



Planning Commission Meeting Agenda
Regular Scheduled Meeting Thursday, April 9, 2020– 6:30PM
ONLY TELECONFERENCE: NUMBER 1-800-315-6338 CODE: 96325

MEMBERS

Kathy Hanson
Chair
Term Expires 12/2021

Lorin Bradbury
Vice-Chair
Term Expires 12/2020

John Guinn
Commission Member
Term Expires 12/2021

Alex Wasierski
Commission Member
Term Expires 12/2021

Shadi Rabi
Commission Member
Term Expires 12/2021

Scott Campbell
Commission Member
Term Expires 12/2020

Stanley Hoffman Jr
Alternate Member
Term Expires 12/2021

Haley Hanson
Council Representative
Term Expires 10/2020

Ted Meyer
Ex-Officio Member

Pauline Boratko
Recorder

AGENDA

- I. CALL TO ORDER:
- II. ROLL CALL:
- III. PEOPLE TO BE HEARD – (3 Minute Limit)
- IV. APPROVAL OF THE AGENDA:
- V. APPROVAL OF THE MINUTES:
 - A. Regular Meeting—March 12, 2020
- VI. SPECIAL ORDER OF BUSINESS:
- VII. NEW BUSINESS:
 - A. Proposed amendment revision to Bethel Municipal Code 15.12.060 (Site Plan Permit - Action on Application) (action item)
- VIII. UNFINISHED BUSINESS:
- IX. PLANNER’S REPORT:
- X. COMMISSIONER’S COMMENTS:
- XI. ADJOURNMENT:

Conference line

Dial: 1-800-315-6338

Enter access code: 96325

City of Bethel, Alaska

Planning Commission

March 12, 2020

Regular Meeting

Bethel, Alaska

I. CALL TO ORDER:

A regular meeting of the Planning Commission was held on March 12, 2020 at the Bethel City Hall, Council Chambers in Bethel, Alaska. The Vice- Chair of the Commission, Lorin Bradbury called the meeting to order at 6:35 PM.

II. ROLL CALL:

Compromising a quorum of the Commission, the following members were present for roll call: Lorin Bradbury, John Guinn, Alex Wasierski, Scott Campbell, Haley Hanson.

Excused Absence: Shadi Rabi, Kathy Hanson and Stanley Hoffman Jr.

Also Present: Ted Meyer, City Planner; Pauline Boratko, Recorder

III. PEOPLE TO BE HEARD:

Mike Shantz- spoke on contiued code violations in Blueberry Sub the corner intersection of Alex and Katie Hately Lane.

MOVED:	John Guinn	Motion to suspend the rules to hear from John & Carole Jordan and Tom McCallson during the new business discussion item B. Haroldson's Subdivision access road.
SECONDED:	Scott Campbell	
VOTE ON MOTION	Unanimous	

I. APPROVAL OF THE AGENDA:

MOVED:	John Guinn	Motion the approve the agenda
SECONDED:	Scott Campbell	
VOTE ON MOTION	Unanimous	

II. APPROVAL OF THE MINUTES:

MOVED:	John Guinn	Motion to approve the meeting minutes from February 13, 2020
SECONDED:	Scott Campbell	
VOTE ON MOTION	Unanimous	

III. SPECIAL ORDER OF BUSINESS:

IV. NEW BUSINESS:

- A. Army Corp of Engineers Presentation: Army Corps of Engineers gave their presentation.

- B. Haroldson's Subdivision access Road: Commissioners discussed Haroldson's Subdivision access road
- C. PUBLIC HEARING: Notice is hereby given that on December 13, 2019 the City of Bethel Planning Office received an application to zone the new Blue Sky Estates Subdivision located off of the BIA Road adjacent to Larson Subdivision. The legal description: Remainder Tract 41 Tracts A, B, C, D, E, & F 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. A Subdivision of Tract 41 situated within Section 11& 12, township 8 north, range 72 west, Seward Meridian, Alaska.

Vice-Chair of the Commission Lorin Bradbury opened up the public hearing.

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

Testimony by Interested Parties: Peek Ehlinger-voiced his concerned about the preliminary plat and zoning

Ted Meyer, City Planner gave his report

Blue Sky Estate Representative was not present to speak on their behalf

Deliberation took place amongst commissioners.

