

PUBLIC HEARING



Planning Commission Hearing Agenda

Hearing Thursday, July 11, 2013 – 6:30PM
City Hall Council Chambers 300 Chief Eddie Hoffman Highway

MEMBERS

John Guinn
Chair
Term Expires
12/2013

Joy Shantz
Vice-Chair
Term Expires
12/2013

Rick Robb
Council Rep.
Term Expires
10/2013

VACANT
Committee Member
Term Expires

Abe Palacios
Committee Member
Term Expires
12/2015

Cliff Linderth
Committee Member
Term Expires
12/2014

VACANT
Committee Member
Term Expires

Rachael Pitts
Ex-Officio Member

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – (5 Minute Limit)
- IV. APPROVAL OF MINUTES OF THE JUNE 13, 2013 MEETING
- V. APPROVAL OF AGENDA
- VI. PLANNER'S REPORT
- VII. COMMISSIONER'S COMMENTS
- VIII. UNFINISHED BUSINESS: A. Public Hearing: Conditional Use Application from United Utilities, Inc., for a Telecommunications Tower and Utility Structure to be located at 9116 Ptarmigan Street, Bethel, Alaska, 99559. Legal Description: Plat #80-2, Lot 15, Block 10.
- IX. NEW BUSINESS
 - A. Commission Member Mike Walter Resignation
- X. ADJOURNMENT

City of Bethel, Alaska

Planning Commission

June 13, 2013

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on at 6: 30 pm in the City Hall conference room in Bethel, Alaska.

Chairman, John Guinn, 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:

John Guinn, Joy Shantz (telephonically), Abe Palacios, Cliff Linderoth and Rick Robb. Absent: Mike Walter. Also present was recorder Betsy Jumper.

III. PEOPLE TO BE HEARD

- None

IV. APPROVAL OF AGENDA

MOTION TO APPROVE THE AGENDA FOR THE JUNE 13, 2013 MEETING

MOVED:	Abe Palacios	To approve the agenda for the June 13, 2013 meeting.
SECONDED:	Rick Robb	
VOTE ON MAIN MOTION		
All in favor Motion passes; 5 yes and 0 opposed.		

V. APPROVAL OF MINUTES

MOTION TO APPROVE THE MINUTES FROM THE MAY 9, 2013 MEETING AND THE SPECIAL MEETING MAY 23, 2013

MOVED:	Abe Palacios	To approve the minutes of the May 9, 2013 meeting and the minutes of the special meeting May 23, 2013.
SECONDED:	Rick Robb	
VOTE ON MAIN MOTION		
All in favor Motion passes; 5 yes and 0 opposed.		

VI. COMMISSIONER'S COMMENTS: Rick expressed concerns about the proposed changes to the BMC nuisance rewriting/revisions, specifically why haven't the changes/recommendations gone over to the council as the Planning Commission directed. Also, the tower hearing appeal is set for June 24th.

VII. UNFINISHED BUSINESS: None.

VIII. NEW BUSINESS: A. Resolution 2013-01, Disapproving the Conditional Use Permit Application for a Sixty-foot telecommunications tower at 9116 Ptarmigan Street, Plat 80-2, Block 10, Lot 15, Bethel, Alaska 00559. Cliff Linderoth abstained from voting due to a previously discussed conflict of interest.

MOTION TO ACCEPT THE RESOLUTION

MOVED:	Abe Palacios	To accept resolution 2013-01 disapproving the conditional use permit for a telecommunications tower.
SECONDED:	Joy Shantz	
VOTE ON MAIN MOTION		
All in favor Motion passes; 4 yes and 0 opposed.		

IX. ADJOURNMENT, Motion to adjourn the meeting.

MOVED:	Abe Palacios	To adjourn the meeting at 6:45.
SECONDED:	Cliff Linderoth	
VOTE ON MAIN MOTION		
All in favor Motion passes; 5 yes and 0 opposed.		

Next meeting will be on July 11, 2013.

John Guinn, Chairman

Betsy Jumper, Recorder

Planning Department Report

From: Rachael Pitts, Planning Director

Date: July 1, 2013

The zoning request from the Charles family was approved by the City Council.

The Conditional Use Permit application for a 60-foot telecommunications tower was disapproved by the Planning Commission on May 23rd at a Special Meeting. The decision was appealed to the Board of Adjustment. The board convened on June 24th and sent the application back to the Planning Commission. It will be heard on July 11th.

The surveyors from Farpoint came to survey several properties for the city. The surveys include port, parks and recreation, and other properties that require a plat.

DOT is rounding up the paperwork and doing preliminary analysis for the Ridgecrest Drive widening project.

Site Plan Permit Applications and Code Enforcement: We have issued twenty-six Site Permits to date.

The Planning Department is running ads to locate nuisance property owners. One owner has been identified, and has made a commitment to clean up and secure their property.

There has been a commitment from a property owner who has built a structure in the right-of-way to remove it.

Construction Projects:

Swimming Pool: Barges are coming into the port and construction will begin shortly, for a projected opening date in 2014.

Prematernal Home and Long Term Care Facility: Siding and roofing are being constructed.

Dormitory: Yuut Elitnaurviat School has removed a temporary building and is putting in pilings for the new dormitory.

Kipusvik Shopping Center: The developers have added an access to Chief Eddie Hoffman highway. Construction materials have been delivered to the site.

Opportunities: There may be a grant available to move a family in a flood prone home to a new home. If anyone can identify an appropriate property, possibly by the Slough, let the Planner know.



City of Bethel
Planning Department
Staff Report for Conditional Use Permit Request

Planning Commission Hearing Date: May 9, 2013
 Request: Conditional Use Permit for a telecommunications tower 60 feet in height, and a hut.
 Proposed Land Use: Utility
 Square Feet: 12,152 SF lot
 Location: 9116 Ptarmigan Road, Bethel, Alaska (Plat 80-2, Block 10, Lot 15)
 Owner: United KUC / United Utility, 5450 A St. Anchorage, AK 99518-1291
 Applicant / Representative: Russ McDonald
 Zoning: Residential
 Flood Hazard Zone: None
 Staff Recommendation: Approve with conditions.

