



Planning Commission Meeting Agenda

Regular Meeting Thursday, July 10, 2014 – 6:30PM
City Hall Council Chambers 300 Chief Eddie Hoffman Highway

MEMBERS

John Guinn
Chair
Term Expires
12/2015

Joy Shantz
Vice-Chair
Term Expires
12/2015

Heather Pike
Council Rep.
Term Expires
10/2015

Vacant

Abe Palacios
Committee Member
Term Expires
12/2015

Cliff Linderoth
Committee Member
Term Expires
12/2014

VACANT
Committee Member
Term Expires

Rachael Pitts
Ex-Officio Member
Betsy Jumper
Recorder

AGENDA

- I. CALL TO ORDER
- II. ROLL CALL
- III. PEOPLE TO BE HEARD – (15 Minute Limit)
- IV. APPROVAL OF MINUTES OF THE JUNE 12, 2014 MEETING
- V. APPROVAL OF AGENDA
- VI. UNFINISHED BUSINESS
 - A. Public Hearing: Final Plat of Pinky's Park Subdivision, Tract 1, containing 31.45 acres. Property of the City of Bethel. The address is 326 Akiachak Avenue. The purpose is the addition of ten acres to Pinky's Park.
 - B. Public Hearing: Final Plat of the proposed Snow Ridge Subdivision. The location is the Heirs of Nicholas A. Charles property, located at Tundra Ridge Road. The purpose is to create a residential subdivision.
- VII. NEW BUSINESS
 - A. Phillips Treatment Center drawings.
- VIII. DIRECTOR'S REPORT
- IX. COMMISSIONER'S COMMENTS
- X. ADJOURNMENT

>>>>DRAFT<<<<
City of Bethel, Alaska
Planning Commission

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER

A regular meeting of the Planning Commission was held on June 12, 2014 at 6:30 pm in the City of Bethel Council Chambers room, in Bethel, Alaska.

Chair, John Guinn called the meeting to order at 6:30 pm.

II. ROLL CALL

Compromising a quorum of the Committee, the following members were present for roll call: John Guinn, Joy Shantz, Heather Pike, Cliff Linderoth, and Abe (Bubba) Palacios.

Ex-Officio members present were the following: Rachael Pitts, Planning Director and recorder.

III. PEOPLE TO BE HEARD: None.

IV. APPROVAL OF AGENDA

MOTION TO APPROVE THE AGENDA OF JUNE 12, 2014

MOVED:	Joy Shantz	To approve the agenda, with the removal of agenda items Pinky's Park Plat and wind turbine ordinance.
SECONDED:	Abe Palacios	
VOTE ON MOTION	All in favor 5 motion passes and 0 opposed.	

V. APPROVAL OF MINUTES

MOTION TO APPROVE THE MINUTES OF MARCH 13, 2014

MOVED:	Abe Palacios	To approve the minutes of the March 13, 2014 meeting.
SECONDED:	Heather Pike	
VOTE ON MOTION	All in favor 5 motion passes and 0 opposed.	

VI. MOTION TO APPROVE THE MINUTES OF THE JUNE 2, 2014 SPECIAL MEETING

MOVED:	Joy Shantz	To approve the minutes of the June 2, 2014 special meeting.
SECONDED:	Abe Palacios	
VOTE ON MOTION	All in favor 5 motion passes and 0 opposed.	

VII. UNFINISHED BUSINESS

A. PUBLIC HEARING: A final plat of a portion of US Survey 3790, Block 6, LOT 15, located in the right-of-way of East Avenue, ten feet in width and 97.85 feet in length, a total of 978.5 square feet. Property of Sharon J. Strauss and Samuel Strauss. The address is 206/208 East Avenue. The purpose is a right-of-way dedication.

MOVED:	Abe Palacios	To approve the final plat of a portion of USS 3790, block 6, lot 15.
SECONDED:	Joy Shantz	
VOTE ON MOTION		
All in favor 5 motion passes and 0 opposed		

B. PUBLIC HEARING: A final plat of a 60 foot utility and public access easement and miscellaneous sewer and utility easements. The location is City of Bethel property adjacent to the City of Bethel Recreational Center subdivision. The purpose is to create a utility access.

MOVED:	Joy Shantz	To approve the final plat of a 60 foot utility and public access easement and miscellaneous sewer and utility easements.
SECONDED:	Abe Palacios	
VOTE ON MOTION		
All in favor 5 motion passes and 0 opposed.		

VIII. NEW BUSINESS

A PUBLIC HEARING: Preliminary Plat of the proposed Snowridge Subdivision. The location is the Heirs of Nicholas A. Charles property, located at Tundra Ridge Road. The purpose is to create a residential subdivision.

MOVED:	Joy Shantz	To approve the preliminary plat of the proposed Snowridge Subdivision.
SECONDED:	Heather Pike	
VOTE ON MOTION		
All in favor 5 motion passes and 0 opposed		

IX. DIRECTORS REPORT: Rachael discussed risk mapping.

X. COMMITTEE MEMBER COMMENTS: **Cliff:** any action being taken on traffic at the the new Swansons? **Bubba:** requested to see the Phillips Alcohol Treatment Center's drawings. **Joy:** Ridgcrest traffic issues.

