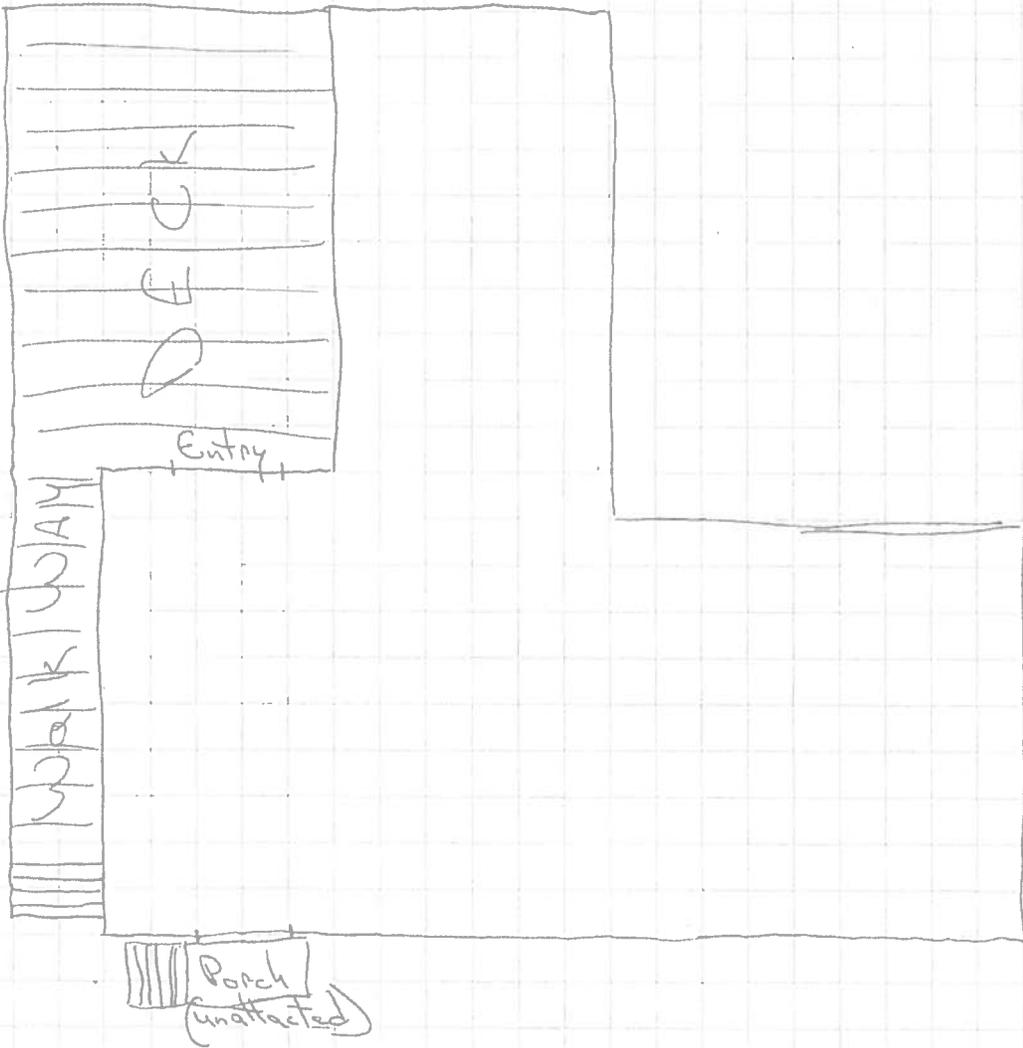
Inspected By: \_\_\_\_\_

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.

Proposed Building  
Garage/Storage "Inlaw" (cut-hair)



# SITE PLAN PERMIT

No. 18--34

DATE: 7/24/2018

<b>PERMITEE:</b> Daniel and Dawn Hackney		Address: 175 Alex Hatley		
Lot: 11	Block:	Subdivision: Blueberry Fields Subd. Phase	Plat No.: 84--13	R./T./Sec.: R71W, T8N, S7, SM
<p><b>Authorized and mandatory Improvements:</b></p> <ol style="list-style-type: none"> <li>1. Construct a 20'x42' Shop/garage/storage shed.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol> <p>PER SITE PLAN PERMIT APPLICATION ON FILE.</p> <div style="border: 2px solid blue; padding: 5px; width: fit-content; margin: 10px auto;"> <p>The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.</p> </div> <p>PLANNING DEPARTMENT: <u>Pauline Boratko</u> Pauline Boratko, Planning Assistant</p>				
<b>Intended Use: Residential</b>				
<p>This permit has hereby been posted on the above property this ___ day of __, ____</p> <p>By _____ Your Signature</p>				

# SITE PLAN PERMIT

No. 18--34

DATE 7/24/2018

**PERMITEE:**  
Daniel and Dawn Hackney

Address 175 Alex Hatley

Lot  
11

Block

Subdivision  
Blueberry Fields Subd. Phase

Plat No.  
84-13

R / T / Sec  
R71W, T8N, S7 SM

**Authorized and mandatory Improvements**

1. Construct a 20'x42' Shop/garage/storage shed
2. Take all construction debris to the city landfill, do not fill residential trash bins
3. Abide by all set back requirements.

PER SITE PLAN PERMIT APPLICATION ON FILE

\*\*\*\*\*ADDENDUM\*\*\*\*\*01-09-2019\*\*\*\*\*

The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.

1. Construct a 24'x64' attached garage.
2. Take all construction debris to the city landfill, do not fill residential trash bins
3. Abide by all set back requirements.

PLANNING DEPARTMENT: Pauline Boratko  
Pauline Boratko, Planning Assistant

Intended Use: Residential

This permit has hereby been posted on the above property this \_\_\_ day of \_\_\_

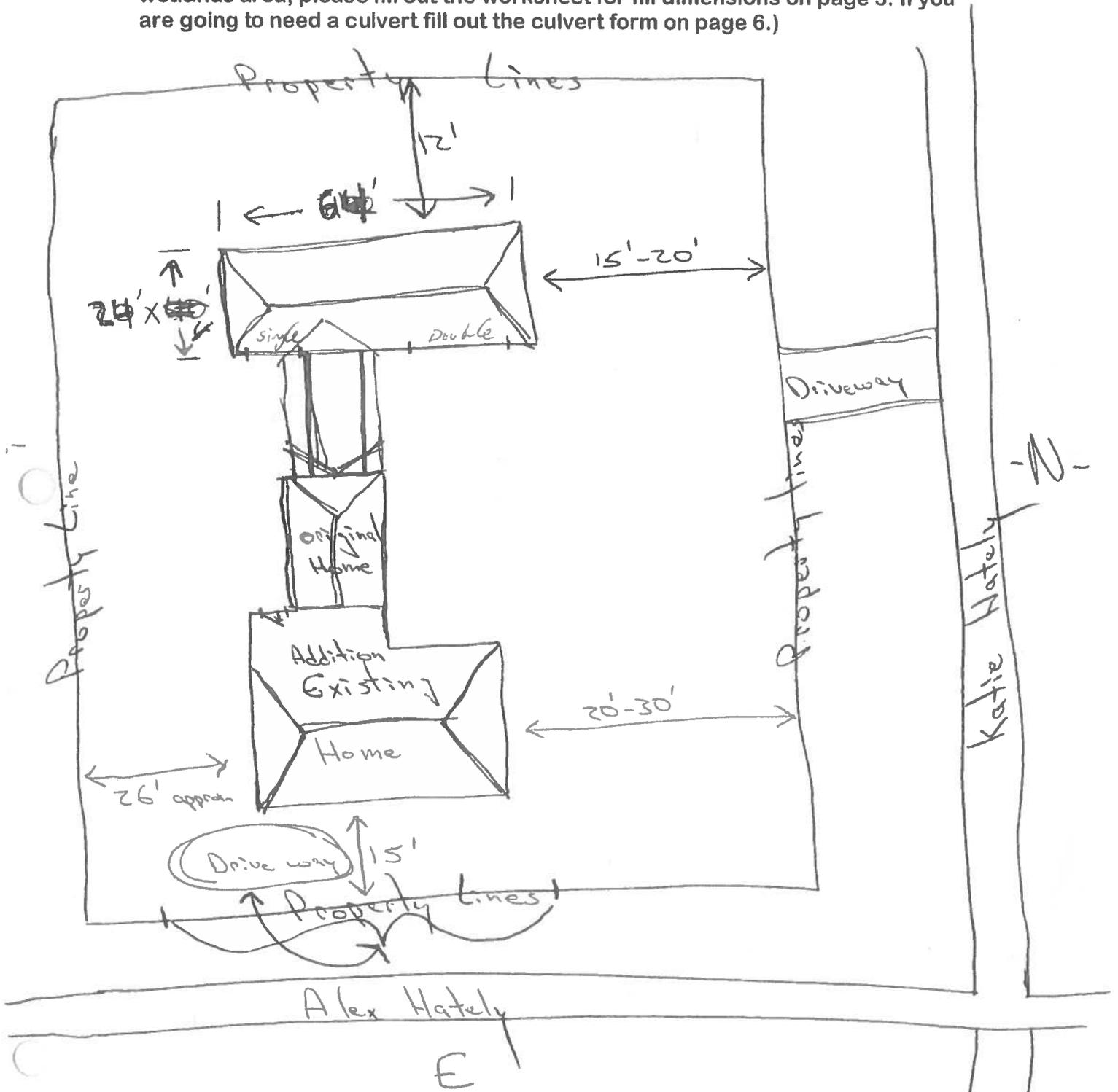
By \_\_\_\_\_  
Your Signature

B

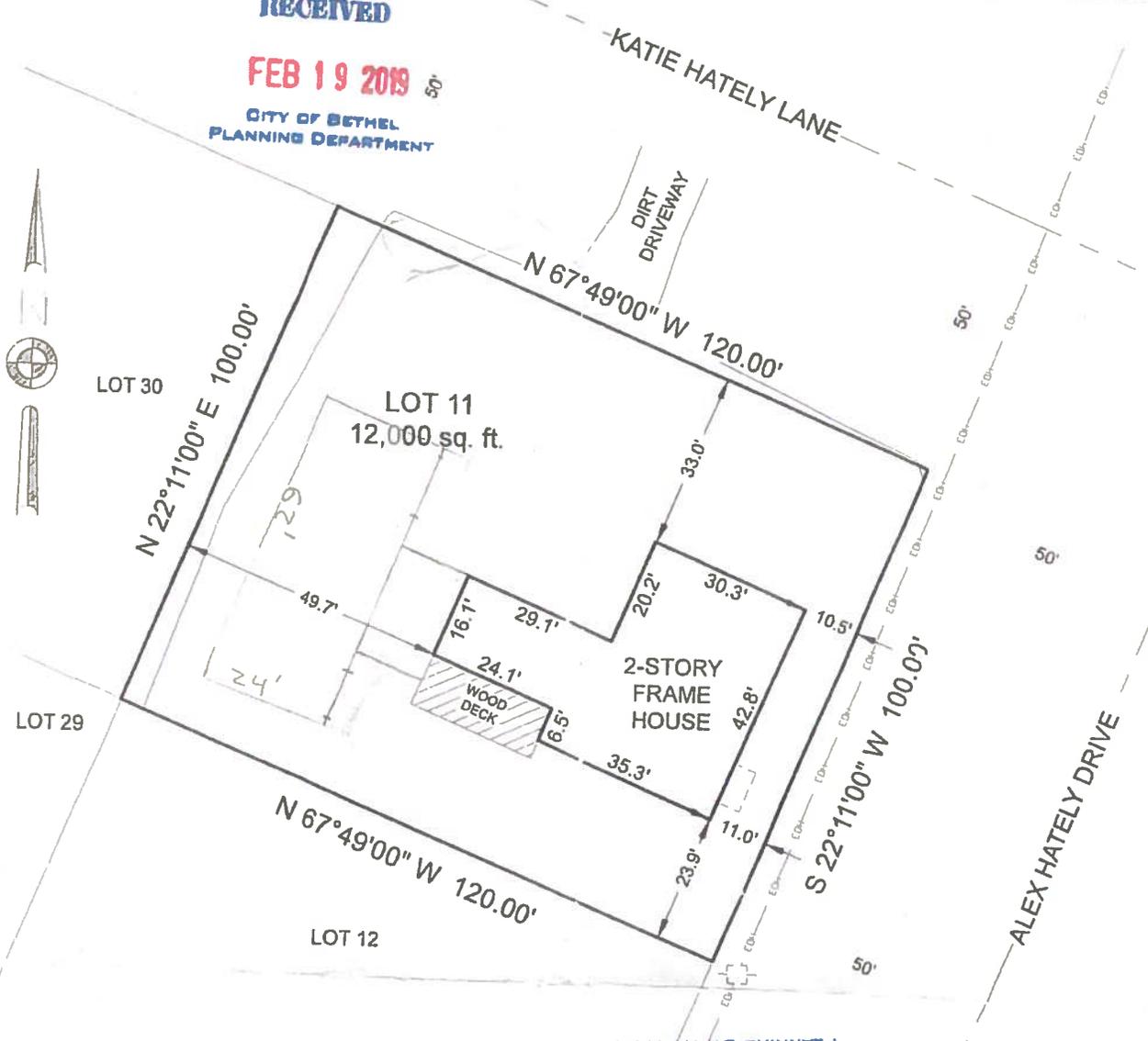
- W -

### Drawing of Site Improvements

Provide a rough drawing of the site, the buildings, the parking, the access, and the proposed improvements. (Note: if your project is in a floodplain or USACE wetlands area, please fill out the worksheet for fill dimensions on page 5. If you are going to need a culvert fill out the culvert form on page 6.)



RECEIVED  
FEB 19 2019  
CITY OF BETHEL  
PLANNING DEPARTMENT



CITY OF BETHEL  
PLANNING DEPARTMENT

RECEIVED  
FEB 19 2019



I HEREBY CERTIFY THAT I HAVE SURVEYED THE DESCRIBED PROPERTY AND THAT NO ENCROACHMENTS EXIST EXCEPT AS INDICATED. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. UNDER NO CIRCUMSTANCES SHOULD ANY OF THE DATA HEREON BE USED FOR CONSTRUCTION OF FENCES, OR FOR ESTABLISHING PROPERTY BOUNDARIES.

FIXED HEIGHT, LLC  
Land Surveying Services  
225 W 23rd Ave.  
Anchorage, AK  
907.280.8949  
WWW.FIXEDHEIGHT.COM

AS-BUILT  
LOT 11  
BLUEBERRY FIELD SUBDIVISION PHASE I  
(PER PLAT No. 84-13, BETHEL RECORDING DISTRICT)  
LOCATED WITHIN SECTION 18, TOWNSHIP 8 NORTH, RANGE 71 WEST,  
SEWARD MERIDIAN, ALASKA

Legend  
--- EAVE  
[ ] UTILITY POLE  
--- OVERHEAD UTILITY LINE

8.

Steve Sorg  
P.O. Box 2117  
Bethel, AK 99559  
545-3662

06/07/19

To: Betsy Jumper  
Planning Department  
City of Bethel

  
Todd Fredericks

From: Steve Murat   
P.O. Box 2744  
420 Katie Hatley Lane  
Bethel, Alaska 99559

P.O. Box 3343  
Bethel, AK 99559  
545-4142  


RE: BMC Chapter 15, 16 & 18  
Section 15.12.090 Complaint  
Section 18.84.020 Complaint  
Section 18.32.020 Permitted & Principal use & Structures  
Section 18.32.010 Intent  
Section 15.12.030  
Section 15.12.060 F.4 Planning needs to ask more questions  
Section 16.04.010 Purposes A#2 & A#6  
Section 15.12.020 Permit Required B#6 & C

Milce Schantz  
Box 57  
Bethel AK  
99559

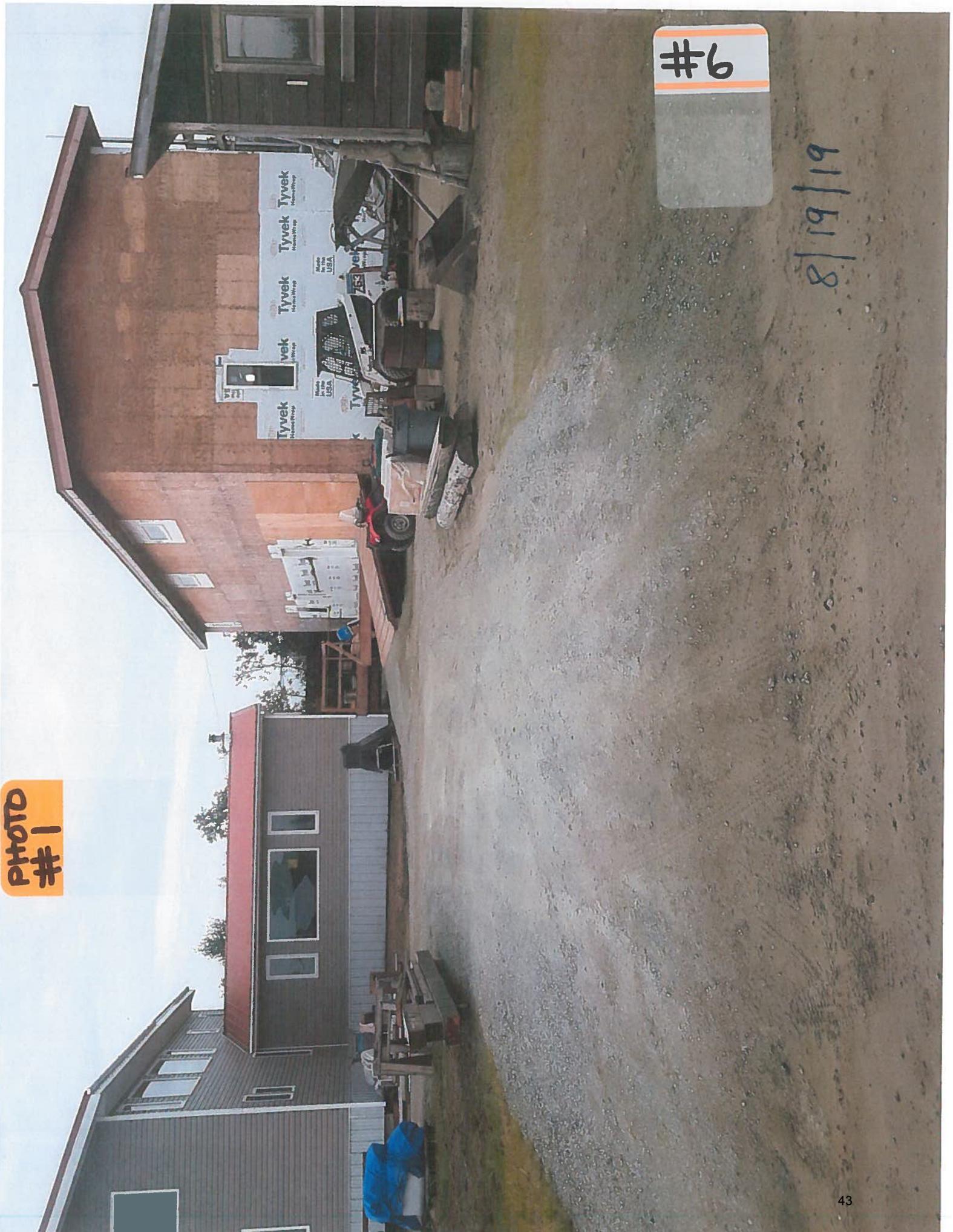
This is an official complaint of violations of City of Bethel Site Plan Permit No. 18-34, for Daniel and Dawn Hackney of 175 Alex Hatley, lot 11, Blueberry Field Subdivision phase plat 84-13.

Permittee has violated the following City of Bethel Municipality codes:

1. BMC 15.12.030 The site plan permit was incomplete. Permittee did not give accurate description of what their real plans were, or the size and use of the structure and this huge 24' X 60' two story building is going to be used as a commercial business. Not a garage/storage building, as permittee wrote down.
2. BMC 18.32.020 Permittee is building apartments or a hotel in a residential area, which is not permitted. Only one residence per lot.
3. BMC 18.32.010 Intent: The intent of the residential district is to provide protection to residential areas from encroachment from non-residential activities.
4. Permittee has a fence on the edge of the roads, Alex Hatley road and Katie Hatley Lane. Fence on city easement, should be on permittee's property line.
5. BMC Chapter 16.04 Section 16.04.10 A#2 & A#6. This will negatively affect everyone's home appraisal that lives next to this atrocity. The city has an obligation to protect our property from things like this. The City of Bethel should have stopped this project/construction months ago after being told about the actual scope of construction vs site plan.
6. BMC 15.12.020 Permittee moved a 12' X16' building onto city easement, along Katie Hatley Lane, with no permit, it is illegal and needs to be moved.
7. The City should have been inspecting the project. Permittee has installed two 1000 gallon water tanks and a 2400 gallon sewer tank for a garage/storage. No. To run a commercial business with a second residence on their lot. Building must be moved.

cc: Patricia Burley, City of Bethel Attorney  
Kathy Hansen, City of Bethel Planning Committee

PHOTO #1



#6

8/19/19

PHOTO #2



8/19/19

PHOTO  
#3

8/19/19





Hackney Residence  
175 Alex Hatley



PHOTO  
#4

Orutsarmiut  
Native Council

Google



**City of Bethel**

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Daniel and Dawn Hackney  
PO Box 3288  
Bethel, AK. 99559

August 30, 2019

**RE: Notice to Correct Violations**

Dear Mr. and Ms. Hackney,

The second floor of the structure in your current construction project at 175 Alex Hately is not compliant with the Bethel Municipal Code. Your approved, July 24, 2018 Site Plan Development Permit for a 20-foot X 42-foot shop/garage/storage shed, and your approved January 29, 2019 addendum to the permit to increase the size of the structure to 24-feet X 64-feet, did not include approval to build a second floor with a B&B or other lodging units.

**Noncompliance with Authorized Improvements**

Your noncompliance in following the Authorized and Mandatory Improvements as stated on your approved development permit violates **BMC 15.12.070 (Site Plan Permit Modification)**. This section states, "Once the site plan permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator".

**Noncompliance with Residential Zoning Code**

Although your description of intended improvements on the July 24, 2018 application included a mother-in-law unit, planning staff told you this particular unit is illegal because it is not identified as either a principal or accessory use in **BMC 18.32.020 (Residential District-Permitted and Principal Uses and structures)**, nor as a conditional use in **BMC 18.32.030 (Conditional uses)**. The definition of accessory structure stated in **BMC 16.12.030 (Definitions)** does not identify a mother-in-law unit as an accessory unit. This mother-in-law unit was subsequently not included by planning staff as an "Authorized and Mandatory Improvement" on your July 24, 2018 approved permit, nor the January 29, 2019 addendum to the permit.

I accepted your invitation to visit the second floor of your new building on Thursday, August 15. I observed four finished hotel-style rooms running the length of the building, each with an enclosed bathroom, and a guest kitchen below, on the first level. A van-full of guests were entering as I was leaving. From the design of your building and your acquisition of a May 9, 2019 business license, it appears that you intend to use the structure as a Bed & Breakfast. Again, this type of use violates **BMC 18.32.020 and 18.32.030 (Residential Zoning District)**, because a B&B is not identified as a principal, conditional, or accessory use in the residential

zone. Incidentally, a B&B is only allowed as a principal and permitted use in the General Use District and as a conditional use in the Preservation District.

### **Correction of Violations**

As the City of Bethel Land Use Administrator, *BMC 18.84.030B (Correction of Violation)* authorizes me to order you to discontinue unlawful uses of land or structures. It also authorizes me to order you to discontinue construction leading to your unlawful use of land and structure.

Your compliance is required within 30 days of the date of this notice to bring your structure and its usage back into compliance with the Residential Zoning Code (*BMC 18.84.030A Correction of violations*), otherwise the City of Bethel may pursue any and all legal and equitable remedies available to it. Additionally, failure to bring the structure and use back into compliance within this time frame can lead to fines imposed on you of up to \$1,000 for each violation per day (*BMC 16.04.050 Enforcement, Violation, and Penalties*). The City reserves the right to assert additional violations of the BMC as it continues its investigation of the matter.

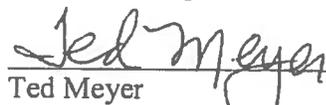
### **BMC Compliant Site Plan Permit Application Required**

I invite you to come down to the planning department to discuss your construction project in terms of permissible uses allowed in the Residential Zoning Code. Ultimately and quickly, we need a new and accurate site development permit application from you with a scaled site plan drawing that shows all structures, both planned (new) and existing (the existing Single Family house on the lot), and any roads that abut your property. All structures need to be labeled with their planned and existing uses, and show all building and setback dimensions. Include existing and planned water and sewer facilities and their exact locations. The code-required number of parking spaces (with 9' x 20' dimension) and the driveway that access all these spaces must be shown as well.

### **Right to Appeal Stated Violations**

According to *BMC 15.12.065 (Appeal)* you may appeal to the Planning Commission my determination that violations have occurred in your development and my orders to you to correct these violations. *BMC 18.72.010 A&B (Appeal of decision of planning department)* states the written appeal must be submitted to the Planning Department and must specify the grounds for appeal and specify the actions and findings of the department that are being disputed. The appeal must be filed with the planning department within 10 calendar days from the date of this letter.

I look forward to working with you to bring your development project into compliance with the Bethel Municipal Code. Please contact me as soon as possible. Thank you.

  
\_\_\_\_\_  
Ted Meyer  
Planner, City of Bethel

CC. Bill Howell, Acting City Manager  
Bo Foley, I.T. Director  
Michael Gatti, City Attorney

**VALCARCE LAW OFFICE**

A LIMITED LIABILITY COMPANY

900 THIRD AVENUE  
P.O. BOX 409  
BETHEL, ALASKA 99559  
TELEPHONE: (907) 543-2744 OR (907) 543-HELP  
TOLL FREE (888) 610-2744  
TELEFAX 907 543-2746  
EMAIL: [jared@bushlawyers.com](mailto:jared@bushlawyers.com)

JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

*Bush Lawyers Serving  
Bush Alaska*

September 9, 2019

City of Bethel  
Planning Department  
PO Box 1388  
Bethel, AK 99559

Re: Appeal of decision by planning department in regards to 175 Katie Hately, Dan and Dawn Hackney

In compliance with BMC 18.72.010, Dan and Dawn Hackney hereby provide notice to the City of Bethel that it appeals the decision of the planning department and the letter sent by the planning department on August 30, 2019.

Grounds for Appeal: All construction and use of 175 Katie Hately were authorized by former Planning Director Betsy Jumper.

Actions and findings of the planning department that are disputed in the August 30, 2019 letter: all.



Jared Karr  
Attorney for Dan and Dawn Hackney

CITY OF BETHEL  
PLANNING DEPARTMENT

DANIEL AND DAWN HACKNEY, )  
 )  
 Appellants, )  
 )  
 vs. )  
 )  
 CITY OF BETHEL, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

2019-1

**STIPULATION BETWEEN THE PARTIES**

Appellants, Daniel and Dawn Hackney, through their attorney, Valcarce Law Office, and the City of Bethel, Planning Department, through its attorney, Jermain Dunnagan & Owens, P.C., hereby stipulate and agree as follows:

On July 20, 2018, Daniel and Dawn Hackney submitted to the City of Bethel a Residential Site Plan Permit Application to construct a 20' x 42' garage/shop. The application was approved on July 24, 2018 and a Site Plan Permit was issued to construct a 20' x 42' shop/garage/storage shed per the Site Plan Permit Application on file.

On January 9, 2019, an Addendum to the Site Plan Permit was issued to construct a 24' x 64' attached garage.

On June 7, 2019, the City of Bethel, Planning Department, received an official complaint from Steve Murat, Steve Sorg, Todd Fredericks, and Mike Shantz of violations of the City of Bethel Site Plan Permit 18-34, for Daniel and Dawn Hackney of 175 Alex Hately, lot 11, Blueberry Field Subdivision phase plat 84-13.

On August 30, 2019, the City of Bethel, Planning Department, issued a Notice to Correct Violations to Daniel and Dawn Hackney, providing information as to the Noncompliance with Authorized Improvements; Noncompliance with Residential Zoning Code; Correction of Violations; BMC Compliant Site Plan Permit Application Required; and Right to Appeal Stated Violations information.

On September 9, 2019, Daniel and Dawn Hackney filed an appeal with the Planning Department.

On September 13, 2019, the parties, and their respective attorneys, met to discuss the August 30, 2019 Notice. Based upon that meeting, the parties agreed to hold in abeyance the September 9, 2019 appeal while a corrective plan is formulated between the parties. Upon execution of the Corrective Action Plan, the parties will file a stipulation for dismissal of the appeal with prejudice. Otherwise the appeal will proceed in accordance with BMC 18.72.010.

VALCARCE LAW OFFICE  
Attorneys for Daniel and Dawn Hackney

DATED: 9/18/19

By: [Signature]  
Jared Karr

JERMAIN DUNNAGAN & OWENS, P.C.  
Attorneys for the City of Bethel

DATED: 9/20/19

By: [Signature]  
Michael R. Gatti

#10



## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Daniel and Dawn Hackney  
PO Box 3288  
Bethel, AK. 99559

September 26, 2019

### **RE: Corrective Action Plan for Bethel Municipal Code Violations**

Dear Mr. and Mrs. Hackney,

The second floor of the structure in your current construction project at 175 Alex Hatley is not compliant with the Bethel Municipal Code (BMC). Your approved, July 24, 2018 Site Plan Development Permit (# 2018-34) for a 20-foot x 42-foot shop/garage/storage shed, and your approved January 29, 2019 addendum to the permit to increase the size of the structure to 24-feet x 64-feet, did not include approval to build a second floor with a B&B or other lodging units.

During a September 13, 2019 meeting, parties and respective attorneys agreed the City would develop a Corrective Action Plan for the Hackneys to follow in order bring their structure back into BMC compliance.

#### **1<sup>st</sup> Violation**

##### **Noncompliance with Authorized Improvements on Approved Site Plan Permit**

*BMC 15.12.070 (Site Plan Permit Modification)* states, "Once the Site Plan Permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator". Your construction of a second floor with rental units without authorization violates the approved Site Plan Permit # 2018-34.

#### **Phase 1 Corrective Action**

1. Submit a detailed, scaled floor plan of what was actually constructed on both 1<sup>st</sup> and 2<sup>nd</sup> floors of the new 24-foot x 64-foot structure.
2. Provide written permission for city staff to inspect 1<sup>st</sup> and 2<sup>nd</sup> floors of the 24-foot x 64-foot structure. Staff will inspect the building once the floor plan of the existing layout has been received.
3. Provide written permission for City surveyors to do an as-built survey on property.

**Due Date: October 10, 2019**

#### **2<sup>nd</sup> Violation**

##### **Noncompliance with BMC Residential Zoning Code**

*BMC 18.32.020 and 18.32.030 (Residential Zoning District)* does not list a B&B and/or other transient lodging as a permitted, principal, conditional, or accessory use in the residential zone. Currently, there are four finished hotel-style rooms running the length of your new building's second floor, each with an enclosed bathroom. There is a guest kitchen below, on the first level. Vans full of guests have been reported by neighbors as continuously entering and leaving the property. From the design of your building and your acquisition of a May

9, 2019 business license, it appears you are using the structure as a Bed & Breakfast and/or other transient lodging. This type of use violates the City's Residential Zone standards.

### **Phase 2 Corrective Action**

Whether you choose second floor conversion or demolition, the Planning Department needs to know your intentions in bringing the building into compliance with the BMC. Please submit a new 2019 Residential Site Plan Permit application and a detailed site plan drawing with a type of use that is compliant with **BMC 18.32.020 and 18.32.030 (Residential Zoning District)**. Please contact the Planning Department if you would like to discuss. Include the following on the drawing:

1. Scaled site plan drawing that shows all structures, both planned (new) and existing (the existing Single Family house on the lot, wood shed, etc.)
2. Existing and planned water and sewer facilities and their exact locations.
3. The code-required number of parking spaces (**BMC 18.48.160**) (with 9' x 20' dimensions)
4. Driveway that access all parking spaces (*see BMC 18-48-200 for standards*)
5. All structures/facilities need to be labeled with their planned and existing uses, and show all building setback dimensions.
6. Roads that abut your property
7. New floorplan layout drawing of code compliant use on both 1<sup>st</sup> and 2<sup>nd</sup> floors.