Comprehensive Plan Conformity		
Street Status	The property is located in the Tundra Ridge subdivision which is accessed by Ptarmigan Road.	
<i>Section 8. Public Facilities and Services, Objective D. Technology</i>		
Promote the widespread availability of communications systems to facilitate communication among members of the public, public institutions, government agencies, and businesses, and promote the public service and safety advantages and economic opportunities afforded to the community due to the availability of state-of-the-art telecommunications technology.		
Surrounding Land Uses and Zoning		
	Land Use	Zoning
On Site	Undeveloped	Residential
North	Residential	Residential
South	Open Space	General Use
East	Residential	Residential
West	Residential	Residential

Analysis, Proposed Conditions, and Conclusions

United Utility / United KUC has requested a Conditional Use Permit to place a 60-foot-high telecommunications tower, and a 10' x 16' utility hut on a lot by Ptarmigan Road within the Tundra Ridge Subdivision. The location is at the south edge of the subdivision, next to open space. The site will not require city services. There are currently power lines extending through the neighborhood for power hook-up.

As cellular phones and other communication devices become more widely used, the need for infrastructure increases. A tower at this location will provide opportunities for the installation of repeaters and other types of equipment needed for cell phone use.

Location maps and photos are attached to this report. The photos show the proposed design of the tower and hut.

The safety of the tower is a major consideration. Access to the top of the hut, or tower by children in the neighborhood should be prevented. The applicant has applied for a Commercial Site Plan Permit which requires an application to go to the State Fire Marshall. As part of the project permitting process safeguards will be required to prevent any access to the facility by members of the public.

Proposed Conditions

1. Site Plan Permits must be obtained from the Bethel Planning Department for fill, and construction.
2. The platting, permitting, and construction processes must conform to the City of Bethel Municipal Code, and any and all requirements of the State Fire Marshall must be met.
3. The tower and hut structures must be inaccessible to unauthorized personnel.

Conclusions:

1. The proposed conditional use will not be detrimental to the general public health, safety or welfare or to the environment.
2. The conditional use meets the standards otherwise applicable to a use in the applicable land use district.
3. There are adequate existing or proposed sewage capacity, transportation facilities, parking area, drainage facilities and water supply to serve the proposed conditional use without causing a substantial negative impact on the existing level of services provided by such public facilities.
4. The conditional use conforms to the intent and purposes of the land use code that are set out in BMC 16.04.010.

5. The use and structures proposed are of an appropriate character and scale for the neighborhood in which the project will be located, including parts of the neighborhood that may lie outside the land use district within which the parcel is located.
6. The conditional use is in accordance with and furthers the goals and policies of the comprehensive plan.
7. The proposed use will not subject surrounding properties nor vehicles and pedestrians using nearby streets and ways to hazardous or substantially increased traffic conditions.
8. There is a demonstrated need for the conditional use limited primarily to the area proposed, or if the use will generally serve a larger area, then a demonstration that the use is essential to the city generally, and because of a feature of a property, the general need can be met by the property, but cannot be met as a principal permitted use on another property in the city.
9. The use, under the conditions proposed, will be compatible with existing and principal uses authorized and will not cause negative impacts on nearby property, including impacts from drainage, that exceed the impacts that would ordinarily be expected from principal permitted uses of the property that is the subject of the application.
10. If any part of the project is located in a flood hazard area or in area where the project may adversely affect drainage or floods in a flood hazard area, the conditions proposed adequately address the relevant matter and standards covered by BMC 15.08.160 through 15.08.180.

Writer

REP

4/25/2013

Attachments

Conditional Use Permit Application

Location Map (2)

Photos (4)

APR 16 2013

08-13
pa.

CITY OF BETHEL
CONDITIONAL USE PERMIT APPLICATION

City of Bethel Planning Department
PO Box 1388, Bethel, Alaska – 99559
<http://www.cityofbethel.org>
907-543-4186

Applicant Name: Russ McDonald, United KUC

Address: 270 Main Street; PO Box 909

City: Bethel **State:** AK **Zip Code:** 99559

Phone: (907) - 543-2300 **Email:** russm@uui-alaska.com **FAX:** 543-9900

Property Owner: United KUC / United Utilities Inc.

Address: 9116 Ptarmigan

Phone: (907) - 543-2300

Email: russm@uui-alaska.com

Site Address: 9116 Ptarmigan

Subdivision Name: Tundra Ridge

Zoning: RESIDENTIAL

Legal Description: Plat: 80-2/79-11 Lot:15 Block:10

Flood Zone: N/A

Describe Specifically the Nature of the Request:

United KUC requests to put a 10X16 communications hut and a 60' self supporting tower on our lot at 9116 Ptarmigan street in Tundra Ridge.

Describe the following:

1. Potential impacts on pedestrian and vehicular traffic circulation and safety.
None
2. Potential output of noise, fumes, dust or other environmental pollution.
None
3. Special features designed to ensure the public health, safety and welfare of the residents.
A climbing guard will be installed on the tower.

The following is required of the applicant:

1. A map or plat of the general area surrounding the parcel, with land uses annotated, and road access.
2. A complete Site Plan Permit Application.
3. The names and addresses of all persons who own property within 600 feet of the boundaries of the parcel.
4. The applicant or an authorized person is required to attend the public hearing.
5. The fee for a Conditional Use application is \$200.

I understand and will comply with the terms and conditions of the Conditional Use Permit.