XI. ADJOURNMENT

MOVED:	Joy Shantz	Motion to adjourn the meeting.
SECONDED:	Abe Palacios	
VOTE ON MOTION	All in favor 5 motion passes and 0 opposed	

Next meeting on July 10, 2014

_____, John Guinn, Chairman
_____, Betsy Jumper, Recorder



City of Bethel
Planning Department
Staff Report for Preliminary Plat, January 27, 2014

Planning Commission Hearing Date:	February 13, 2014
Request:	Preliminary Plat
Property Owner:	City of Bethel
Applicant / Representative:	Planning Department
Recommendation:	Approval

	Work Order No. 13083_2
Description	Pinky's Park Subdivision Tract 1
Action	Increase the area of Pinky's Park
Size of Existing Lot	21.43 acres
Size of Proposed Lot	31.43 acres
Zoning	Open Space, Public Lands and Institutions, and Preservation
Floodplain Status	Partially located in Flood Zone AE
Potential for Development	Development of more park amenities for the City of Bethel
Previous Plats	74-577, 83-39

BACKGROUND AND ISSUES

The surveying and platting of these properties and their consolidation were requested by the Parks and Recreation Department of the City of Bethel. The City of Bethel owns the properties. The resulting parcel will be used for further development of the existing park, and there are no impacts on adjacent neighborhoods anticipated by these platting actions.

The five-acre area on the north side that is to be added was turned over to the City by the State of Alaska in 1984 (Document No. 1984-000233-0). The original native allotment number was F032013, and it is shown as Lot 1B on Plat 83-39 of Bethel Recording District. On another Patent it is referred to as a former trade and manufacturing site. On Plat 74-577 it is denoted as part of a BLM lot split.

The five acres to be added on the west side were approved by City Council Resolution 13-03, Designation of Five Acres of Land to Pinky's Park for Outdoor Recreation.

The Planning Department recommends approval of the preliminary plat.

Writer

REP

1/27/2014

Attachments

Previous Plats

City Council Resolution 13-03



City of Bethel
Planning Department
Staff Report for Preliminary Plat, March 25, 2014

Planning Commission Hearing Date: April 10, 2014
Request: Preliminary Plat
Property Owner: The Heirs of Nicholas A. Charles
Applicant / Representative: John Copenhaver, McClintock Land Associates, Inc.
Recommendation: Approval.

Description	Drawing: PL10-246
Action	Snow Ridge Subdivision
Size of Existing Parcel	Create 11 residential lots, and Tract B1
Size of Proposed Lots	150 acres
Zoning	Tract B =6.52 acres, Block 1 with 11 lots that vary in size
Floodplain Status	Residential
Potential for Development	N/A
Previous Plats	Residential Development
	None

BACKGROUND AND ISSUES

According to Planning Department records, the preliminary plat for the Snowridge Subdivision was first submitted in 2005. The changes to the plat requested at that time were required to be cleared by the Bureau of Indian Affairs before the plat could be changed. In subsequent years the delays at BIA, and the changes to the Bethel Municipal Code have prevented the submittal and approval of the plat in a timely manner.

The property was zoned Residential in 2013. The Charles family is proposing a large lot subdivision on the north side of the Un-Named Lake that covers 10.43 acres of their land (Tract F). The subdivision will be on the north shore of this lake, and the plat includes a loop road that surrounds Tract B, and provides access to Tract B1. This loop road satisfies the requirement in the Bethel Municipal Code for traffic circulation.

Proposed Block 1 is located on the west side of Bethel, outside of the areas FEMA identifies as floodplain. There are some wetland areas that are exempt from the General Permit for the Discharge of Dredged and/or Fill Material into Wetlands at Bethel. The area containing the eleven residential lots has sufficient elevation to permit fill. The plat indicates that fill will not be permitted within 25 feet of the edge of the UnNamed Lake, per the requirements in Residential zoning districts.

The road that passes through the Charles property is an important part of city traffic circulation. It was part of the Interim Conveyance by the Kuskokwim Corporation, in the Kuskokwim Recording District, in 1983 (Book 17, Page 99). The extension from the Ptarmigan corridor includes two road segments (16 and 16a, C4) that extend to the BIA Road, and a one acre site easement that allows parking, temporary camping, and loading and unloading. The southern extension to BIA Road has been closed by allotment holders, and alternative traffic circulation corridors are being sought by the city. The BIA assures us at this time that they are continuing to work for access across closed property in order to improve traffic circulation.

All drainage is the responsibility of the property owners. Sufficient ponds, channels, and culverts are required to be installed as part of the development so that the burden of solving drainage problems does not fall on city staff and funding. A review of drainage solutions will be done when Site Plan Permit requests are submitted to the Planning Department.