**Due Date: October 24, 2019**

Once your new September 2019 Site Plan Permit Application is received by the Planning Department, BMC timelines for City action will be adhered to. Staff will review your application for compliance to the **BMC 18.32.020 and 18.32.030 (Residential Zoning District)** and to **BMC15.12 (Site Plan Permits)**. Staff will notify you if any additional information and/or permits are required based on the type of intended use indicated on your application. Additional permits may extend the conversion deadline. Please contact planning department staff at 543-5306 if you have any questions.

### **Conversion to BMC Code Compliant Use and Verification:**

#### **Phase 3 Corrective Action**

Using appropriate reconstruction, convert the second floor of building from current transient rental units to approved BMC compliant use. After conversion of the structure is complete, planning staff will inspect, approve, and sign a Certificate of Occupancy for project completion.

**Due Date: November 24, 2019**

#### **Penalties**

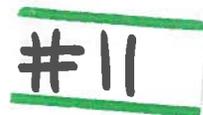
Regarding the August 30, 2019 letter I sent which gave you 30 days to bring your structure and its usage back into BMC compliance (**BMC 18.84.030A**), this is to notify you the City shall fine you \$500 per day for each violation (**BMC 16.04.050**) from September 29, 2019 onward, until the Planning Department signs off on your completed Corrective Action Plan. Your compliance with this Corrective Action Plan may result in suspension of any levied fines for violations, provided you execute a confession of judgement in a specified amount. The City reserves the right to assert any legal and equitable remedies for violations of the BMC. Please respond in a timely manner. Thank you.

*Ted Meyer*

Ted Meyer, Planner, City of Bethel

---

- CC. Bo Foley, Acting City Manager
- Pauline Boratko, Planner Assistant
- Michael Gatti, Attorney



## VALCARCE LAW OFFICE

A LIMITED LIABILITY COMPANY

900 THIRD AVENUE

P.O. BOX 409

BETHEL, ALASKA 99559

TELEPHONE: (907) 543-2744 OR (907) 543-HELP

TOLL FREE (888) 610-2744

TELEFAX 907 543-2746

EMAIL: [jared@bushlawyers.com](mailto:jared@bushlawyers.com)

JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

*Bush Lawyers Serving  
Bush Alaska*

October 10, 2019

City of Bethel  
Planning Department and  
Panning Commission  
PO Box 1388  
Bethel, AK 99559

Re: Appeal of decision by planning department in regards to 175 Alex/Katie Hatley,  
Dan and Dawn Hackney

The appeal of the Planning Department's August 30, 2019, "Notice to Correct Violations," is being requested to move forward. The City's September 26, 2019, "Corrective Action Plan for Bethel Municipal Code Violations" is rejected. The Hackney's request an appeal hearing before the Planning Commission in compliance with BMC 18.72.010.

Jared Karr

Attorney for Dan and Dawn Hackney



## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Jared Karr, Esq.  
Valcarce Law Office  
900 Third Avenue  
P.O. Box 409  
Bethel, AK 99559

October 28, 2019

### **RE: Hackney Appeal to City Planning Commission of City Planning Department Notice to Correct Violations**

Dear Mr. Karr,

This letter is to inform you that the Hackneys' September 9, 2019 letter appealing the City Planning Department's August 30, 2019 Notice to Correct Violations does not meet the requirements of Bethel Municipal Code 18.72.010(A).

Bethel Municipal Code Section 18.72.010(A) requires that individuals who appeal decisions or actions of the planning department specify (1) the grounds for their appeal and (2) the actions and findings that they dispute. The appeal letter does not meet these requirements.

The letter states that the grounds for the appeal "[are that] all construction and use of 175 Hately" was authorized by the former planning director. It further states that the actions and findings that the Hackneys dispute are "all." These stated grounds for appeal are inadequate.

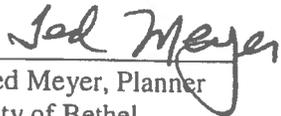
First, there is nothing in the record to support the Hackneys' position that the former planning director somehow permitted the construction which resulted in the code violations at issue. The initial approved site plan permit gave the Hackneys permission to "construct a 20-foot x 42-foot shop/garage/storage shed" and the addendum to the permit allowed for an increase in structural dimensions to "a 24-foot x 64-foot garage." There is therefore nothing in the record to support the argument that the construction of a bed and breakfast or other lodging units was ever permitted by the City.

Second, the appeal letter does not provide adequate notice to the City of the specific actions and findings that the Hackneys now seek to challenge. Rather, you state that the Hackneys dispute "all" actions and findings of the City. However, the City is entitled to know, prior to its appearance before the Planning Commission, which City actions and findings the Hackneys claim to be in error. While the City understands that the Notice of Violations itself is being

challenged, it is important for the City to know precisely why the Hackneys contend that the City has acted in error so that it can adequately prepare for the appeal hearing before the Commission.

Consequently, please provide an amended appeal statement which meets the requirements of Bethel Municipal Code Section 18.72.010(A) by November 4, 2019. Thank you.

Sincerely,



Ted Meyer, Planner

City of Bethel

PO Box 1388

Bethel, AK. 99559

907-543-5306

[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)

# VALCARCE LAW OFFICE

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JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

*Bush Lawyers Serving  
Bush Alaska*

October 28, 2019

City of Bethel  
Planning Department  
PO Box 1388  
Bethel, AK 99559

Re: October 28, 2019 letter and by Ted Meyer

In compliance with BMC 18.72.010, Dan and Dawn Hackney hereby provide notice to the City of Bethel that it appeals the decision of the planning director and the letter sent by the planning department on October 28, 2019.

**Grounds for Appeal:** The planning director ordered in an October 28, 2019 letter that the Hackney appeal's notice of September 9, 2019 was deficient, even though it complied with the letter of the law

**Actions and findings of the planning department that are disputed in the October 28, 2019 letter:** That the Hackney's need to submit an emended appeals notice.

The Hackney's provided notice to the City that it requested an appeals hearing seven weeks ago. It notified the City on October 10, 2019 that the stipulated stay on an appeal's process was rejected. It took the City 18 days to respond to that letter. This is after the City has notified them that they are facing an audit from the Finance Department and that the City is planning on doing a survey of their property based off of more harassing complaints. I caution the City in its further actions in regards to the Hackney's.

Once again, the Hackney's request an appeal's hearing on not only the August 30, 2019 letter but also the October 28, 2019 letter.

The Hackney's have complied with BMC 18.72.010 to the letter and expect the City to comply with the laws it made up.

A handwritten signature in black ink, appearing to read 'Jared Karr', with a stylized, cursive script.

Jared Karr

Attorney for Dan and Dawn Hackney



#14

## CITY OF BETHEL

P.O. Box 1388 Bethel, Alaska 99559  
907-543-1384  
FAX # 543-3817

October 29, 2019

Jared Karr  
Valcarce Law Office  
PO Box 409  
Bethel, AK. 99559

**RE: Public Hearing on Hackney Appeal to City Planning Commission of City Planning Department Notice to Correct Violations (Issued August 30, 2019)**

Dear Mr. Karr:

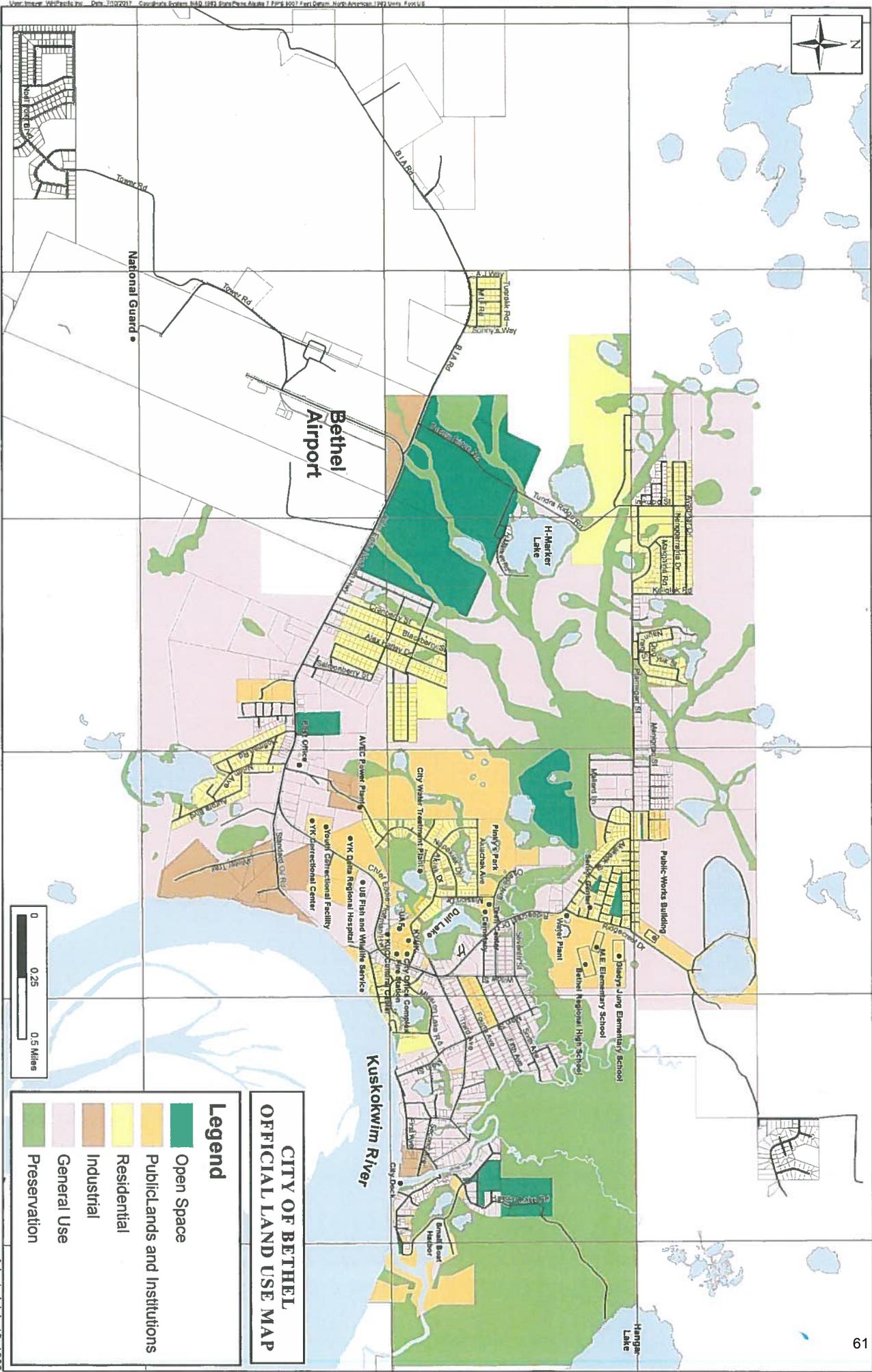
On October 10, 2019, you re-instated your appeal to the City of Bethel Planning Commission of the Planning Department's August 30, 2019 decision to issue a Notice to the Hackneys to Correct Violations.

Pursuant to Bethel Municipal Code Section 18.72.010(D), the City of Bethel Planning Commission will hear the Hackneys' appeal at its regularly scheduled meeting on Thursday, **November 14, 2019 at 6:30 p.m.** in the Bethel City Council Chambers at 300 State Highway in Bethel, Alaska. The Planning Department will hand-deliver packets of information relating to this matter to Planning Commissioners and to your office on November 8, 2019. If you have additional materials regarding the application or actions which you wish us to include in the packet, please deliver those documents to the City of Bethel Planning Department Office by 4:00pm on **November 4, 2019** so that we can include them in the materials.

If you or your representative plan to participate in the Appeal Hearing telephonically rather than in person, please let me know by November 8, 2019 so that I can provide you with the necessary call-in information.

Sincerely,

Ted Meyer, Planner



**Legend**

- Open Space
- Public lands and Institutions
- Residential
- Industrial
- General Use
- Preservation

**CITY OF BETHEL**  
**OFFICIAL LAND USE MAP**

Adopted July 10, 1990



## Chapter 18.32 RESIDENTIAL DISTRICT – R DISTRICT

Sections:

- 18.32.010 Intent.**
- 18.32.020 Permitted and principal uses and structures.**
- 18.32.030 Conditional uses.**
- 18.32.040 Minimum lot size.**
- 18.32.050 Minimum setback requirements.**
- 18.32.060 Maximum height of structures.**
- 18.32.080 Noise.**

### **18.32.010 Intent.**

The intent of the residential district is to provide protection to residential areas from encroachment from nonresidential activities. [Ord. 01-05 § 8.]

### **18.32.020 Permitted and principal uses and structures.**

The following are permitted and principal uses and structures in the R district:

- A. Trails and boardwalks.
- B. Nonmotorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single-family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves.
- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van for any purpose is specifically prohibited; except, during the construction or substantial improvement of the primary structure on a lot, a freezer van used solely for storage of construction materials and equipment may be located on the lot for a period not to exceed twelve (12) months unless, for good cause shown, the time is extended in writing by the land use administrator.
- H. The facilities of sewer, water and other utilities required to serve the lots in the district.
- I. Home occupations, but not more than two (2) per dwelling unit. [Ord. 01-05 § 8.]

### **18.32.030 Conditional uses.**

The following uses and structures are permitted in the R district under the terms of a conditional use permit.

- A. Triplex and residential apartment buildings.
- B. Planned unit developments.
- C. Professional offices.
- D. Parks, playfields, and playgrounds.
- E. Churches and synagogues, along with the customary accessory uses, including administrative offices, parsonages, day nurseries, kindergartens and meeting rooms.
- F. Headquarters or administrative offices for charitable organizations and similar quasi-public organizations of a noncommercial nature.
- G. Radio and television transmission towers and antennas, not including amateur radio and citizen band radio antennas that are accessory to a residential use.
- H. Food and beverage sales.
- I. Personal services.
- J. The facilities of sewer, water and other utilities required to serve lots outside the district. [Ord. 01-05 § 8.]

### **18.32.040 Minimum lot size.**

The minimum lot size in the R district is nine thousand (9,000) square feet; provided, the minimum lot size for an apartment is ten thousand (10,000) square feet for the first (1st) four (4) units and an additional one thousand (1,000) square feet for each additional unit. [Ord. 01-05 § 8.]

### **18.32.050 Minimum setback requirements.**

Structures, other than minor structures, in the R district shall be set back from property lines to provide yards as follows:

- A. Front yard: Fifteen (15) feet.
- B. Side yard: Ten (10) feet; provided, for lots that were lawfully platted prior to 1985 with less than seven thousand (7,000) square feet, seven (7) feet shall be provided for side yards.
- C. Rear yard: Ten (10) feet; provided, for lots that were lawfully platted prior to 1985 with less than seven thousand (7,000) square feet, seven (7) feet shall be provided for rear yards.

D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 01-05 § 8.]

### **18.32.060 Maximum height of structures.**

The height of structures in the R district is not restricted except as may be limited under the airport height restrictions under BMC [18.48.250](#) through [18.48.270](#). [Ord. 01-05 § 8.]

### **18.32.080 Noise.**

No loud noise, whether of public or private origin, shall be permitted within this land use district during the hours from 11:00 p.m. to 6:00 a.m. "Loud noise" is defined as a decibel level that exceeds eighty (80) dBA max at the property line of the parcel within the R district that is receiving the noise. Specific examples of loud noise include a person or persons speaking loudly or yelling, operating a garbage disposal, or honking a vehicle horn within twenty (20) feet. This provision applies to all noise sources, whether generated inside or outside the R district, but does not apply to noise associated with aircraft arriving at or departing from the airport or emergency equipment or signals operated by a government agency. [Ord. 01-05 § 8.]

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**The Bethel Municipal Code is current through Ordinance 19-16, passed August 13, 2019.**

Disclaimer: The city clerk's office has the official version of the Bethel Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: [www.cityofbethel.org](http://www.cityofbethel.org)

[Code Publishing Company](#)

## Chapter 18.36

### GENERAL USE DISTRICT – GU DISTRICT

A handwritten number '17' is enclosed in a hand-drawn rectangular box with a double-line border.

Sections:

- 18.36.010 Intent.**
- 18.36.020 Permitted and principal uses and structures.**
- 18.36.030 Conditional uses.**
- 18.36.040 Minimum lot size.**
- 18.36.050 Minimum setback requirements.**
- 18.36.060 Maximum height of structure.**
- 18.36.070 Minimum requirements for marijuana facilities.**

#### **18.36.010 Intent.**

The general use district is intended to allow a mix of compatible residential and commercial uses. Noxious, injurious, or hazardous uses shall not be permitted in the GU district. [Ord. 16-23 § 2; Ord. 01-05 § 8.]

#### **18.36.020 Permitted and principal uses and structures.**

The following are permitted and principal uses and structures in the GU district:

- A. Trails and boardwalks.
- B. Nonmotorized public access areas to the Kuskokwim River or other areas that require public access.
- C. Single-family dwelling units.
- D. Duplex uses.
- E. Greenbelts and land reserves.
- F. Subsistence activities.
- G. Any accessory use or structure associated with the principal use or structure on the lot. The use of a freezer van as a residential unit is specifically prohibited, but its use as an accessory structure for storage is not prohibited.
- H. The facilities of sewer, water and other utilities.
- I. All uses listed as conditional uses in the PLI district.
- J. Triplexes and apartment buildings.

## K. Commercial uses and structures, including:

1. Delicatessens, meat, seafood, and other food specialty shops.
2. Art and picture framing shops.
3. Shoe repair shops.
4. Bookstores, stationery, gift, novelty, souvenir, and card shops.
5. Drug stores.
6. Laundry and dry cleaning shops.
7. Beauty and barber shops.
8. Cafes, restaurants, drive-in and fast-food restaurants, and other places serving food and beverages.
9. Knit shops, yarn shops, dry goods, dressmaking and notions stores.
10. Small appliance repair shops.
11. Photography studios, art studios.
12. Sporting goods stores, bicycle sale shops.
13. Business, professional, and administrative offices.
14. Day care facilities.
15. Video stores.
16. Clothing, apparel, and shoe stores.
17. Hobby store.
18. Florist.
19. Tobacco store.
20. Wholesaling and distribution operations, including incidental assembly or processing of goods for sale at retail or wholesale on the premises, but not to include yards for storage or display of any scrap, junk, or salvaged materials or for any scrap or salvage operations.
21. Jewelry stores.
22. General merchandising store.
23. Wholesale and retail camera and photographic supply stores.
24. Funeral services, including crematoriums.

25. Motion picture theaters and live theaters.
26. Banking and financial institutions.
27. Medical and health services.
28. Business service establishments, including office supply and printing and publishing establishments.
29. Parking lots.
30. Taxicab and dispatching offices.
31. Hotels, motels, hostels, bed and breakfasts, bunk houses and boarding houses.
32. Radio and television studios.
33. Plumbing and heating service and equipment dealers.
34. Paint, glass and wallpaper stores.
35. Electrical or electronic appliances, parts and equipment.
36. Gasoline service stations.
37. Aircraft and marine parts and equipment stores, and outboard motor repair.
38. Antiques and secondhand stores, including auctions, pawnshops.
39. Automotive accessories, parts and equipment stores.
40. Automotive repair, services and garages.
41. Motor vehicle dealers, new and used.
42. Wholesale and retail fur repair, storage, and sales.
43. Automobile display lots, new and used.
44. Lumber yards and builders supply stores.
45. Nurseries and garden supply stores.
46. Automobile car washes.
47. Air passenger terminals.
48. Amusement arcades, billiard parlors, bowling alleys, roller and ice skating rinks.
49. Veterinary clinics and boarding kennels, with activities conducted in a completely enclosed building.
50. Vocational or trade schools.

51. Wholesale and retail furniture and home finishing stores.
52. Wholesale and retail radio and television stores.
53. Wholesale and retail household appliance stores.
54. Wholesale, industrial, and retail hardware stores.
55. Merchandise vending machines sales and service.
56. Frozen food lockers.
57. All-terrain vehicles remodeling or repair.
58. Boat building.
59. Sign shops.
60. Cabinet shops.
61. Cleaning, laundry or dyeing plants.
62. Other commercial uses of a character similar to those uses listed in this section. [Ord. 16-23 § 2; Ord. 01-05 § 8.]

### **18.36.030 Conditional uses.**

The following uses and structures are permitted in the GU district under the terms of a conditional use permit:

- A. Industrial uses permitted in the I district.
- B. Radio and television towers and antennas, but not including amateur radio and citizen band radio antennas that are accessory to the principal use of the lot.
- C. Landing strips and air taxi services.
- D. Planned unit developments.
- E. Alcohol sales and dispensing.
- F. Indoor marijuana cultivation facilities (within a fully enclosed secure indoor facility or greenhouse with rigid walls, a roof and doors).
- G. Marijuana testing facilities.
- H. Marijuana retail store. [Ord. 16-23 § 2; Ord. 16-11 § 2; Ord. 01-05 § 8.]

**18.36.040 Minimum lot size.**

The minimum lot size in the GU district is seven thousand (7,000) square feet. [Ord. 16-23 § 2; Ord. 01-05 § 8.]

**18.36.050 Minimum setback requirements.**

Structures, other than minor structures, in the GU district shall be set back from property lines to provide yards as follows:

- A. Front yard: Fifteen (15) feet.
- B. Side yard: Ten (10) feet.
- C. Rear yard: Ten (10) feet.
- D. Twenty-five (25) feet from the mean high water mark of any drainage or lake. [Ord. 16-23 § 2; Ord. 01-05 § 8.]

**18.36.060 Maximum height of structure.**

The height of a structure in the GU district is not restricted except as may be limited under airport height restrictions applied under BMC [18.48.250](#) through [18.48.270](#). [Ord. 16-23 § 2; Ord. 01-05 § 8.]

**18.36.070 Minimum requirements for marijuana facilities.**

- A. Indoor cultivation facilities must be fully enclosed and secure. If the facilities will be a greenhouse, in addition to the need to be fully enclosed and secure, the greenhouse must have rigid walls, a roof and doors.
- B. Outdoor cultivation facilities must be obscured from public view either by a sight obscuring wall or a fence at least six (6) feet in height. [Ord. 16-23 § 2.]

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**15.12.070 Modifications.**

Once the **site plan permit** is approved, no modifications to the approved plan may take place without the written consent of the land use administrator. The applicant may submit a request for modification of the approved site plan permit. Minor modifications may be approved by the land use administrator if it is determined that the circumstances or conditions applicable at the time of original approval remain valid, and the modifications would not affect the required conditions prescribed under BMC [15.12.050](#). If the modification requested is not granted under this section, a full application must be filed and processed as provided in BMC [15.12.030](#) through [15.12.060](#). [Ord. 10-15 § 3.]

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## Chapter 16.12

### DEFINITIONS

#### Sections:

- 16.12.010** Titles applicable.
- 16.12.020** General rules of interpretation.
- 16.12.030** Definitions.

#### **16.12.010** Titles applicable.

The definitions of words, terms and phrases set out in this chapter apply to such words and phrases when used in BMC Titles [15](#), [16](#), [17](#) and [18](#), unless specifically defined in the title where used, and except where the context clearly indicates a different meaning was intended. [Ord. 10-15 § 6.]

#### **16.12.020** General rules of interpretation.

For the purpose of BMC Titles [15](#), [16](#), [17](#) and [18](#), unless otherwise indicated by the context, words, terms and phrases used in such titles shall be interpreted as follows:

- A. Words used in the present tense include the future tense;
- B. The singular number includes the plural, and the plural includes the singular;
- C. Words of any gender may, when the sense so indicates, refer to any other gender;
- D. The word "person" includes a corporation and any other entity or form of association as well as an individual;
- E. The words "must" and "shall" are always mandatory and the terms "must not," "shall not" and "may not" are prohibitory;
- F. The word "used" or "occupied," as applied to any land or structure, shall be construed to include the phrase "intended, arranged or designed to be used or occupied." [Ord. 10-15 § 6.]

#### **16.12.030** Definitions.

The following words, terms and phrases shall have the meanings ascribed to them in this section:

"Abbreviated plat" means a representation of a subdivision in which the subdivision does not create more than four (4) lots; each lot created has legal and physical access to a public highway or street; the subdivision does not involve or require a dedication of a street, right-of-way, or other area; and the subdivision does not require a

vacation of a public dedication of land or a variance from the requirements of any ordinance, including, but not limited to, requirements related to subdivision, land use, and building and construction, including flood hazard and drainage regulations.

“Access” means a means of vehicular or pedestrian approach, entry to or exit from property.

“Accessory building, structure or use” means uses and structures customarily accessory and clearly subordinate and incidental to the principal use or structure on a lot. This may include a structure or use for storage, coverage or similar use incidental to the principal use which contributes to the comfort, convenience, or necessity of occupants of the principal structure or use and is located on the same lot as the principal structure or use.

“Addition” means a parcel of land which is platted adjacent to an existing subdivision and which has the same name.

“Adequate” means sufficient in terms of actual or anticipated capacity or demand, satisfactory in terms of public safety requirements or as may be required by this code or other laws, regulations, or standards.

“Adjacent lot” means a lot or parcel of land which shares all or part of a common property line with another lot or parcel of land.

“Aliquot part” means the division of a surveyed section of land, described without reference to bearing or distance, into square or rectilinear parcels, the area of each parcel comprising a fractional portion of the total area of the section and of the parcel from which it is being divided.

“Alley” means a public right-of-way shown on a plat which provides only a secondary means of access to a lot, block, tract or other parcel of land.

“Alteration” means any change, addition or modification in the construction, location or use of a structure or lot.

“Apartment” means any building or portion thereof which is used, designed, built, rented or leased which contains dwelling units for four (4) or more families living independently of each other.

“Appeal” means a request to a higher body for a review of the decision of an administrative officer, the planning commission or the city council.

“Arterial” means a street used to carry high volumes of traffic to and from major traffic generators or into or out of the community.

“As-built plans” means construction plans that have been revised in accordance with all field changes reflecting the improvements on the site as they actually exist.

“Automotive repair” means replacement of parts, tune-up, lubrication, and washing and polishing of passenger trucks and cars.

“Base flood” means the flood having a one (1) percent chance of being equaled or exceeded in any given year; also referred to as the one-hundred- (100-) year flood. Areas subject to the base flood are special flood hazard areas and the designation of these areas on the FIRM always includes the letter A or V.

"Basement" means any area of a building having its floor subgrade (below ground level) on all sides.

"Bedroom" means a room marketed or designed to function primarily for sleeping.

"Block" means an area of land within a subdivision that is entirely bounded by rights-of-way, physical barriers, and exterior boundaries of the subdivision, except alleys, and which is usually divided into lots.

"Block length" means the distance between intersections of through streets, such distance being measured along the longest street bounding the block and from the right-of-way line of the two (2) intersecting streets.

"Building" means a structure of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, property, or business activity. Temporary structures such as tents, fish-drying racks, dog houses, and shipping vans placed on a lot only for the reasonable duration of construction are not buildings for purposes of street and yard setbacks. Permanent structures such as houses, stores, mobile homes, manufactured homes, garages, storage sheds, shops, steam-baths, and smokehouses are buildings. For setback purposes, a building includes such extended structures as arctic entries, balconies, carports, decks, exterior stairways, garages, porches, wannigans, water, sewage, and oil tanks, and windows. Where independent buildings with separate entrances are not joined by a common wall and/or ceiling or floor, each building is a separate building.

"Bunk house" means a building consisting of individual sleeping rooms for one (1) or more individuals working for the same employer, provided the rooms are not for rent or lease to persons other than employees of the same employer.

"Certificate to plat" means a certificate prepared by a title company authorized by the laws of the state to write the same, showing the names of all persons having any record title interest in the land to be platted together with the nature of their respective interests therein.

"Certified mobile home" means a transportable structure constructed to be towed on its own chassis, larger than three hundred twenty (320) square feet, designed to be used as a year-round residential dwelling, built after June fifteenth (15th), 1976, and bearing a seal certifying that it is built in compliance with the Federal Manufactured Housing Construction and Safety Standards (42 USC Section 5401 et seq.) (see also "mobile home").

"Child care facility" means a home or structure used and maintained to provide, for compensation, care for five (5) or more children unrelated to the care provider.

"City" means the city of Bethel.

"Collector street" means a street that carries traffic between local streets and other collectors and arterials.

"Commercial use" means a retail or wholesale business enterprise.

"Comprehensive plan" means a document of text, charts, graphics and maps, or any combination, designed to portray general, long-range proposals for the arrangement of land uses which is intended primarily to guide government policy towards achieving orderly and coordinated development of the entire community.

“Conditional use” means a use not permitted as a principal use within a district but which may be permitted if approved by the planning commission subject to conditions imposed by the planning commission that eliminate or substantially reduce the adverse effects the use would have on principal uses in the neighborhood and district and as may be necessary to preserve the integrity and character of the district and neighborhood in which the use is conditionally permitted.

“Construction” means and includes design, engineering, contract administration and work, labor and materials furnished for an improvement.

“Control valve” means the shut-off valve required by the city water utility to be placed on the water extension line on the customer’s property.

“Corner lot” means a lot located at the intersection of two (2) or more streets where the angle of intersection of the lot lines abutting those streets does not exceed one hundred thirty-five (135) degrees.

“Critical facility” means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

“Cul-de-sac” means a road having one (1) end open to traffic and being terminated at the other end by a vehicular turnaround.

“Dedication” means the intentional appropriation of land by the owners to public use.

“Development” means any manmade change to improved or unimproved land, including but not limited to buildings or other structures; the excavation or relocation of material or depositing of fill on a parcel of land; mining, dredging, filling, grading, paving, or drilling operations; construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; for purposes of Chapter 15.08 BMC, it also includes any storage of equipment or materials; for purposes of BMC Title 18, it also includes any use or change in use of any structure or land.

“Development phasing district” means an area shown on Figure 11 as corrected under BMC 16.08.040(A), entitled “Development Phasing” in the 1997 Comprehensive Plan of the city of Bethel. Each district is identified by a number and letter as, for example, 3B. The district designations are used separately or in combinations to identify specific areas in which certain infrastructure requirements exist with respect to subdivision or other development activities.

“District” means a land use district established by BMC Title 18.

“Driveway” means a driving surface that connects the parking area of a property to a city, state, or privately maintained road (also see “Interior access lane”).

“Duplex” means a structure or use on one (1) lot involving two (2) attached common wall dwelling units, each unit designed for occupancy by one (1) family.

“Dwelling” means a building designed or used as the living quarters for one (1) or more families.

"Dwelling unit" means a room or group of rooms constituting all or part of a dwelling which is arranged, designed and used or intended for use exclusively as living quarters for one (1) family which may include washing, sleeping, and eating facilities, but no more than one (1) kitchen.

"Easement" means an interest in land owned by another that entitles the easement holder to a specified limited use, right or enjoyment. A public easement is an area legally reserved by plat or conveyed or reserved by deed for the purpose of allowing use by vehicles, pedestrians, utilities, drainage or for other purposes.

"Egress" means an area where a vehicle may leave a parcel and enter the public right-of-way or alley.

"Elevated building" means, for flood insurance purposes, a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns.

"Engineer" means a registered professional civil engineer authorized to practice engineering in the state.

"Excessive" means a degree of use causing effects exceeding those generated by uses permitted in the district in their customary manner of operation, or to a degree injurious to the public health, safety, welfare or convenience.

"Family" means one (1) or more persons occupying premises and living as a single housekeeping unit, as distinguished from a group occupying a roominghouse, club, fraternity house or hotel.

"Federal Insurance Administration (FIA)" means the division of the Federal Emergency Management Agency which is responsible for administration of the National Flood Insurance Program as set out in 44 CFR Part 2.

"Federal Insurance Administrator" means the administrator of the FIA as established in 42 USC Section 4129.

"Fence" means an artificially structured barrier of any material or combination of materials erected to enclose or screen areas of land.

"Final acceptance" means acceptance by the city, at the completion of construction and upon the posting of all required warranties, of a public improvement constructed as a condition of approval of a subdivision plat or other development permit.