Applicant's Signature

4/16/13
Date

Planning Department Use

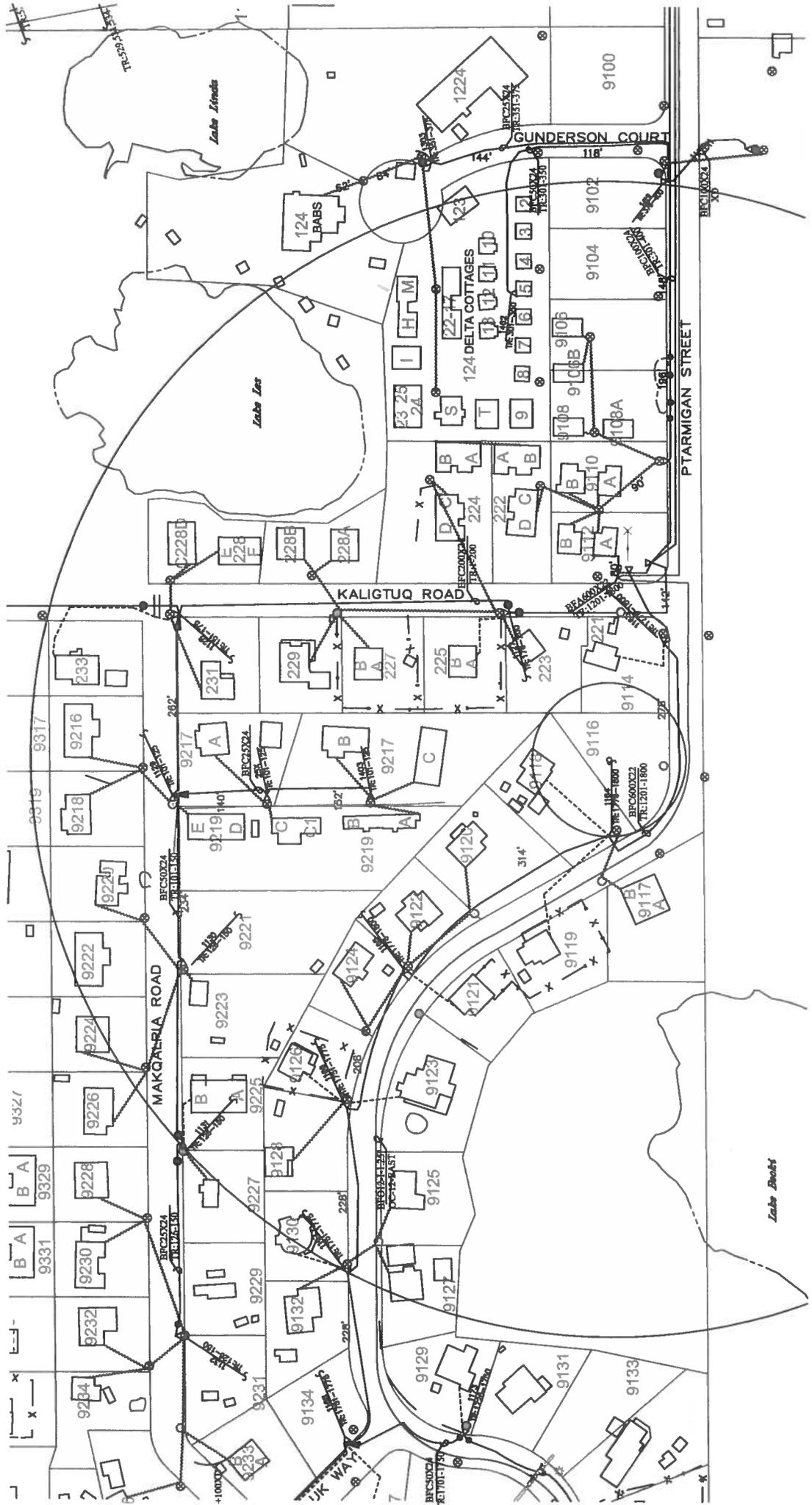
For Planning Department Use: On _____, the Planning
Commission _____.
(Approved/Denied)

This Conditional Use Permit authorizes the following:

Chairperson, Planning Commission

Date

(Attach copy of BMC Chapter 18.60 for applicant)



APR 16 2013



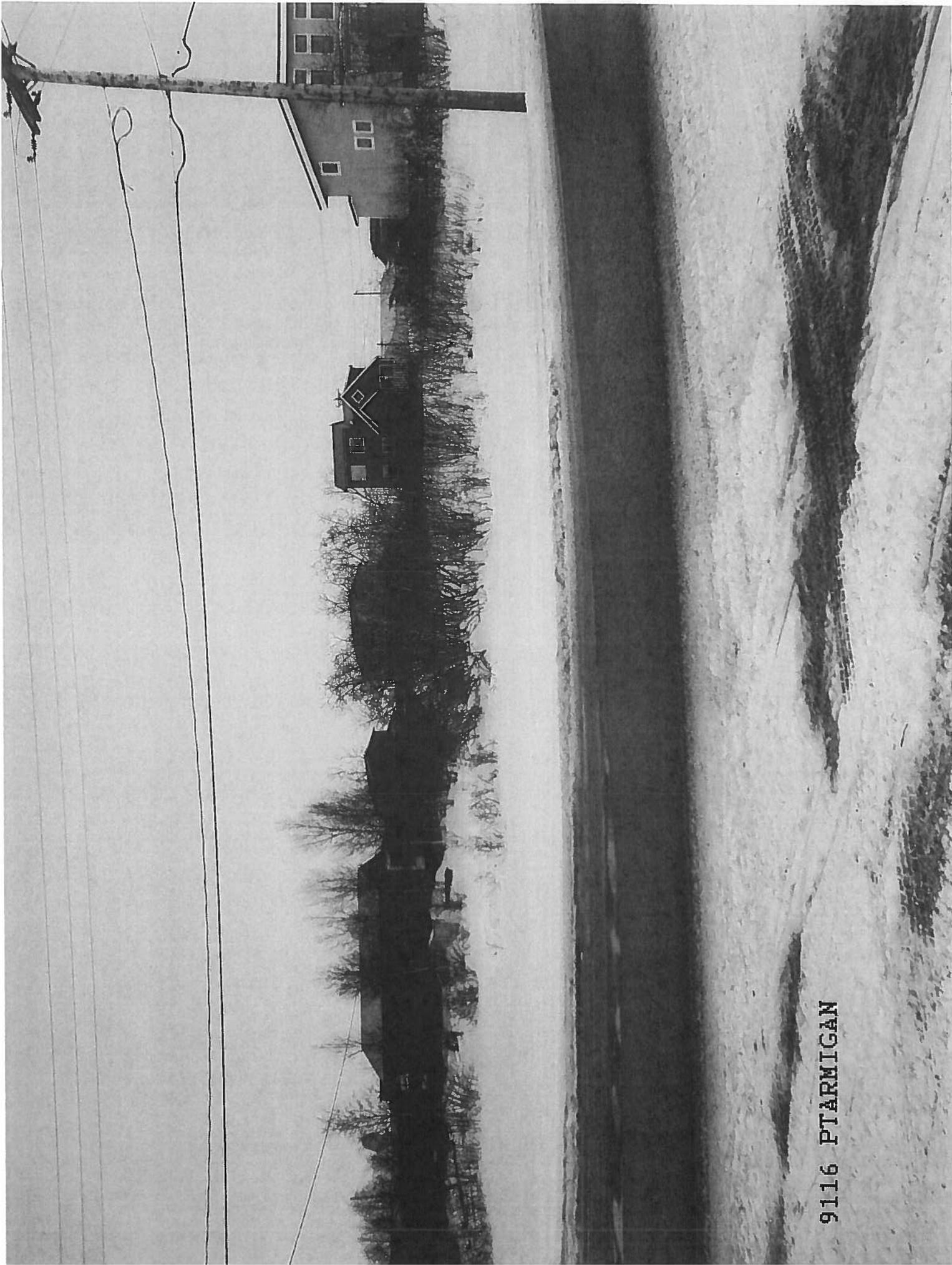
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APR 10 7/10