These stipulations were included with the Residential zoning that was approved in 2013:

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. At the time piped water and sewer services are provided to the area, property owners are required to hook up to these services. Until that time properties must provide sufficient clearance for water and wastewater trucks to access the residences.
4. The subdivision must provide dedicated areas for location of neighborhood dumpsters.
5. The Planning Department will assign street numbers to individual properties, and these must be visible from the street.
6. No fill is permitted in preservation areas, to include private property.

Staff recommends approval of the preliminary plat.



STATEMENT OF WORK AND SCHEDULE

NO.	DESCRIPTION	DATE
1	PREPARE CONTRACT DOCUMENTS	10/15/13
2	ISSUE CONTRACT DOCUMENTS	10/22/13
3	AWARD CONTRACT	11/05/13
4	START CONSTRUCTION	11/12/13
5	COMPLETE CONSTRUCTION	01/15/14
6	FINAL INSPECTION	01/22/14
7	ISSUE FINAL REPORT	02/05/14

JUL 07 2014

SNOW RIDGE SUBDIVISION

OWNER: SNOW RIDGE SUBDIVISION, INC.
 PROJECT: SNOW RIDGE SUBDIVISION, TRACT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

POWELL & POWELL, INC.

STATEMENT OF WORK AND SCHEDULE

NO. DESCRIPTION DATE

1 PREPARE CONTRACT DOCUMENTS 10/15/13

2 ISSUE CONTRACT DOCUMENTS 10/22/13

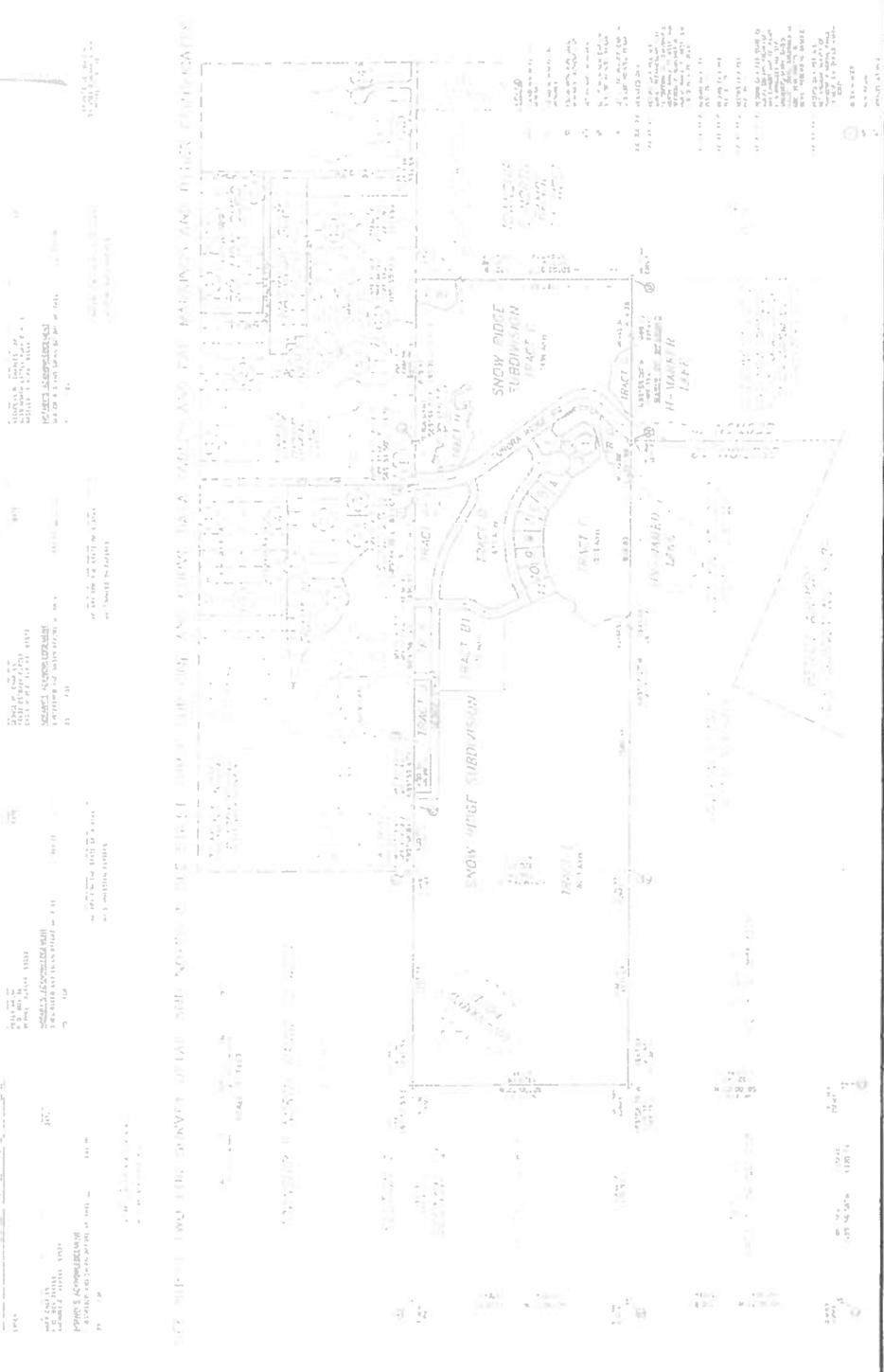
3 AWARD CONTRACT 11/05/13

4 START CONSTRUCTION 11/12/13

5 COMPLETE CONSTRUCTION 01/15/14

6 FINAL INSPECTION 01/22/14

7 ISSUE FINAL REPORT 02/05/14



STATEMENT OF WORK AND SCHEDULE

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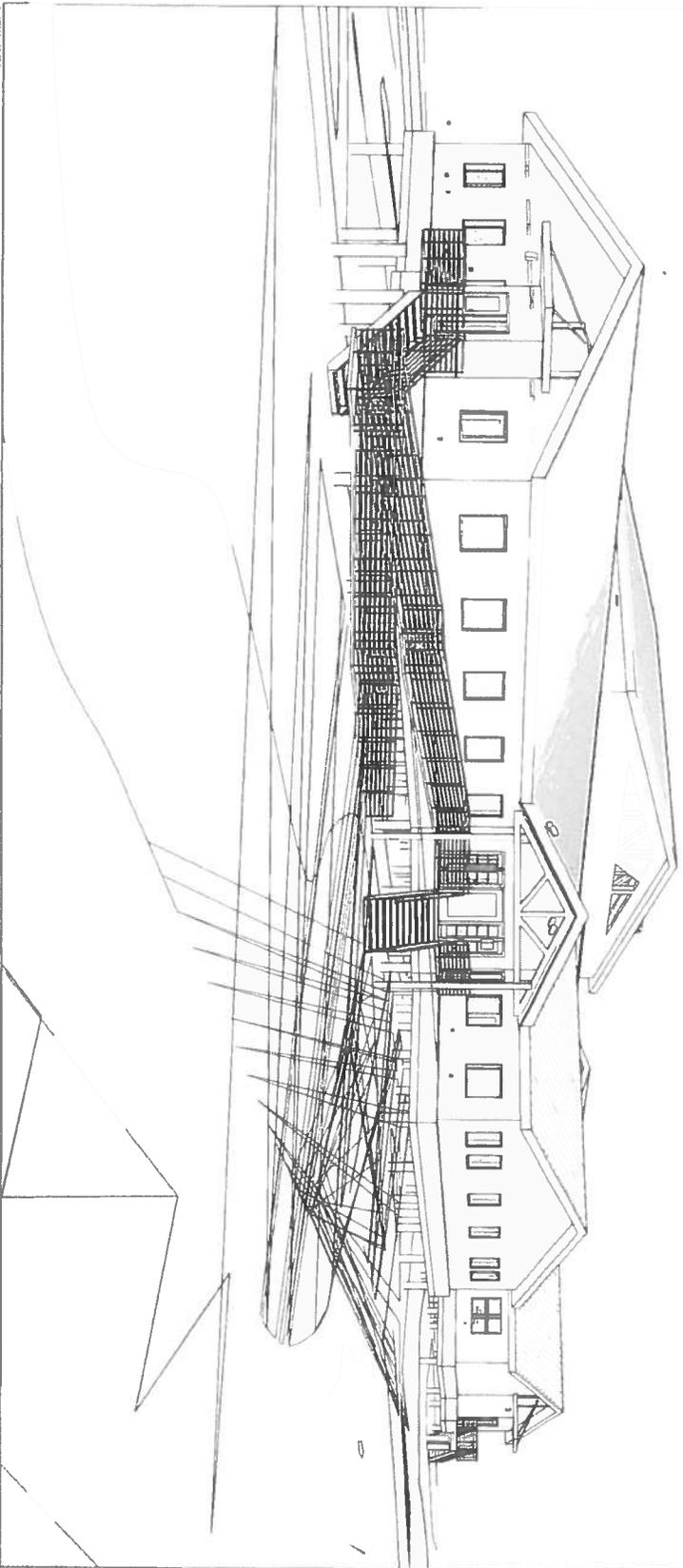
5 COMPLETE CONSTRUCTION 01/15/14

6 FINAL INSPECTION 01/22/14

7 ISSUE FINAL REPORT 02/05/14

YUKON KUSKOKWIM HEALTH CORPORATION
**PHILLIPS AYAGNIRVIK
 TREATMENT CENTER**

BETHEL, ALASKA



01/20/11 08:27 PM



Architects: Engineers • Surveyors
 401 College Road Fairbanks, AK 99701
 907.442.1211 design@alaska.com

**Design
 Alaska**

YKIC PHILLIPS
 AYAGNIRVIK
 TREATMENT
 CENTER

ISSUE DATE 14 AUG 2010
 CHECK NUMBER 021261
 DRAWN BY
 SCALE 8" = 1'