"Final plat" means the final map, drawing, or chart on which the subdivision or resubdivision of land is presented to the planning commission or platting officer for approval, and which, when approved as meeting all preliminary plat conditions, will be submitted to the district recorder for recording.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters;
2. The unusual and rapid accumulation of runoff of surface waters from any source.

"Flood insurance rate map" or "FIRM" means the official map of the city on which the Federal Insurance Administration has delineated both the special flood hazard areas and the risk premium zones applicable to the city.

"Floodplain" or "flood-prone area" means any area of land susceptible to being inundated by water from any source. See definition of "flooding."

"Food and beverage sales" means retail sales of groceries, beverages, and household items. Typical uses include grocery stores, convenience stores and bakeries.

"Food and beverage services" means establishments or places of business primarily engaged in the sale of prepared food and beverages for on-premises consumption. Typical uses include restaurants, cafes, fast food outlets, including drive-through or drive-in establishments, and taverns.

"Freezer van" means a containerized shipping van usually about eight (8) feet wide by eight (8) feet high and either twenty (20) or forty (40) feet long and which have sometimes been converted to dwellings or storage and other nonshipping uses.

"Front lot line" means that boundary of a lot measured along the edge of the right-of-way of a dedicated street, private street or public road easement but not an alley, which abuts that line. In the case of a corner lot, either line which meets this description may be designated by the land use administrator as the "front lot line" and the other shall be treated as a side lot line.

"Front yard" means the distance between the front lot line and the part of the permanent structure nearest the front lot line. It also includes that portion of a yard between the front lot line and the required front yard setback line extended to the two (2) side lot lines, the depth of which is the least distance between the front lot line and the nearest permanent structure. In the case of a corner lot, the front lot line is the lot line so designated by the land use administrator.

"General permit" means general permit No. 83-4, as amended, extended or reauthorized, and issued by the Corps of Engineers, which places conditions on land development.

"Greenbelt or buffer park" means a strip or parcel of land privately restricted or publicly dedicated as open space for the purpose of protecting and enhancing the environment.

"Gross usable area" means the area within a lot or parcel of land that can be developed after subtracting areas of drainages, water areas, significant wetlands, setbacks, easements and areas that cannot be developed as a practical matter because of topography, soil or other physical conditions.

"Group home" means a facility located in a residential structure, the principal use of which is to serve as a place for persons seeking rehabilitation or recovery from any physical, mental, or emotional infirmity in a family setting as part of a group rehabilitation or recovery program involving counseling, self-help or other treatment or assistance.

"Home occupation" means an occupation carried on by the occupants of a dwelling as an accessory use in connection with which there is no exterior display of the activity except as noted in this definition, no persons are employed and no trucks or mechanical equipment are used or stored except trucks that are normally associated with a single-family residence. Home occupations include knitting, making of clothing, basketmaking, skinsewing, jewelrymaking, fish smoking, dance or music instructions in classes of five (5) pupils or less, and child care involving three (3) or fewer children who are not members of the household. Home occupation does not include use by an electrician, plumber, doctor, dentist, repair or fix-it shop.

"Improvement" means any construction incident to servicing or furnishing facilities for a subdivision such as grading, street surfacing, construction of driveway approaches, sidewalks, street signs, street lights, water lines, sanitary sewers and treatment systems, storm sewers, culverts, bridges, utilities, waterways, lakes and other items; the construction of any building or permanent structure or any external addition to a structure that constitutes a betterment of real property. The relocation of a structure within a lot or the relocation of a structure to another lot, the addition or relocation of fill or native material, the addition of a floor or room that changes the exterior dimensions of the building and the change to or addition to the sewer or water system serving the building are improvements; painting, siding, reroofing or other cosmetic changes are not considered to be improvements.

"Industrial use" means the use of a building or land where a primary use or activity is the warehousing, storage, movement, shipment or sale of cargo, petroleum products, gravel, sand, lumber, timber, fish, fish or material processing, port activities, or use of heavy equipment. The manufacturing of goods that emits obnoxious noise or fumes, requires the use of chemicals or materials that present a threat to the public health or safety, or requires the use of heavy equipment on the premises is an industrial use.

"Ingress" means the area where a vehicle may enter a private lot from the public right-of-way or public or private easement or other way.

"Institutional" means a structure where the primary use is for educational, governmental, or hospital activities.

"Interceptors" means all trunk, main and lateral sewer lines of every kind which are connected to and used for the collection of sewage from the customer service lines and its delivery to the sewage treatment plant.

"Interior access lane" means a nondedicated small vehicular way that is totally within the boundaries of a lot and provides direct access to parking spaces and/or provides interior circulation on the lot (see "Driveway").

"Land use administrator" means the manager of the city planning department or such other person as the city manager appoints to administer BMC Titles 15, 16 and 18.

"Legal access" means the right of access to an abutting public, dedicated street, highway or road which is connected to and a part of the public system of streets of the city.

"Local street" means a street, generally within a subdivision, designed primarily to provide direct access to individual abutting properties.

"Lot" means the smallest portion of a subdivision being a measured portion of a parcel of land which is described, identified by a lot number, and fixed on an approved plat filed for record; also, when used in a more general sense, including parcel, tract, plat and property.

"Lot depth" means the distance between straight lines connecting side lot lines, measured between the midpoint of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

"Lot frontage" means the length of the front lot line.

"Lot improvement" means any building, structure, water or sewer facility, work of art or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment.

“Lot line” means a fixed boundary of a lot described by survey located on an approved plat filed for record.

“Lot width” means the distance between straight lines connecting front and rear lot lines at each side of the lot, measured between the midpoints of such lines except that such measurement shall not extend outside the lot lines of the lot being measured.

“Lowest floor” means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or limited storage in an area other than a basement area is not considered a building’s lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation requirements of BMC 15.08.100.

“Manufactured home” means a structure, including a mobile home, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; it also includes any structure which meets all the above requirements except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the U.S. Secretary of Housing and Urban Development and complies with the standards established under 42 USC Sections 5401 through 5426; and except that such term shall not include any self-propelled recreational vehicle.

“Marginal street access” means a frontage road which separates properties from arterials and collectors and eliminates the need for unlimited access to such streets.

“Minor structure” means, for purposes of yard setback requirements, a structure such as a doghouse, small storage box or other small structure, not exceeding three (3) feet in height and not occupying more than twenty-five (25) square feet; except, a fence that does not exceed six (6) feet in height is treated as a minor structure.

“Mobile home” means a transportable structure constructed to be towed on its own chassis and designed to be used as a year-round residential dwelling (see also “certified mobile home”).

“Mobile home park” means any parcel of land, including separate parcels under common ownership, which is occupied by four (4) or more mobile homes but not including a mobile home sales lot if none of the mobile homes are used as dwellings.

“Nonconforming use, lot, or structure” means lots, structures, buildings, or uses of land that were lawful prior to the effective date of a provision of BMC Title 15, 16, 17 or 18, an amendment thereto, the removal of federal or state protections on land, or the annexation of land into the city, but which fail by reason of such new or revised provision, removal of government restriction, or annexation to conform to the present requirements of the provision.

“Nonconformity” means a nonconforming lot, structure, or use of land or structures.

“Nuisance” means an activity which arises from unreasonable, unwarranted or unlawful use by a person of property, which interferes with, obstructs or injures the right of another, or the public, in the use or enjoyment of property, endangers personal health or safety or produces material annoyance, inconvenience and discomfort.

“Official map” or “official land use map” means the map adopted by ordinance showing the boundaries of the land use districts to which the regulations of this code apply.

One-Hundred- (100-) Year Flood. See “Base flood.”

One-Hundred- (100-) Year Floodplain. See “Special flood hazard area.”

“Ordinance” means any legislative action of the city council which has the force of law, including any amendment or repeal of any ordinance or Bethel Municipal Code provision.

“Owner” means any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient property interest in a parcel that is subject to the provisions of BMC Title 15, 16, 17 or 18.

“Parcel” means an area of land, legally created and described, not containing any smaller legally created area of land. A lot, tract, outlot, and area of land described by aliquot parts may be referred to as a “parcel.”

“Parking space” means a driveable surface of gravel, sand, concrete or asphalt that is accessible from a street, interior access lane or aisle.

“Party wall” means a wall shared as a common support between two (2) contiguous structures, buildings, or dwelling units under different ownerships.

Person. The word “person” includes corporations and other entities and forms of association as well as individuals.

“Personal services” means commercial establishments primarily engaged in the provision of support services to other business, or services of a personal, professional or nonprofessional nature. Business activity may be conducted on the premises or off premises. Typical uses include barber and beauty shops, shoe repair, office maintenance services, health fitness studios, photographers, film processing shops, funeral and mortuary services, travel agencies, laundry and dry cleaning establishments, pharmacy, veterinary services, and secretarial services (see also “Professional office”).

“Plan” means the city comprehensive plan.

“Planned development” means a form of development usually characterized by a unified site design for a number of housing units, clustering buildings and providing common open space, density increases, and a mix of building types and land uses. It permits the planning of a project and the calculation of densities over the entire development rather than on an individual lot-by-lot basis. It also refers to a process, mainly revolving around site plan review, in which public officials have considerable involvement and discretion in determining the nature and arrangement of and special restrictions on the development.

“Planning commission” means the city of Bethel planning commission.

“Plat” means a map or representation on paper of a parcel of land. A “preliminary plat” is a map showing the salient features of a proposed subdivision of land submitted to the planning commission for purposes of preliminary consideration and approval. A “final plat” is a map of a subdivision of land made up in final form ready for approval and filing.

"Platting authority" means the planning commission.

"Platting officer" means the manager of the city of Bethel planning department or such other person as the city manager appoints to administer BMC Title 17.

"Preliminary consultation" means a voluntary meeting between the subdivider or developer and the land use administrator or platting officer for the purpose of informing the subdivider or developer of subdivision and development procedures and standards as prescribed by BMC Titles 15 through 18.

"Preliminary plat" means the conceptual maps, drawing or chart indicating the proposed layout of the subdivision to be submitted to the planning commission.

"Principal structure" means a building within which a principal use takes place, such as a residence or a business. Principal structure is a concept similar to principal use, except that it is specific to the use of a building.

"Principal use" means the major or predominant use of land or a structure, as distinguished from a secondary or accessory use.

"Professional office" means an office for the conduct of any one (1) of the following uses: accountant, advertising agency, architect, attorney, chiropractor, civil engineer or surveyor's drafting office, photographer, private detective, real estate office, social work, doctor, dentist, insurance sales or similar use, but not including barber shop, beauty parlor, contractor, pest control, pharmacy, veterinary. (Also see "Personal services.")

"Property line" means the perimeter of the lot.

"Public improvement" means any drainage ditch, roadway, park, pedestrian way, street, off-street parking area, lot improvement, street light, sewer, water or other facility for which the city may ultimately assume the responsibility of maintenance and operation, or which may affect an improvement for which city responsibility is established.

"Public improvement guarantee" means a performance bond, deposit in escrow, letter of credit or a note from the applicant secured by a first (1st) deed of trust upon land given to the city to secure the timely performance of the applicant in the construction of required improvements.

"Public open space" means land dedicated or reserved for the use by the general public, including, but not limited to, parks, parkways, recreation areas, and school sites.

"Public utility" means all persons, firms, corporations, or municipal or public authorities which are certified as public utilities by the state and which provide gas, electricity, water, telephone, cable, storm sewers, sanitary sewers or other services of a similar nature.

"Rear lot line" means that boundary of a lot which is most parallel to the front lot line and does not intersect the front lot line. In the case of a triangular lot, "rear lot line" means a line twenty (20) feet in length within the lot parallel to and at the maximum distance from the front lot line.

"Rear yard" means the distance between the property line that parallels or generally parallels the rear lot line and the part of a structure, other than a minor structure, nearest the rear lot line.

"Recreational vehicle" means a vehicle which is: built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory flood" means the one-hundred- (100-) year flood. The water surface elevation of the regulatory flood is the water surface elevation delineated on the flood insurance rate map.

"Replat" means an alteration to an original recorded plat; a resubdivision.

"Reserve strip" means land reserved adjacent to a proposed street for the purpose of denying access from adjacent property to such street.

"Residential" means a structure where the primary use is for human habitation.

"Residential structure" means a single structure used primarily as a residence which may have one (1) or more dwelling units.

"Residential unit" means a common living area designed or advertised to house one (1) family.

"Resubdivision" means the redelineation of an existing lot, block, or tract of a previously recorded subdivision involving the change of property lines after vacation, the altering of dedicated streets, easements or public areas.

"Right-of-way" means land reserved, used or to be used for the use of supporting city services.

"Road" means a way for vehicular traffic, dedicated to public use.

"Setback" means the minimum distance required between a lot line and structures other than minor structures.

"Sewer facilities" means all interceptors, pressure pumps, valves, sumps, heating and electrical facilities, manholes, guards and other features required for an operating, piped sewage collection system.

"Shopping center" means a group of commercial establishments planned, constructed, developed, and managed as a unit with off-street parking provided on site.

"Side lot line" means that boundary of a lot which is neither a front nor rear lot line and which is perpendicular or generally perpendicular to the front lot property line.

"Side yard" means the distance between the side lot line and the part of a structure, other than a minor structure, nearest the side lot line.

"Significant wetlands" means (1) those areas of the floodplain that have not been developed; rivers, lakes, streams, sloughs, drainages, and ponds at least one-half (1/2) acre in size; and (2) a twenty-five- (25-) foot-wide area upland from the mean high water mark of major drainageways, lakes and ponds.

"Single-family dwelling" means a site-built dwelling unit designed for occupancy by one (1) family for individual ownership, lease, or rental.

“Site plan” means a plan, drawn to scale, which depicts and describes uses and structures proposed for a parcel of land as required by the regulations in BMC Title 15. It includes lot lines, streets, building sites, reserved open space, buildings, major landscape and drainage features, proposed fill activity, plans for accommodating drainage, access location and dimensions and plans for the water and sewer system.

“Special flood hazard area” and “area of special flood hazard” mean the area within the city subject to the one-hundred- (100-) year flood as delineated on the flood insurance rate map for Bethel published by the Federal Insurance Administration. Designation of an area on the FIRM will always include the letter A or V.

“Start of construction” includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within one hundred eighty (180) days of the permit date. The “actual start” means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the “actual start of construction” means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

“State” means the state of Alaska.

“Street” means a right-of-way which provides for vehicular and pedestrian travel access to abutting properties and includes arterials, collectors, roads, avenues, highways, ways and other rights-of-way for transportation, and other street uses such as placement of utilities.

“Street right-of-way width” means the distance between property lines measured at right angles to the centerline of the street.

“Street width” means the shortest distance between the lines delineating the right-of-way of the street.

“Structural alteration” means any addition to or subtraction from parts of a building, including walls, columns, beams, girders, foundations, doors and windows.

“Structure” means anything constructed or erected on the ground or attached to something located on the ground. Structures include walled or roofed buildings, radio and TV towers, storage vans, sheds, water tanks, sewage tanks, oil tanks, gas or liquid storage tanks that are principally above ground, fences and signs. Operable vehicles, sidewalks and boardwalks, and pavement are not considered structures for yard setback purposes (see also “minor structure” and “temporary structure”). For floodplain management purposes, a “structure” means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

“Stub street” means a dead-end local street which provides for eventual expansion of the street onto unplatted land.

"Subdivider," "owner" or "developer" means a person, firm, association, partnership, corporation, governmental unit or combination of any of these which may hold any legal or equitable ownership interest in land being subdivided. The terms shall also include heirs, assigns, or successors in interest, or representatives of the subdivider, owner, proprietor or developer.

"Subdivision" means the division of a tract or parcel of land into two (2) or more lots, sites or other divisions by the landowner for the purpose, whether immediate or future, of sale, lease, conveyance or building development, or by the creation of public access other than common carrier and public utility access, including any resubdivision, and when appropriate to the context, the process of subdividing the land subdivided.

"Substandard lot" means a lot that was lawfully created and met all conditions of the applicable provisions of law and ordinance at the time the plat was approved by the platting authority, or at the time it was filed if platting authority approval was not required by state law at the time it was filed, but does not conform to one (1) or more of the applicable standards of BMC Title 17 or 18.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means, as applied to an existing structure, any remodeling, repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the fair market value of the structure either: (1) as such value exists before the improvement is started; or (2) if the structure has been damaged and is being restored, as such value existed before the damage occurred. Substantial improvement commences when the first (1st) alteration of any wall, ceiling, floor, or other structural part of a structure begins, whether or not that alteration affects the external dimensions of the structure. The term does not include either a project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the appropriate code enforcement official and which are the minimum necessary to assure safe living conditions or to any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

"Surveyor" means a land surveyor who is registered in the state.

"Temporary structure" means a structure that can easily be dismantled by one (1) person in one (1) day, or could be moved with human labor without the aid of mechanical lifting equipment. Examples of temporary structures are tents, fish-drying racks, dog houses, and small storage boxes.

"Through or double-frontage lot" means a lot other than a corner lot with frontage on more than one (1) street.

"Topographic map" means a map showing the land form by the use of contour lines.

"Tract" means an area within a subdivision that has been identified as a tract, but which is not a lot located within a numbered or lettered block and is not identified as a block.

"Triplex" means a structure involving three (3) attached common wall dwelling units, each unit designed for occupancy by one (1) family, for ownership, lease or rental.

"Use" means the purpose for which any land, structure, or building is arranged, designed, intended, occupied, or maintained.

"Used" or "occupied" as applied to any land or structure shall be construed to include the phrase "intended, arranged or designed to be used or occupied."

"Vacation" means the act of making legally void the public interest or rights in a dedicated right-of-way, easement, public area or other dedicated public interest.

"Variance" means permission to depart from the literal standards or requirements of certain provisions of BMC Titles 15 through 18 granted pursuant to Chapter 18.64 BMC or, when applicable, BMC 15.08.260.

"Vehicle" means any mechanical device for carrying passengers, goods or equipment, usually moving on wheels or runners, such as a car, bicycle, sled or snow machine.

"Walkway" means a right-of-way, dedicated to public use, which crosses within a block to facilitate pedestrian access to adjacent streets and properties.

"Warranty" means a guarantee by the subdivider that the completed public improvement, accepted by the city, is free of defects in materials and workmanship and shall remain in good condition during the warranty period.

"Water area" means an area that is regularly or always occupied by water, whether standing, flowing or frozen.

"Water connection" means that part of the water distribution system connecting a water main with the lot line of the property to be furnished water service.

"Water-dependent" means a use or structure for commerce or industry that is dependent on the water by reason of the intrinsic nature of its operations and which cannot exist in any other locations.

"Water facilities" means all water mains, water connections, pumps, valves, fire hydrants, heating and electrical facilities, storage tanks and other parts of the city or a community water system.

"Water main" means that part of the water distribution system intended to directly or indirectly serve more than one (1) water connection.

"Zero lot line" means a development approach in which a building is sited on one (1) or more lot lines with no yard on at least one (1) side. [Ord. 10-15 § 6.]

**The Bethel Municipal Code is current through Ordinance 19-16, passed August 13, 2019.**

Disclaimer: The city clerk's office has the official version of the Bethel Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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## Chapter 18.72

### APPEALS



#### Sections:

- 18.72.010 Appeal of decision of planning department.**
- 18.72.020 Appeal of decision of planning commission.**

### **18.72.010 Appeal of decision of planning department.**

A. An appeal from any action or decision of the planning department or the land use administrator may be filed by a property owner affected by said action or decision. An appeal may also be filed by any property owner affected by the decision. The appeal shall be filed with the planning commission by submitting a written statement to the planning department. The written appeal must specify the grounds for the appeal and specify the action and findings of the department that are being disputed. All appeals must be accompanied by an appeal fee as determined by resolution passed by the city council.

B. Any appeal filed by the applicant for the permit shall be filed within ten (10) calendar days from the date of the action or decision of the planning department or land use administrator. Any appeal filed by any other person shall be filed within ten (10) calendar days from the date of the action or decision of the planning department or land use administrator; provided, if the appeal relates to a site development or change in use subject to a site plan permit issued under BMC Title [15](#), the appeal must be filed no later than the tenth (10th) day that the site plan permit has been continuously displayed on the property that is subject to the permit in accordance with BMC [15.12.130](#) if the appellant is a person other than the permit applicant. If the deadline date falls on a weekend or holiday, the deadline shall be extended to the next city business day. If any appeal to the planning commission is not filed within the time specified in this subsection, the action or decision is final and is not subject to appeal or challenge in another forum.

C. Notice of public hearing on the appeal shall be provided as set out in BMC [18.04.070](#). The notice shall include a brief description of the appeal. Written notice and a copy of the appeal shall be provided immediately to the person who owns the property that is the subject of the permit or action being appealed.

D. The land use administrator shall schedule the public hearing at a planning commission meeting no sooner than twenty (20) calendar days and no later than fifty (50) calendar days from the date the appeal is filed. The planning department shall prepare a written summary of the original application and a statement of findings supporting the action of the land use administrator or planning department. The planning commission shall only consider the following evidence when considering the appeal:

1. The permit application or other application or action that is the subject of the appeal;
2. The correspondence, permit issued and other materials sent from the land use administrator to the permit holder and to any other party to the appeal;

3. The correspondence and materials received from any source regarding the application or actions;
4. The letter or request submitting the appeal to the planning commission;
5. The planning department summary of the application and the statement of findings supporting the action of the land use administrator;
6. Written comments received prior to the appeal hearing;
7. Verbal testimony taken under oath at the appeal hearing; and
8. Arguments of parties to the appeal.

E. The planning commission may deny or grant the appeal in the form of a motion. A statement of findings and conclusions based on the evidence presented shall be included in the motion. If the commission denies the appeal, it may confirm or modify the findings and conclusions of the planning department or the land use administrator. If the commission grants the appeal, the commission's decision will take effect ten (10) calendar days after the commission renders its decision unless a timely appeal is filed to the board of adjustment.

F. Within two (2) business days after the date of the commission decision, the planning department shall produce a written decision containing the statement of the commission's findings, conclusions and order. The decision shall be signed by the member of the commission who presided at the hearing or a commission member who voted on the prevailing side if the presiding member is not available and shall be mailed immediately to the appellant and any other interested parties. A statement of the date by which an appeal to the board of adjustment must be filed with the city clerk shall be included along with a statement of the amount of the appeal fee that must be paid upon filing the statement of appeal.

G. The filing of an appeal shall stay all proceedings in the matter until ten (10) calendar days after the decision has been rendered by the planning commission unless the land use administrator determines that the public health, safety or welfare would be threatened if the action appealed were stayed. Any action taken by the planning department or land use administrator shall remain in effect and any land use in violation of such action continues to be a violation and subject to the penalties described in Chapter 18.84 BMC until the violation ceases or the planning commission grants the appeal. [Ord. 01-05 § 8.]

### **18.72.020 Appeal of decision of planning commission.**

A. An appeal from any action or decision of the planning commission, except the grant or denial of an application for a land use code text amendment or an official map amendment, may be filed by the applicant for the action, the manager, the land use administrator, or any property owner affected by the action or decision. The appeal shall be filed with the board of adjustment by submitting a written statement of appeal to the city clerk with a copy sent to the land use administrator. The written statement of appeal shall specify the order, findings or conclusions of the commission that are being disputed, and the grounds for the appeal.

B. The filing of an appeal to the board of adjustment shall stay all enforcement proceedings in the matter until after the decision of the board of adjustment has been rendered, unless the board or a court issues an enforcement order based on imminent peril to life or property.

C. The appeal must be filed within ten (10) calendar days from the date of the decision of the planning commission. If the deadline day falls on a weekend or holiday, the deadline is extended to the end of the next working day. If an appeal is not filed within ten (10) calendar days of the decision of the planning commission then the decision of the planning commission is final.

D. Notice of the board of adjustment hearing on the appeal shall be mailed to the applicant, the land use administrator and to each person who appeared and gave evidence in the proceedings before the planning commission and shall be published once a week for at least two (2) consecutive weeks in a newspaper of general circulation within the city, with the last publication occurring at least three (3) days before the hearing. The notice shall also be read on a local radio station once a day for five (5) days beginning at least ten (10) days prior to the date of the scheduled hearing. The notice shall contain the time and place of the hearing, a brief description of the appeal, and shall invite written arguments on the appeal from persons who appeared in or provided written or oral evidence or statements in the proceeding before the planning commission. Written arguments must be received by the clerk's office at least seven (7) days before the hearing.

E. The city clerk shall schedule the board of adjustment hearing no sooner than the later of fifteen (15) days after the completion of the record on appeal or twenty (20) calendar days from the date the appeal is filed and no later than fifty (50) calendar days after the appeal is filed. The planning department shall prepare the record on appeal which shall consist of all documents, maps, plans, applications, correspondence and other material that was before the planning commission in the course of its consideration of the matter appealed, minutes of the commission, meetings at which the matter was before the commission, a copy of the decision appealed and a verbatim transcript of the proceeding before the commission.

F. The board of adjustment shall deny, grant, or deny in part and grant in part the appeal based on the evidence in the record and shall provide a written decision that contains a statement of its findings and conclusions as determined by a majority of its membership. In an appropriate case, the board may remand the matter to the planning commission for further proceedings. If the board denies the appeal, it may confirm or modify the findings and conclusions of the planning commission. The board's decision will be effective upon the date the mayor or the person presiding at the board hearing signs the findings and conclusions. The date signed shall be set out on the decision. Appeals of a decision made by the board of adjustment shall be filed in the Superior Court of the state of Alaska in accordance with the applicable appellate rules of court. The decision shall contain a statement required by the appellate rules of court of the rights and limitations of a person to appeal the decision. [Ord. 01-05 § 8.]

**The Bethel Municipal Code is current through Ordinance 19-16, passed August 13, 2019.**

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## Chapter 2.45

### ADMINISTRATIVE ADJUDICATION

#### Sections:

- 2.45.010**    **Applicability of section.**
- 2.45.020**    **Definitions.**
- 2.45.030**    **Accusation.**
- 2.45.040**    **Application for administrative decision.**
- 2.45.050**    **Notice of appeal.**
- 2.45.060**    **Date of hearing.**
- 2.45.070**    **Hearing procedures.**
- 2.45.080**    **Scope of review.**
- 2.45.090**    **Decisions.**
- 2.45.100**    **Reconsideration.**
- 2.45.110**    **Ex parte contacts prohibited.**
- 2.45.120**    **Conflicts of interest.**
- 2.45.130**    **Transition measures.**
- 2.45.140**    **Appeals from administrative decision.**

#### **2.45.010**    **Applicability of section.**

Except as otherwise provided by this code or by law, the provisions of this chapter apply to all quasi-judicial proceedings and administrative hearings conducted by city officials, agencies, boards and commissions and the city council. Where the provisions of this chapter are in conflict with the specific provisions of another law, statute or ordinance, the provisions of that law, statute or ordinance shall govern. [Ord. 16-26 § 2.]

#### **2.45.020**    **Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. "Administrative hearing" means any hearing, formal conference or other proceeding before a city board, agency, commission or official which is required by law or by this code as a condition precedent to the determination by such board, agency, commission or official of any matter relating to the rights, privileges, duties, obligations or remedies of an identified individual.
- B. "Agency, board and commission" means any elected or appointed body, department, division or other administrative organ of the city having any legislative, quasi-judicial or administrative functions.

- C. "Official" means any person elected, appointed, named or employed by the city to conduct as part of his duties quasi-judicial proceedings or administrative hearings.
- D. "Quasi-judicial proceeding" means any hearing, formal conference or other proceeding before a city board, commission or official to review the legality, appropriateness or wisdom of official actions taken on behalf of the city as they relate to the particular legal rights, privileges, duties, obligations or remedies of identified individuals. [Ord. 16-26 § 2.]

### **2.45.030 Accusation.**

An administrative hearing permitted under this code to determine whether a right, authority, license, privilege or permit should be suspended, revoked, limited or conditioned shall be initiated by the filing of an accusation on behalf of the official, board or commission empowered to take such action. The accusation:

- A. Shall set forth in writing, in ordinary and concise language, the acts or omissions with which the respondent is charged so that a defense may be prepared;
- B. Shall specify the ordinance, statute or regulation which the respondent is alleged to have violated, but may not consist merely of charges phrased in the language of the statute and rule; and
- C. Must be served personally on the respondent, or in compliance with the Alaska Rules of Court. [Ord. 16-26 § 2.]

### **2.45.040 Application for administrative decision.**

An administrative hearing permitted under this code to determine whether a right, authority, license, permit or privilege shall be granted, issued or reviewed is initiated by the filing of a written application for such administrative action with the official, board or commission empowered by law to take such action. The written application must identify the applicant, specify the nature of the right, authority, license, permit or privilege desired by the applicant, explain the reasons for such application, and recite the legal authority for such application. The application shall be served personally on the official, agency, board or commission empowered to make the decision. [Ord. 16-26 § 2.]

### **2.45.050 Notice of appeal.**

Where, under the provisions of this code, a quasi-judicial proceeding is permitted to review an administrative action, the appellant shall apply in writing to the official, board or commission empowered to hear such appeal and shall identify himself, cite the administrative decision from which the appeal is taken, and in a succinct and coherent manner state the reasons for such appeal. [Ord. 16-26 § 2.]

### **2.45.060 Date of hearing.**

Unless otherwise provided in this code, the following shall apply:

- A. Where an administrative hearing is allowed following an accusation as described in BMC 2.45.030, such hearing shall take place no less than thirty (30) calendar days and no more than sixty (60) calendar days following the date of service of such accusation on the respondent unless the parties agree to extend or reduce the time for a hearing. Any changes in scheduling are subject to approval of the hearing officer.
- B. Where an administrative hearing is permitted upon formal application by one seeking any right, authority, license, permit or privilege, such hearing shall take place no less than forty-five (45) calendar days and no more than ninety (90) calendar days following date of actual receipt of such application by the administrative official, agency, board or commission empowered to conduct such administrative hearing unless the parties agree to extend or reduce the time for a hearing. Any changes in scheduling are subject to approval of the hearing officer.
- C. Where a quasi-judicial proceeding is permitted to review any administrative action taken on behalf of the city, such proceeding shall take place no more than sixty (60) calendar days following the date a written notice of appeal as provided by BMC 2.45.050 is filed with the official, board or commission empowered to hear such appeal unless the parties agree to extend the time for a hearing. Any changes in scheduling are subject to approval of the hearing officer. [Ord. 16-26 § 2.]

### **2.45.070 Hearing procedures.**

Administrative hearings and quasi-judicial proceedings shall be conducted informally and may be governed by such rules and procedures as the official board or commission empowered to conduct such hearings or proceedings may choose to establish, except that:

- A. Parties may appear in person or through counsel.
- B. Parties may present witnesses and evidence on their own behalf.
- C. Parties or their counsel may cross examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against the party.
- D. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.
- E. All administrative hearings and quasi-judicial proceedings shall be open to the public, unless otherwise agreed by all parties to such hearings or proceedings.
- F. All parties shall have the right to subpoena witnesses and documents using a form provided by the city clerk and submitted to the city clerk for issuance at least ten (10) business days before the date of the hearing.

G. All administrative hearings and quasi-judicial proceedings shall be memorialized by an electronic recording. [Ord. 16-26 § 2.]

### **2.45.080 Scope of review.**

Unless otherwise provided in this code, officials, boards or commissions empowered to conduct quasi-judicial proceedings may hear and decide de novo all matters appealed and may exercise independent judgment as to the weight of evidence supporting or refuting the findings of the city official, board or commission from whose decision the appeal is taken, and may exercise independent judgment on legal issues raised by the parties. Decisions by department heads or city officials may be modified, remanded or affirmed by the reviewing official, board or commission. [Ord. 16-26 § 2.]

### **2.45.090 Decisions.**

Unless otherwise provided in this code, no later than thirty (30) calendar days following an administrative hearing or quasi-judicial proceeding conducted under this chapter, the official, agency, board or commission empowered to conduct an administrative hearing or proceeding shall issue a written decision based on findings and conclusions adopted by the official, agency, board or commission. Such findings must be in writing and must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal. A final appealable decision must indicate that it is a final order and that a party disputing the decision has thirty (30) calendar days to appeal. [Ord. 16-26 § 2.]