9116 PTARMIGAN

APR 16 2013



United-KUC, Inc.

Affiliate of United Utilities, Inc.



To Whom It May Concern:

On May 23, 2013, at a Special Meeting held by the Bethel Planning Committee, United KUC was denied its request for a Conditional Use Permit to place a sixty foot (60') tower on its lot located at 9116 Tundra Ridge.

United KUC hereby appeals the Planning Committee's decision as KUC believes it has met all of the conditions required for the permit.

Thank you,

A handwritten signature in black ink, appearing to read "R. McDonald", is written over the printed name.

Russ McDonald

United KUC

Bethel, AK

907.543.2300

REV.
JUN 03 2013

A GCI Company

5450 A Street
Anchorage, AK 99518-1291

(800) 478-2020
(907) 561-1674

Fax (907) 563-3185

City of Bethel, Alaska Planning Commission

May 9, 2013

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on at 6: 30 pm in the City Hall conference room in Bethel, Alaska.

Chairman, John Guinn, 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: John Guinn, Joy Shantz, Mike Walter, Abe Palacios, Rick Robb, and Cliff Linderoth. Ex -Officio members present were the following: Rachael Pitts, Planning Director, and Betsy Jumper, Recorder.

III. PEOPLE TO BE HEARD

- None

IV. APPROVAL OF AGENDA

MOTION TO APPROVE THE AGENDA FOR MAY 9, 2013 MEETING

MOVED:	Joy Shantz	To approve the agenda for the May 9, 2013 meeting.
SECONDED:	Abe Palacios	
VOTE ON MAIN MOTION	All in favor Motion passes; 6 yes and 0 opposed.	

V. APPROVAL OF MINUTES

MOTION TO APPROVE THE MINUTES FROM THE APRIL 11, 2013 Meeting

MOVED:	Abe Palacios	To approve the minutes of the April 11, 2013 meeting.
SECONDED:	Mike Walter	
VOTE ON MAIN MOTION	All in favor Motion passes; 6 yes and 0 opposed.	

VI. PLANNER'S REPORT: Rachael went over the monthly planner's report. Rick wondered about the status of the proposed Nuisance rewriting/revisions that were done a couple of months ago.

V. MOTION TO FORWARD THE NUISANCE REWRITING/CHANGES OF THE BMC TO COUNCIL THAT THE PLANNING COMMISSION HAD PASSED PREVIOUSLY

MOVED:	Joy Shantz	To immediately forward the revised/changed BMC Nuisance
SECONDED:	Rick Robb	

		section to the City Council.
VOTE ON MAIN MOTION	All in favor Motion passes; 6 yes and 0 opposed.	

VII. COMMISSIONER'S COMMENTS: Mike stated he hopes the council approves his financial statement as is; he hopes he doesn't have to resign from the Planning Commission because of the overly intrusive questions on the financial disclosure form. Joy thought about downloading the old APOC form; she will turn in some sort of financial disclosure, and also stated she would like to see the specific listings of site plan permits issued. Rick stated he fought hard to simplify the financial disclosure forms to City Council.

VIII. UNFINISHED BUSINESS: None.

IX. NEW BUSINESS: A. Conditional Use Application from United Utilities, Inc., for a Telecommunications Tower and Utility Structure to be located at 9116 Ptarmigan Street, Bethel, Alaska 99559.

Russ McDonald of United Utilities spoke on the subject of wanting to install a cell tower in the Tundra Ridge area, specifically lot 15, block 10, plat 80-2 (9116 Ptarmigan St.). William Ferguson, a citizen of Bethel, expressed concerns, chief amongst them the devaluation of his residence next door and that the proposed lot is in a drainage area. Mr. Ferguson also expressed a concern with the lot size, i.e., is it big enough? And could/would the tower ever fall? A lengthy discussion ensued, bringing with it a myriad/plethora of questions, such as: could the tower length be shortened; should soil samples/engineering be done?; issues with the flight path, has anyone checked with the FAA?; is there any non-residential zoning in the Tundra Ridge area where the tower could be placed? The Planning Director stated that the conditional use permit could include the clearance of airspace approval by the DOT/Bethel Airport. Mr. McDonald stated a fence could be built around the structure. It was decided to table the issue until further information could be provided. A special meeting could be held too if need be to facilitate this issue to accommodate the short summer construction season. Commissioner Linderoth asked to be excused in the discussion/action item due to a conflict of interest. Chair Guinn accepted.

MOTION TO TABLE THE CONDITIONAL USE APPLICATION REQUEST FROM UNITED UTILITIES

MOVED:	Joy Shantz	To table the conditional use application from United Utilities, Inc. for a telecommunications tower and utility structure to be located at 9116 Ptarmigan Street, Bethel, Alaska 99559 until further findings are presented/answered:.
SECONDED:	Abe Palacios	
VOTE ON MAIN MOTION	All in favor Motion passes; 5 yes and 0 opposed.	

B. Request by the Yukon Kuskokwim Health Corporation for a right-of-way vacation, easement vacation, and additional easement at 700 Chief Eddie Hoffman Highway. The request was filed on March 14, 2013. Property is United States Survey No. 4117, Lot 5, approximately 28,296 square feet.

