

By: Planning Commission
Public Hearing: May 11, 2017
Public Hearing: December 13, 2018
Public Hearing: March 21, 2019
Adopted: March 21, 2019

**CITY OF BETHEL PLANNING COMMISSION
SUPPLEMENTAL RESOLUTION SERIAL NO. 2019-02**

A RESOLUTION OF THE BETHEL PLANNING COMMISSION CONDITIONALLY APPROVING THE PRELIMINARY PLAT REQUEST FROM LYMAN HOFFMAN FOR SUBDIVISION OF TRACT 41, TO CREATE BLUE SKY ESTATES TRACTS A, B, C, D, E, F, AND BLOCK 1: LOTS 1-33; BLOCK 2: LOTS 1-10; BLOCK 3: LOT 1, BLOCK 4, LOTS 1-16; BLOCK 5: LOTS 1-8; BLOCK 6: LOTS 1-7; BLOCK 7: LOTS 1-3, SECTION 11 AND 12, TOWNSHIP 8 NORTH, RANGE 72 WEST, SEWARD MERIDIAN, BETHEL, ALASKA

WHEREAS, Lyman Hoffman, owner of Blue Sky Estates, requested a review of a Preliminary Plat; and

WHEREAS, notice of the application was mailed to all property owners within 600 feet of the exterior boundary of the proposed Subdivision on May 2, 2017; and

WHEREAS, a notice of the Planning Commission public hearing and review of the Preliminary Plat was published in the Delta Discovery on May 3, 2017; and

WHEREAS, the Planning Commission held a public hearing on the Preliminary Plat request on May 11, 2017; and

WHEREAS, at the May 11, 2017 the Planning Commission approved the Preliminary Plat request with conditions; and

WHEREAS, one of the Preliminary Plat conditions requires the Developer to enter into a Subdivision Agreement; and

WHEREAS, the Planning Commission met on July 13, 2017 to review the proposed Subdivision Agreement but had to postpone any decision because the Agreement was still being developed; and

WHEREAS, the Planning Commission met again on August 9, 2018 to review the proposed Subdivision Agreement but voted to postpone any decision for one month in order to have time to more thoroughly review the areas of disagreement between the Developer and the City; and

WHEREAS, between the time the Preliminary Plat was approved for Blue Sky Estates and the time the Subdivision Agreement was approved, the Developer began to refer to the development as Blue Sky MKE, LLC; and

WHEREAS, at the scheduled review date of September 13, 2018 for the Subdivision Agreement, the Developer was not present so after hearing from the City's Engineer about the potential impact to the City's water and sewer costs which the subdivision might impose, the Planning Commission ordered Administration to meet with the Developer to attempt to work out the areas of disagreement; and

WHEREAS, the Developer and City met in late November and were able to come to a tentative agreement on all areas of the Subdivision Agreement previously in dispute; and

WHEREAS, on December 13, 2018, after reviewing the Subdivision Agreement proposed by the Developer and the City, the Planning Commission adopted it as written with the additional condition that the open spaces in the Development be on useable land; and

WHEREAS, the Planning Commission held a supplemental hearing on the Blue Sky Estates Preliminary Plat and Subdivision Agreement on March 21, 2019;

WHEREAS, on March 21, 2019, Hugh Short, representative for the Developer was present and answered questions posed by the Planning Commission; and

WHEREAS, on March 21, 2019, Patty Burley, City Attorney for the City of Bethel was also present and answered questions posed by the Planning Commission; and

WHEREAS, on March 21, 2019, Chase Nelson of DOWL Engineers was not present and available to answer questions; and

WHEREAS, the Bethel Planning Commission deliberated on the Blue Sky Estates Application for a Preliminary Plat, taking into account the information submitted by the Applicant, the evaluation and recommendation by Staff contained in the Planner's Report, Public Testimony, the applicable provisions of the Bethel Municipal Code and Comprehensive Plan, and other pertinent information brought before them; and

WHEREAS, the Bethel Planning Commission adopted the following Findings of Fact; and