### **2.45.100 Reconsideration.**

A decision of a board, commission or official reached at the conclusion of a quasi-judicial proceeding or administrative hearing may be reconsidered or reheard only if:

- A. There was substantial procedural error in the original proceedings;
- B. The official, board or commission acted without jurisdiction in the original proceeding; or
- C. The original decision was based on fraud or misrepresentation.

Any person seeking reconsideration or rehearing must file a request with the city clerk together with the materials supporting one (1) or more of the grounds stated in this section within fifteen (15) calendar days of the decision for which reconsideration or rehearing is requested. A rehearing shall be conducted in the same manner as the original proceeding. [Ord. 16-26 § 2.]

### **2.45.110 Ex parte contacts prohibited.**

Officials, boards or commissions while acting in their quasi-judicial capacity shall be impartial in all matters both in fact and in appearance. No member of any board, commission or any official shall receive or otherwise engage in ex parte communications with the appellant, applicant or other parties adversely affected by the appeal or application or members of the public concerning the appeal or application or issues specifically presented in the notice of appeal either before the appeal hearing or during the period of time the matter is subject to reconsideration. This section shall not be deemed to prevent those charged with conducting administrative hearings or quasi-judicial proceedings from discussing matters relating to the appeal among themselves or to prohibit communications between the city staff and such persons where staff members are themselves not named parties to an appeal or members of any body which has in its own name become an active party to the appeal. [Ord. 16-26 § 2.]

### **2.45.120 Conflicts of interest.**

No person shall serve on any administrative hearing or quasi-judicial proceeding if:

- A. That person or a member of his immediate family has a financial interest in any property affected by the application or appeal;
- B. That person or a member of his immediate family could foreseeably profit in any material way through resolution of the matters before such official, agency, board or commission;
- C. That person believes they could not be fair and impartial or due to the person's job, position or other reason, a reasonable person would believe the person serving could not be fair and impartial; or
- D. That person would be faced with a violation of the code of ethics of the city by voting on or participating in the application or appeal. [Ord. 16-26 § 2.]

### **2.45.130 Transition measures.**

The provisions of this chapter shall apply only to those appeals or applications for administrative decisions filed on or after the effective date of the ordinance from which this chapter is derived. [Ord. 16-26 § 2.]

### **2.45.140 Appeals from administrative decision.**

A final decision issued under BMC 2.45.090 may be appealed to the Superior Court, Fourth Judicial District, within thirty (30) calendar days of the date the decision was issued. For the purposes of this section the date of issuance is the date upon which the decision was mailed or delivered to the parties. [Ord. 16-26 § 2.]

**The Bethel Municipal Code is current through Ordinance 19-16, passed August 13, 2019.**

Disclaimer: The city clerk's office has the official version of the Bethel Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

[City Website: www.cityofbethel.org](http://www.cityofbethel.org)

[Code Publishing Company](#)

#22

JDOLAW

JERMAIN DUNNAGAN & OWENS, P.C.

1000 A Street, Suite 300 • Anchorage, Alaska 99503  
t: 907.563.8844 • f: 907.563.7322 • www.jdolaw.com

November 6, 2019

Lori Strickler  
City Clerk  
300 State Highway  
P.O. Box 1388  
Bethel, Alaska 99559

Re: *Daniel and Dawn Hackney v. City of Bethel*  
Case No. 2019-1

Dear Ms. Strickler:

Enclosed for filing, please find City of Bethel's Entry of Appearance in the above-referenced matter.

If you have any questions, please give me a call. Thank you.

Sincerely yours,

JERMAIN, DUNNAGAN & OWENS, P.C.



Stephanie Glenn  
Legal Secretary to Michael Gatti

:smg  
Enclosure

CITY OF BETHEL  
PLANNING COMMISSION

DANIEL AND DAWN HACKNEY, )  
)  
Appellants, )  
)  
vs. )  
)  
CITY OF BETHEL, )  
)  
Appellee. )

2019-1

ENTRY OF APPEARANCE

PLEASE TAKE NOTICE that Michael Gatti and Mary B. Pinkel, of the law firm of JERMAIN, DUNNAGAN & OWENS, P.C., hereby enters their appearance as counsel on behalf of the Appellee, the City of Bethel, in the above-captioned matter. The undersigned counsel hereby request that copies of all future pleadings and documents be sent to Michael Gatti and Mary B. Pinkel at Jermain, Dunnagan & Owens, 3000 A Street, Suite 300, Anchorage, Alaska 99503-4097.

JERMAIN DUNNAGAN & OWENS, P.C.  
Attorneys for the City of Bethel

DATED: 11-6-19

BY: Mary B. Pinkel

Michael Gatti  
Alaska Bar No. 8306033  
Mary B. Pinkel  
Alaska Bar No. 8505030

LAW OFFICES OF  
JERMAIN DUNNAGAN & OWENS  
A PROFESSIONAL CORPORATION  
3000 A STREET, SUITE 300  
ANCHORAGE, ALASKA 99503  
(907) 563-8844  
FAX (907) 563-7322

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the forgoing was served by (X) mail ( ) fax ( ) hand this 6<sup>th</sup> day of November, 2019 to

Jared Karr  
Valcarce Law Office  
900 Third Avenue  
P.O. Box 409  
Bethel, Alaska 99559

*Daphnia Glen*

LAW OFFICES OF  
JERMAIN DUNNAGAN & OWENS  
A PROFESSIONAL CORPORATION  
3000 A STREET, SUITE 300  
ANCHORAGE, ALASKA 99503  
(907) 563-8844  
FAX (907) 563-7322  


**CITY OF BETHEL**

**BOARD OF ADJUSTMENT**

**Website:** <https://www.cityofbethel.org/council>

**Location:** Council Chambers, City Hall, 300 Chief Eddie Hoffman Highway, Bethel

**Board Members:** Perry Barr, Haley Hanson, Fred Watson, Alyssa Leary, Mark Springer, Cece Franko, Michelle DeWitt

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# Exhibit 4

## Items presented by the Hackney's for Planning Appeal Record

Some items within this portion of the Record are  
duplicates to items listed in Exhibits 1-3

This Exhibit List will only reference those items not  
listed in the Exhibits 1-3

8/5/2015 Site Plan Permit for 175 Alex Hatley to finish house and fill.	P. 100
1/19/2019 Court Documents Hackney Vs. Maratt	P. 116-121
8/19/2019 City of Bethel/State of Alaska Business License Information	P. 122-127
Spiral Note Book with handwritten Notes	P. 130-133
Bethel Airbnb Print Outs	P. 152-154
Subpoena to Appear/Produce Records issued to Patty Burley	P. 155
Photos of property area	P. 156-159
11/04/2019 City Manager's Report to Council to include Department Head Reports	P. 160-190

RECEIVED  
NOV 04 2019  
CITY OF BETHEL  
PLANNING DEPARTMENT

Materials provided  
to COB in re  
Hackney Appeal.  
Hand delivered 11/4/19.

→

# SITE PLAN PERMIT

No. 15-61

DATE: 8/5/2015

PERMITEE: Dan and Dawn Hackney		Address: 175 Alex Hatley		
Lot: 11	Block: 1	Subdivision: Blueberry Fields Subd. Phase	Plat No.: 84-13	R./T./Sec.: R71W, T8N, S7, SM
<b>Authorized and mandatory Improvements:</b> 1. Add approximatley 2400 c/y of infill. 2. No culvert needed at this time as per the Streets and Roads Foreman. 3. Abide by all setback requirements. 4. Seeding is required for dust and erosion control. PER SITE PLAN APPLICATION ON FILE <i>Ameupent 4-3-17 to finish house + infill</i>				
PLANNING DEPARTMENT: <i>Bretan J. [Signature]</i> <del>Rich [Signature]</del>				
<b>Intended Use: Residential</b>				
This permit has hereby been posted on the above property his ___ day of __, ____				
By _____ Your Signature				

Permit # 18-34

RECEIVED



JUL 20 2018

CITY OF BETHEL

P.O. BOX 1388, BETHEL, ALASKA-99559 http://www.cityofbethel.org
907-543-5306
CITY OF BETHEL PLANNING DEPARTMENT FAX# 907-543-4186

RESIDENTIAL SITE PLAN PERMIT APPLICATION

Title 18 of the Bethel Municipal Code requires the review of a Site Plan prior to the erection of any improvement on real property within the city limits. Application for a Site Plan Review shall be filed with the City of Bethel Planning Department. Upon approval of the application, a permit will be issued and is required to be displayed on the property to be improved. By submitting this application you are authorizing public access to the displayed Site Plan Permit area. Approval of plans does not presume to give approval to oversights by the City of Bethel Planning Office nor grant authority to violate or cancel the provisions of any other federal, state or local laws regulating the use of development of this land.

Form with fields: Today's Date (20 July 18), Physical Address of Property (175 Alex Hatley), Name of Property Owner (Daniel & Dawn Hackney), Mailing Address (P.O. Box 3288), City, State, Zip (Bethel, AK, 99559), Phone (543-7951), Signature of Owner, Legal Description Plat or Survey (84-13), Block Tract Lot (11), Name of Developer or Builder (Daniel Hackney), Mailing Address, City, State, Zip, Phone, Signature of Developer, Mail permit to (Owner/Developer), Fill and Pilings/Building Construction.

Please Do Not Write Below This Line. To be filled out by Planning Dept. Staff

Form with fields: Zoning (Residential), Flood Hazard Zone (N/A), Authorized & Mandatory Improvements (constructs a 20' x 40' garage/shop), City of Bethel Reviewed (JTB) Date (JUL 24 2018), City of Bethel Approved (JTB) Date (JUL 24 2018).

Intended improvements: Describe residential improvements or site activity.	
Garage/Storage/shop <del>with in-law (outlaw)</del> Duplex DH. 8/15/19	
20' x 42'. No infill needed.	
Existing infill, sandbagged & seeded w/ erosion control jute netting...	
Lot Size: 100' x 120' Sq. ft. Proposed total number of Buildings: 2	
Number of Bedrooms: _____	
If placing fill indicate cubic yards or truckloads (if no fill is needed, indicate: 0):	
<b>Dimensions of Fill</b> (Required) Max. Height of fill: _____ (Required) Length of fill: _____ (Required) Width of fill: _____ (see also worksheet on page 4)	<b>Method of stabilizing sand pad slopes:</b> <input checked="" type="checkbox"/> Seeding <input checked="" type="checkbox"/> Sandbagging
<b>If improvements include construction, renovation, or floor area addition to a residence, indicate the following:</b>	
Sewer service type: <input type="checkbox"/> Hauled <input type="checkbox"/> Piped	
If hauled please indicate: Hauled water tank size (gallons): _____ Hauled sewer tank size (gallons): _____	
I attest that all information and measurements presented are correct.	
Signature of applicant: <i>David H. [Signature]</i>	

### WHEN DO I HAVE TO OBTAIN A PERMIT(S)?

A permit must be obtained at least ten (10) calendar days before construction begins. The permit can be obtained from the City Planning Office which is located upstairs at 1155 Ridgecrest Drive and is open weekdays from 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. The Planning Department Office legally has ten (10) days to review the permit before approval, disapproval, or approving it with modifications. Remember, it is illegal to build, place fill, etc., without first obtaining a site plan permit.

Individual permits are required for fill, construction, and floodplain development. There is a fee schedule which is downloadable from the website (<http://www.cityofbethel.org>) or can be obtained from the Planning Department.

# SITE PLAN PERMIT

No. 18--34

DATE: 7/24/2018

<b>PERMITEE:</b> Daniel and Dawn Hackney		Address: 175 Alex Hately		
Lot: 11	Block:	Subdivision: Blueberry Fields Subd. Phase	Plat No.: 84--13	R./T./Sec.: R71W, T8N, S7, SM
<b>Authorized and mandatory Improvements:</b> <ol style="list-style-type: none"> <li>1. Construct a 20'x42' Shop/garage/storage shed.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol>				
PER SITE PLAN PERMIT APPLICATION ON FILE. *****ADDENDUM*****01-09-2019*****			The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.	
<ol style="list-style-type: none"> <li>1. Construct a 24'x64' attached garage.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol>				
PLANNING DEPARTMENT: <u>Pauline Boratko</u> Pauline Boratko, Planning Assistant				
<b>Intended Use: Residential</b>				
This permit has hereby been posted on the above property this ___ day of __, ____				
By _____ Your Signature				

Permit # 18-34

RECEIVED



JUL 20 2018

CITY OF BETHEL  
PLANNING DEPARTMENT

CITY OF BETHEL

P.O. BOX 1388, BETHEL, ALASKA-99559 <http://www.cityofbethel.org>  
907-543-5306  
FAX# 907-543-4186

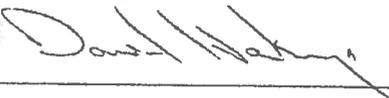
RESIDENTIAL SITE PLAN PERMIT APPLICATION

Title 18 of the Bethel Municipal Code requires the review of a Site Plan prior to the erection of any improvement on real property within the city limits. Application for a Site Plan Review shall be filed with the City of Bethel Planning Department. Upon approval of the application, a permit will be issued and is required to be displayed on the property to be improved. By submitting this application you are authorizing public access to the displayed Site Plan Permit area. Approval of plans does not presume to give approval to oversights by the City of Bethel Planning Office nor grant authority to violate or cancel the provisions of any other federal, state or local laws regulating the use of development of this land.

Today's Date: 20 July '18	Legal Description Plat or Survey: 84-13
Physical Address of Property: 175 Alex Hately	Block ___ Tract ___ Lot 11
Name of Property Owner: Daniel & Dawn Hackney	Name of Developer or Builder: Daniel Hackney
Mailing Address: P.O. Box 3288	Mailing Address:
City, State, Zip: Bethel, Ak, 99559	City, State, Zip:
Phone: 543-7951	Phone: )
Signature of Owner: [Signature]	Signature of Developer: [Signature]
<input type="checkbox"/> Mail permit to: <input type="checkbox"/> Owner <input type="checkbox"/> Developer	<input type="checkbox"/> Fill and Pilings <input type="checkbox"/> Building Construction

Please Do Not Write Below This Line. To be filled out by Planning Dept. Staff

Zoning: Residential	Flood Hazard Zone: N/A
Authorized & Mandatory Improvements:	
Constructs a 20' x 40' garage/shop	
City of Bethel Reviewed: [Signature]	City of Bethel Approved: [Signature]
Date: JUL 24 2018	Date: JUL 24 2018

<b>Intended improvements: Describe residential improvements or site activity.</b>	
Garage/Storage/shop Mother-in-law (outlaw)	
20'x42', No infill needed.	
Existing infill, sandbagged & seeded w/ erosion control jute netting...	
Lot Size: <u>100' x 120'</u> Sq. ft. Proposed total number of Buildings: <u>2</u>	
Number of Bedrooms: _____	
If placing fill indicate cubic yards or truckloads (if no fill is needed, indicate: 0):	
<b>Dimensions of Fill</b> (Required) Max. Height of fill: _____ (Required) Length of fill: _____ (Required) Width of fill: _____ (see also worksheet on page 4)	<b>Method of stabilizing sand pad slopes:</b> <input checked="" type="checkbox"/> Seeding <input checked="" type="checkbox"/> Sandbagging
<b>If improvements include construction, renovation, or floor area addition to a residence, indicate the following:</b>	
Sewer service type: <input type="checkbox"/> Hauled <input type="checkbox"/> Piped	
If hauled please indicate: Hauled water tank size (gallons): _____ Hauled sewer tank size (gallons): _____	
I attest that all information and measurements presented are correct.	
Signature of applicant: 	

### WHEN DO I HAVE TO OBTAIN A PERMIT(S)?

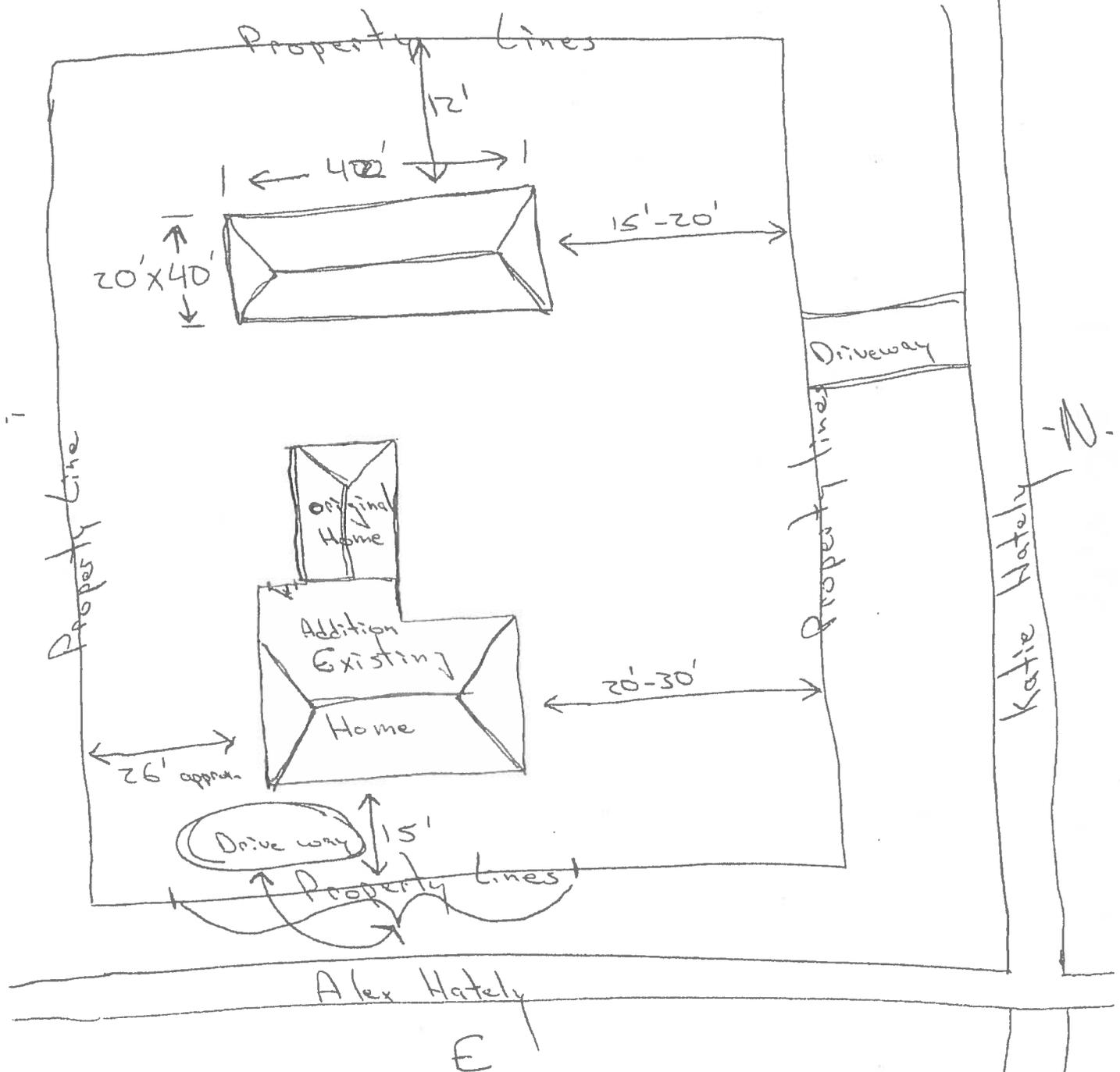
A permit must be obtained at least ten (10) calendar days before construction begins. The permit can be obtained from the City Planning Office which is located upstairs at 1155 Ridgecrest Drive and is open weekdays from 8:00 a.m. to 12:00 noon and 1:00 p.m. to 5:00 p.m. The Planning Department Office legally has ten (10) days to review the permit before approval, disapproval, or approving it with modifications. Remember, it is illegal to build, place fill, etc., without first obtaining a site plan permit.

Individual permits are required for fill, construction, and floodplain development. There is a fee schedule which is downloadable from the website (<http://www.cityofbethel.org>) or can be obtained from the Planning Department.

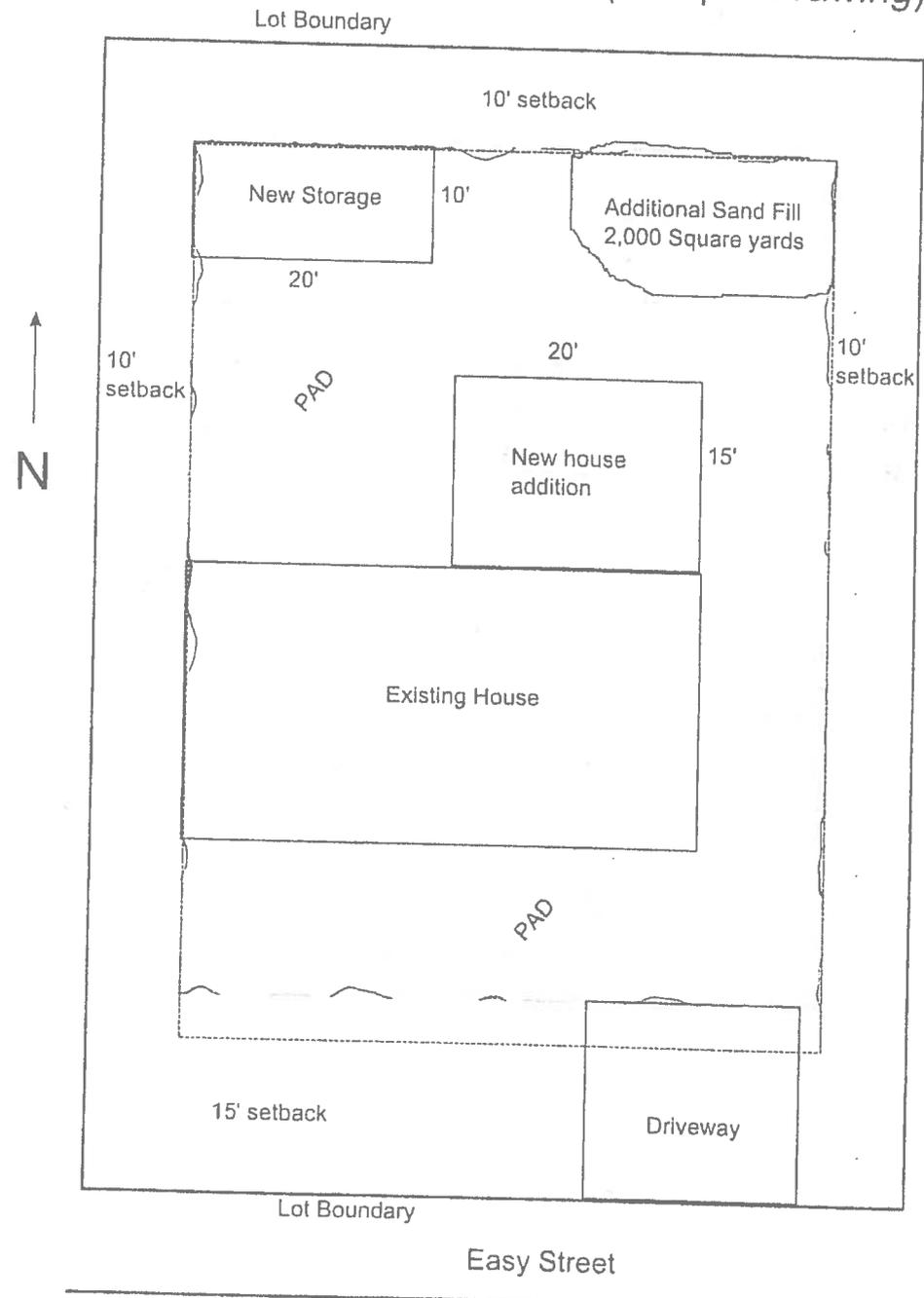
- W -

### Drawing of Site Improvements

Provide a rough drawing of the site, the buildings, the parking, the access, and the proposed improvements. (Note: if your project is in a floodplain or USACE wetlands area, please fill out the worksheet for fill dimensions on page 5. If you are going to need a culvert fill out the culvert form on page 6.)



(Sample Drawing)

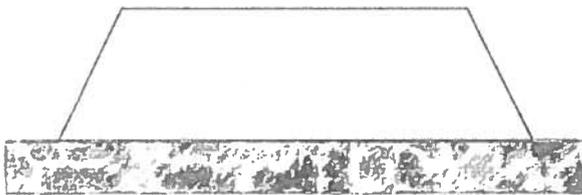


4

Last Modified: 07/2018

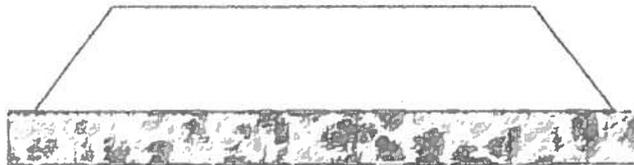
## Worksheet for Fill Dimensions

Give us an idea about how much fill is going in.



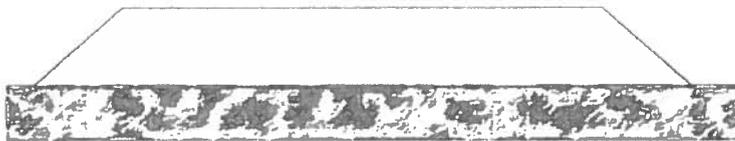
Driveway

H =  
W =  
L =



Parking Area

H =  
W =  
L =



Main Sand Pad

H =  
W =  
L =

Turn this form in with your Site Plan Permit Application.

City of Bethel Public Works Department

Culvert Installation Inspection Form

Name: Dan & Dawn Hackney  
Property Location: 175 Alex Hotelly  
Mailing Address: P.O. Box 3288  
Contact Phone: 543.7951  
Request Date: 20 July '18  
Site Plan Number: \_\_\_\_\_

Pre-Installation Approval

APPROVED: \_\_\_\_\_ Date: \_\_\_\_\_ DENIED: \_\_\_\_\_

Signed By: \_\_\_\_\_

Brief Explanation: If denied:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Installation Inspection

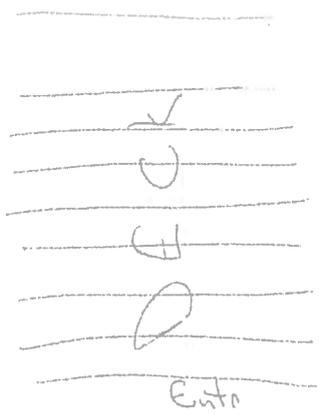
Inspected By: \_\_\_\_\_

Comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.

Proposed Building  
Garage/Storage "In-law" (out-law)



A11  
~~3201K~~

Porch  
una ac ed

RECEIVED

FEB 19 2019 5<sup>0</sup>

CITY OF BETHEL  
PLANNING DEPARTMENT

KATIE HATELY LANE



LOT 30

N 22°11'00" E 100.00'

LOT 11  
12,000 sq. ft.

N 67°49'00" W 120.00'

DIRT  
DRIVEWAY

LOT 29

N 67°49'00" W 120.00'

LOT 12

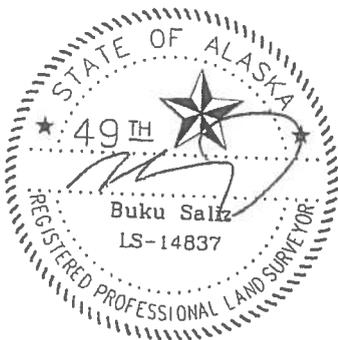
S 22°11'00" W 100.00'

ALEX HATELY DRIVE

CITY OF BETHEL  
PLANNING DEPARTMENT

FEB 19 2019

RECEIVED



I HEREBY CERTIFY THAT I HAVE SURVEYED THE DESCRIBED PROPERTY AND THAT NO ENCROACHMENTS EXIST EXCEPT AS INDICATED. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. UNDER NO CIRCUMSTANCES SHOULD ANY OF THE DATA HEREON BE USED FOR CONSTRUCTION OF FENCES, OR FOR ESTABLISHING PROPERTY BOUNDARIES.

FIXED HEIGHT, LLC  
Land Surveying Services

225 W 23rd Ave  
Anchorage, AK  
907 290.8949  
WWW.FIXEDHEIGHT.COM

AS-BUILT  
LOT 11  
BLUEBERRY FIELD SUBDIVISION PHASE I  
(PER PLAT No. 84-13, BETHEL RECORDING DISTRICT)  
LOCATED WITHIN SECTION 18, TOWNSHIP 8 NORTH, RANGE 71 WEST,  
SEWARD MERIDIAN, ALASKA

Legend  
--- EAVE  
[ ] UTILITY POLE  
--- OVERHEAD UTILITY LINE

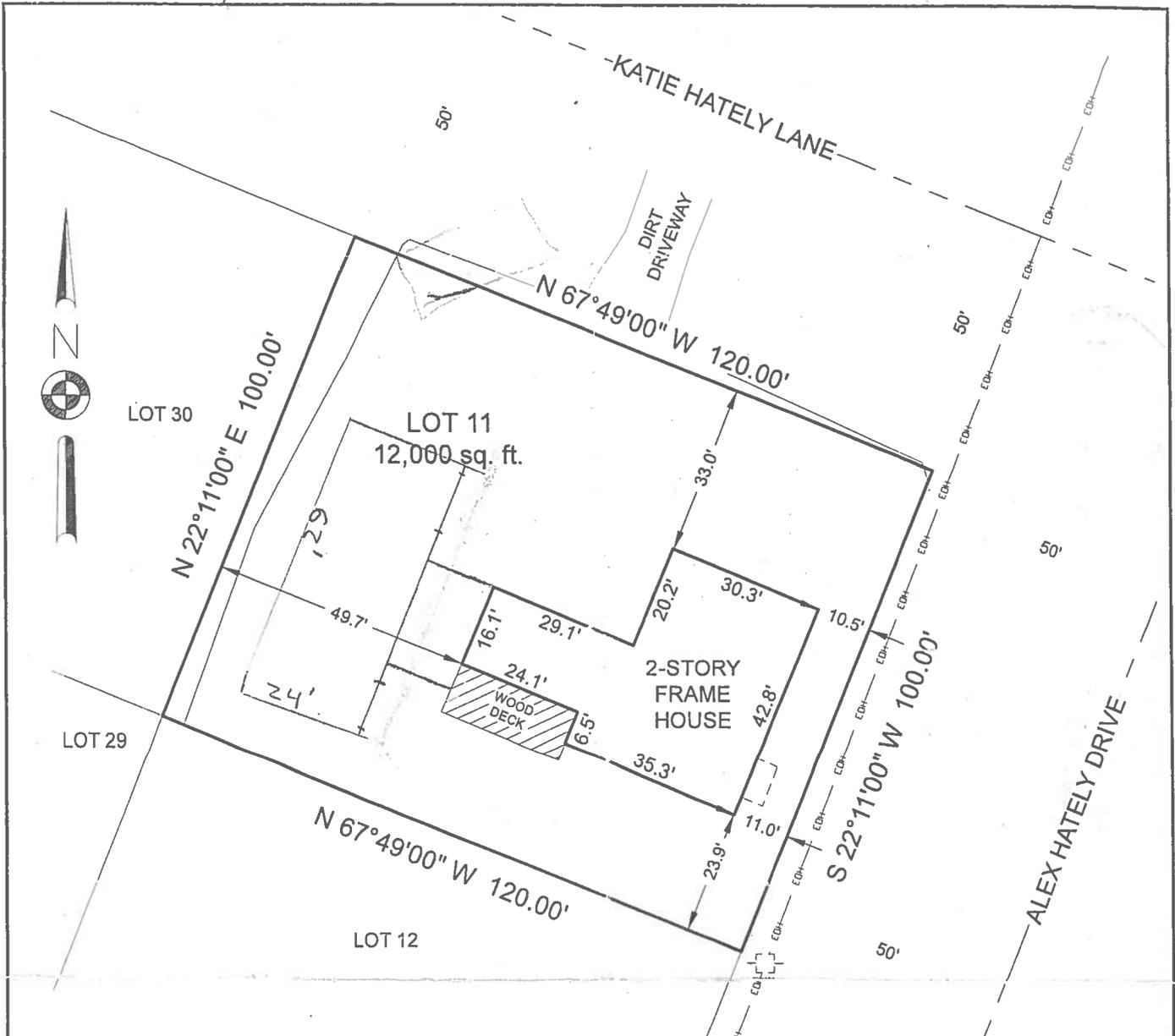
110 CORNERS SET THIS DATE    SCALE 1" = 30'    CHECKED/DRAWN BY AP/BS    JOB NO 18024    DATE 10/22/2018

# SITE PLAN PERMIT

No. 18--34

DATE: 7/24/2018

PERMITEE: Daniel and Dawn Hackney		Address: 175 Alex Hatley		
Lot: 11	Block:	Subdivision: Blueberry Fields Subd. Phase	Plat No.: 84--13	R./T./Sec.: R71W, T8N, S7, SM
<p><b>Authorized and mandatory Improvements:</b></p> <ol style="list-style-type: none"> <li>1. Construct a 20'x42' Shop/garage/storage shed.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol> <p>PER SITE PLAN PERMIT APPLICATION ON FILE.</p> <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 10px auto;"> <p><b>The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.</b></p> </div> <p>PLANNING DEPARTMENT: <u>Pauline Boratko</u> Pauline Boratko, Planning Assistant</p>				
<b>Intended Use: Residential</b>				
<p>This permit has hereby been posted on the above property this ___ day of __, ____</p> <p>By _____ Your Signature</p>				



I HEREBY CERTIFY THAT I HAVE SURVEYED THE DESCRIBED PROPERTY AND THAT NO ENCROACHMENTS EXIST EXCEPT AS INDICATED. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. UNDER NO CIRCUMSTANCES SHOULD ANY OF THE DATA HEREON BE USED FOR CONSTRUCTION OF FENCES, OR FOR ESTABLISHING PROPERTY BOUNDARIES.