Commissioner Robb asked to be excused in the discussion/action item due to a conflict of interest. Chair Guinn accepted.

Rachael spoke of an issue that had arisen concerning this agenda item; the applicant had made a change to the original plan. After some discussion, it was decided to postpone until further information could be collected.

MOTION TO POSTPONE THE REQUEST BY YKHC FOR A RIGHT OF WAY EASEMENT

MOVED:	Joy Shantz	To postpone the request by YKHC for a right-of-way vacation, easement vacation, and additional easement at 700 Chief Eddie Hoffman Highway.
	Cliff Linderoth	
VOTE ON MAIN MOTION	All in favor Motion passes; 5 yes and 0 opposed.	

C. Zoning Change for a new Proposed Residential ("Snowridge") Subdivision, located East and West of Tundra Ridge Road, and South of Tundra Ridge Subdivision.

MOTION TO ACCEPT THE ZONING CHANGE

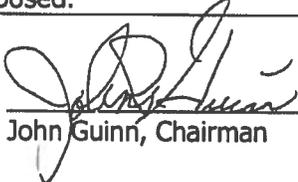
MOVED:	Mike Walter	To accept/approve the zoning change, from General Use, Preservation, and no designated zoning district, to Residential and Preservation zoning for the Snowridge Subdivision.
SECONDED:	Joy Shantz	
VOTE ON MAIN MOTION	All in favor Motion passes; 6 yes and 0 opposed.	

X. ADJOURNMENT, Motion to adjourn the meeting.

MOVED:	Abe Palacios	To adjourn the meeting at 7:45.
SECONDED:	Joy Shantz	
VOTE ON MAIN MOTION	All in favor Motion passes; 6 yes and 0 opposed.	

Next meeting will be on June 13, 2013.

Betsy Jumper - 6-13-13
Betsy Jumper, Recorder


John Guinn, Chairman

City of Bethel, Alaska

Planning Commission

May 23, 2013

Special Meeting

Bethel, Alaska

I. CALL TO ORDER

A special meeting of the Planning Commission was held on May 23, 2013 at 6:30 pm in the City Hall conference room in Bethel, Alaska.

Chairman, John Guinn, 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: John Guinn, Joy Shantz, Mike Walter, Abe Palacios, and Cliff Linderoth. Ex -Officio members present were the following, Rachael Pitts, Planning Director and Betsy Jumper, Recorder. Others present: Russ McDonald of United Utilities, and two engineers with United Utilities.

III. PEOPLE TO BE HEARD (5 minute Limit)

Citizen Lisa Meyers called in earlier in the day to the Planning Department and voiced her opposition against the tower – she heard they emit radiation. **Citizen William Ferguson** spoke out against the cell tower, stating GCI is only about economic gain; voicing concerns about his property being devalued and health issues cell towers can cause, including mental illness. He provided information about property devaluation in the state of California. Also, the Tundra Ridge covenants state that the Tundra Ridge neighborhood is strictly residential. **Citizen Tim Bee** voiced his concerns about living next door to a cell tower, specifically how it would affect his DISH Satellite television reception, and did not like the cell tower going in at a residential location. **Citizen Joanne Neck** stated she was not worried about the tower.

IV. UNFINISHED BUSINESS: A. Public Hearing: Conditional Use Application from United Utilities, Inc., for a Telecommunications Tower and Utility Structure to be located at 9116 Ptarmigan Street, Bethel, Alaska 99559.

The City Planner provided an introduction of the request.

The United Utilities Company employees gave a presentation about the proposed cell tower located in the Tundra Ridge subdivision. They indicated that the tower would augment present cell phone capabilities in the city. The new tower would allow better coverage in Tundra Ridge, Uivik, Larsen, and Kasayuli subdivisions. This is a chance for GCI to address complaints from customers that the cell phone reception is bad in parts of the city. They stated that there are no ill effects from the towers, and that they are designed to withstand high winds. The tower would not impair television reception in the neighborhood. Specifically addressed were some issues brought up by Commission members at the previous meeting on May 9th:

Can the tower be shortened? The tower would be most effective at 60 feet in height.
Are there issues with the airport flight path? Initial contact with TOWAIR indicates that the tower will not need to be registered.

Is there a different location to put the tower? At this time the present location is considered the best available. Finding a new location will add a year to the process.
 Are the soils and drainage at the site adequate for a tower? The drainage is good at the site, it is not in the floodplain. The tower base in the existing soil will be adequate support.

Representatives of United provided information on the effects of a tower on property values, and issues of exposure to radio frequency fields.

The Planning Commission members discussed the topics at length.

The findings of the Planning Commission were:

1. This land use is not appropriate in Residential zoning.
2. The Tundra Ridge covenants permit commercial use on only a few lots, and not on this one.
3. The effects of such towers on health cannot be verified at this time.

(Cliff Linderoth asked to be excused from voting due to a conflict of interest; Chair Guinn accepted).

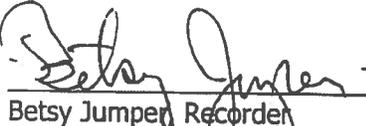
MOVED:	Joy Shantz	Approve the Conditional Use Application
SECONDED:	Mike Walter	
VOTE ON MAIN MOTION	0-4 Motion Fails; Guinn, Shantz, Walter, Palacios opposed	

VI. ADJOURNMENT, Motion to adjourn the meeting.

MOVED:	Joy Shantz	To adjourn the meeting at 7:50.
SECONDED:	Mike Walter	
VOTE ON MAIN MOTION	All in favor 5-0 Motion passes; 5 yes and 0 opposed.	



 John Guinn, Chairman

 -6-13-13

 Betsy Jumper, Recorder

City of Bethel Board of Adjustment Record on Appeal

June 24, 2013

Appeal Hearing 13-01

Bethel, Alaska

CALL TO ORDER

A hearing on Appeal No. 13-01, conducted June 24, 2013, at 6:30p.m., in Bethel, Alaska.