GRAPHIC COVER

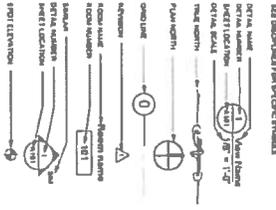
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YUKON KUSKOKWIM HEALTH CORPORATION PHILLIPS AYAGNIRVIK TREATMENT CENTER

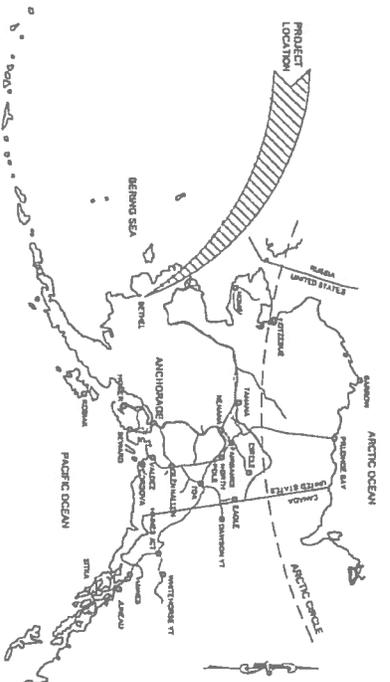
BETHEL, ALASKA

0000	DRAWING COVER	5001	STRUCTURAL GENERAL NOTES	E001	LEGENDS & ABREVIATIONS
0001	GENERAL INFORMATION	5100	PROPOSED FLE LAYOUT	E002	SCHEDULES
0100	CODE ANALYSIS	M001	MECHANICAL, LEGEND AND ABREVIATIONS	E100	ROOF PLAN 1ST FLOOR
0101	GRAPHIC CODE ANALYSIS	M002	MECHANICAL SCHEDULE	E200	MECHANICAL PLAN 1ST FLOOR
C100	SITE EXISTING CONDITIONS	M101	FIRST FLOOR VENTILATION PLAN BLOCK A	E300	POWER ONE-LINE RISER DIAGRAM
C200	PROPOSED SITE PLAN	M102	FIRST FLOOR VENTILATION BLOCK B	E400	ONDOKING RISER DIAGRAM & DETAILS
C301	UTILITIES PLAN	M110	LARGE SCALE VENTILATION PLAN		
A200	FIRST FLOOR PLAN - OVERALL	M201	FIRST FLOOR HYDRONIC PLAN - BLOCK A		
A201	ROOF PLAN	M202	FIRST FLOOR HYDRONIC PLAN - BLOCK B		
A210	FIRST FLOOR PARTIAL PLAN - BLOCK A1	M210	MECHANICAL ZONE LAYOUT		
A211	FIRST FLOOR PARTIAL PLAN - BLOCK A2	M220	MECHANICAL ZONE LAYOUT		
A212	FIRST FLOOR PARTIAL PLAN - BLOCK B1	M230	MECHANICAL ZONE LAYOUT		
A213	FIRST FLOOR PARTIAL PLAN - BLOCK B2	M240	MECHANICAL ZONE LAYOUT		
A214	FIRST FLOOR PARTIAL PLAN - BLOCK B3	M250	MECHANICAL ZONE LAYOUT		
A215	FIRST FLOOR PARTIAL PLAN - BLOCK B4	M260	MECHANICAL ZONE LAYOUT		
A200	EXTENSION ELEVATIONS	M270	MECHANICAL ZONE LAYOUT		
A201	EXTENSION ELEVATIONS	M280	MECHANICAL ZONE LAYOUT		
A400	BUILDING SECTIONS	M290	MECHANICAL ZONE LAYOUT		
A400	BUILDING SECTIONS	M300	MECHANICAL ZONE LAYOUT		
A410	WALL SECTIONS	M310	MECHANICAL ZONE LAYOUT		
A420	FIRST FLOOR CEILING PLAN	M320	MECHANICAL ZONE LAYOUT		
A430	ROOM SCHEDULE	M330	MECHANICAL ZONE LAYOUT		
A431	ROOM SCHEDULE	M340	MECHANICAL ZONE LAYOUT		
A801	DOOR SCHEDULE	M350	MECHANICAL ZONE LAYOUT		

GENERAL SYMBOLS



ALASKA MAP



VICINITY MAP



SHEET DATE: 14 AUG 2013
 SHEET NUMBER: G001
 DESIGNED BY: [Name]
 DRAWN BY: [Name]
 SCALE: 1" = 1'