MOVED:	Scott Campbell	Motion to approve zoning for Blue Sky Estates Subdivision (Resolution 2020-02).
SECONDED:	John Guinn	
VOTE ON MOTION	5-yes; 0-no; unanimous	

Vice-Chair Lorin Bradbury closed the public hearing.

V. PLANNER'S REPORT: Ted Meyer gave his report.

VI. COMMISSIONER'S COMMENTS:

- S. Campbell- no comment.
- H. Hanson- no comment.
- L. Bradbury- no comment.
- A. Wasierski- no comment.
- J. Guinn- no comment.

X. ADJOURNMENT:

MOVED:	John Guinn	Motion to adjourn the meeting.
SECONDED:	Scott Campbell	
VOTE ON MOTION	Unanimous	

With no further business the meeting adjourned at 8:42 pm
APPROVED THIS ____ DAY OF _____, 2020

Lorin Bradbury, Vice- Chair

ATTEST: Pauline Boratko, Recorder

DRAFT

15.12.060 Action on an application.

- A. ~~Within ten (10) working days of receipt of a complete application, the planning department shall review the application.~~ **Unless state or federal approval is required, the planning department has ten (10) working days upon receipt of a complete application to review an application.** If the application is subject to city engineer review, an additional seven (7) working days shall be permitted for review of the application. Plans approved and conditions required by the city engineer become a part of the site plan permit. An application may be approved; approved subject to modifications; ~~tentatively~~ approved subject to receipt of required city engineer, state or federal approval; or disapproved.
- B. If approved subject to modification, the applicant shall be notified in writing of the modifications required. The permit will be issued after the applicant has agreed, in writing, to the modifications. If the applicant refuses to agree to a required modification, condition or other requirement, the application shall be denied.
- C. If approved subject to receipt of required state or federal approval, the applicant shall be notified in writing that the site permit ~~has been tentatively approved and~~ will be issued upon receipt by the land use administrator of proof that specified state or federal approval has been given. State and federal agencies that may require approval of improvements or uses include, but are not limited to, U.S. Army Corps of Engineers, the Alaska Department of Environmental Conservation, and the State Fire Marshal. If state or federal approval required modifications to plans, structures, improvements or uses ~~that have been tentatively approved by the land use administrator,~~ the land use administrator shall review the modifications to determine whether the improvement, structure or use, as modified, still meets the requirements of this code.
- D. If the application is denied, the applicant shall be notified in writing of the denial and the reasons therefor.
- E. If the application is approved, the applicant shall be mailed or hand-delivered a site plan permit dated and signed by the land use administrator and a site plan drawing revised to show changes required by the land use administrator and city engineer. The land use administrator may require the applicant to provide the revised drawing before issuance of the permit.
- F. The site plan permit shall include:
1. The address and legal description of the property;
 2. A description of the improvements approved and required by the site plan permit;
 3. The approved use of the site and improvements;
 4. Any other information, including diagrams, drawings, specifications and standards the land use administrator believes are necessary to inform the public and the applicant of the exact nature of the approved uses and the nature and location of the improvements;
 5. Conditions of the permit required by the land use administrator and city engineer; and

6. A signature block with spaces for the date and time the site plan permit was posted and the signature of the person who posted the permit.

G. A summary of the times within which an appeal of the land use administrator's decision on the permit may be filed shall be set out on the permit. If the permit is denied, the summary shall be stated in the written notice to the applicant of the denial. [Ord. 10-15 § 3.]

The Bethel Municipal Code is current through Ordinance 19-22, and legislation passed through February 11, 2020.

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

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

[Code Publishing Company](#)

MEMO

TO: Bethel Planning Commission

FROM: Ted Meyer, City Planner

SUBJECT: Proposed Text Amendment Revision in Response to Army Corps of Engineers' March 12, 2020 Presentation to the Planning Commission (BMC 15.12.060 Site Plan Permit – Action on Application)

DATE: April 3, 2020

The Army Corps of Engineers gave a presentation followed by question and answers at the March 12, 2020 Planning Commission meeting. Corps staff discussed the Bethel General Permit Wetlands Program in terms of the City of Bethel Planning Department's approval process of Site Plan Permit applications.

The Planning Department has followed up on the Corps presentation and their clarification of guidelines by proposing to the Planning Commission, a text amendment that strengthens and provides more clarity of BMC 16.12.060 (*see attached*).