The board of adjustment members present:

Mayor Joseph Klejka
Vice-Mayor Gene Peltola
Council Member Rick Robb
Council Member Mark Springer
Council Member Eric Whitney

Members absent:

Council Member Sharon Sigmon – Excused due to conflict of interest
Council Member Mary Sattler

Others City Representatives Present:

City Attorney Patty Burley
City Clerk Lori Strickler
City Planning Director Rachael Pitts

Title of the Appeal Hearing:

Appeal hearing number 13-01. United –KUC, Inc.'s application denial from the Planning Commission for a conditional use permit to construct a communications hut and a 60' self supporting tower to be located at 9116 Ptarmigan Road, Bethel, Alaska (Plat 80-2, Block 10, Lot 15).

Summary:

This hearing came about as the result of an appeal filed by the United KUC Inc. on June 4, 2013 to a determination dated May 23, 2013 by the Planning Commission.

That determination of the Planning Commission was to deny the application for construction of a communication hut and a 60' self supporting tower to be located at 9116 Ptarmigan Road, Bethel, Alaska. The appellant claims in their letter of appeal, received by the City Clerk's Office on June 3, 2013 that "United KUC appeals the Planning Commission's decisions as KUC believes it has met all of the conditions required for the permit".

The duty of the board of adjustment is to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination by the planning commission in the enforcement of the zoning code.

Oath administered to the following individuals who will be providing testimony.

Rachael Pitts
Joy Shantz
Tim Bee
Hugh Forbes
Alex

A summary of the hearing procedures and rules were provided by the chair.

Appellant, United KUC Inc. is provided 15 minutes to present their arguments.

Hugh Forbes, Operations Manager for UUI
PO Box 103
9443 Ayagner Drive (Tundra Ridge), Bethel Alaska 99559

Alex Leavens
4140 Coventry Dr. Anchorage Alaska

Provided a summary of the history and the need of the project.

Appellee, Planning Commission Vice-Chair Joy Shantz, is provided 15 minutes to present the Planning Commission's Case;

Joy Shantz
PO Box 2044 Bethel Alaska
163 Cranberry, Bethel Alaska

Provided a summary of the Planning Commissions decision.

Interested persons were allowed three minutes each to provide the board their written and oral arguments:

Tim Bee
9118 Ptarmigan, Bethel, AK
PO Box 569, Bethel, AK

Spoke in opposition to the placement of the tower.

Appellant, United KUC, Inc. was provided five minutes for rebuttal arguments.

Nick Miller
PO Box 241521 Anchorage 99524
97231 Falcon Chugiak Alaska.

Provided additional information on the project and announced a few of the reasons outlined by the Commission's Resolution are not a basis for the denial. Those items were the mention of the covenants which cannot be considered because a homeowners association had not been created. Additionally, he advised the City look into the Telecommunications Act of 1996. In that act there is a section that prohibits municipalities from denying permits based on the health hazards caused by the tower.

The board of adjustments asked questions to the parties.

The board deliberated the issue in an open session.

Board Determination and findings.

The board of adjustments remanded this decision back to the planning commission for further consideration. The commission should take a look at the Telecommunications Act of 1996, should not consider any covenants in their findings and should be more specific about what weight they give each of their findings.

Adjournment.

Board of Adjustment

Appeal Hearing 13-01

Findings of Fact

June 24, 2013

1. Summary of Actions To Date

On April 16, 2013, United KUC-Inc. applied for a conditional use permit to the city planner. The city planner mailed out a notice for conditional use permit before the planning commission on May 2, 2013 notifying persons within 600 feet of the boundaries of the parcel.

The planning commission held a hearing on the matter on May 9, 2013 and May 23, 2013. During the hearings, three people in total spoke and one person provided comment earlier in the day to the planning department.

On May 23, 2013 the planning commission unanimously denied the conditional use permit and identified their findings of fact. On June 13, 2013 the commission met and approved Resolution 2013-01 outlining the findings of fact.

The findings of fact identified in Resolution 2013-01 state "the Planning Commission has determined that the tower is not a compatible use with the neighborhood in Residential zoning; and the Tundra Ridge Covenants permit commercial uses on a limited number of lots and not on the proposed lot; and the effects of such towers to the health and the public cannot be determined at this time".

An appeal was filed by United KUC Inc. on June 3, 2013. The appeal was timely. On June 4, 2013, the Council granted certiorari to hear the appeal.

On June 6, 2013 a public notice of appeal of the planning commission decision was posted at Alaska Commercial Co., the US Post Office, City Hall, and Swansons and mailed to the three individuals who provided oral testimony at the planning commission meetings held May 9 and May 23, 2013.

On June 14, 15, 16, 17, 18, 21, 22, and 24, 2013, public notices were read on KYUK, the local radio station. On the week of June 9, 2013 an advertisement was published in the *Delta Discovery* noticing the appeal.

On June 24, 2013, the appeal hearing was held at the Bethel City Council Chambers.

One written argument was received by the City Clerk's office which was in opposition of the issuance of the conditional use permit.

The appeal was heard on June 24, 2013 with three (3) representatives of United-KUC, Inc., appearing: Hugh Forbes, Alex Leavens and Nick Miller. One property owner appeared: Tim Bee, and two representatives for the City provided testimony: Joy Shantz, Vice-Chair of the Planning Commission and Rachel Pitts, Planning Director.

2. Bethel Municipal Code

In July of 1990, the City of Bethel established a land-use ordinance that established zoning for the area which identified Lot 15, Block 10, 9116 Ptarmigan Road as residential.

Bethel Municipal Code provides that a conditional use permit may be approved by the planning commission only if it makes findings, supported by the record, as are set out in BMC 18.60.040 (B) (1) through (10).