YKHC PHILLIPS
 AYAGNIRVIK
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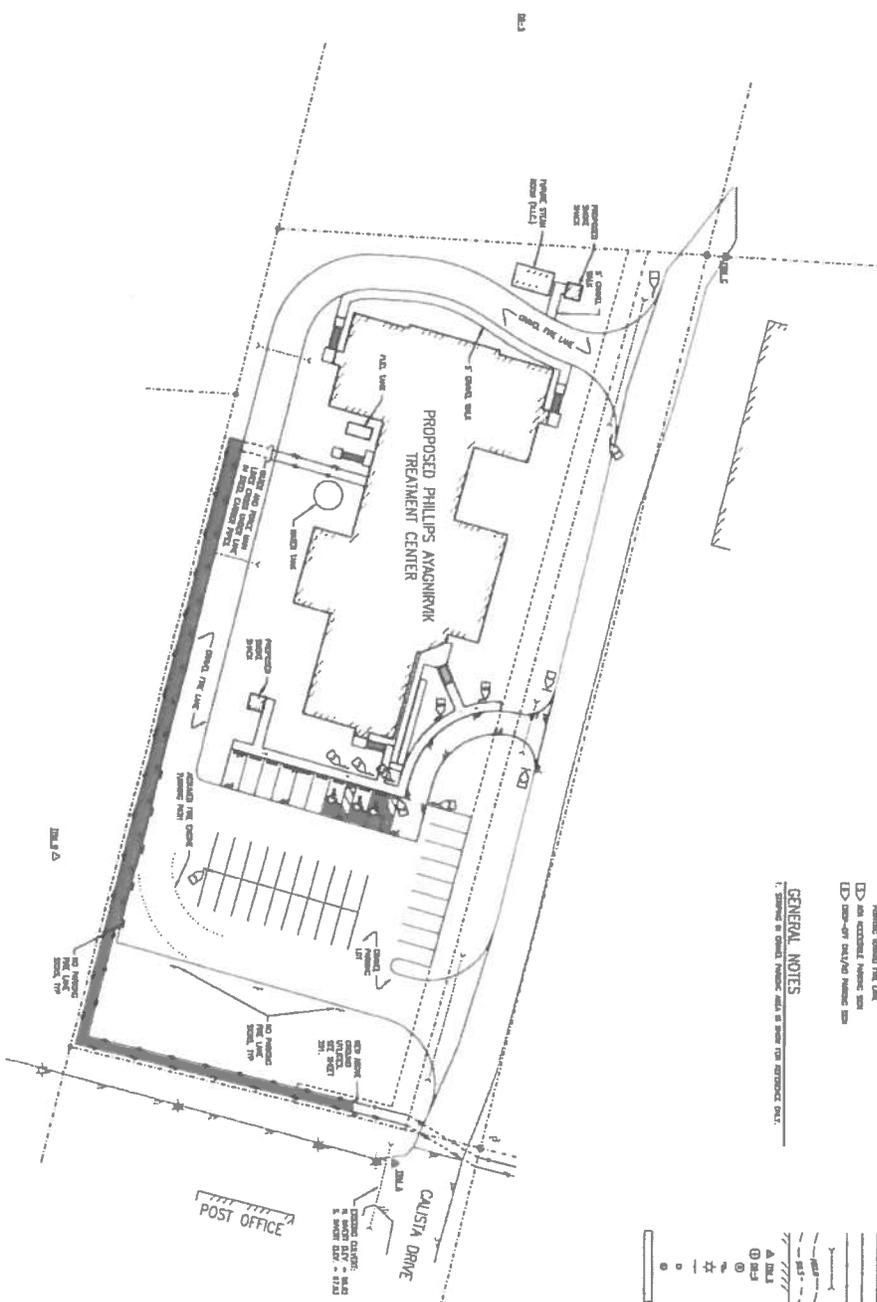


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 Architects Engineers Surveyors
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 907.452.1311
 design@designalaska.com

G001

8/14/2013 4:08:27 PM

1 PROPOSED SITE PLAN
SCALE: 1" = 30'



- SPECIFIC NOTES**
- 1. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 2. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 3. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 4. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 5. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 6. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 7. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 8. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 9. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
 - 10. SEE ALL DIMENSIONS ON GENERAL NOTES SHEET
- GENERAL NOTES**
- 1. GENERAL NOTES NUMBER WITH A SHOW FOR APPROVED ONLY.

LEGEND

Center of Roadway	Center of Roadway
Proposed Lot	Proposed Lot
Existing Lot	Existing Lot
Proposed Electric	Proposed Electric
Proposed Water	Proposed Water
Proposed Sewer	Proposed Sewer
Proposed Gas	Proposed Gas
Proposed Storm	Proposed Storm
Proposed Fire	Proposed Fire
Proposed Telephone	Proposed Telephone
Proposed Cable	Proposed Cable
Proposed Fiber Optic	Proposed Fiber Optic
Proposed Other	Proposed Other

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14/17/2013
SCHEMATIC
DESIGN
DOCUMENTS
TREATMENT CENTER

YKHC PHILLIPS
AYAGMIRVIK
TREATMENT
CENTER

SS&E DATE: 14 AUG 2013
DRAWN BY: ALM
SCALE: 0" = 1'-0"
PROPOSED SITE
PLAN

C200



Planning Department Report

From: Rachael Pitts, Planning Director

Date: July 1, 2014

The planner has been reviewing Titles 15-18 of the BMC, and will recommend some changes to make the code a little easier to administer, and to update it. This is quite a bit of code on various topics that is cross referenced, so the work on this is ongoing. Staff also worked on changes once again to the Procurement Code.