<p><b>FIXED HEIGHT, LLC</b>          Land Surveying Services</p> <p>225 W 23rd Ave.          Anchorage, AK          907.290.8949          WWW.FIXEDHEIGHT.COM</p>	<p><b>AS-BUILT</b>  <b>LOT 11</b>  <b>BLUEBERRY FIELD SUBDIVISION PHASE I</b>          (PER PLAT No. 84-13, BETHEL RECORDING DISTRICT)          LOCATED WITHIN SECTION 18, TOWNSHIP 8 NORTH, RANGE 71 WEST,          SEWARD MERIDIAN, ALASKA</p>	<p><b>Legend</b></p> <p>--- EAVE          [ ] UTILITY POLE          --- EDH --- OVERHEAD UTILITY LINE</p>		
<p>NO CORNERS SET THIS DATE</p>	<p>SCALE: 1" = 30'</p>	<p>CHECKED/DRAWN BY: AP/BS</p>	<p>JOB NO. 18024</p>	<p>DATE: 10/22/2018</p>

# SITE PLAN PERMIT

No. 18--34

DATE: 7/24/2018

<b>PERMITEE:</b> Daniel and Dawn Hackney		Address: 175 Alex Hatley		
Lot: 11	Block:	Subdivision: Blueberry Fields Subd. Phase	Plat No.: 84--13	R./T./Sec.: R71W, T8N, S7, SM
<p><b>Authorized and mandatory Improvements:</b></p> <ol style="list-style-type: none"> <li>1. Construct a 20'x42' Shop/garage/storage shed.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol> <p>PER SITE PLAN PERMIT APPLICATION ON FILE.</p> <p>*****ADDENDUM*****01-09-2019*****</p> <ol style="list-style-type: none"> <li>1. Construct a 24'x64' attached garage.</li> <li>2. Take all construction debris to the city landfill, do not fill residential trash bins.</li> <li>3. Abide by all set back requirements.</li> </ol>				
<div style="border: 1px solid black; padding: 5px; display: inline-block;"> <p><b>The Property Owner is responsible for culvert installation as needed, and abatement of any run-off resulting from development.</b></p> </div>				
PLANNING DEPARTMENT: <u>Pauline Boratko</u> Pauline Boratko, Planning Assistant				
<b>Intended Use: Residential</b>				
This permit has hereby been posted on the above property this ___ day of __, ____				
By _____ Your Signature				



## CITY OF BETHEL

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559

*August 22, 2018*

### **PROOF OF HOUSE NUMBER/AND OR CHANGE**

I, Pauline Boratko, the City of Bethel Planning Assistant, changing an address to a property---  
175 Alex Hatley Lane to 175 Katie Hatley Lane.

A handwritten signature in cursive script, reading "Pauline R. Boratko", written over a horizontal line.

Pauline Boratko  
City of Bethel  
Planning Assistant

Cc: AVEC, GCI, COB Fire Dept.; Police Dept., Public Works Utilities Dept., and Finance Dept.,

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT BETHEL

Daniel Hackney,  
Petitioner                      DOB 08/27/1962  
    Male  Female  
vs.  
Steve Maratt,  
Respondent.                      DOB  
    Male  Female

CASE NO: 4BE-19-00008CI

**DENIAL ORDER**

An *ex parte* hearing on the petitioner's request for a protective order was held and the following person(s) appeared:  Petitioner  Respondent  Neither Party  
Date: January 9, 2019 Courtroom # 4

**IT IS HEREBY ORDERED THAT:**

**Case Closed – Short Term Petition Denied or Dismissed.** All requests in the petition, including any request for a long term order, are denied or dismissed because:

there is not sufficient evidence that petitioner is the victim of stalking as defined in AS 11.41.270, or sexual assault as defined in AS 18.66.990(9). Case closed.  
[DSTS]

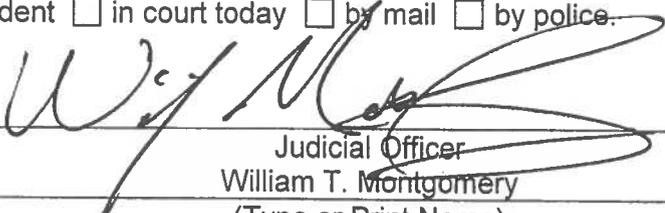
The respondent clearly engaged in repeated acts of nonconsensual contact involving the petitioner and his family. However, this Court does not find probable cause to believe that this nonconsensual contact placed the petitioner or his family in fear of death or physical injury, as is required by AS 18.65.850 and defined by AS 18.65.870(4), AS 11.41.260, AS 11.41.270.

This Court does not approve of the respondent's behavior, as alleged in the petition. Should respondent's behavior escalate and cause the petitioner or his family to be placed in fear of death or physical injury then the petitioner is free to re-file for a stalking protective order.

This order will be served on respondent  in court today  by mail  by police.

January 9, 2019, at  
2:45 PM

Effective Date & Time

  
\_\_\_\_\_  
Judicial Officer  
William T. Montgomery  
(Type or Print Name)

In-Court Distribution on above date:

- Petitioner
- Respondent

In-Court Clerk: \_\_\_\_\_

Other Distribution:

I certify that on 1/9/19 a copy of this Order was given or mailed to:

- Petitioner  Respondent

Local police/AST at \_\_\_\_\_ for their records  
 Local police/AST at \_\_\_\_\_ to serve respondent

Clerk: M

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA

AT Bethel

JAN 08 2019

By \_\_\_\_\_  
DEPUTY CLERK

Daniel Hackney )  
 Petitioner Date of Birth 27 Aug '62 )  
 Male  Female )  
 v. )  
Steve Maratt )  
 Respondent Date of Birth '50 )  
 Male  Female )

CASE NO. 4BE-19-08C1

PETITION FOR  
PROTECTIVE ORDER:  
 Stalking  Sexual Assault

I swear or affirm under penalty of perjury that all the information I provide in this petition is true to the best of my knowledge and belief.

I am requesting the following protective order(s). **NOTE: If there is any chance you might need protection for more than 20 days, you should request both a long-term order (6 months) and an ex parte order (20-day). To do this, check both boxes.**

1.  an ex parte protective order (20 day order). (This order can take effect immediately based on only the petition and the petitioner's testimony, without the respondent knowing about the ex parte petition. The police will serve the ex parte order if granted.) I certify that I

have not tried to notify the respondent that I am filing this petition.

notified or tried to notify the respondent as follows: \_\_\_\_\_

a long-term protective order (6 month order). (This order can only be issued after notice to the respondent and a court hearing. This order will last for 6 months, unless the court ends it sooner. The police will notify the respondent of the hearing.)

2. The respondent is a (check all that apply):

(former) friend  neighbor  classmate  co-worker

client or former client  correctional facility employee

legal guardian of petitioner  other (describe): \_\_\_\_\_

I do not know and have never been acquainted with the respondent

3. I (petitioner) am  a minor: Age 56  an adult

**This is Not a Court Order**

4. The respondent is (or appears to be)  a minor: Age 65+  an adult

5. a. Respondent has stalked or sexually assaulted me as described below and this conduct has placed me in fear of:

death or physical injury to me  further sexual assault

the death or physical injury of the following family member of mine:

Name of family member: \_\_\_\_\_

Relationship to me: \_\_\_\_\_

b. I am afraid of physical injury or death, or further sexual assault, because

Telling me to ~~take~~ my family & move the "hell out of Bethel". Harrassing me while I work after the sun goes down. Harrassing me about "work lights" as I'm working, etc. Using foul language & bombs etc. while doing so.

6. Description of respondent's conduct. (Explain what respondent is doing or did, including when, where and how often the stalking or sexual assault occurred. Be specific. Include dates and places.)

Since 2015 upon purchasing house & property @ 175 Alex Hatley, Steve Marshall has stalked/harassed us every time we improved our property. From adding fill, to repositioning house, putting in driveway, adding on to our house, to construction on our property. Harrassing hired crew & operators of machinery hired by us to do work. Site permits were acquired and O.K.ed by planning dept. using ~~the~~ foul language & harassing us w/ young children present. Harrassing me while working from a different neighbors property @ night, through the shadows etc. going to neighbors, slandering us, bugging city planner with our remodel yard work, etc.

**This is Not a Court Order**

7. I request an order from the court directing (check all that apply)

a. respondent not to follow, approach, confront, watch or stalk me in any other way or threaten to do so.

b. respondent not to contact me by telephone, e-mail or U.S. mail or otherwise communicate directly or indirectly by any means with me or the following members of my household:

Anyone

c. respondent to stay away from my residence. Is this also respondent's current residence?  yes  no

Respondent's residence is  unknown to me

within my apartment complex

approximately 200' feet/miles from my residence

Describe: Neighbor kitty corner from our property

d. respondent to stay away from my school.

Name and location of school:\*

Is this also respondent's school?  yes  no

e. respondent to stay away from my place of employment. Name and location of place of employment:\*

Is this also respondent's place of employment?  yes  no

If yes, list the hours respondent works (if known)

f. respondent to stay away from the following places I go to:

Our home

g. respondent not to have sexual contact with me.

\* You do not have to provide this information if you do not want the respondent to know the location of your school or place of employment.

**This is Not a Court Order**

8. Other cases. The following are all the pending civil cases or criminal cases, in this or another state, involving either me or respondent (that I know of):

<u>Type of Case</u>	<u>Court Location</u>	<u>Petitioner or Respondent</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The following are other court cases (civil or criminal) involving the respondent that I want the court to know about:

<u>Type of Case</u>	<u>Court Location</u>
_____	_____
_____	_____
_____	_____

**Both petitioner and respondent have the responsibility to tell the court of any criminal or civil lawsuits involving either of you that arise while a petition for protective order is pending. AS 18.65.865(d)**

9. Information about respondent (if known).  
 Respondent's full legal name and any nicknames or other names used: \_\_\_\_\_  
 \_\_\_\_\_  
 Respondent's mailing address: \_\_\_\_\_  
 Respondent's home phone: \_\_\_\_\_ Work phone: \_\_\_\_\_

**This is Not a Court Order**

v.

Case No.

10. Petitioner information. [The court needs your mailing address to send court papers, including notices of hearing, to you. If you believe it is not safe for the respondent to know where you live, write a "message" address where you can be sure you will receive court papers. If you do not have an address and telephone number that can safely be revealed to the respondent, ask the court clerk how you can provide this information so that it will be kept confidential and not revealed to the respondent. Civil Rule 65.1]

My mailing/message address P.O. Box 3278 Bethel, Ak, 99559  
Street or Box No. City State Zip

My message phone: 543-7951

My full legal name: Daniel K. Hackney

Any nicknames or other names: \_\_\_\_\_

8 Jan 19  
Date

Daniel Hackney  
Petitioner's Signature

Daniel Hackney  
Print Name

Subscribed and sworn to or affirmed before me at Bethel, Alaska on 1/8/19 (date)



[Signature]  
Clerk of Court, Notary Public or other person authorized to administer oaths

My commission expires: 12/31/20

**This is Not a Court Order**

Check Number

6174

Date Posted

08/20/19

Check Amount

\$150.00

**DANIEL K. DAWN L. HACKNEY**  
 P O BOX 3288  
 BETHEL, AK 99569-3288  
 907-543-7951

6174  
82-978/1241 9384

Date 8/19/19

Pay to the Order of City of Bethel \$ 150.00  
one hundred fifty dollars <sup>40/100</sup> Dollars 



For Bethel license Dawn L. Hackney

7740421782

For Deposit Only  
 CITY OF BETHEL  
 1000177586  
 Wells Fargo Bank Branch 3442  
 Bethel, Alaska

For your security, information like account numbers, signatures, and the ability to view the backs of checks have been removed from the images.

You can see full or partial fronts and backs of the images by using the link at the top of the window.

 Equal Housing Lender

# 2019-2020 City of Bethel Business License Application

P.O. BOX 388  
BETHEL, ALASKA 99559  
(907) 543-2097 (fax-3817)

Business ID: 10255

Business Classification: \_\_\_\_\_

**(Please print or type --- all information is required)**

Expires **12/31/2020**

New

Renewal

quarters site located

inside city limit

outside city limit

Name of business Hackney Homes

AK business license # 1002765

Mailing address PO Box 3288

Business phone # 907-543-7951

City Bethel

State AK

Zip code 99559

E-mail 3dhackney@gmail.com

Physical address of business

175 Alex Hately

Name of owner (s) (please complete information for all owners)

Dawn L Hackney

EIN or Social Security Number 519154353

Drivers Lic. # 7109818

Home phone # 907-543-7951

Mailing address (if different from business address)

Type of business:  proprietorship  corporation  partnership (If filing as corporation or partnership, please attach supporting documentation, i.e. list of corporate officers/partners.)

Type of business (as it appears on state license) and services provided (explain in detail)

Rental licenses please list street location and number of rentals with number of bedrooms

53-Real Estate, Rental and Leasing 72- Accommodation and Food Services

Estimated sales per year \$ 40,000

estimated

based on previous year

Fee of **\$150.00** for each business license.

A renewal application made after December 31 of the license expiration year shall be subject to a fee for the business license of twice the fee set out in BMC 5.04.040.

Any person who engages in business before filing a business license application, or who fails to file any report or to pay the fee as prescribed in BMC 5.04.040, or who fails to file a license renewal application before February 1st, shall, in addition to payment of the required fee, be subject to a penalty of \$100.00 that shall be paid before the license may be issued (BMC 5.04.100).

Any person who is found guilty of a violation of any provision of the City of Bethel Municipal Code, or any regulation adopted pursuant thereto, is subject to a fine of up to \$200.00. A violation that occurs within three years of conviction of a prior violation is subject to a fine of up to \$500.00 (BMC 5.04.130).

I hereby make application for a City of Bethel business license for the period from 01/01/2019 to 12/31/2020.

I understand that this is only an application for business license, and is subject to approval by the City of Bethel.

Signed

*Dawn L Hackney*

Title

*8/19/2019*

Date

*[Signature]*

Co-owner

Title

Date



# CITY OF BETHEL BUSINESS LICENSE

Licensee: **HACKNEY HOMES  
DAWN HACKNEY  
P.O. BOX 3288  
BETHEL AK 99559**

License Number:  
10255

Fee Paid  
150.00

Business ID            Business Type  
**10255                    Business License 150**

Issue Date            Expires  
**01/01/2018            12/31/2019**

**City of Bethel Finance Department**

License is not transferable or assignable

**THIS LICENSE MUST BE POSTED IN A CONSPICUOUS PLACE AT THE LOCATION**

This is to certify that the licensee named above has made application and paid the fee for a City of Bethel Business License covering the calendar year as show or fraction thereof to engage in business. This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State of Alaska or of the United States.

City of Bethel    PO Box 388    Bethel, AK 99559-0388    Phone: 907-543-2097    Fax: 907-543-3817



Department of Commerce, Community, and Economic Development  
**DIVISION OF CORPORATIONS, BUSINESS & PROFESSIONAL LICENSING**

State of Alaska / Commerce / Corporations, Business, and Professional Licensing / Search & Database  
 Download / Business License / License #1002765

## LICENSE DETAILS

License #: 1002765

[Print Business License](#)

**Business Name:** HACKNEY HOMES

**Status:** Active

**Issue Date:** 03/19/2014

**Expiration Date:** 12/31/2019

**Mailing Address:** P.O. BOX 3288  
 BETHEL, AK 99559-3288

**Physical Address:** P.O. BOX 3288  
 172 ALEX HATELY  
 BETHEL, AK 99559-3288

### Owners

DAWN L HACKNEY

### Activities

Line of Business	NAICS	Professional License #
53 - Real Estate, Rental and Leasing	531110 - LESSORS OF RESIDENTIAL BUILDINGS AND DWELLINGS	

### Endorsements

No Endorsements Found

COPYRIGHT © STATE OF ALASKA · DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT · EMAIL THE WEBMASTER

# CITY OF BETHEL

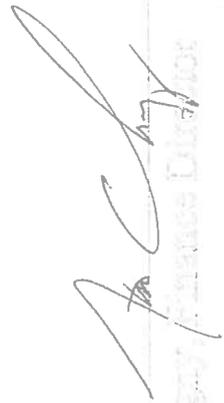
## CERTIFICATE AUTHORIZING COLLECTION OF CITY SALES TAXES PURSUANT TO BANC 04.16.100

The City of Bethel authorizes HACKNEY HOMES, sales tax registration number 40255 to collect sales taxes on behalf of the City of Bethel. Such sales taxes are the property of the City of Bethel and are required to be remitted on or before the last day of the month following the period for which the return is required to be submitted by the collector. This certificate is only valid at the following address:

174A ALEX HEARLEY

Failure to display this certificate and to issue a receipt showing the amount of sales tax collected is a violation of the Bethel Municipal Code and should be reported to 543-1381.

Expires 12/31/2019

  
Mr. Cheryll, Finance Director

Date: 1/31/18

**Alaska Department of Commerce, Community, and Economic Development**

Division of Corporations, Business, and Professional Licensing  
PO Box 110806, Juneau, AK 99811-0806

This is to certify that

**HACKNEY HOMES**

P.O. BOX 3288, BETHEL, AK 99559-3288

owned by

DAWN L HACKNEY

is licensed by the department to conduct business for the period

October 28, 2017 to December 31, 2019  
for the following line(s) of business:

53 - Real Estate, Rental and Leasing; 72 - Accommodation and Food Services



This license shall not be taken as permission to do business in the state without having complied with the other requirements of the laws of the State or of the United States.

This license must be posted in a conspicuous place at the business location. It is not transferable or assignable.

Julie Anderson  
Commissioner

RECEIVED

FEB 19 2019

CITY OF BETHEL  
PLANNING DEPARTMENT

KATIE HATELY LANE



LOT 30

LOT 11

12,000 sq. ft.

*N 22°11'00" E 100.00'*

*N 67°49'00" W 120.00'*

DIRT DRIVEWAY

*Duplicate above*

*Second Story Entry*

*Staircase Entry*

LOT 29

2-STORY FRAME HOUSE

WOOD DECK

*N 67°49'00" W 120.00'*

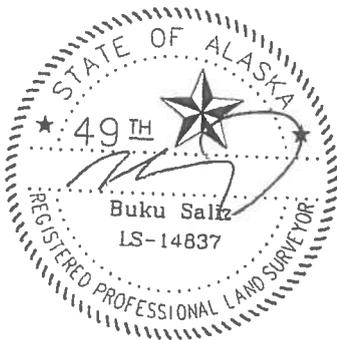
*S 22°11'00" W 100.00'*

ALEX HATELY DRIVE

CITY OF BETHEL  
PLANNING DEPARTMENT

FEB 19 2019

RECEIVED



I HEREBY CERTIFY THAT I HAVE SURVEYED THE DESCRIBED PROPERTY AND THAT NO ENCROACHMENTS EXIST EXCEPT AS INDICATED. IT IS THE RESPONSIBILITY OF THE OWNER TO DETERMINE THE EXISTENCE OF ANY EASEMENTS, COVENANTS, OR RESTRICTIONS WHICH DO NOT APPEAR ON THE RECORDED SUBDIVISION PLAT. UNDER NO CIRCUMSTANCES SHOULD ANY OF THE DATA HEREON BE USED FOR CONSTRUCTION OF FENCES, OR FOR ESTABLISHING PROPERTY BOUNDARIES.

FIXED HEIGHT, LLC  
Land Surveying Services

225 W 23rd Ave.  
Anchorage, AK  
995 290.8849  
WWW.FIXEDHEIGHT.COM

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(PER PLAT No. 84-13, BETHEL RECORDING DISTRICT)  
LOCATED WITHIN SECTION 18, TOWNSHIP 8 NORTH, RANGE 71 WEST,  
SEWARD MERIDIAN, ALASKA

Legend  
--- EAVE  
[ ] UTILITY POLE  
--- OVERHEAD UTILITY LINE

110 CORNERS SET THIS DATE    SCALE 1" = 30'    CHECKED/DRAWN BY AP/BS    JOB NO 18024    DATE 10/22/2018

RECEIVED

FEB 19 2019 50'

CITY OF BETHEL  
PLANNING DEPARTMENT

KATIE HATELY LANE



LOT 30

LOT 11  
12,000 sq. ft.

N 22°11'00" E 100.00'

N 67°49'00" W 120.00'

DIRT  
DRIVEWAY

LOT 29

N 67°49'00" W 120.00'

LOT 12

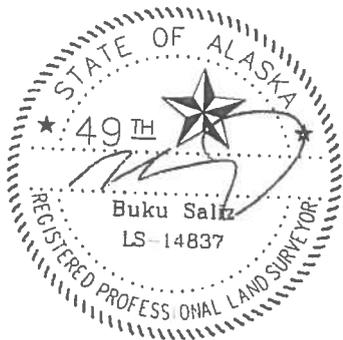
S 22°11'00" W 100.00'

ALEX HATELY DRIVE

CITY OF BETHEL  
PLANNING DEPARTMENT

FEB 19 2019

RECEIVED



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110 CORNERS SET THIS DATE SCALE 1" = 30' CHECKED/DRAWN BY AP/BS JOB NO 18024 DATE 10/22/2018

8.



*Rite in the Rain*  
ALL-WEATHER  
**NOTEBOOK**  
№146

24 Feb. 1715 Talked w/ Todd  
Friedrichsen about  
accusations made by City of  
Bethel via Steve Marshall. Todd  
stated that, "NO he hadn't said  
made written statement. If he  
had a problem, he wouldn't go to  
the city, or state, but me..."

21 Mar. 1445 Steve drove by  
videoing our project. Parked  
his truck and flipped me off  
and mumbled obscenities...

26 Mar. 1715 Steve comes home  
and starts taking photos  
of our project. Complain about  
the windows... Ranting & Raving.  
Witnesses: Michael John, Steve  
Denny, Jeremy Jacobs.

*Rite in the Rain*

10 Apr. 1300 Steve stopped in front of our driveway (N) and was cussing about woodshed and shop building. Then down and stopped at property line to complain about building being too close to property line. Windows down and saying a lot of crap...

10 May. 1345 Steve flipped off Mike John + I working on garage...

17 May. 1045 Steve yelled @ Aiden, a worker at ours, and called him a dumb ass. Aiden reported that to me.

29 May. 1250 Steve complaining to Colby about parking on side of road while working on our house.

Used some choice adjectives and  
said he (Colby) was breaking the  
law. Colby said nothing in re-  
sponse...

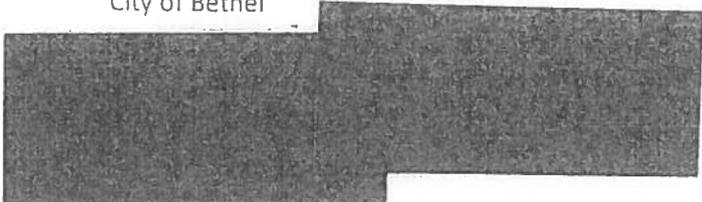
8/19/19 was notified by J.S.  
that Steve Murat is saying  
we are liars and did  
not fill out our Site permit  
correct to be illegal and  
has petition going around  
to be signed

8 Aug @ 1015 - Pauline's call about  
our address & change it back,  
Dawn said, as long as we aren't  
in any violation of any setbacks  
or city ordinances...

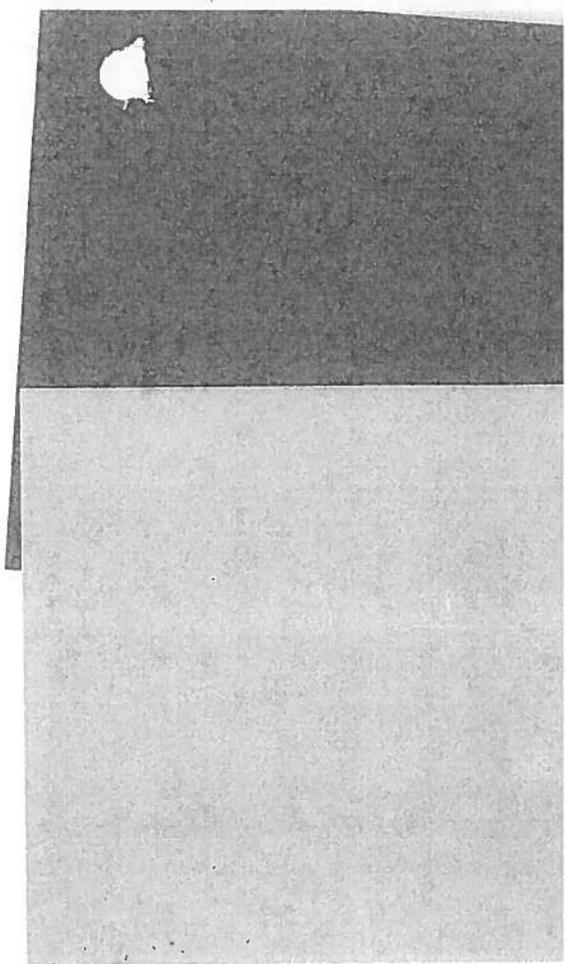
Rite in the Rain

06/07/19

To: Betsy Jumper  
Planning Department  
City of Bethel



RE: BMC Chapter 15, 16 & 18  
Section 15.12.090 Complaint  
Section 18.84.020 Complaint  
Section 18.32.020 Permitted & Principal use & Structures  
Section 18.32.010 Intent  
Section 15.12.030  
Section 15.12.060 F.4 Planning needs to ask more questions  
Section 16.04.010 Purposes A#2 & A#6  
Section 15.12.020 Permit Required B#6 & C



This is an official complaint of violations of City of Bethel Site Plan Permit No. 18-34, for Daniel and Dawn Hackney of 175 Alex Hatley, lot 11, Blueberry Field Subdivision phase plat 84-13.

Permittee has violated the following City of Bethel Municipality codes:

1. BMC 15.12.030 The site plan permit was incomplete. Permittee did not give accurate description of what their real plans were, or the size and use of the structure and this huge 24' X 60' two story building is going to be used as a commercial business. Not a garage/storage building, as permittee wrote down.
2. BMC 18.32.020 Permittee is building apartments or a hotel in a residential area, which is not permitted. Only one residence per lot.
3. BMC 18.32.010 Intent: The intent of the residential district is to provide protection to residential areas from encroachment from non-residential activities.
4. Permittee has a fence on the edge of the roads, Alex Hatley road and Katie Hatley Lane. Fence on city easement, should be on permittee's property line.
5. BMC Chapter 16.04 Section 16.04.10 A#2 & A#6. This will negatively affect everyone's home appraisal that lives next to this atrocity. The city has an obligation to protect our property from things like this. The City of Bethel should have stopped this project/construction months ago after being told about the actual scope of construction vs site plan.
6. BMC 15.12.020 Permittee moved a 12' X16' building onto city easement, along Katie Hatley Lane, with no permit, it is illegal and needs to be moved.
7. The City should have been inspecting the project. Permittee has installed two 1000 gallon water tanks and a 2400 gallon sewer tank for a garage/storage. No. To run a commercial business with a second residence on their lot. Building must be moved.

cc: Patricia Burley, City of Bethel Attorney  
Kathy Hansen, City of Bethel Planning Committee



## CITY OF BETHEL

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559

*August 7, 2019*

### **PROOF OF HOUSE NUMBER/AND OR CHANGE**

I, Pauline Boratko, the City of Bethel Planning Assistant, is changing an address back to the original address 175 Katie Hatley to 175 Alex Hatley. Please note that this is the Hackney Residence, a single family dwelling.

---

Pauline Boratko  
City of Bethel  
Planning Assistant

Cc: AVEC, GCI, COB Fire Dept.; Police Dept., Public Works Utilities Dept., and Finance Dept.  
Hackney's



## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Daniel and Dawn Hackney  
PO Box 3288  
Bethel, AK. 99559

August 30, 2019

### RE: Notice to Correct Violations

Dear Mr. and Ms. Hackney,

The second floor of the structure in your current construction project at 175 Alex Hatley is not compliant with the Bethel Municipal Code. Your approved, July 24, 2018 Site Plan Development Permit for a 20-foot X 42-foot shop/garage/storage shed, and your approved January 29, 2019 addendum to the permit to increase the size of the structure to 24-feet X 64-feet, did not include approval to build a second floor with a B&B or other lodging units.

#### Noncompliance with Authorized Improvements

Your noncompliance in following the Authorized and Mandatory Improvements as stated on your approved development permit violates **BMC 15.12.070 (Site Plan Permit Modification)**. This section states, "Once the site plan permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator".

#### Noncompliance with Residential Zoning Code

Although your description of intended improvements on the July 24, 2018 application included a mother-in-law unit, planning staff told you this particular unit is illegal because it is not identified as either a principal or accessory use in **BMC 18.32.020 (Residential District- Permitted and Principal Uses and structures)**, nor as a conditional use in **BMC 18.32.030 (Conditional uses)**. The definition of accessory structure stated in **BMC 16.12.030 (Definitions)** does not identify a mother-in-law unit as an accessory unit. This mother-in-law unit was subsequently not included by planning staff as an "Authorized and Mandatory Improvement" on your July 24, 2018 approved permit, nor the January 29, 2019 addendum to the permit.

I accepted your invitation to visit the second floor of your new building on Thursday, August 15. I observed four finished hotel-style rooms running the length of the building, each with an enclosed bathroom, and a guest kitchen below, on the first level. A van-full of guests were entering as I was leaving. From the design of your building and your acquisition of a May 9, 2019 business license, it appears that you intend to use the structure as a Bed & Breakfast. Again, this type of use violates **BMC 18.32.020 and 18.32.030 (Residential Zoning District)**, because a B&B is not identified as a principal, conditional, or accessory use in the residential



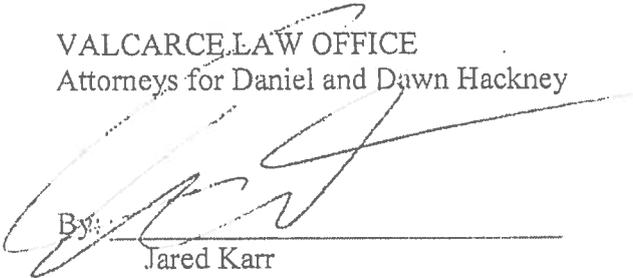
On August 30, 2019, the City of Bethel, Planning Department, issued a Notice to Correct Violations to Daniel and Dawn Hackney, providing information as to the Noncompliance with Authorized Improvements; Noncompliance with Residential Zoning Code; Correction of Violations; BMC Compliant Site Plan Permit Application Required; and Right to Appeal Stated Violations information.

On September 9, 2019, Daniel and Dawn Hackney filed an appeal with the Planning Department.