Wetland General Permit Authorization

Bethel's General Permit authorizes the discharge of fill material into waters of the U.S., **including wetlands**, for the purpose of constructing and/or expanding building foundation pads, utilities, roads, driveways, and parking areas for residential, commercial and public works developments. The GP also authorizes excavation activities including mechanized land clearing and other activities that could result in a re-deposition of fill material.

On the attached Bethel General Permit Wetlands map:

1. The red boundary line indicates the parameter of the City's General Permit Wetlands Program.
2. The extent of the City boundary lines go well beyond the General Permit red-lined area. Note: All projects inside the City of Bethel boundaries require a Site Plan Permit.
3. For any development occurring outside the red line, the Corps must be immediately notified and a Corps permit applied for.
4. Inside the red lines there are areas excluded from the General Permit Program indicated by the off-white color with blue plant life symbols. Applicants with projects occurring within these areas must apply to the City as well as notify the Corps and apply for their permit.
5. Inside the red lines the areas shown in brown:

- a) Construction and/or fill placed on lots with undisturbed vegetation and tundra, or extending the footprint of existing pads and structures into previously undisturbed vegetation/tundra will require a review by the Corps if the lot is less than or equal to one acre (turnaround by the Corps is approximately 15 days). If the lot is over one acre, then a Corps permit will be required (can take up to 45 days for Corps turnaround). However, most applications for development are on lots less than one acre.

No Corps permit required.

- b) **Construction and fill projects that are located on previously filled in pads, parking areas, driveways, roadways, etc, and will have no extension of the building or fill footprint into undisturbed vegetation will require one permit from the City of Bethel Planning Department only.**

Army Corps of Engineers Audit

In Fall 2019, the planning department complied with a request from the Corps for Site Plan Permit application data from the past three years (2017 to 2019). The results of their audit was that there were approximately 30-plus applications that should have been forwarded to and reviewed by the Corps before planning department approval. At the March 12, 2020 Planning Commission meeting, the Corps stated they will notify these past applicants and request them to submit an application to the Corps. There will also be no fines for these people.

Projects Identified as Needing Corps Review and/or Permit Application

Site Plan Permit applicants who need an additional Corps review (approximately 15 days turnaround) or need to submit an additional application to the Corps for a permit (up to 45 days turnaround) are encouraged to submit both City Site Plan Permit application and Corps Permit application at the same time. This can be facilitated by the Planning Department as the department must receive all other state and federal project approvals before approving the City's Site Plan Permit application.

Recommendation for Code Amendment Revision

Based on the recent clarifications made by the Army Corps of Engineers regarding Bethel's General Permit Wetland's Program, it appears likely that at least a few of the City's Site Plan Permit Applicants each year will be required to submit an additional application to the Corps for review as to whether their project qualifies for the General Permit. Therefore, the stated 10 working days for review by the Planning Department of a Site Plan Permit Application found in BMC 15.12.060 should be reworded so that the 10-day deadline does not apply to projects requiring Corps review. For added clarity, I recommend the Planning Commission recommend to the City Council the following two Code revision:

#1

BMC 15.12.060 A. ~~Within ten (10) working days of receipt of a complete application, the planning department shall review the application.~~ **Unless state or federal approval is required, the planning department has ten (10) working days upon receipt of a complete application to review an application.**

Incidentally, the City Planning Department cannot approve a Site Plan Permit application until all other local, state, and federal permits for the project have been approved. The City is always the last signer.

#2

BMC 15.12.060 A & C I also recommend that the words and phrases, “tentatively”, “has been tentatively approved and”, and “that have been tentatively approved by the land use administrator” be removed as shown in the attached BMC15.12.060 A and C.