The Planner attended the Association of Floodplain Managers Conference in Seattle this month, and had an opportunity to attend a variety of presentations. A consistent theme was FEMA's need to expand floodplain areas and make more stringent requirements on floodplain development. Some of these changes are already occurring and causing consternation among affected property owners. FEMA is greatly challenged by disasters that have occurred in the last ten years and major changes are on the way.

The Planning Department did notification to property owners on Seventh Avenue, concerning road widening that will occur in July. Staff is working with property owners to inform them of the project.

Staff welcomed Greg Moyer, the Interim City Manager, and is providing him with information to assist him in his new role.

Four City of Bethel plats were recorded this month, all part of a process to get some surveying done to accomplish some platting objectives. This surveying process started last fall and involved several departments.

Site Plan Permit Applications and Code Enforcement: The Planning Department has received 23 Site Plan Permit applications to date.

Construction Projects:

Extensive remodeling is taking place at the AC store. The improvements are attractive, including addition of square footage.

The new Swanson's store opened on June 30, 2014.

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PUBLIC NOTICES

STATE OF ALASKA
 DEPARTMENT OF TRANSPORTATION &
 PUBLIC FACILITIES (DOT/PF)

CENTRAL REGION

INVITATION FOR QUOTES

Project Bid Title: Platinum Airport Mainte-
 nance Re Bid
 Project Bid No.: 15-25A-1-017
 Estimated Cost: Between \$10,000.00 and
 \$30,000.00
 Bid Opening: 1:00 PM on 7/14/2014
 Telephone: (907) 269-0767
 TTD: (907) 269-0473
 TTY: (800) 770-8973

*Copies of the Contract bid documents may
 be obtained at the Platinum Post Office or
 the M&O Bethel Station Airport Manager's
 Office.*

Up to date and additional information is
 available on the web at (<http://dot.alaska.gov>). Under the Section called Quick Links,
 select DOT & PF Public Notices. Look
 through the section called Procurement for
 the Invitation for Quotes.

PUBLIC NOTICES

AO 14-60-053 Pub: July 3 & 10,
 2014

PUBLIC HEARING NOTICE

On July 10, 2014, the City of Bethel Planning
 Commission will hear a request received in
 the Planning Office for two final plats. The
 hearing will be held at Bethel City Council
 Chambers, 300 Chief Eddie Hoffman, at
 6:30PM. If you cannot attend the meeting
 but would like to comment or would like
 more information, please call the Planning
 Department at 543-5306.

Descriptions of the Final Plats are as fol-
 lows:

1. Final Plat of Pinky's Park Subdivision,
 Tract 1, containing 31.43 acres. Property
 of the City of Bethel. The address is 326
 Akiachak Avenue. The purpose is the addi-
 tion of ten acres to Pinky's Park.
2. Final Plat of proposed Snow Ridge Subdi-
 vision. The location is the Heirs of Nicolas
 A. Charles Property, located at Tundra Ridge
 Road. The purpose is to create a residential
 subdivision.

Pub: July 3, 2014

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PUBLIC HEARING NOTICE

On July 10, 2014, the City of Bethel Planning Commission will hear a request received in the Planning Office for two final plats. The hearing will be held at Bethel City Council Chambers, 300 Chief Eddie Hoffman, at 6:30 PM. If you cannot attend the meeting but would like to comment or would like more information, please call the Planning Department at 543-5306.

Descriptions of the Final Plats are as follows:

1. Final Plat of Pinky's Park Subdivision, Tract 1, containing 31.43 acres. Property of the City of Bethel. The address is 326 Akiachak Avenue. The purpose is the addition of ten acres to Pinky's Park.
2. Final Plat of proposed Snow Ridge Subdivision. The location is the Heirs of Nicolas A. Charles Property, located at Tundra Ridge Road. The purpose is to create a residential subdivision.

Site Visits Done . . . Legally

LAW

SITE VISITS ARE COMMON FOR SOME PLANNING COMMISSIONS and nonexistent for others. Should planning commissions do them, and if so, how should they approach them from a legal standpoint?

Many planning commissioners conduct private site visits to look at properties on which developments are proposed. Some meet with applicants on the properties and discuss the proposed developments. But in many jurisdictions, such site visits could result in a reviewing court overturning a planning commission's decision on the grounds of due process. It is important for planning commissioners to understand the potential legal pitfalls that might arise from a private site visit.

Typically, a planning commission acts as a quasi-judicial body when it considers an application for development approval. Quasi-judicial actions pertain to the application of adopted regulations to a particular applicant, whereas legislative actions pertain to the adoption of regulations. Quasi-judicial hearings require more due process protections than legislative hearings, including the requirement that a planning commissioner must base a decision upon the facts presented during a quasi-judicial hearing. Additionally, all parties involved in a quasi-judicial hearing, such as the applicant and the affected neighbors, are entitled to know all facts that may form the basis for a planning commissioner's decision.