NOW THEREFORE BE IT RESOLVED, the Bethel Planning Commission hereby initially approved the Blue Sky Estates application and the on May 11, 2017 as restated herein:

1. All platting, permitting, and construction processes must conform to the City of Bethel Municipal Code.
2. The Subdivider is responsible for obtaining and conforming to all required local, state and federal permits.
3. Site Plan Permits must be obtained from the Bethel Planning Department for all components of Subdivision Development.
4. As required by AVEC, the Subdivider shall acquire an additional easement outside the Blue Sky Subdivision on the south side of BIA Road for a required utility pole and anchor. Any other requests from AVEC for preparing the subdivision for power distribution must be met by the Subdivider.
5. A note must be placed on the Final Plat identifying the function of each Open Space Tract lot.
6. Eighty (80%) percent of the required Open Space acreage must be designated for recreational purposes.
7. The subdivision must provide and show dedicated areas/easements for locations of neighborhood dumpsters.
8. The Subdivider is required to submit a zoning application for proposed zoning designation(s) of the subdivision.
9. All surface drainage within the subdivision shall be directed away from adjacent properties. The Subdivider must comply with the Army Corps. of Engineers condition for approval of the Wetlands Permit which states the subdivider shall provide remediation of three (3) problematic culverts located inside neighboring Tsikoyak Subdivision to ensure good drainage between and beyond the two (2) subdivisions. Any and all culverts to be repaired, replaced, or installed as requested by the City or the Corps. are to be completed as requested.
10. Subdivision Agreement. The Subdivider shall enter into a Subdivision Agreement with the City of Bethel which meets, at a minimum, the requirements set out in this report. All of the conditions and expectations necessary for Final Plat approval to be clearly spelled out by both the City and the Subdivider in the Subdivision Agreement. Both the City and the Subdivider to work cooperatively to complete the Subdivision Agreement within no more than sixty (60) days from the date of the

Preliminary Plat approval. No work to commence until the Subdivision Agreement is completed.

The Subdivision Agreement shall include, but not be limited to, the following:

- a. A designation of the public improvements required to be constructed.
- b. The construction and inspection requirements of the City or utility for which the improvements are constructed.
- c. The time schedule for completing the improvements.
- d. A performance guarantee.
- e. The allocation of costs between the City and the subdivider for required public improvements.
- f. A reasonable warranty on public improvements.
- g. The consent of the subdivider for the ownership of specified public improvements to vest with the City upon final acceptance by the City.
- h. A warranty that the Subdivider has title to the subdivision property and the authority to execute the Subdivision Agreement.
- i. A provision requiring the Subdivider to submit plans, specifications, descriptions of work, the limits of the work area, the methods to be employed, a traffic control plan, and any other pertinent data and information necessary for City officials to evaluate the proposed installation.
- j. A provision that work shall not commence until plans have been approved by the Planning Department and the Public Works Department and the notice to proceed is given.
- k. Final Plat not to be approved until the City accepts all improvements.

NOW THEREFORE BE IT FURTHER RESOLVED the Planning Commission hereby makes the following additional findings and imposes the following additional conditions:

BMC § 17.12 Before a Preliminary Plat can be approved, with or without conditions, the following BMC platting requirements must be met:

17.12.030(A) An original reproducible copy of the Preliminary Plat and all information, certifications and material required under this section shall be submitted to the Platting officer at least thirty (30) calendar days prior to the Planning Commission meeting at which consideration of the Preliminary Plat is desired.

Finding: Pursuant to the City Planner, the Preliminary Plat was timely filed having been filed on November 23, 2016. More than thirty (30) calendar days passed from the time of the filing of the Preliminary Plat request to the time of the Planning Commission meeting on May 11, 2017.

17.12.030(A)(1) The Preliminary Plat submission shall include the Preliminary Plat Fee:

Finding: Pursuant to the City Planner, the Preliminary Plat fee of Three Hundred (\$300) Dollars was paid on November 23, 2016.

17.12.030(A)(2) A certificate of ownership indicating the date the land proposed to be subdivide was acquired, together with the book and page of each conveyance to the present owner or owners as recorded in the Bethel District Recorder's Office.