On September 13, 2019, the parties, and their respective attorneys, met to discuss the August 30, 2019 Notice. Based upon that meeting, the parties agreed to hold in abeyance the September 9, 2019 appeal while a corrective plan is formulated between the parties. Upon execution of the Corrective Action Plan, the parties will file a stipulation for dismissal of the appeal with prejudice. Otherwise the appeal will proceed in accordance with BMC 18.72.010.

VALCARCE LAW OFFICE  
Attorneys for Daniel and Dawn Hackney

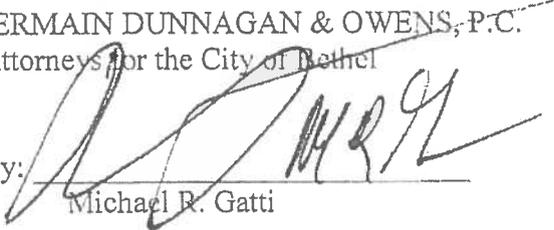
DATED: 9/18/19

By: 

Jared Karr

JERMAIN DUNNAGAN & OWENS, P.C.  
Attorneys for the City of Bethel

DATED: 9/20/19

By: 

Michael R. Gatti



## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Daniel and Dawn Hackney  
PO Box 3288  
Bethel, AK. 99559

September 26, 2019

### RE: Corrective Action Plan for Bethel Municipal Code Violations

Dear Mr. and Mrs. Hackney,

The second floor of the structure in your current construction project at 175 Alex Hatley is not compliant with the Bethel Municipal Code (BMC). Your approved, July 24, 2018 Site Plan Development Permit (# 2018-34) for a 20-foot x 42-foot shop/garage/storage shed, and your approved January 29, 2019 addendum to the permit to increase the size of the structure to 24-feet x 64-feet, did not include approval to build a second floor with a B&B or other lodging units.

During a September 13, 2019 meeting, parties and respective attorneys agreed the City would develop a Corrective Action Plan for the Hackneys to follow in order bring their structure back into BMC compliance.

#### 1<sup>st</sup> Violation

##### Noncompliance with Authorized Improvements on Approved Site Plan Permit

*BMC 15.12.070 (Site Plan Permit Modification)* states, "Once the Site Plan Permit is approved, no modifications to the approved plan may take place without the written consent of the land use administrator". Your construction of a second floor with rental units without authorization violates the approved Site Plan Permit # 2018-34.

#### Phase 1 Corrective Action

1. Submit a detailed, scaled floor plan of what was actually constructed on both 1<sup>st</sup> and 2<sup>nd</sup> floors of the new 24-foot x 64-foot structure.
2. Provide written permission for city staff to inspect 1<sup>st</sup> and 2<sup>nd</sup> floors of the 24-foot x 64-foot structure. Staff will inspect the building once the floor plan of the existing layout has been received.
3. Provide written permission for City surveyors to do an as-built survey on property.

**Due Date: October 10, 2019**

#### 2<sup>nd</sup> Violation

##### Noncompliance with BMC Residential Zoning Code

*BMC 18.32.020 and 18.32.030 (Residential Zoning District)* does not list a B&B and/or other transient lodging as a permitted, principal, conditional, or accessory use in the residential zone. Currently, there are four finished hotel-style rooms running the length of your new building's second floor, each with an enclosed bathroom. There is a guest kitchen below, on the first level. Vans full of guests have been reported by neighbors as continuously entering and leaving the property. From the design of your building and your acquisition of a May

9, 2019 business license, it appears you are using the structure as a Bed & Breakfast and/or other transient lodging. This type of use violates the City's Residential Zone standards.

### **Phase 2 Corrective Action**

Whether you choose second floor conversion or demolition, the Planning Department needs to know your intentions in bringing the building into compliance with the BMC. Please submit a new 2019 Residential Site Plan Permit application and a detailed site plan drawing with a type of use that is compliant with **BMC 18.32.020 and 18.32.030 (Residential Zoning District)**. Please contact the Planning Department if you would like to discuss. Include the following on the drawing:

1. Scaled site plan drawing that shows all structures, both planned (new) and existing (the existing Single Family house on the lot, wood shed, etc.)
2. Existing and planned water and sewer facilities and their exact locations.
3. The code-required number of parking spaces (**BMC 18.48.160**) (with 9' x 20' dimensions)
4. Driveway that access all parking spaces (*see BMC 18-48-200 for standards*)
5. All structures/facilities need to be labeled with their planned and existing uses, and show all building setback dimensions.
6. Roads that abut your property
7. New floorplan layout drawing of code compliant use on both 1<sup>st</sup> and 2<sup>nd</sup> floors.

**Due Date: October 24, 2019**

Once your new September 2019 Site Plan Permit Application is received by the Planning Department, BMC timelines for City action will be adhered to. Staff will review your application for compliance to the **BMC 18.32.020 and 18.32.030 (Residential Zoning District)** and to **BMC15.12 (Site Plan Permits)**. Staff will notify you if any additional information and/or permits are required based on the type of intended use indicated on your application. Additional permits may extend the conversion deadline. Please contact planning department staff at 543-5306 if you have any questions.

### **Conversion to BMC Code Compliant Use and Verification:**

#### **Phase 3 Corrective Action**

Using appropriate reconstruction, convert the second floor of building from current transient rental units to approved BMC compliant use. After conversion of the structure is complete, planning staff will inspect, approve, and sign a Certificate of Occupancy for project completion.

**Due Date: November 24, 2019**

### **Penalties**

Regarding the August 30, 2019 letter I sent which gave you 30 days to bring your structure and its usage back into BMC compliance (**BMC 18.84.030A**), this is to notify you the City shall fine you \$500 per day for each violation (**BMC 16.04.050**) from September 29, 2019 onward, until the Planning Department signs off on your completed Corrective Action Plan. Your compliance with this Corrective Action Plan may result in suspension of any levied fines for violations, provided you execute a confession of judgement in a specified amount. The City reserves the right to assert any legal and equitable remedies for violations of the BMC. Please respond in a timely manner. Thank you.



---

Ted Meyer, Planner, City of Bethel

- CC. Bo Foley, Acting City Manager  
Pauline Boratko, Planner Assistant  
Michael Gatti, Attorney

# VALCARCE LAW OFFICE

A LIMITED LIABILITY COMPANY

900 THIRD AVENUE

P.O. BOX 409

BETHEL, ALASKA 99559

TELEPHONE: (907) 543-2744 OR (907) 543-HELP

TOLL FREE (888) 610-2744

TELEFAX 907 543-2746

EMAIL: [jared@bushlawyers.com](mailto:jared@bushlawyers.com)

JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

*Bush Lawyers Serving  
Bush Alaska*

October 10, 2019

City of Bethel  
Planning Department and  
Panning Commission  
PO Box 1388  
Bethel, AK 99559

Re: Appeal of decision by planning department in regards to 175 Alex/Katie Hatley,  
Dan and Dawn Hackney

The appeal of the Planning Department's August 30, 2019, "Notice to Correct Violations," is being requested to move forward. The City's September 26, 2019, "Corrective Action Plan for Bethel Municipal Code Violations" is rejected. The Hackney's request an appeal hearing before the Planning Commission in compliance with BMC 18.72.010.



Jared Karr  
Attorney for Dan and Dawn Hackney

**Subject:** Courtesy Notice of Planned As-built Survey of the Hackney property  
**From:** Ted Meyer <tmeyer@cityofbethel.net>  
**Date:** Fri, 25 Oct 2019 17:36:07 -0800  
**To:** Jared Karr <jared@bushlawyers.com>  
**CC:** Bill Howell <bhowell@cityofbethel.net>, Michael Gatti <mgatti@jdolaw.com>, "Mary B. Pinkel" <mpinkel@jdolaw.com>, Pauline Boratko <pboratko@cityofbethel.net>

Hi Jared,

We have received numerous and continuous complaints from multiple people that Mr. Hackney has placed various structures deep inside the City's 100-foot wide Right-of-Way, that includes a fence, five or six 4-foot boulders, a wood storage cabin, and container. Complaints also include the moving of a City stop sign deeper into the ROW.

In order to respond to these complaints, I have ordered an as-built survey of the property to determine the exact locations of these structures, and specifically for the recently-placed boulders, as they are both a safety and road maintenance issue.

The surveyors plan to perform the survey on Tuesday, October 29. They will not step foot on the Hackney property. Please pass this on to Mr Hackney. Thank you.

--

**Ted Meyer, Planner**

City of Bethel

P.O 1388

Bethel, Alaska 99559

(907) 543-5306

[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)



Virus-free. [www.avg.com](http://www.avg.com)

**Subject:** Re: Courtesy Notice of Planned As-built Survey of the Hackney property  
**From:** Ted Meyer <tmeyer@cityofbethel.net>  
**Date:** Mon, 28 Oct 2019 15:37:19 -0800  
**To:** Jared Karr <Jared@bushlawyers.com>  
**CC:** Bill Howell <bhowell@cityofbethel.net>, Michael Gatti <mgatti@jdolaw.com>, "Mary B. Pinkel" <mpinkel@jdolaw.com>, Pauline Boratko <pboratko@cityofbethel.net>

Hi Jared,

There has been a date change regarding the as-built survey of the Hackney property. The surveyor notified me his crew will be in Bethel to survey on Thursday, October 31. Please pass this on to the Hackneys. Thank again.

Ted.

On Fri, Oct 25, 2019 at 5:43 PM Jared Karr <[Jared@bushlawyers.com](mailto:Jared@bushlawyers.com)> wrote:

I will pass this along to the Hackney's.

When will the City respond to my October 10 email and notice to the City in regards to an appeals hearing?

Jared

On Fri, Oct 25, 2019, 5:36 PM Ted Meyer <[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)> wrote:

Hi Jared,

We have received numerous and continuous complaints from multiple people that Mr. Hackney has placed various structures deep inside the City's 100-foot wide Right-of-Way, that includes a fence, five or six 4-foot boulders, a wood storage cabin, and container. Complaints also include the moving of a City stop sign deeper into the ROW.

In order to respond to these complaints, I have ordered an as-built survey of the property to determine the exact locations of these structures, and specifically for the recently-placed boulders, as they are both a safety and road maintenance issue.

The surveyors plan to perform the survey on Tuesday, October 29. They will not step foot on the Hackney property. Please pass this on to Mr Hackney. Thank you.

--

**Ted Meyer, Planner**

City of Bethel

P.O 1388

Bethel, Alaska 99559

(907) 543-5306

[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)

--

**Ted Meyer, Planner**

City of Bethel

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Bethel, Alaska 99559

(907) 543-5306

[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)



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## City of Bethel

Planning Department  
P.O. Box 1388  
Bethel, Alaska 99559  
(907) 543-5306

Jared Karr, Esq.  
Valcarce Law Office  
900 Third Avenue  
P.O. Box 409  
Bethel, AK 99559

October 28, 2019

### **RE: Hackney Appeal to City Planning Commission of City Planning Department Notice to Correct Violations**

Dear Mr. Karr,

This letter is to inform you that the Hackneys' September 9, 2019 letter appealing the City Planning Department's August 30, 2019 Notice to Correct Violations does not meet the requirements of Bethel Municipal Code 18.72.010(A).

Bethel Municipal Code Section 18.72.010(A) requires that individuals who appeal decisions or actions of the planning department specify (1) the grounds for their appeal and (2) the actions and findings that they dispute. The appeal letter does not meet these requirements.

The letter states that the grounds for the appeal "[are that] all construction and use of 175 Hately" was authorized by the former planning director. It further states that the actions and findings that the Hackneys dispute are "all." These stated grounds for appeal are inadequate.

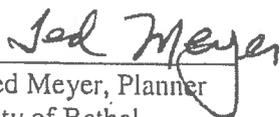
First, there is nothing in the record to support the Hackneys' position that the former planning director somehow permitted the construction which resulted in the code violations at issue. The initial approved site plan permit gave the Hackneys permission to "construct a 20-foot x 42-foot shop/garage/storage shed" and the addendum to the permit allowed for an increase in structural dimensions to "a 24-foot x 64-foot garage." There is therefore nothing in the record to support the argument that the construction of a bed and breakfast or other lodging units was ever permitted by the City.

Second, the appeal letter does not provide adequate notice to the City of the specific actions and findings that the Hackneys now seek to challenge. Rather, you state that the Hackneys dispute "all" actions and findings of the City. However, the City is entitled to know, prior to its appearance before the Planning Commission, which City actions and findings the Hackneys claim to be in error. While the City understands that the Notice of Violations itself is being

challenged, it is important for the City to know precisely why the Hackneys contend that the City has acted in error so that it can adequately prepare for the appeal hearing before the Commission.

Consequently, please provide an amended appeal statement which meets the requirements of Bethel Municipal Code Section 18.72.010(A) by November 4, 2019. Thank you.

Sincerely,



Ted Meyer, Planner

City of Bethel

PO Box 1388

Bethel, AK. 99559

907-543-5306

[tmeyer@cityofbethel.net](mailto:tmeyer@cityofbethel.net)

# VALCARCE LAW OFFICE

A LIMITED LIABILITY COMPANY

900 THIRD AVENUE  
P.O. BOX 409

BETHEL, ALASKA 99559

TELEPHONE: (907) 543-2744 OR (907) 543-HELP

TOLL FREE (888) 610-2744

TELEFAX 907 543-2746

EMAIL: [jared@bushlawyers.com](mailto:jared@bushlawyers.com)

JARED KARR, ESQ.  
HEATHER SIA, ESQ.  
JIM VALCARCE, ESQ.

*Bush Lawyers Serving  
Bush Alaska*

*Hand delivered  
by L. Strickler  
10/28/19*

October 28, 2019

City of Bethel  
Planning Department  
PO Box 1388  
Bethel, AK 99559

Re: October 28, 2019 letter and by Ted Meyer

In compliance with BMC 18.72.010, Dan and Dawn Hackney hereby provide notice to the City of Bethel that it appeals the decision of the planning director and the letter sent by the planning department on October 28, 2019.

**Grounds for Appeal:** The planning director ordered in an October 28, 2019 letter that the Hackney appeal's notice of September 9, 2019 was deficient, even though it complied with the letter of the law

**Actions and findings of the planning department that are disputed in the October 28, 2019 letter:** That the Hackney's need to submit an emended appeals notice.

The Hackney's provided notice to the City that it requested an appeals hearing seven weeks ago. It notified the City on October 10, 2019 that the stipulated stay on an appeal's process was rejected. It took the City 18 days to respond to that letter. This is after the City has notified them that they are facing an audit from the Finance Department and that the City is planning on doing a survey of their property based off of more harassing complaints. I caution the City in its further actions in regards to the Hackney's.

Once again, the Hackney's request an appeal's hearing on not only the August 30, 2019 letter but also the October 28, 2019 letter.

The Hackney's have complied with BMC 18.72.010 to the letter and expect the City to comply with the laws it made up.

A handwritten signature in black ink, appearing to be 'Jared Karr', written over a horizontal line.

Jared Karr  
Attorney for Dan and Dawn Hackney



## CITY OF BETHEL

P.O. Box 1388 Bethel, Alaska 99559  
907-543-1384  
FAX # 543-3817

October 29, 2019

Jared Karr  
Valcarce Law Office  
PO Box 409  
Bethel, AK. 99559

**RE: Public Hearing on Hackney Appeal to City Planning Commission of City Planning Department Notice to Correct Violations (Issued August 30, 2019)**

Dear Mr. Karr:

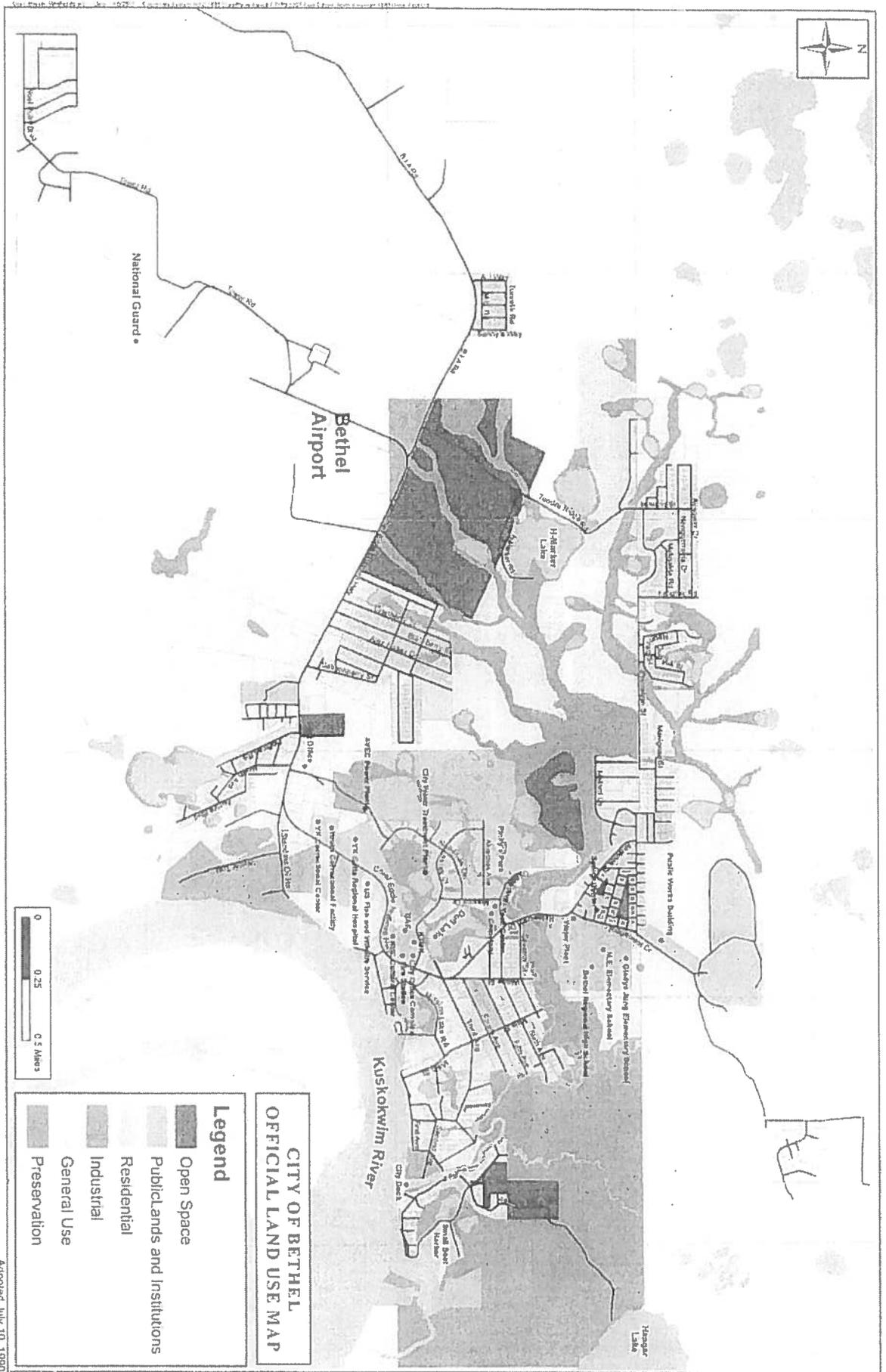
On October 10, 2019, you re-instated your appeal to the City of Bethel Planning Commission of the Planning Department's August 30, 2019 decision to issue a Notice to the Hackneys to Correct Violations.

Pursuant to Bethel Municipal Code Section 18.72.010(D), the City of Bethel Planning Commission will hear the Hackneys' appeal at its regularly scheduled meeting on Thursday, **November 14, 2019 at 6:30 p.m.** in the Bethel City Council Chambers at 300 State Highway in Bethel, Alaska. The Planning Department will hand-deliver packets of information relating to this matter to Planning Commissioners and to your office on November 8, 2019. If you have additional materials regarding the application or actions which you wish us to include in the packet, please deliver those documents to the City of Bethel Planning Department Office by 4:00pm on **November 4, 2019** so that we can include them in the materials.

If you or your representative plan to participate in the Appeal Hearing telephonically rather than in person, please let me know by November 8, 2019 so that I can provide you with the necessary call-in information.

Sincerely,

Ted Meyer, Planner



Adopted July 10, 1990



Nov 14 - 15

1 guest

Work trip

Price

Instant Book

More filters

Show Map

### No results

To get more results, try adjusting your search by changing your dates

### More places to stay nearby

These places to stay are just outside the current map area

ENTIRE GUESTHOUSE

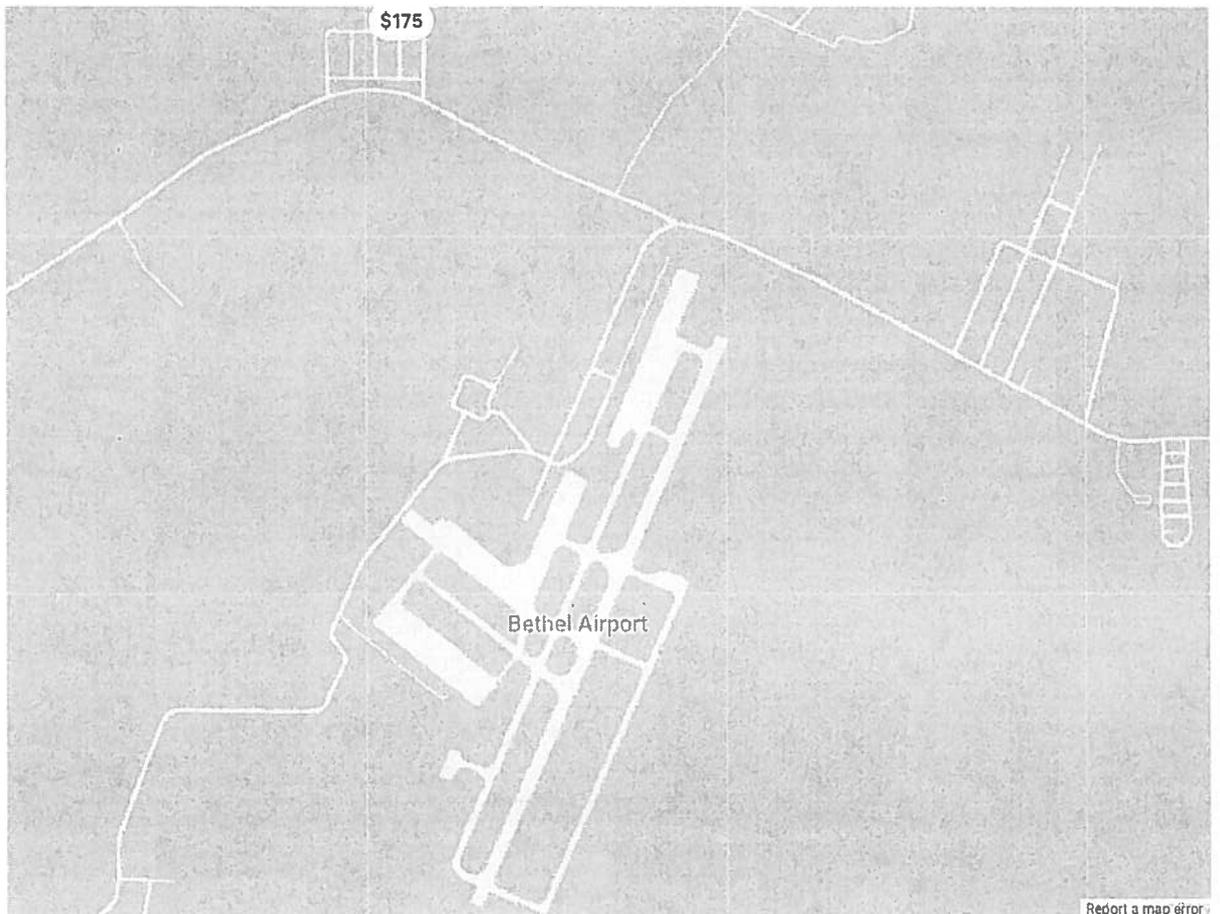
**Tundra Oasis**

2 guests · 1 bedroom · 1 bed · 1 bath



5.0 (9)

\$175/night  
\$198 total



Google

Report a map error





Nov 14 - 15

1 guest

Work trip

Type of place

Price

Instant Book

More filters

Show Map

Only 1 places to stay left for these dates. We recommend booking a place soon.

### 1 places to stay

ENTIRE HOUSE

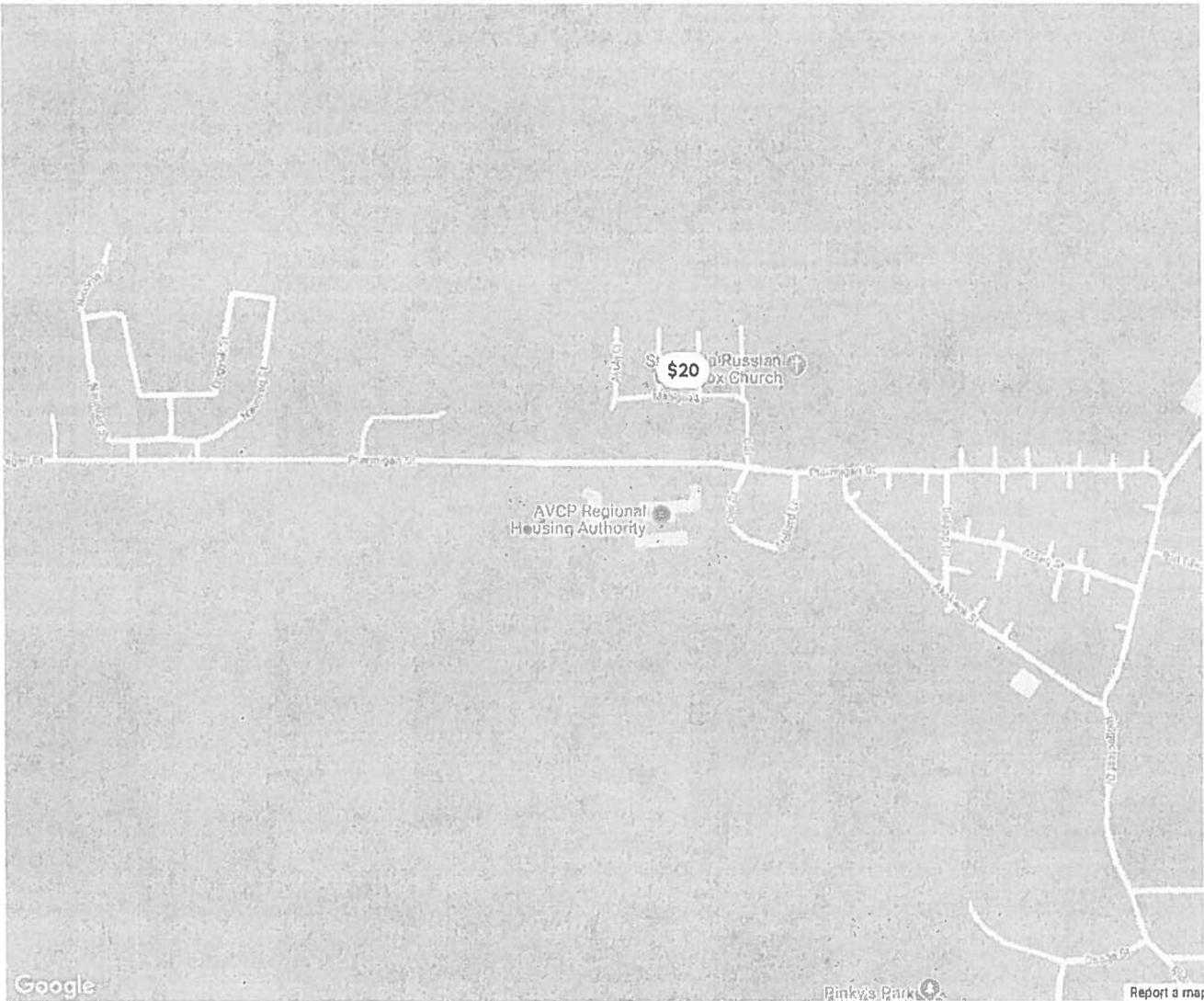


Clean, friendly and a great location

2 guests · 1 bedroom · 1 bed · 1 bath

No reviews yet

\$20/night  
\$23 total



Report a map error

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
AT BETHEL

SUBPOENA TO APPEAR/PRODUCE

To: Patty Burley  
DOB:  
Home Phone:  
Home Address:

Other Info: Kenai Borough Deputy Attorney  
SSN:  
Work Phone: 907-714-2120  
Work Address:

You are commanded to appear at the Bethel City Council Chambers ~~State Courthouse~~ to testify in the case of:

Case Name: Hackney Appeal  
Date: 11/14/19 Time: 6:30 pm Case No. ~~435~~ Hackney Appeal  
Court Address: 204 Chief Eddie Hoffman Highway, Bethel, Alaska. Courtroom: \_\_\_\_\_

If you fail to appear and testify as ordered, a warrant may be issued for your arrest. This subpoena shall remain in effect from the date you are required to appear until you are granted leave to depart by the court or by an officer acting at the direction of the court.

You are ordered to bring with you:

You are entitled to witness fees and (if you live more than 30 miles from the court) travel and living expenses. You are not, however, entitled to advance payment of these fees if this subpoena is issued at the request of the state, city, borough, Public Defender Agency or other court-appointed counsel. Contact the attorney's office listed below to arrange for payment of fees. You must contact the attorney's office before you travel if you want to be paid travel expenses.

This subpoena does not require you to appear anywhere except the court at the above address. However, please call the attorney's office listed below on the afternoon of the working day before your scheduled appearance to find out whether you are still required to appear, the time to appear and other instructions. Failure to call the attorney's office may make you ineligible for payment of witness fees and travel and living expenses.

10/31/19  
Date

Natalie Alexie  
Natalie Alexie, Clerk of Court

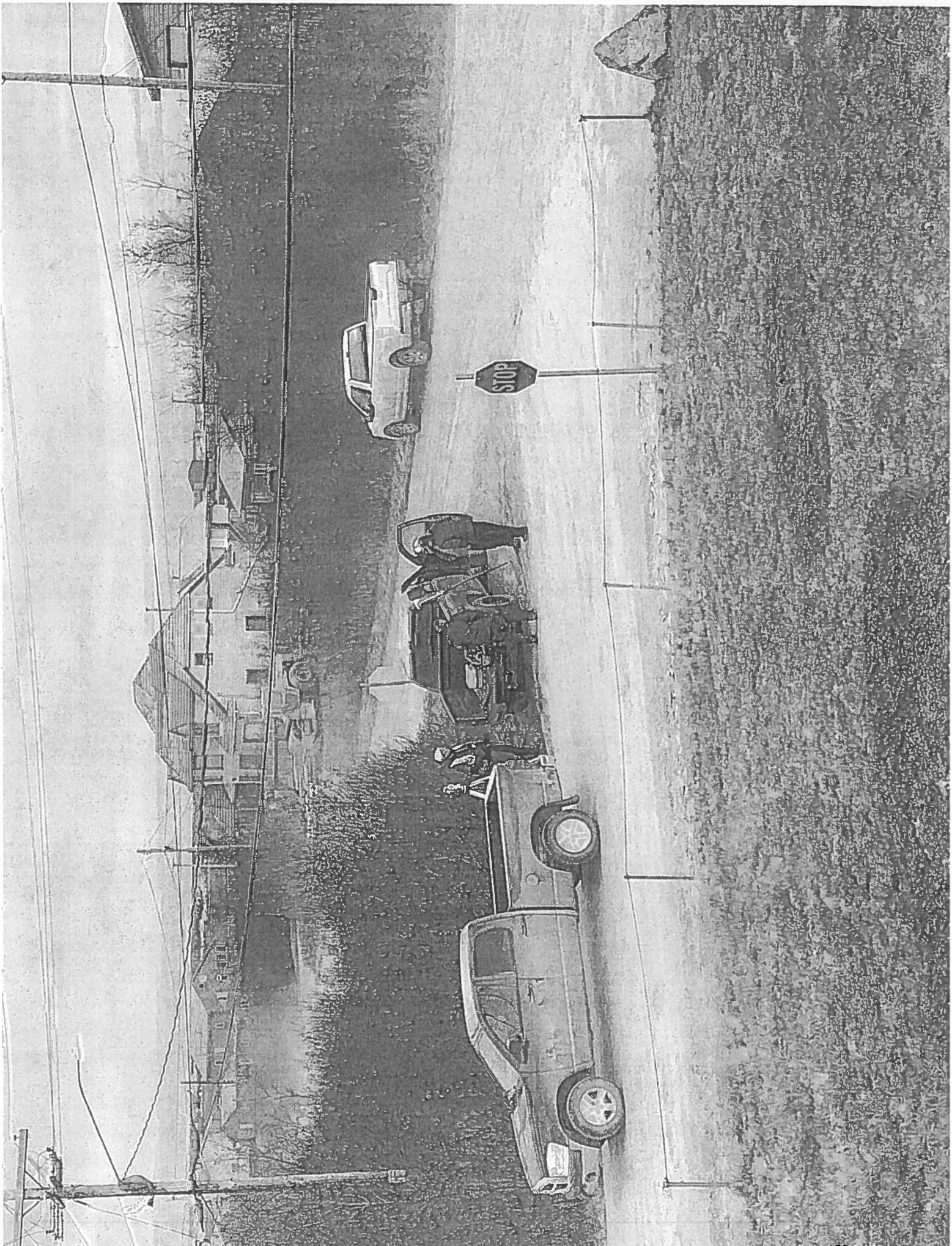
Subpoena issued at the request of:  
Jared Karr  
Attorney for Dan + Dawn Hackney - Valcarlos Law Office  
Address: Po Box 409 Bethel AK 99554  
Telephone: 907-543-2744  
If you have any questions, please contact the attorney listed above.