Let's consider an example. A private site visit results in a planning commissioner obtaining information outside the quasi-judicial hearing. The planning commissioner may observe wetlands, protected species, or traffic movement concerns. If the planning commissioner bases his or her decision on this information without disclosing it during the quasi-judicial hearing, a reviewing court could conclude that a party's due process right has been violated.

Moreover, it is possible that the factual determinations the planning commissioner makes during the private site visit are incorrect. For example, he or she may incorrectly believe that a bald eagle nest is located on the property, and would never vote to approve

a project that would disturb a bald eagle. The planning commissioner may also see abundant water on the property and incorrectly believe wetlands exist there. Such undisclosed and incorrect beliefs would adversely affect the due process rights of

the parties involved in a quasi-judicial hearing.

The safest way for a planning commissioner to avoid these due process issues is to simply not conduct private site visits. This approach helps ensure that each planning commissioner will base the decision to approve or deny a development application solely upon the information presented during the

quasi-judicial hearing.

If planning commissioners still desire site visits, they should schedule the site visits prior to the quasi-judicial hearings and provide public notice so that all interested parties can attend. Following the properly advertised site visits, at the beginning of the quasi-judicial hearings, each planning commissioner should disclose any information gained during the site visit that is pertinent to the pending application. This will allow all parties at the quasi-judicial hearing to address any concerns or incorrect information, such as pointing out that the bald eagle nest is really an osprey nest or clarifying that the alleged wetlands were the result of flooding from a broken pipe.

A related due process concern that frequently arises with private site visits is the applicant or the opposing neighbor discussing the proposed project with a planning commissioner. Such a discussion is known as an *ex parte* communication. Failure to disclose *ex parte* communica-

APPROACHING SITE VISITS FROM A LEGAL STANDPOINT

SCHEDULE site visits prior to quasi-judicial hearings.

PROVIDE public notice for all interested parties.

DISCLOSE information gained pertinent to pending application.

SUMMARIZE *ex parte* communication in a memorandum.

PLACE *ex parte* communication in the project file.

VIEW due process issues from the perspectives of a judicial proceeding.

SEEK legal guidance regarding due process issues.



Planning commissioner site visits require scrupulous reporting on the part of the commissioners after the visit.

tions could also result in a reviewing court overturning the planning commission's decision. Indeed, in some jurisdictions, *ex parte* communications are deemed inherently improper and are presumed to be prejudicial to the opposing party.

The problem with *ex parte* communications is that information is conveyed to a planning commissioner outside of the quasi-judicial hearing, and he or she may base his or her decision upon such information. Doing so violates the due process right of all parties involved in a quasi-judicial hearing, which is the right to be informed of all facts upon which planning commissioners might base their decisions.

Even with the best of intentions, *ex parte* communications can occur. If this happens, the key to removing the prejudicial effect of such communication is, once again, disclosure. Planning commissioners should summarize any and all *ex parte* communication in a memorandum and place it in the project file. All interested parties can then review the file and be informed about the substance of the *ex parte* communication. Planning commissioners should also make a disclosure at the beginning of the planning commission's quasi-judicial hearing. Finally, it is beneficial to view these due process issues from the perspective of a judicial proceeding. A judge would not conduct a site visit without notifying all parties beforehand. Similarly, it would be improper for a judge to have a private discussion with a party to a lawsuit pending before him or her. Even though planning commissions act in a quasi-judicial manner and not a judicial manner, the requirements of the judicial system provide an excellent guidepost for planning commissioners.

In light of the fact that each jurisdiction is different, planning commissions should seek guidance regarding these due process issues from an attorney. Moreover, because these issues continue to evolve, it is better to err on the side of providing too much due process rather than too little.

—David Theriaque

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HISTORY

OREGON'S STATEWIDE PROGRAM FOR LAND-USE PLANNING. The impetus for the statewide planning program developed in Oregon over the last four decades was an effort to preserve coastal areas and farms in the Willamette Valley. The means for doing so was adopted through Senate Bill 100, which required Oregon cities and counties to prepare comprehensive plans in conformance with the stated state goals. A major goal was to stop disorderly growth. Signed into law on May 29, 1973, and supported by the governor and key legislators, this pioneering law brought planning to the state level and went on to influence other states such as Maryland. Read more in Carl Abbott's online history of the law in *The Oregon Encyclopedia*

—Carolyn Torma

Torma is APA's director of education and citizen engagement.

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Douglas Hammel, AICP
Zoning Practice, March 2011
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Safe Urban Form: Revisiting the Relationship Between Community Design and Traffic Safety
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Christopher Swope
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Practicing Planner, Vol. 9, No. 3, 2011
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Urban Design Reclaimed: Tools, Techniques, and Strategies for Planners

Emily Talen
APA Planners Press 2009
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Planning and Urban Design Standards
American Planning Association, John Wiley & Sons, Inc., 2006
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The Rules That Shape Urban Form (PAS 570)
Donald Elliot, FAICP; Matthew Goebel, AICP; and Chad Meadows, AICP
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—Ryan Daudelin

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