Finding: Pursuant to the City Planner, proof of ownership was filed indicating the land was conveyed to Lyman Hoffman as a Native Allotment by the Bureau of Indian Affairs. The documents were filed on July 21, 2005 as 157.54 acres filed at the Bethel District Recorder's Office under document number 2005-00996-0.

17.12.030(A)(3) A statement that all taxes and special assessments pertaining to the property have been paid or that a payment schedule satisfactory to the City has been arranged.

Finding: The Finance Department has certified that no taxes or other bills are currently due and/or owing by the Developer.

17.12.030(A)(4) A list of the names and addresses of the owners of record of all property contiguous to and across a public right-of-way from the proposed subdivision

Finding: Pursuant to the City Planner, this list was developed by the City of Bethel's Planning Department pursuant to BMC 17.04.025(D) with notices being sent by the City's Planning Department on May 2, 2017.

17.12.030(A)(5) Completed applications for all waivers, variances or other special permissions required under the BMC.

Finding: Pursuant to the City Planner, there are no variances, waivers or other permissions needed that are not addressed elsewhere in this Resolution.

17.12.030(B) The Preliminary Plat shall show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be

subdivided is located, including all subdivided land within the tract, plat, parcel or survey.

Finding: A review of the Preliminary Plat confirms it does show the land to be subdivided and the entire tract, plat, parcel or survey in which the land proposed to be subdivided is located, including all subdivided land within the tract, plat, parcel or survey.

17.12.030(B)(1) The plat shall contain a notation that the Plat is Preliminary

Finding: A review of the Plat shows the notation is contained as required.

17.12.030(B)(2) The Plat shall contain information regarding the date, scale and Northpoint.

Finding: A review of the Plat shows the required information is provided as required.

17.12.030(B)(3) The Plat shall contain the name of the proposed subdivision.

Finding: The Preliminary Plat contains the name Blue Sky Estate.

17.12.030(B)(4) The Plat shall show the location of the property by U.S. Survey, section, township and range.

Finding: This information is shown on the Preliminary Plat.

17.12.030(B)(5) The Plat shall contain the names and addresses of the subdivider(s) and the surveyor preparing the plat.

Finding: This information is shown on the Preliminary Plat.

17.12.030(B)(6) The Plat shall contain a citation of existing covenants, reservations, deed restrictions, trails and easements on the property, if any.

Finding: This requirement is not applicable – the proposed subdivision contains no covenants, reservations or deed restrictions.

17.12.030(B)(7) The Plat shall indicate zoning on and adjacent to the proposed subdivision and any other land use designation of this area as established under BMC Title 18.

Finding: While not designated on the Preliminary Plat, the proposed subdivision has not been zoned as it is in an area of the City that has not required zoning. The adjacent subdivision has already been zoned as residential. The subdivider shall indicate zoning for the subdivision on the Final Plat

17.12.030(B)(8) The Plat shall indicate the approximate acreage, dimensions and size of each lot of the proposed subdivision, including rights-of-way and easements, and the number of lots contained therein;

Finding: This requirement was fully complied with on the Preliminary Plat.

17.12.030(B)(9) The Plat shall indicate the location and size of existing and proposed utility systems or other improvements including, but not limited to, water, sewer, telephone, cable and electrical in and within two hundred (200) feet of the proposed subdivision.

Finding: This section has been complied with. Electrical poles are shown on the Preliminary Plat and those electrical poles will be used to carry the telephone and cable services. Water and sewer will be delivered via the City's hauled service which does not lend itself to a pictorial representation on a Plat map.

17.12.030(B)(10) The Plat shall indicate the general location of streams, lakes, other bodies of water, and waterways, swamps, muskeg or marshy areas, drainage and erosion patterns including culverts and other drainage facilities in and within two hundred (200) feet of the proposed subdivision including proposed drainage ways and drainage way modifications both within and outside the subdivision.

Finding: Before a final plat can be approved, the subdivider will file documents with the City of Bethel indicating whether there are waterways, swamps, muskegs or marshy areas and location indicating drainage structures, and any other waterways within 200 feet of the subdivision.