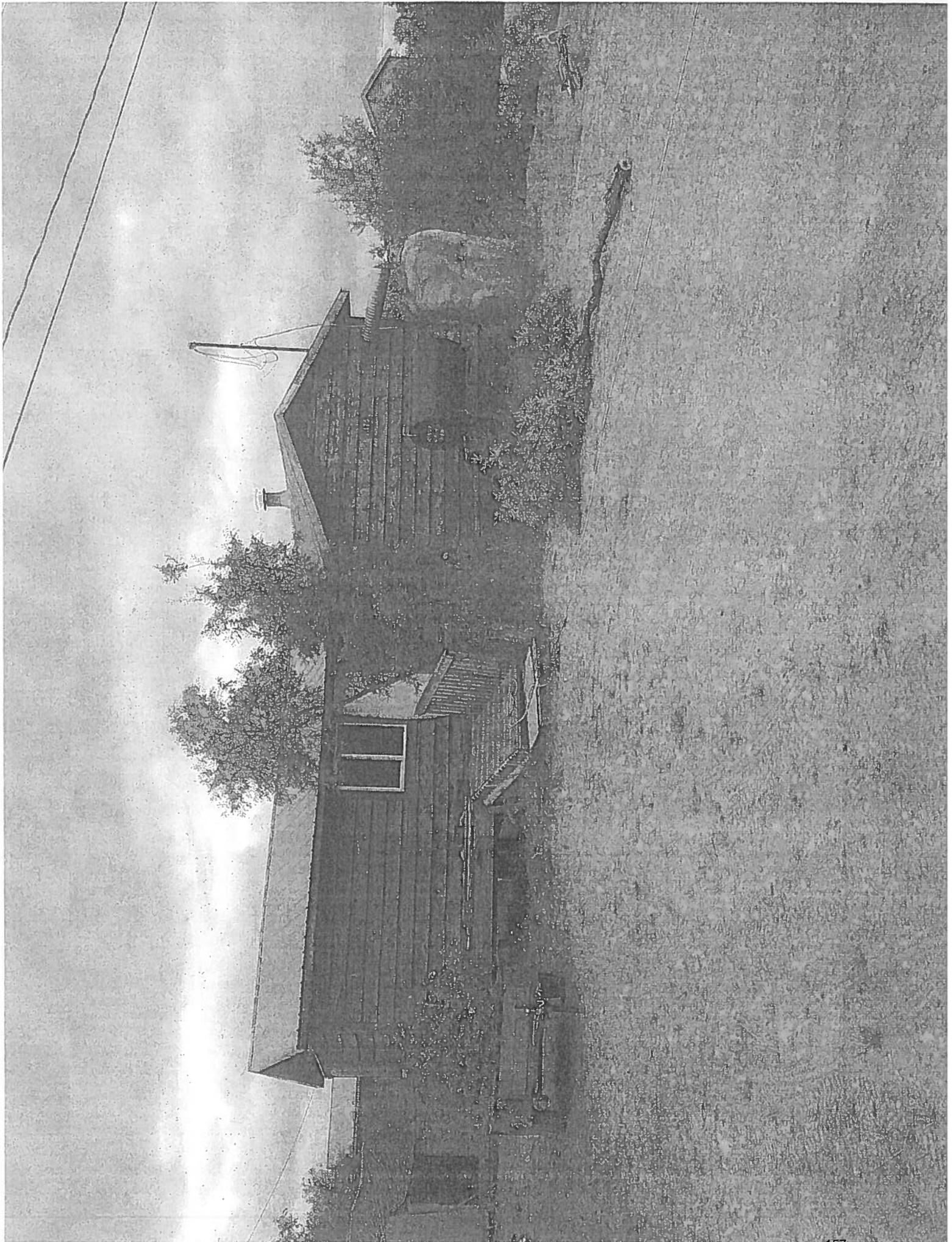


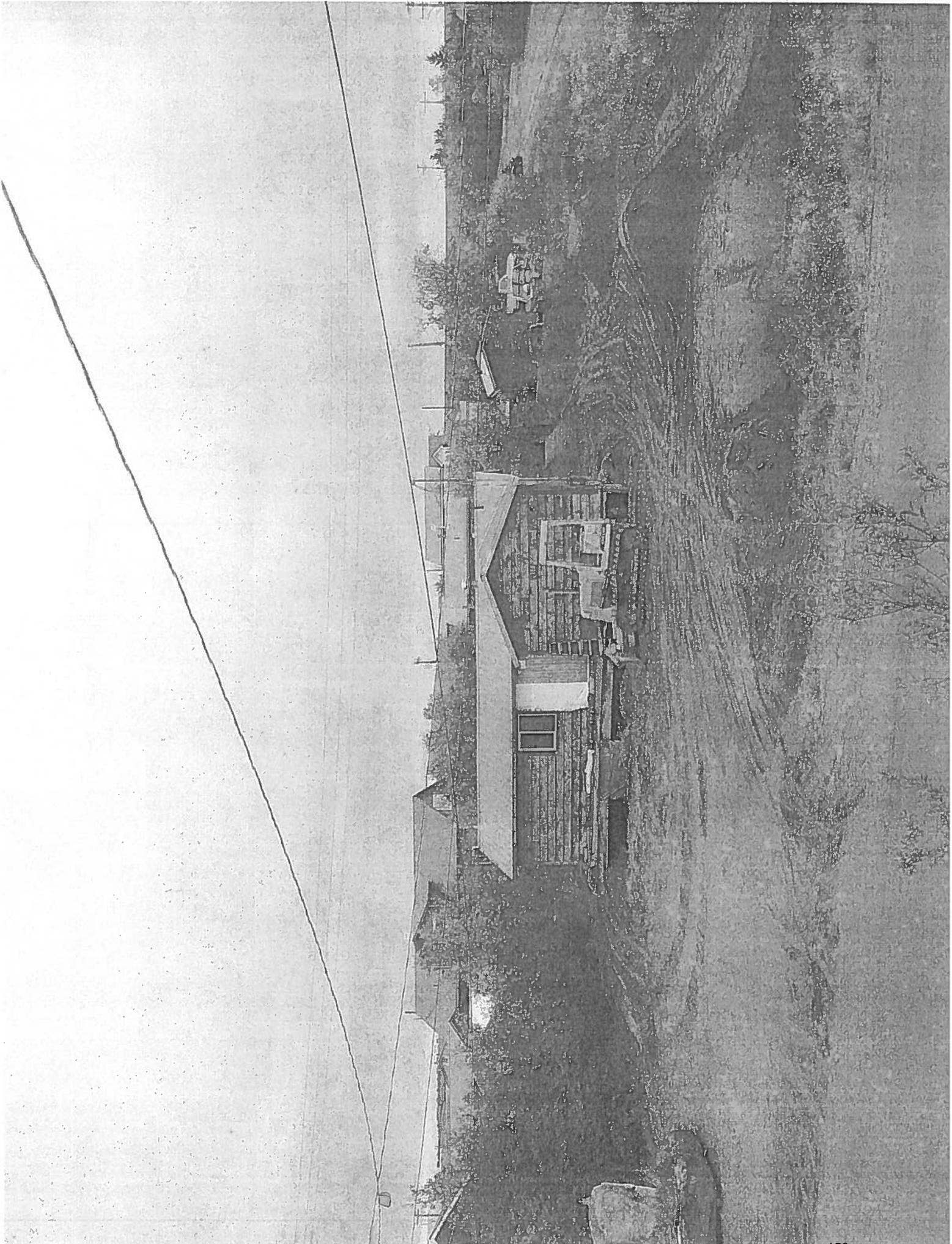
RETURN

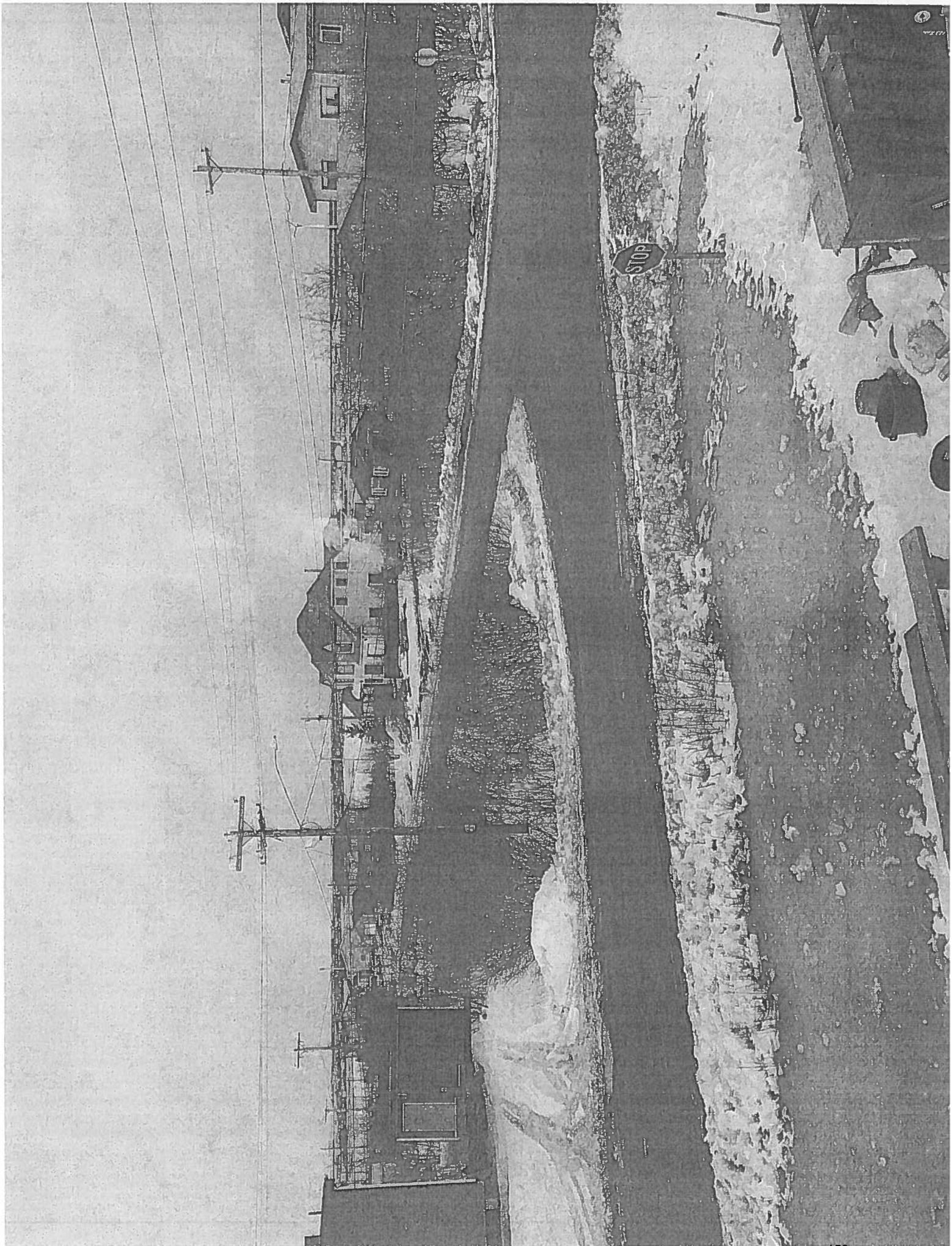
I served the above subpoena on Patty Burley, the person to whom it is addressed, on 10/31/19, 20 19, in Kenai, Alaska. I left a copy of the subpoena with the person named and also tendered mileage and witness fees for one day's court attendance, except as provided in Criminal Rule 17.

[Signature] Signature      Attorney Title      Jared Karr Type or Print Name











*Celebrating 50 Years of Service*

**CITY OF BETHEL**  
Managers Office

*William F. Howell III*  
P.O. Box 1388, Bethel, Alaska 99559  
Phone: (907)-543-2131  
Fax: (907)-543-2702  
Cell: (907) 545-4998  
[bhowell@cityofbethel.net](mailto:bhowell@cityofbethel.net)

DATE: November 04, 2019  
TO: Perry Barr, Mayor  
FROM: Bill Howell, Acting City Manager  
SUBJECT: City Manager's Report - October 20 through November 4, 2019

**Current Events**

- The last few weeks have been business as usual, managing day to day operations, attending meetings, dealing with personnel, planning and legal matters. Departments and Administration are busy preparing for winter operations. We are continuously improving City operations when and where opportunities present themselves.
- I worked closely with our HR and Finance Departments to fill three vacancies in the front office. Finance should be fully staffed in the next 10 days.
- Police Chief applications are being reviewed. A peer panel to select the new Chief is being formed under direction of HR and the Acting Chief of Police.
- I am encouraged by the internal promotion of two Public Work's employees for the Utilities and Hauled Services Foreperson positions. I congratulate Gary Watson and Clyde Erickson for assuming leadership in these positions. Their experience, knowledge and work ethic are a tremendous boon to City operations. I foresee continued improvement and increased efficiency in these departments through their oversight.
- The pool roof is still leaking. I am working with Public Works and Bethel Services Incorporated to apply for and complete warranty repair of the roof.
- I attended the Yuut Elitnaurviat Board meeting on October 30, 2019. Discussions included recruitment of local youth into trades, DHAT program and the soon to come Class-B CDL training program.

- On October 30, 2019 I met with the City Clerk and the City's attorney; Guess and Rudd for an update on the Kilbuck school site. A work plan for the cleanup is in the works.
- I am working with Patty Jones and Ashley Crace to continue Bethel's newest tradition, the second annual Christmas tree lighting. The three of us are coordinating the project with volunteers and a number of local entities. We are scaling the event this year to improve upon last year's success.

### **Ongoing Business**

- The City auction went well. Auction revenues exceeded \$37,000.00.
- DOWL is continuing structural assessment of the Public Works floor. A plan for repair is in the works. Copy of the structural report was sent to Council and is attached to this report.
- We are waiting for a draft of the Long Range Transportation Plan (LRTP) from DOWL.
- A Department Head meeting was held on October 31, 2019. The next Department Head meeting is scheduled for November 7, 2019 at 10 A.M.

### **Response to Council questions**

#### **Public Works Bldg.**

- Administration is researching water sewer grants and USDA grant/loans to fund construction of a new public works building. A legislative appropriation is also being considered.

#### **KUC Road Dip**

- Streets and roads filled the dip with gravel and bladed to grade.

#### **Code enforcement animal control revenue**

- Administration needs more time to research. Numbers for this period are decades old and not readily available.

#### **Amazon tax revenue estimates**

- Administration has requested this information from Finance. We will send out via E-mail when available.

## **Memorandum**

**Date:** November 1, 2019

**To:** Bill Howell, Acting City Manager

**From:** Bo Foley, IT Director

**Subject:** IT Director's Report

---



### **October 2019 Current Events**

- **Caselle Update:**  
During this month, I rolled out the latest major Caselle update taking us from version 2019.05.131 to version 2019.08.84.
- **Eforce Software Slowdown:**  
There has been a recurring problem with the Police Dept.'s CAD/RMS software lately where it is lagging quite badly and is wholly unresponsive. In investigating the issue, it appears that something the program is doing is tying up all of the system's physical resources. Currently, Arctic IT is assisting in helping me isolate the issue. Once we do that, we can determine the steps needed to fix it.
- **Council Member Rotation:**  
With the new council members rotating in, I have been working with the City Clerk to make sure all the new email accounts are created, the council tablets are swept of old data, and that the old email accounts of exiting members are deactivated.
- **City of Bethel Hardware Rotation:**  
It has been months in the making, but a contract for a lease agreement with Hewlett Packard was finalized after the City's temporary legal dept. managed to reach agreeable terms in the language of the document. With this, it will be taken to Council for final approval at which point I can finally pull the trigger on ordering new computers to replace our aging machines if approved.
- **Cyber Security Training Course:**  
The City's Grant Manager secured funding that will enable me to head into Anchorage for a week-long course detailing different aspects of Cybersecurity. The course will have me away from Bethel for a week mid-November.
- **Xpress Billpay Communication Problem:**  
The Utility Billing clerk informed me of errors she was getting when processing online payments. I looked into the error and thought it had been a missed configuration in the new firewall we had installed in September. I have been trying to work with Caselle, Xpress Billpay, and Arctic IT to alleviate the issue, but our attempts have been fruitless. Arctic IT and myself have been applying all the changes XBP and Caselle have asked of us, but we are still getting the errors when our end tries to communicate with XBP. We have little choice but to keep chipping away at this until we find the root of the issue and address it.

## **Memorandum**

**Date:** November 1, 2019

**To:** Bill Howell, Acting City Manager

**From:** Bo Foley, IT Director

**Subject:** IT Director's Report

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- **Business-As-Usual:**

Beyond the above-mentioned items, the month has been spent fixing or helping with run-of-the-mill trouble tickets such as email issues, printing/scanning, cellphone replacement, missing network drives, login problems, etc.

### **Future Plans**

- **Hardware Rotation:**

One of my immediate concerns is to obtain our new computer hardware and have it rolled out across the different departments before January 2020. This is due to Windows 7 reaching the end of its service life. This means that Microsoft will stop supporting it and, more importantly, stop releasing security patches for it. It is important that we have no computers on the network that run Windows 7 or earlier versions of Windows to avoid any security vulnerabilities exploited by those who prey on operating systems that are no longer supported. Unfortunately, due to the time it took for HP to offer us agreeable terms (four months), this goal might be realized later than I would like on account of the logistics.

- **Office 365 Migration:**

Currently, the City utilizes G-Suite, which is an office environment created by Google, in conjunction with Microsoft Office. G-Suite has tools to emulate the different Apps within Microsoft Office, but the Microsoft product is by and large the more accepted and sought software. The City users tend to only use a handful of the Apps available with G-Suite while electing to use the typical Office Apps such as Word, Excel, and Power Point. To help save the City money in licensing costs, I will be endeavoring, with the rollout of our new computers, to shift from G-Suite to Office 365. Doing so will combine the costs of the two software packages we are using into one. This should net savings of around \$15,000 a fiscal year.

- **Vacation:**

I have a small vacation lined up for the end of October along with a large vacation for the last month of the year in which I will be out of the country for about five weeks. I plan to have Arctic IT make a large onsite visit somewhere in that timeframe to begin the rollout of our new computers while also possibly helping to migrate users to the new Office 365 environment.

# PORT OF BETHEL

Post Office Box 1388  
Bethel, Alaska 99559  
Voice: 907-543-2310  
Fax: 907-543-2311



TO: Bill Howell, Acting City Manager  
FROM: Allen Wold, Port Director  
SUBJECT: October 2019 Managers Report

- **Small Boat Harbor**
  - Cleaning around the Harbor using Loader
  - Pulling out Floats, Anchors, and Buoy's.
  - Bilging out boats.
  - Pulling out sunken boats and putting boats into storage for the winter. Buttoning up SBH.
- **City Dock/Beach 1/Petro Port**
  - Customers are in and out of the Dock.
  - Vessels being repaired on Beach 1.
  - 2 mainline barges (AK logistic) 600 thousand lbs. (AML) 1.6 Million lbs.
  - 20 tugs and barges offloading and loading freight.
  - Tugs and barges being pulled up for winter storage.
  - 8 fuel barges at the Petro Port offloading and loading fuel.
- **Port Office**
  - Property Maintenance checking on building daily.
  - Ordered office furniture
  - Called the Coast Guard about a leak from a Landing Craft and a Barge in Steam Boat Slough.
- **Admin**
  - Monthly Storage billing for customers.
  - Getting together with departments for a surplus sale.
  - Training City Dock Attendants in heavy equipment. Our full time employee got their CDL permit.
  - Helping out with the Sealed Bid Auction (Surplus sale) 80 bids (37 items were bid on) Totaling \$37,680.62
- **Seawall**
  - Consistent clean up.
  - Put more Life rings up and made rescue poles for the seawall.
  - Port Attendants checking on lower access daily to make sure life rings and rescue poles are still in place (Safety Checks)
  - Removal of trees with the flail mower on Lower Access Road (ordered more blades for the flail mower)
  - Added gravel to trail on Lower Access Road
  - Graveled roads around Beach 2. 8 Loads of D1.
  - 10 tugs and barges parking along the Seawall to avoid the storms.



CITY OF BETHEL  
Fire Department

Celebrating 50 Years of Service

*Daron Solesbee, Acting Fire Chief*

*P.O. Box 1388, Bethel, Alaska 99559*

*Phone: (907)-543-2131*

*Fax: (907)-543-2702*

*dsolesbee@cityofbethel.net*

DATE: October 31, 2019  
TO: Bill Howell, Acting City Manager  
FROM: Daron Solesbee, Acting Fire Chief  
SUBJECT: Management Report, October 2019

**Current Events**

- Medic-5 is on the Alaska Marine Lines barge to Seattle. The barge is expected to arrive in Seattle mid-November, as the barge had to moor in Dutch Harbor due to bad weather and high seas.
- The Stryker Power Pro XT cot and Power LOAD have been ordered and will be shipped directly to Braun Northwest, Inc. to be installed in Medic-5.
- The State of Alaska DHSS has issued new guidelines and scope of practice for EMS services. EMS Instructors will receive training on these changes, as will all EMS providers. These regulations went into effect on September 23, 2019.
- City of Bethel Property Maintenance personnel are in the process of rebuilding the fire station's front deck. The project is almost complete, but Property Maintenance is waiting on more material for the cable railing.
- Salzbrun Drilling and Welding Services installed two pilings in the fire station front yard. One piling will be used for the relocation of the flagpole and the other for the installation of a new basketball goal. The flagpole was taken down and will be placed on the piling soon.
- The Department is in the process of creating the Bethel Arson Investigation Task Force in conjunction with the Bethel Police Department, Alaska State Troopers, and the State Fire Marshal's Office. The task force is awaiting approval to access and utilize the ATF's Bomb Arson Tracking System (BATS) Program as a case management system. This system will assist the task force with organizing investigations and provide more resources for investigators.

## **Community Planning/Preparedness**

- The Department is assisting administration with the cleanup and disposal of a release of Muriatic Acid inside a storage container at the pool. The storage container was secured by BFD personnel with a Knox padlock until City personnel can perform clean-up operations under the oversight of a qualified contractor. Unfortunately, EMI-Alaska was unable to meet our requested scope of work. This project is on hold until Spring 2020.
- The Department participated in the YKHC Emergency Preparedness Drill on October 9, 2019. This drill's scenario was a mass casualty incident that resulted from a wind-driven structure fire that spread to two adjacent structures. There were a total of 18 victims, including three simulated fatalities. The Department met its objectives, which were to initiate Incident Command, contain the simulated fire, rescue victims, triage casualties, properly communicate with partnering agencies, and provide prompt transport of victims to the YKDRH Emergency Department.
- Bethel Fire Department has been selected as a test site for the new Medicaid Supplemental Emergency Medical Transport (SEMT) program. Being part of this pilot will allow Bethel to shape the program to meet Bethel's needs. SEMT legislation (HB 176) was signed into law in June of last year. This law allows municipal ambulance services to receive reimbursement of 50% or more of the uncompensated cost (UCC) of providing ambulance services. City personnel are required to complete cost report spreadsheets based on FY18 and FY19 budget figures. The department is entering into a contract with AP Triton to provide this service to the City of Bethel for a fee of \$5,000.00 + 3% of annual earnings.

## **Training**

- On 10/01/19 at 7:00 p.m., the EMT Meeting was cancelled due to personnel operating at a large structure fire.
- On 10/10/19 at 7:00 p.m. a Fire Meeting was held at the fire station. Responders reviewed a recent fire incident and conducted refresher training on the Incident Command System
- On 10/12/19, staff and volunteers EMT's completed an AHA Advanced Cardiac Life Support course. This certification is now required for State of Alaska EMT-3's, according to the new State of Alaska EMS Regulations.
- On 10/15/19 at 7:00 p.m. an EMT Meeting was held at the fire station. Responders reviewed SCBA use and maintenance for use during Carbon Monoxide incidents.

- On 10/24/19 at 7:00 p.m. a Fire Meeting was held at the fire station. Responders reviewed salvage and overhaul skills and knowledge.
- The 2019 EMT-1 Course will start on Monday, November 4 at 6:00 p.m. Students have already completed their EMT Physical Ability Tests and Basic Life Support classes.

## Responses

- Between 10/01/19 and 10/31/19, the Bethel Fire Department responded to 149 EMS and 17 Fire incidents.
- On 10/01/19 at 3:05 p.m., Firefighters responded to H-Marker Lake Road for the report of a structure fire. Upon arrival, Firefighters observed a two-story log cabin with smoke and fire showing. Firefighters deployed several hose lines and set up a Fol-da-Tank for water supply. The fire was brought under control and overhauled. Due to safety issues and the deep-seated nature of the fire, responders were unable to be completely extinguish the fire. Staff remained on scene for a fire watch and extinguished a rekindle fire the same night. The structure burned for approximately four days. The cause of the fire was undetermined and the investigation is ongoing.
- On 10/02/19 at 4:18 p.m. Firefighters responded to Front Street for the report of a structure fire. Upon arrival, Firefighters observed a manufactured trailer home with smoke and flames showing. Firefighters deployed hose lines and extinguished the fire. One individual was arrested on scene and charged with Arson II.
- On 10/03/19 at 8:57 p.m. medics responded to AC Main for the report of a person who fractured their collarbone. The patient was assessed and transported to the hospital.
- On 10/03/19 at 11:37 p.m. medics responded to intersection of Seventh Avenue and Ridgecrest Drive for the report of a person who sustained human bites. The patient was assessed and transported to the hospital.
- On 10/06/19 at 5:19 p.m., medics responded to Cultural Center for the report of someone being stabbed in the hand with a knife. Medics found the wounds to be superficial and were able to clean and bandage the wounds. The patient refused transport to the hospital.
- On 10/08/19 at 2:45 a.m., medics responded to Prematernal Home for the report of a woman going into labor. The patient gave birth and medics assessed both, the mother and baby. They were transported to the YKDRH OB Department.

- On 10/14/19 at 4:06 a.m., Medics responded to Tundra Ridge for the report of a person with a prolapsed anus. The patient was assessed and transported to the hospital.
- On 10/15/19 at 6:28 a.m., medics responded to Ptarmigan Road for the report of a person with a self-inflicted gunshot wound to the head. The patient was assessed and transported to the hospital.

### **Budget/Financial**

- The department is operating within budget.

### **Grants**

- The Department was awarded \$5,141.00 from the Department of Homeland Security for a new Thermal Imaging Camera (TIC). Three quotes have obtained and a purchase will be made once DHS approves it. This TIC will be installed on the new ladder truck, Truck-1.
- The Department was awarded funding through the Volunteer Fire Assistance program for \$7,470, for three sets of firefighting turnouts. Due to Federal budget cuts to the VFA program, this award was cut in half. Only one set of structural firefighter turnout gear will be purchased with these funds.
- The Department applied for and passed the first round of approval for the Phase 18 Code Blue Grant for \$45,000 for the remount of Medic-5 to a new chassis. Funds have been awarded and will be reimbursed once expenditures are made.
- The Department was awarded \$7,500 in Code Blue grant funding for a new power stretcher for Medic-6. The YKHC EMS Department administers this grant and BVESA has committed matching funds. The stretcher is in service in the new ambulance. Invoices were submitted to BVESA and the grant will be closed out soon.

### **Staffing/Recruitment**

- The Department has one open Firefighter/EMT position, which is being advertised on the State of Alaska ALEXSys website and nation-wide on the IAFC's Daily Dispatch website. Five applications have been received to this date.
- The Department has a newly created Temporary Administrative Assistant position. The position description is now being advertised and should be filled soon.

- The Department hired Thomas Dymont as a full-time Firefighter/EMT. He is a current State of Alaska EMT-2 and was a former Summer Firefighter Intern. He is progressing through his Driver/Operator and Firefighter training.
- All employee evaluations have been completed to date.

**Vehicles & Equipment**

- The new ladder truck was repaired by a technician from Hughes Fire Equipment. Issues corrected were the nozzle nesting feature of the elevated master stream, aerial boom centering feature, and an upgrade to the Command Zone 3 aerial operating software.
- We have received the parts for the Class-A Foam system for Engine-4. Staff determined that a 1" valve was required, upon finding the ¾" valve shipped was too small for the current foam system plumbing. The foam system will be installed upon receipt of the properly sized valve.
- Department mobile and portable radios and pagers were repaired and tuned up by a technician from ProComm Alaska.
- Pump and aerial testing was performed by a technician from Underwriter's Laboratories. Engine-3 and Engine-4 failed their vacuum tests. Staff will adjust and/or replace packing material in E-3 and E-4's pump packing glands and repeat the vacuum test. Truck-1 passed its pump test, but failed the aerial test. See attached reports. Staff have contacted Hughes Fire Equipment for a technician to troubleshoot and replace parts on Truck-1's aerial device.

<b>FIRE DEPARTMENT VEHICLE STATUS</b>			
<b>Vehicle</b>	<b>Type</b>	<b>Year</b>	<b>Status</b>
Medic 4	Ambulance	1999	<i>(Backup ambulance) In service, Airbags repaired.</i>
Medic 5	Ambulance	2003	Being barged to Seattle, WA to be refurbished and remounted onto a new 2019 Dodge Ram 4500, gas chassis at Braun Northwest, Inc.
Medic 6	Ambulance	2017	<i>(Frontline Ambulance) In service.</i>
Engine 4	Pumper	2013	<i>(Frontline pumper) In service, Seat belt sensor silenced but still needing repair by V&amp;E. DEF tank heater malfunction parts on order.</i>
Engine 3	Pumper	1986	<i>Being outfitted as a tender and water supply unit. 3000 feet of LDH (future). (Poor overall condition needs replacement) Generator was remounted.</i>
Truck 1	Ladder Truck	2017	Outfitting, in service. See 2019 UL Pump and Aerial reports. DEF sensor malfunction (parts ordered by V&E)
Com 1	Pickup	2014	In service
Com 2	Pickup	2004	In service.



**TO: Bill Howell**  
**FROM: Christine Blake, Finance Director**  
**SUBJECT: November 2019 Managers Report**

**Staff**

Since the last Manager's report we lost three people in Finance (37% of our department). Fortunately, we have filled all three (although one is temporary), with two of them starting mid- November. The salaries we have in the budget are not adequate to attract and keep candidates that have the skills and abilities listed in the job descriptions, and I am carefully squeezing every dollar out of our personnel budget.

**Utility Billing**

The new Billing Clerk will start in a couple of weeks and our Asst. Finance Director will be doing the billing for October. We have had many calls regarding billing errors and are correcting them as the calls come in, so I expect we will have a better outcome for October's billing (better, but not perfect).

We will be including an insert in the October bills with information and instructions regarding online bill pay and paperless billing.

The new folder/stuffer arrived and we are waiting for Pitney to come out and provide training.