BMC 18.60.040

B. The land use administrator may make a recommendation for approval only when the proposed use and conditions clearly support the following conclusions:

1. The proposed conditional use will not be detrimental to the general public health, safety or welfare or to the environment;
2. The conditional use meets the standards otherwise applicable to a use in the applicable land use district;
3. There are adequate existing or proposed sewage capacity, transportation facilities, parking area, drainage facilities and water supply to serve the proposed conditional use without causing a substantial negative impact on the existing level of services provided by such public facilities;
4. The conditional use conforms to the intent and purposes of the land use code that are set out in BMC 16.04.010;
5. The use and structures proposed are of an appropriate character and scale for the neighborhood in which the project will be located, including parts of the neighborhood that may lie outside the land use district within which the parcel is located;
6. The conditional use is in accordance with and furthers the goals and policies of the comprehensive plan;

7. The proposed use will not subject surrounding properties nor vehicles and pedestrians using nearby streets and ways to hazardous or substantially increased traffic conditions;

8. There is a demonstrated need for the conditional use limited primarily to the area proposed, or, if the use will generally serve a larger area, then a demonstration that the use is essential to the city generally, and because of a feature of the property, the general need can be met by the property, but cannot be met as a principal permitted use on other property in the city;

9. The use, under the conditions proposed, will be compatible with existing and principal uses authorized and will not cause negative impacts on nearby property, including impacts from drainage, that exceed the impacts that would ordinarily be expected from principal permitted uses of the property that is the subject of the application;

10. If any part of the project is located in a flood hazard area or in an area where the project may adversely affect drainage or floods in a flood hazard area, the conditions proposed adequately address the relevant matters and standards covered by BMC 15.08.160 through 15.08.180.

BMC 18.60.060 (B) Where the approval of a conditional use permit application would result in a mix of residential and nonresidential uses, any approval of the conditional use may impose conditions and design standards necessary.

1. To ensure the public health, safety, and welfare of residents; and
2. To minimize or eliminate adverse impacts on residential property.

3. Order

Based upon the above findings of fact and conclusions, the Board of Adjustment makes the following final order:

IT IS HEREBY ORDERED THAT the decision of the planning commission is remanded back to the planning commission for further proceedings. During the new hearing, the planning commission shall:

- (1) Not take covenants into consideration;
- (2) Take into consideration the Telecommunications Act only if United-KUC can positively point to language which demonstrates that municipalities are prohibited from considering health concerns when making a determination whether or not to grant a cell tower request;
- (3) As the Planning Commission makes their decision, they should be very specific as to what factors determine your approval or denial.

SIGNED THIS 2nd DAY OF JULY 2013.

Joseph A. Klejka , Mayor

ATTEST:

Lori Strickler, City Clerk

**Bethel Planning Commission
Resolution No. 2013 – 1**

A RESOLUTION OF THE PLANNING COMMISSION DISAPPROVING THE CONDITIONAL USE PERMIT APPLICATION FOR A SIXTY-FOOT TELECOMMUNICATIONS TOWER AT 9116 PTARMIGAN STREET, PLAT 80-2, BLOCK 10, LOT 15, BETHEL ALASKA, 99559.

WHEREAS, the Planning Commission has disapproved the request at a Special Meeting on May 23, 2013; and

WHEREAS, the Planning Commission has determined that the tower is not a compatible use with the neighborhood in Residential zoning; and

WHEREAS, the Tundra Ridge Covenants permit commercial uses on a limited number of lots, and not on the proposed lot; and

WHEREAS, the effects of such towers on the health of the public cannot be determined at this time;

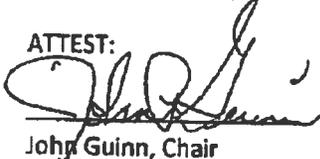
NOW THEREFORE BE IT RESOLVED that the **PLANNING COMMISSION** has reviewed the request for the Conditional Use and has disapproved the request.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this ___23rd___ day of ___May___, 2013.

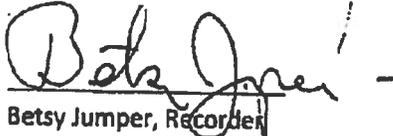
City of Bethel City Planning Commission Action:

Vote: In Favor: 4 Opposed: ___ Abstained: 1

ATTEST:



John Guinn, Chair
City of Bethel Planning Commission



Betsy Jumper, Recorder
City of Bethel Planning Commission

Bethel Recording District:
After recording please return to:
City of Bethel Planning Department
PO Box 1388
Bethel, Alaska 99559



Page 2 of 2
2013-000583-0



CITY OF BETHEL

PLANNING OFFICE

P.O. Box 1388 • Bethel, Alaska 99559

907-543-5301

Fax # 907-543-4186

July 2, 2013

MEMO

To: Property owners within 600 feet of 9116 Ptarmigan Road

From: City of Bethel Planning Department

Both the Bethel Planning Commission and the Bethel City Council have met to review a Conditional Use Permit request to place a telecommunications tower in Tundra Ridge at the above address. Some adjoining property owners have protested the tower, stating that it will reduce their property values. Other issues have been shared.

The requesting company wants to install the tower to improve telephone and internet service. These improvements will occur in several parts of the city including Tundra Ridge.

If you have an opinion to share one way or the other I invite you to attend the next public hearing which will be at the July 11th Planning Commission meeting. This is a forum to hear what City of Bethel residents have to say on this issue. You are welcome to come and speak.

To Whom this may concern:

You are receiving this notice of a Public Hearing pursuant to BMC 17.04.025, "Notice shall be mailed to the owners of each parcel of property any part of which is within 600 feet of the exterior boundary of the parcel that is the subject of the application or petition."

You have been identified on city utility service lists as someone who may have property interest in the area described above. If you are not the property owner, please pass this notice along to them.

Rachael Pitts
Planning Director

PUBLIC HEARING NOTICE

On July 11, 2013 the City of Bethel Planning Commission will hear a request received in the Planning Office on April 16, 2013 by United Utilities, Inc., for a telecommunications tower and utility structure to be located at 9116 Ptarmigan Street, Bethel, Alaska, 99559. Legal description: Plat #80-2, Lot 15, Block 10. The hearing will be held at the City Council Chambers, 300 Chief Eddie Hoffman Highway, at 6:30 pm. If you cannot attend the meeting, please call the Planning Department at 543-5306.