17.12.030(B)(11) The Plat shall indicate if any portion of the proposed subdivision is located in an area identified as a flood hazard area, a delineation of the one-hundred (100) year floodplain, every floodway and drainage way that is delineated within the floodplain, and the information required under BMC 15.08.170.

17.12.030(B)(12) The Plat shall include a statement concerning responsibility for construction, operation and maintenance of water supply and sewage collection, treatment and disposal facilities in the proposed subdivision.

Finding: This section is not applicable.

17.12.030(B)(13) The Plat shall include recommended or proposed type and location of water sources and sewage treatment or disposal systems on a typical lot diagram in relation to water sources and sewage collection, treatment and disposal systems on adjacent lots or in relation to present or future City and community systems.

Finding: This section is not applicable.

17.12.030(B)(14) The Plat shall include a statement concerning future community water and sewage systems derived from the Bethel Water and Sewer Master Plan including an appropriate timetable for their development and the proposed layout of service lines.

Finding: This section is not applicable.

17.12.030(B)(15) The Plat application shall include representative soil testing, logs and borings prepared by a professional engineer registered in the State of Alaska.

Finding: Pursuant to the City Planner, soil testing was conducted by Developer's Engineer with a report provided to the Planner on February 2, 2015.

17.12.030(B)(16) The Plat shall indicate contours sufficient to show topography in no greater than five foot intervals.

Finding: This section of the BMC was complied with.

17.12.030(B)(17) The Plat shall include a surveyor's certificate.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(C) The Plat shall indicate the names of proposed and existing streets in and adjacent to the proposed subdivision.

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(D) **The Plat shall include a vicinity map showing streets and other general development of the surrounding area at a scale of no less than one (1") inch equals one thousand five hundred (1,500') feet.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.12.030(E) **The Applicant shall include a copy of the current plat or U.S. Survey that creates the parcels subject to the proposed subdivision.**

Finding: A Title Report was provided by the Subdivider showing chain of title and indicating compliance with this section of the BMC.

17.12.030(F) **The Applicant shall submit a copy of the current plats and U.S. Surveys of the land that abuts the boundaries of the proposed subdivision.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

BMC §17.24 *Subdivisions shall comply with the requirements of BMC 17.24. Prior to construction, the Planning Commission shall review the following:*

17.24.010 **The Subdivision shall be designed to accommodate the type of land use designated by the zoning code for the area of the proposed subdivision.**

Finding: This section is not applicable as the Subdivision is currently outside the zoned areas of the City of Bethel.

17.24.030 **The public streets within the Subdivision are considered: (arterial, collector, local).**

Finding: While the public streets currently lack this designation by the Developer, this information shall be gathered prior to final road acceptance by the City and shall be properly designated on the Final Plat.

17.24.040 **The Subdivision complies with 17.24.040 by providing access via dedicated right-of-way to all lots, tracts and parcels within the subdivision.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

17.24.050 **The circulation system within the Subdivision is designed in accordance with BMC 17.24.050.**

Finding: A review by the City's Engineers of the circulation system within the Subdivision indicates compliance with the intent of this section of the BMC.

17.24.210 **Utility Easement are provided and dedicated.**

Finding: Drainage and Utility Easements are shown on the second sheet of the Preliminary Plat.

17.24.220 **Adequate provisions for Storm water and Floodwater drainage have been made by the Subdivider.**

Finding: Drainageways, culverts and easements are shown on the plans. Based on the layout, there is a provision to direct storm water runoff to low areas within the subdivision.

17.24.290 **Open Space Dedications have been provided by the Subdivider.**

Finding: A review of the Preliminary Plat indicates this section of the BMC was complied with.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 21st day of March, 2019.

City of Bethel Planning Commission Action: 4 In Favor 0 Opposed 0
Abstained

ATTEST:

Kathy Hanson
Kathy Hanson, Chairwoman
City of Bethel Planning Commission

B. Junger for P. Boratko
Pauline Boratko, Recorder
City of Bethel Planning Commission