**FY19 Audit**

We are working hard to get accounts reconciled and final entries recorded and we will start pulling documents for the auditors this week. They will be on site November 12- 22. Due to the time we are spending on audit preparation, many of the FY20 numbers are not up to date.

**IRS Debt**

Last month we paid the outstanding penalties and interest related to FY17 and FY18 payroll taxes. The total was \$29,539. The penalties and interest were for late and missed payment of payroll taxes and the City tried unsuccessfully to work with the IRS to avoid the charges. This situation has had a negative impact on our RUBA score, and now that we are fully compliant with the IRS, RUBA will be rescoring us soon.

While working on this matter I learned from the IRS that we are looking at another \$21,100 in Civil Penalties for "failure to file W2's with willful disregard". The City has filed an appeal on the matter and we are waiting for the response. This has not yet impacted our RUBA score, and if our appeal is denied, we will need to pay this immediately.

## MEMORANDUM



DATE: November 4, 2019

TO: William F. Howell, III, Acting City Manager

FROM: John Sargent, Grant Manager

SUBJECT: Grant Manager's Report – November 12, 2019 Bethel City Council Meeting

### **Grant Award**

The City was awarded \$500,000 in a School Violence Prevention Program (SVPP) grant that the City applied for on behalf of the Lower Kuskokwim School District. The funds from the Department of Justice, Community Oriented Policing Services, will cover the cost associated with the purchase of a cell phone "panic button" alert application, exit door bar alarms, key fobs for all doors, and a "buzz-in" entry system with cameras, intercom, and door lock controls. The City and LKSD will develop a Memorandum of Agreement between the two entities that defines the roles of each in the grant administration process.

The Department of Justice received 598 SVPP grant applications in the nation-wide solicitation and approved 103 awards valued at \$32.5 million. Only two entities received awards in Alaska: City of Bethel and Fairbanks North Star Borough School District.

### **Grant Management**

#### Lift Station Improvement Project

The City is anxious to secure the grant agreement addendum from Village Safe Water valued at \$1,000,000 to cover increased costs associated with the Lift Station project. The City's Best Practices score (RUBA score) of zero in the "Payroll Liability Compliance" category stopped all VSW progress on the City's behalf. The City has since paid its taxes to the IRS and received documentation thereunto appertaining. State reviewers are rescoring Bethel's Best Practices conduct as a courtesy.

#### The Avenues Project

The City signed a second scope of work document to have DOWL perform predevelopment services on the Avenues project. DOWL plans to send surveyors to Bethel this week.

### **Audit Preparation**

I copied and emailed to Carmen Jackson, CPA, all the City's grant reports, progress and financial reports, and supporting documents for all active grants during FY 2019. I continue to answer questions and provide information in the interest of audit prep.

**Purchasing Agent Duties**

RFP for Vending Machines

I reviewed a Request for Proposals to allow a vending machine company to install vending machines in select City buildings. The RFP asks prospective vending machine companies how much they propose to give the City for the privilege of vending machine placement. Final review and issuance is expected soon.

Dumpsters

The City received City Council approval to negotiate and execute a contract with Wastequip for the purchase of 18 dumpsters for \$39,954. Shorty’s Shop relinquished their tentative bid award, so the City selected the second best bid submitted for award. The City and Wastequip signed the contract. The dumpsters will be manufactured and shipped to Bethel on the first barge of 2020.

AP Triton

I continue my work on the AP Triton contract so that the City can purchase financial services that result in the City receiving Medicaid reimbursements for ambulance transports.

**Administrative Duties**

I presented the Budget Modification form and how to use it to those who attended the Department Head meeting held on October 31, 2019. I emailed the newly developed template to department heads after the meeting. I received direction from the Acting City Manager to develop a Budget Mod policy/protocol.



**City of Bethel  
Grant Summary  
Fiscal Year 2020**

**Preparing**

Sponsor	Name	Products/Services	City Depts. (Partners)	Date	\$ Grant \$ City Match
Rasmuson Foundation	Tier 1 Grant	Feasibility Study to construct a gym to YK Fitness Center	Public Works	July 2020	\$25,000 0
Bethel Community Services Foundation	Community Grant	Feasibility Study to construct a gym to YK Fitness Center	Public Works	July 2020	\$15,000 0
United States Dept. of Agriculture-Rural Development	Water and wastewater grant/loan program	Piped water and sewer system in The Avenues subdivision	Public Works	Target 1/31/19	\$13,321,000 \$306,000

**Submitted in Fiscal Year 2020**

Most recent first

Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant \$ Match
AK Dept. of Transportation	Statewide Transportation Improvement Project Nomination 2020-2023	Akakeek, Ptarmigan, Delapp Streets Heavy Use Road Improvement Project	Public Works	9/15/19	\$3,034,424 \$494,886
Village Safe Water Pgm, Dept of Env. Conservation	Sewer Lagoon Improvements Grant	New lagoon pump & new skiff with trailer	Public Works	8/13/19	\$155,238 0
AK Dept. of Transportation, Transit Division	Community Transportation Grant	Public transit system operations	Public Works	12/25/19	\$316,832 \$86,381

**Approved in Fiscal Year 2020**

Most recent first

Sponsor	Name	Products/Services	City Depts.	Date	\$ Grant \$ Match
U.S. Department of Justice, COPS Office	School Violence Prevention Program	Alert button mobil phone ap, exit door bar alarms, card reader door entry system, controlled front entrance.	Admin.	11/12/19	\$500,000 \$166,667 LKSD
AK Dept. of Env. Conservation, Village Safe Water Program	Water and Wastewater Program	Design, build, and install two electric panels for City Hall and City Shop and complete current rehab. of Main Lift Station.	Public Works	8/30/19	\$279,827
Alaska Dept. of Health and Social Services	Community Service Patrol Program	Community Service Patrol Program	Public Works	7/1/19	\$323,081 \$32,308 in-kind
AK Dept. of Env. Cons, Village Safe Water Pgm.	Infrastructure Protection Funding	Replace heat trace and/or electric panels on sewer line from Airport to FAA.	Public Works	7/19/19	\$137,700 \$22,500 in-kind
Alaska Division of Homeland Security and Emerg. Mgmt.	State Homeland Security Program Grant	Thermal imager & fencing around tank at water treatment plant	Fire	8/19	\$49,141 0
<b>Total</b>					<b>\$1,289,749</b>

30 September, 2019



# CITY OF BETHEL

Post Office Box 1388  
Bethel, Alaska 99559  
Phone: 907-543-2047

TO: City Manager  
FROM: Human Resources  
SUBJECT: October 2019 Manager Report

DATE: 31 October 2019

Position	Number of Vacancies	Number of New Applications	Number Hired During Period	Number of Vacancies Remaining	Applicants in Review
City Manager	1	0	0	1	0
City Attorney	1	0	0	1	0
Police Chief	1	0	0	1	2
Driver Hauled	6	2	0	6	2
Driver-Landfill	1	0	0	1	0
Water Operator	1	0	0	1	0
Mech-II	2	0	0	2	0
<b>TOTALS</b>	<b>13</b>	<b>2</b>	<b>0</b>	<b>13</b>	<b>4</b>

## Applications and Hiring:

**\*\*Two candidates for Chief of Police have been selected for interview, to be conducted during the 18-22 November time frame\*\***

HR received a total of 7 **Applications** in October

*From those 5 Applicants:*

- 1 Water Foreman was selected internally
- 2 CDL candidates were selected for OJT training through a partnership with the State of Alaska.
- 1 internal selection was made for a vacant account specialist that became vacant and simultaneously filled at time of this report.

We currently have 7 job positions with a total of 13 openings, with 4 applications under review.

## BEACON Programs:

30 September, 2019

1 – Pre-employment BEACON test was conducted during the month of October

**Reports of Injury:**

There was one report of injury

**Administrative Actions:**

Multiple routine PAR actions were executed.

Multiple yearly performance evaluations were submitted and processed.

**Employee related announcements:**

**Training, Conferences and Seminars:**

HR Manager attended the yearly APEI conference in Anchorage 22-24 October and received continuing education training in management and hiring programs.

James P. Harris  
Human Resources Manager

*“Deep Sea and Transportation Center of the Kuskokwim”*

To: Bill Howell, Acting City Manager

From: Ted Meyer, Planner

Subject: October Manager's Report

Date: November 1, 2019

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## **SUBDIVISIONS**

### **Blue Sky Subdivision**

The performance bond has been issued and signed by Blue Sky. We anticipate delivery shortly.

### **ONC Ciullkulek Subdivision**

Met with ONC staff and their consultants while teleconferencing with our consultant, DOWL staff on October 15 to discuss the remaining punch list of tasks identified in the subdivision agreement. DOWL gave the green light for ONC to put the project out to bid in order to acquire the required insurance data. The Notice to Proceed for road construction will be issued only after our consultant gives the thumbs up and the subdivision agreement is signed by the city manager.

## **SITE PLAN PERMITS**

Six site plan permit applications were approved during the month of October.

## **MAPPING**

The Planning Department received the updated 2018 aerial imagery on October 1 for the Bethel Address GIS program application received earlier in the summer. The imagery enhances our work as it visually includes all construction that has taken place since 2002 (the date of last mapping project).

## **CODE ENFORCEMENT**

Staff continues to work with the attorney on a code enforcement issue. The issue will be heard by the Planning Commission on November 14.

## **LAND USE SURVEY**

Staff performed a windshield land use survey of Kasayuli in preparation for a zoning hearing with the Planning Commission later this year. This will bring the subdivision into compliance with the City's zoning code.

## **CONDITIONAL USE PERMIT APPLICATION FOR MARIJUANA LICENSE**

Staff developed a CUP application strictly for marijuana.

## **US ARMY CORPS OF ENGINEERS VISIT TO BETHEL**

Have been coordinating with the Corp about a tentative visit to Bethel and a November 14 meeting with the Planning Commission about the City's Wetland General Permit Program. They will confirm the date this week.



William Arnold, Public Works Director  
1155 Ridgecrest Drive  
PO Box 1388 Bethel, AK 99559  
P: (907) 543-3110  
F: (907) 543-2046  
warnold@cityofbethel.net

## **MEMORANDUM**

**DATE:** 10.31.2019  
**TO:** Bill Howell, Acting City Manager  
**FROM:** Bill Arnold, Public Works Director  
**SUBJECT:** Manager's Report – Public Works Department

### **Programs/Divisions**

**Hauled Utilities:** Foreman is out on Pre-Approved PTO

**Utility Maintenance:** 6 alarms on residential lift stations were responded to. Multiple issues with grinder pumps, heat trace, and float systems.

- Monthly meter reading and service connections were completed
- Clean up and organization of shops and vehicles.
- 6 residential lift station repairs
- Power restored to heat-trace on Owl St and 6<sup>th</sup> ave. Heat trace turned on
- Line flushing and leveling activities on low-flow and plugged sewer lines. Non-compliance reports were filled out per DEC requirements.
- Sewer Lagoon discharge is complete and samples are being sent away for analysis.
- Institutional Corridor: 1 inch ball valve cracked and leaked. Repaired.
- Bethel Heights shut-down was complete. 24 corp-stops, 3 new residential tie-ins, and replaced 7 hydrant valves and 8 drain valves.
- Glycol arrived and we began putting it in storage.
- Winterized lagoon pump.
- Vango contractors arrived 10/21 and replaced old heat-trace along highway and installed heater in chemical connex. Complete 10/28
- Daily safety meetings.
- City hall lift station failure. Pulled grinder pumps and cleaned them.
- All 3 Utility Maint. Trucks are having issues that require repairs. Several of these are major safety issues. Continue to work with V&E to repair them, but some issues are arising due to 2 of the vehicles are more than 10 years old.

### **Property Maintenance:**

- PW Building
  - Fire sprinkling system NOT in operation. Dry line system was charged with water and leaks developed. Frontier Fire contracting inspected damage and is providing quotation/estimation to repair system. Also a compressor will need to be ordered to replace the failed dry system failure currently in place.
  - South Bay roll up door entrance closed. NO USE. Serious problems exist within the

flooring. As mentioned in manager report early 2019. PW building floor and foundation are experiencing issues. During an inspection, building maintenance discovered broken joists, brackets, support flooring and gusset beams and substantial wood rot. Engineering firm completed an inspection of the building and has provided a preliminary memo summarizing the findings that will be outlined in greater detail on the engineering report. In the meantime a section of the South Bay has been closed to use until a remedy plan can be developed.

- General preventative maintenance on the used oil furnaces has begun in preparation for the colder season approaching.
- Several programming issues were discovered with new boiler install. Contractor remedied the issues and is monitoring.
- City Hall
  - Parking lot paving project complete. Front entrance (Stairs and Handicap ramp) replaced and operational. Open to public use. However, the new parking lot is already showing signs of settling and some adjustments of the ramp and stairs will be needed often until the settling subsides. Support pads will need to be adjusted to contact ground as parking lot settles.
  - Temporary parking lines are being painted to determine functional layout for permanent painting of parking, loading and unloading, fire line and handicap markings/lines. Paint and paint machine has been rented from Anchorage. Machine arrived, paint ordered and arrived. Need dry day with warmer temperature to complete the project.
  - Window closures on most windows throughout the building are non-operational and will need to be replaced. Quotation requested for the correct arm length for closure. Lumberyard not able to supply the correct length. Will need to reach out to Spenard Builders for correct parts.
  - Boiler general preventative maintenance service complete.
  - Air furnace needs cleaned and tune up.
  - Glycol in City Hall system will need a full replacement this winter. Awaiting order of glycol and other time sensitive summer projects to be complete before this task.
  - Air trap auto vents (vacuum breaks) installed in high points between City Clerk office and HR office to prevent air lock in that area..
  - Troubleshoot back door opening issue to find the striker plate and locking mechanism were off center by a small amount. Repaired. Door in normal operation.
- Court House
  - **Dry Sprinkler System:**
    - Dry system is in NORMAL operation minus ONE isolated sprinkler head located on the outside of the building to the left of the front main entrance. Frontier Fire Contractor inspected the damage and is providing estimate to make system in full working order again.
    - The dry system has a small leak in the system piping just above court room 4. Leak is temporarily fixed and holding. Static air pressure is remaining constant with additional help from the fire system air compressor. A plan is

being developed to have the dry system evaluated for replacement and repair Fall/Winter 2019 by a contracted service. Pressures checked daily.

- Frontier Fire contractor arrived to complete onsite inspection and recommend repair. Contractor will be providing an estimation and quotation for repair.
- **Water leak damage remediation survey:**
  - This will need to be planned out after time sensitive summer projects are complete.
- Port Office Building
  - The aircon in the server room is non-operational. Original installer contacted about warranty work to the system. Eric Middlebrook (Local HVAC contractor) has been contacted by original installer to complete the work. TBD
- Port Dock Warehouse Building
  - Roll up Door on East side was accidentally destroyed by a customer who drove into the door. Driver provided insurance information. Materials to repair were ordered and contractor technician scheduled to complete the work. Payment for the damage will need to be coordinated with the financial department or Port Department.
- Old “Bus Barn” Warehouse Building
  - The foundation is failing
  - Man door is no longer accessible as the floor and door jam are being severely affected by the foundation movement.
- Log Cabin
  - No new updates. Building is in NON USE status. Water disconnected.
  - Graffiti and vandalism are a continuing constant problem.
  - Kids consistently climb the building to get on the roof.
  - Foundation has settled enough that the entrance closest to the ONC multipurpose building is jammed itself and will not operate.
- YKFC - Pool
  - Both Boilers in good working condition. Minor adjustments being made now to have similar cycles per day on each.
  - Reports of roofing materials flapping freely in the wind. Area inspected. Ordered materials needed to repair.
  - Air mover on west side the pool deck has failed. New fan ordered and replaced.
  - Roof leaking during rain and wind. This is a recurring issue and needs to be address by city leadership and the original installers/constructors. Stacey Reardon has videos and photos to show the problem. Bill Arnold has been notified, PnR committee has been informed. IT IS NOT CONDENSATION DRIPPING FROM THE CEILING. The locations of the leaks are consistent dependent on wind direction, speed and rain level. Multiple reports of this issue during this month.

- Police Department
  - Periodic low fuel level alarm activation for the emergency power generator. The issue has been isolated to a set of terminals outside the building that get wet and short causing a false alarm. The alarm will short and activate when the weather is rainy and windy.
    - This has been addressed multiple times including with the original installer but continues to occur.
    - We've had the electrical contractor troubleshoot. No discrepancies found. Perhaps the original ONSITE GEN contractor will need to be involved.
    - VnE department has been made aware and is also troubleshooting.
  - Boiler #2 (Right side) had a firematic valve failure and went into lock out from lack of fuel flow. This is a fire prevention device and can be replaced. They are known to fail/close occasionally.
  
- Fire Department
  - BFD front entry replacement project in progress.
    - Significant amount of water and dry rot was discovered. Acting City Manager, Chief Howell requested local contractor repair the rotted areas. All work on the new deck is on hold until the contractor completes the work. Once complete, City Maintenance will resume on the rebuild.
  - Rear deck has been repaired and leveled. Temporary set of stairs has been placed until Front entrance is complete. Then City Maint, will focus its efforts on making new rear steps.
  - Paring lot has large puddled areas from ground settling. Placed gravel and spread out evenly to prevent large puddles of water to build up.
  
- Bethel Heights Water plant
  - Both Main boilers are online and operating for winter. Minor service needed. Small boiler placed in off status for winter.
  
- City Sub Water Plant
  - Minor adjustments and repairs being made to the A and B loop glycol line returns and supply. Pump boiler pressures up with additional glycol and brought boilers to online/operational status for winter.
  
- Teen Center
  - New Push bar exits installed on Teen center back doors.
  - Leaking water valve found and replaced during building checks.
  - Run gutter was vandalized on building. Completely removed. New elbow for down spout installed. Down spout remaining to be installed.
  
- Senior Center
  - Boilers inspected and prepared for fire up. Building has three boilers ready for operation. Currently one boiler is being utilized to keep the building from developing a moisture/humidity issue. AS the temperature drop we will bring more boilers online to prevent freeze up.

- Reports of children gaining access to the building has become more prevalent. Evidence of kids playing around, under and on top of the building is present.
- New windows have been found broken or cracked.
- Provided building walkthrough for potential customer interested in converting the building into a laundromat.

### **Parks and Recreation:**

- Parks and Rec in General
  - Park and Rec activities as a majority ceased Oct 1<sup>st</sup>.
  - No employees for Parks and Rec.
  - When maint staff are available, rounds of the parks are being conducted.
    - Identified problems and needs for repairs will be prioritized accordingly and done if possible.
  - Same as above for boardwalks.
    - Identified areas for level and board replacement are being prioritized.
- Projects so far, more to be considered.
  - All play parks
    - General maintenance and grounds upkeep
    - Trashcan repair/replacement
    - Ground cover/chips upkeep has been halted for winter also out of chips.
    - Equipment repair and maintenance
  - Pinky's Park
    - Potential Softball field refurbish/re-sod/re-seed in discussion
    - Potential dugout repairs, repaint (Moved to Next year project)
    - Bleacher maintenance (Moved to Next Year project)
  - Soccer Sports Field
    - Completed - Temporary fencing to prevent field traffic
    - Completed - Hydro Seed and ground aerating completed
    - Completed – Bleachers On site
    - Completed – Paint concrete blocks separating field from parking
    - Completed – Portable bathrooms on site
    - Completed – Bike rack ready to be moved to location and installed
    - Completed - As needed agreement made for Maintenance contract options for field with Codman Services
    - Fall/Winter Build - Build and place information bulletin stand at location
    - TBD – Funding for permanent fencing. Quotations received for two options. Shipping costs equal or greater to the materials cost.
  - Airport Cemetery (on Hold status)
    - Requested quotation for additional fencing
    - RFP initiated for hydro seeding proposals
    - TBD - Installing additional fencing
    - TBD - Hydro seeding expanded sections

- Boardwalks
  - Completed - Trial Lighting pole ordered
  - Completed – Trial Solar Lighting fixture received
  - TBD – Install the trial solar lighting
  - General maintenance and upkeep
  - Vegetation trim back
  - Way finding signage
  - Location marking signage project.
  - Leveling boardwalk
  - Board replacement as needed
  - Trash can replacement as needed
  - Benches and sitting areas repairs

### **Road Maintenance:**

Streets and Roads replace driveway culvert in 1009 BNC Subdivision, which was crushed by water and sewer trucks. This culvert was not draining water in the spring properly due to being crushed and now that it is fixed, it should not be a problem anymore.

Streets and Roads is also done with mixing road salt sand at the north side of city shop for our road sander. We mixed 48 bags of salt and 15 bags of calcium chloride into this pile.

Streets and Roads hauled in sand from city sand pit to build up Jacob’s Way, Swan Court, and Yukon Court. After that was done we capped them off with D-1 gravel.

Streets and Roads used the 324E excavator to dig up the 616 feet of asphalt on Ptarmigan Street and Tundra Ridge Subdivision, between 9114 and 9123. Then, we hauled road sand to bring it up to level, and capped it off with D-1 gravel.

Streets and Roads hauled in road sand to build up Mission Lake Road and installed a seawall culvert pipe across Mission Lake. This road has been sinking, because of this, it has been muddy, and has washed out during the spring thaw.

### **Vehicles and Equipment:**

For V&E: business as usual, Fleet in, hopefully Fleet out. New water truck, totem steamer and 950M came in on the last barge and have been put into service except the steamer which is pickled and put away for the winter.

### **Transit System:**

October 1-31, 2019 the Bethel Transit System transported 2681 passengers, 290 of those riders had a disability and 237 were elders that paid the regular trip fare. 820 passengers used the ONC monthly bus passes, senior and caregivers. Revenue for the month was \$2467 ONC Monthly Passes, \$1206 TWC Trip and Day passes, and \$2227 regular trip passes, day passes, and monthly passes. The average daily ridership is 100 – 125.

There are two drivers, Sally Evans, who is a full time driver, and Brenda J. George, is a part time driver.

The new bus arrived on the last barge. City Shop, Jake Thompson, City Shop Foreman, went down and did the acceptance inspection, 12 pages, and brought it up to the Transit Bus Barn. I put the Transit LOGO decals and the new studded tires on. We are still waiting for the required paper work so we can get the license plates and Tags. As soon as we do, we will start using it.

Currently our main bus is 5 years old and has 163,000+ Bethel miles. We had requested another new bus in the FY 20 grant, City Council approve it, and now we are waiting for the State /DOT to approve it. As soon as they do, we would like to get it ordered so it is on the first summer barge (2020) and not the last one.

The State / DOT has not upload the FY 20 Billing Summaries, on BlackCat, and we not able to submit them, July, August and September, until they do. Hopefully next week. We have submitted the National Transportation Data report, the Title VI Nondiscrimination Program Plan and signed FY2020 Transportation Grant acceptances.

We have taken off the summer tires, three buses, and put the winter studded tires on. Bus 438 and 439 have last years studded tires and the new bus will have new studded tires.

### **Landfill / Recycle Center:**

Last month we got all the debris from YKHC demolishing the North Wing. This month, we got all the debris from YKHC remodeling. Both were huge amounts of debris. In order to deal with all of this debris, we simply pushed it back and then had Randy from Streets and Roads bring the excavator up and mash it all down so that next spring we can cover it with sand.

Streets and Roads has hauled a great deal of cover material and sand for our soon to be salt sand pile, so that we can cover daily in the winter.

We got our new 950 loader on the last barge. What a delight to get that. We want to thank everyone that had a part of getting that piece of equipment. We have needed newer equipment for a long time. Thank you everyone.

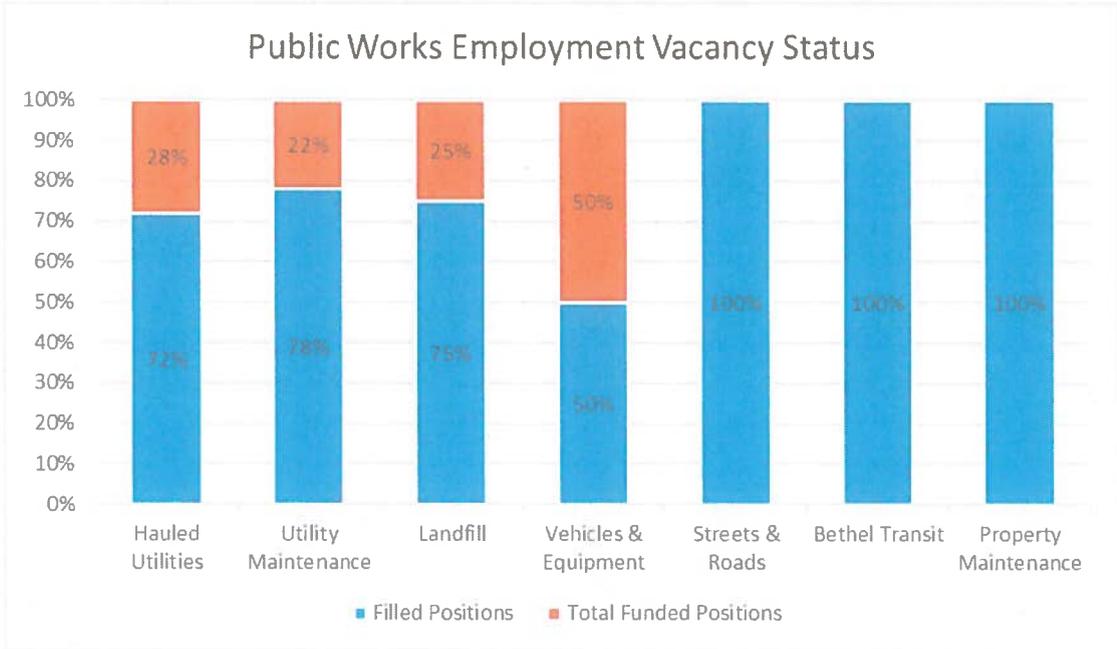
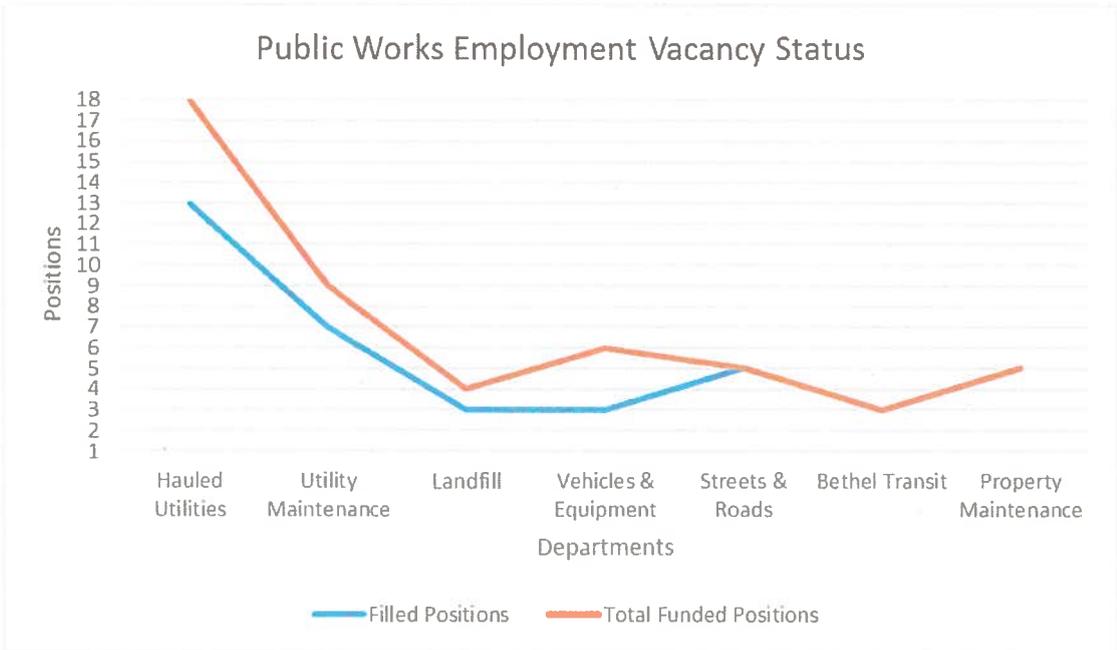
### **Water Plant Operations:**

- Bethel Heights Water plant
  - Electrical contractor reviewing future SCADA system, 52 foot tower installed for SCADA commutation to City Sub main computer .Winter heated loops turned on and inspected.
  - Boilers inspected and came on online for winter season.
- City Sub Water Plant, electrical contractor installed 52 foot tower for future new SCADA system.
- A/B loop glycol lines charged and new air relief valves installed.

**Institutional Corridor Update:** No new service connections. 1In ball valve broke and leaked. Repaired.

### **Staffing Issues/Concerns/Training:**

Chart updated: 10/31/2019



# CITY OF BETHEL POLICE DEPARTMENT



## October, 2019 Monthly Report

### Personnel:

Our recruit attending the Department of Public Safety Academy in Sitka, Alaska is continuing to do well and is on track to graduate November 15. Once he graduates he will begin his field training with a certified Field Training Officer. Our new CSP's are on their own and are doing great. We have one dispatcher who is almost completed with her field training and will be going on her own in November. Our two new Investigators are all settled in and have been doing a great job. We have a lateral officer who will be joining our team mid-November. We have one patrol applicant who has been given a conditional offer of employment and has accepted. The applicant will now start our testing process. If the applicant successfully passes our testing process Bethel Police Department will be fully staffed with patrol officers.

We currently have our WAANT Investigator position open internally and have some candidates in house that have expressed interest.

We will be starting oral boards in November for the Chief of Police candidates.

All administrative, CSO, CSP, and dispatch positions are fully staffed.

### Operations:

There were approximately 1,558 calls for service the month of October, an increase of approximately 236 cases from September and down approximately 69 cases from the same period in 2018. The number of calls requiring investigative reports was at 114, down 9 from September and down 13 from 2018. There were 422 intoxicated pedestrian calls compared to 442 for the same period last year. The number of domestic violence

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arrests was 32 this month compared to 43 for the same period in 2018 and 35 in September. There were 3 DUI arrests compared to 11 for the same period last year and 9 arrest in August. There was 1 death investigations in October, compared to 1 for the same period last year.

This month we've seen an increase of stolen vehicles. We would like to remind the community of Bethel not to leave keys anywhere inside of the vehicles and also to lock your vehicle. Most of the vehicles stolen in Bethel have had the keys left inside of the vehicle.

Bethel Police Department teamed up with LKSD to provide some extra presence inside of the high school for a couple of weeks following a report of a possible threat to the school. We enjoyed spending the extra time at the school getting to know the staff and students. Bethel Police Department staff also participated in the dunk booth at the Halloween carnival this year. Everyone who participated had a great time.

Bethel Police Department and Bethel Fire Department are working together to create a joint Arson Task Force.

### **Animal Control:**

There were 38 animal control calls for service for the month with no reported dog bites. Our CSOs work closely with Bethel Friends of Canine to take care of the pound. Bethel Friends of Canine are doing a great job getting the animals into foster homes or adopted out. We appreciate the assistance we are getting from Bethel Friends of Canine.

CITY OF BETHEL

Board of Adjustment Hearing

February 4, 2020 6:30 p.m.

Appeal No. 2020-01 – Hackney/175 Alex Hately

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# Record Supplement

Written statements from people that  
provided public testimony at the  
Planning Commission Hearing

Janet Kaiser

PO Box 122

Bethel, Alaska 99559

January 29, 2020

Re: Appeal 2019-01

I provided oral testimony when the Planning Commission considered Appeal 2019-01 in November, 2019. As I said then, I live within 600 feet radius of 175 Alex Hatley, a property owned by Dan and Dawn Hackney and the subject of this appeal.

I spoke in support of the City of Bethel finding the building project behind the Hackney's residence at 175 Alex Hatley, described by the owners as a garage and shop, violates Bethel Municipal Codes for what can be built on a residential property. I am writing to say I still support the City of Bethel Findings and Conclusions that the 2-story garage and shop with hotel rooms upstairs violates Bethel Municipal Code and I support the denial of the Appeal.

I have lived in the neighborhood for 30 years, raised my family there and appreciate the City of Bethel having the integrity to enforce the Bethel Municipal Code for a project that isn't allowed on a residential property.

Thank you.

*Janet Kaiser*