BTP LLC
PO Box 2590
Bethel, Alaska 99559

Resident
PO Box 3212
Bethel, Alaska 99559

Lonk Putman
PO Box 3434
Bethel, Alaska 99559

Wells Fargo
PO Box 884
Bethel, Alaska 99559

Resident
PO Box 1046
Bethel, Alaska 99559

Joan Alice Neck
PO Box 69
Bethel, Alaska 99559

George Young
PO Box 946
Bethel, Alaska 99559

Resident
PO Box 2286
Bethel, Alaska 99559

Bridget Overitlt
PO Box 1641
Bethel, Alaska 99559

Harry Faulkner
PO Box 1543
Bethel, Alaska 99559

BTP LLC
PO Box 3514
Bethel, Alaska 99559

Mary Ann Watson
PO Box 2494
Bethel, Alaska 99559

Gary Vanasse
PO Box 1544
Bethel, Alaska 99559

BTP LLC
PO Box 492
Bethel, Alaska 99559

Michael O'Brien
PO Box 2215
Bethel, Alaska 99559

German Pena
PO Box 3309
Bethel, Alaska 99559

Timothy B
PO Box 569
Bethel, Alaska 99559

Alton Alexie
PO Box 1802
Bethel, Alaska 99559

Tim Myers
PO Box 30
Bethel, Alaska 99559

Wells Fargo
PO Box 1735
Bethel, Alaska 99559

Resident
PO Box 2829
Bethel, Alaska 99559

Resident
PO Box 927
Bethel, Alaska 99559

Sue Unin
PO Box 2611
Bethel, Alaska 99559

Darrell Korthuis
PO Box 1404
Bethel, Alaska 99559

Resident
PO Box 791
Bethel, Alaska 99559

Wells Fargo
PO Box 2425
Bethel, Alaska 99559

Resident
PO Box 2489
Bethel, Alaska 99559

Resident
PO Box 1296
Bethel, Alaska 99559

Cheryl Castille
PO Box 1253
Bethel, Alaska 99559

Resident
PO Box 1326
Bethel, Alaska 99559

Resident
PO Box 3021
Bethel, Alaska 99559

Resident
PO Box 1513
Bethel, Alaska 99559

Tundra Investments
PO Box 220610
Anchorage, Alaska 99552-0610

Resident
PO Box 3021
Bethel, Alaska 99559

Resident
PO Box 1668
Bethel, Alaska 99559

June Himmers
PO Box 2285
Bethel, Alaska 99559

Resident
PO Box 2732
Bethel, Alaska 99559

Craig Boney
PO Box 1971
Bethel, Alaska 99559

Resident
PO Box 2522
Bethel, Alaska 99559

Kathryn Vandenburg
PO Box 2609
Bethel, Alaska 99559

for Conveyance

As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision will be issued by the Bureau of Land Management to The Kuskokwim Corporation. The decision approves the surface estate in the lands described below for conveyance pursuant to the Alaska Native Claims Settlement Act. The subsurface estate in these lands will be conveyed to Calista Corporation when the surface estate is conveyed to The Kuskokwim Corporation. The lands are in the vicinity of Georgetown, Alaska, and are located in:

Section 12(b) Lands
Seward Meridian, Alaska
T. 22 N., R. 45 W.,
Secs. 30 and 31.
Containing 1,254.64 acres.

Notice of the decision was published in the Federal Register on June 11, 2013. Any party claiming a property interest in the lands affected by the decision may appeal the decision within the following time limits:

1. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who fail or refuse to sign their return receipt, and parties who receive a copy of the decision by regular mail which is not certified, return receipt requested, shall have until July 11, 2013 to file an appeal.
2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.
3. Notices of appeal transmitted by electronic means, such as facsimile or e-mail, will not be accepted as timely filed. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

A copy of the decision may be obtained from:

Bureau of Land Management

Alaska State Office
222 West Seventh Avenue, #13
Anchorage, Alaska 99513-7504

For further information, contact the Bureau of Land Management by phone at 907-271-5960, by e-mail at ak.blm.conveyance@blm.gov or by

Lee, Deceased.

Case No. 4BE-13-0039PR
NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that Jum Soon Lee has been appointed as Personal Representative of the above-named estate. All persons having claims against the said deceased are required to present their claims within four months after the date of the first publication of this notice or said claims will be forever barred. Claims must either be presented to Jum Soon Lee, c/o Angstman Law Office, P.O. Box 585, Bethel, AK 99559, or filed with the Court.

DATED this 16th day of April, 2013.
ANGSTMAN LAW OFFICE
Attorneys for Personal Representative
By: Myron Angstman
ABA #7410057 (126)(7/3-17)

PUBLIC HEARING NOTICE

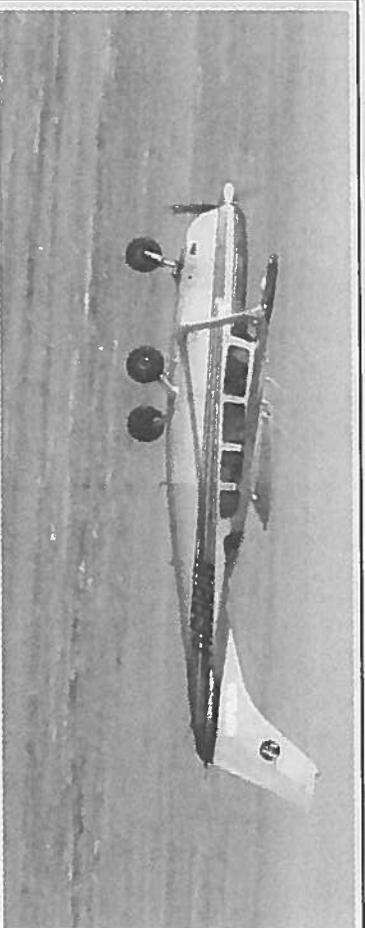
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CHARTERS 907-543-3030

June 06, 2013

John Guinn
Chairman, City of Bethel Planning Commission
City of Bethel
P.O. Box 1388
Bethel, Alaska 99559

Chairman Guinn,

It is with great sadness that I must submit this letter of resignation as Commissioner from the Planning Commission for the City of Bethel. When I first joined the Planning Commission in 2007 there was not a requirement for reporting of Domestic Partner finances. The City of Bethel now requires that I do so as an appointed Planning Commissioner according to the Financial Disclosure Statement we are now required to complete. Some of the information that the Financial Disclosure Statement requires me to provide is information that I have never felt a need to ask in my long term, on and off again relationship with my Domestic Partner . Now I am required to ask this information and make it a public record. This is something I cannot do in good conscience.

If this requirement is waived or rescinded in the future I would look forward to serving on the Planning Commission again. I have enjoyed the last six and a half years serving under your Chairmanship and hope that in the future I may do so again.

Sincerely,



Mike Walter

cc: Mayor Klejka
Rachel Pitts, Planning Director