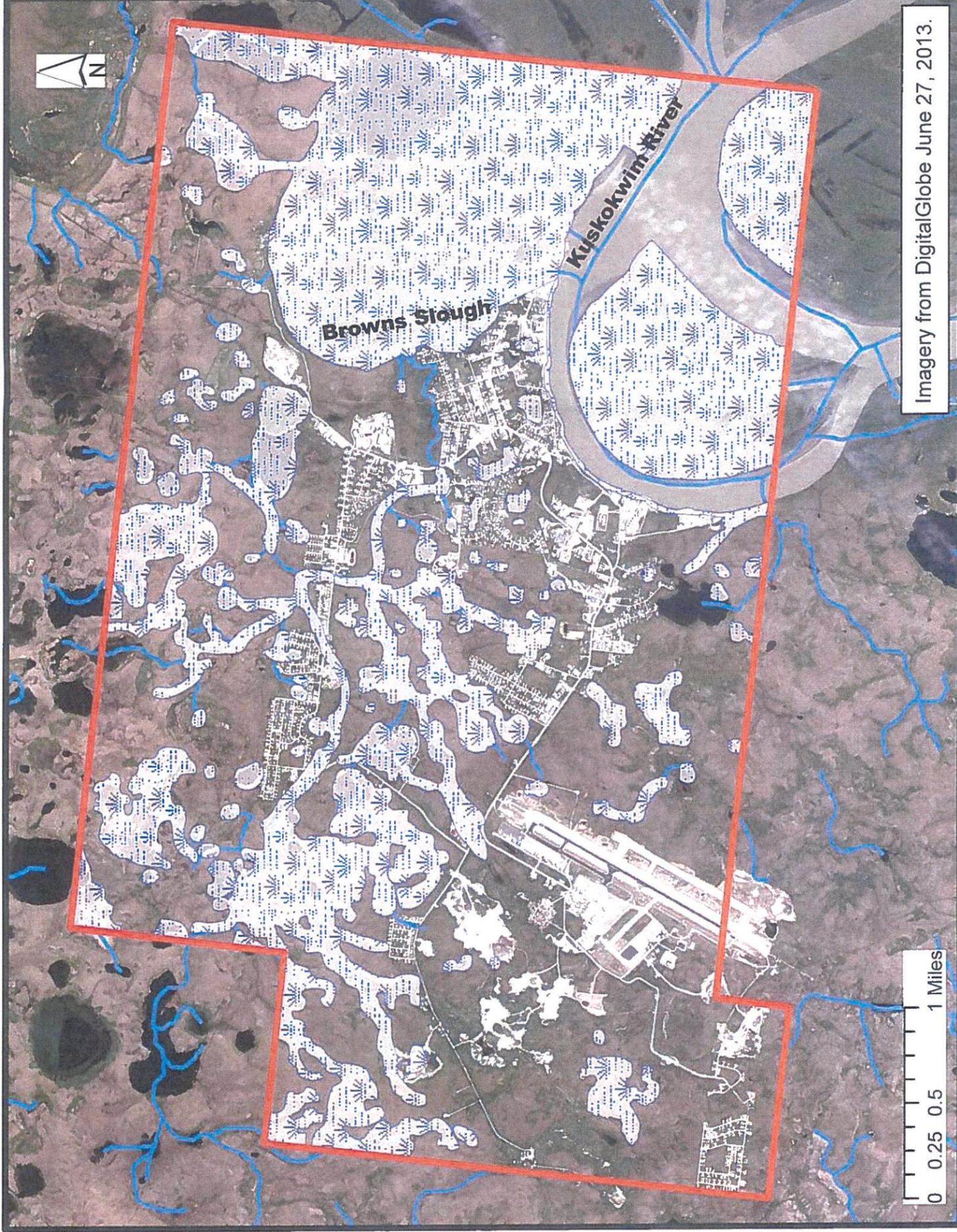
The reason for this recommendation is that a Site Plan Permit application **cannot be tentatively approved.** If waiting for state, federal, or other approvals, the City’s Site Plan Permit application cannot be considered complete until receiving these required approvals. Also, the planning department has a tough enough time as it is, in requiring applicants to wait to begin construction until after the application has been approved. Tentative approval may provide a perceived green light to some applicants to begin construction. For certain projects that now require Corps review and/or approval, jumping the gun may result in fines from the Corps as well. I researched five other municipal codes and found no “tentative approval” references regarding Site Plan Permit approvals.



US Army Corps
of Engineers

POA-2016-476

Bethel General Permit Wetland Exclusion Area



Imagery from DigitalGlobe June 27, 2013.



Legend

-  Permit Boundary
-  Excluded Areas Wetlands
-  Flowline from NHD

Date: January 17, 2017

Enclosure 1

POA-2016-476, Kuskokwim River, Bethel General Permit

Notes: This map depicts the areas excluded from the Bethel General Permit. This map is not intended for use in determining applicability of GP POA-2016-476 for specific projects. A map is available for such use at the City of Bethel Planning Department, and the Alaska District, Corps of Engineers, Regulatory Division. Main view coordinate system is NAD_1983_2011_Alaska_Albers. For planning purposes only.

By: Planning Commission
Public Hearing: April 9, 2020
Adopted: April 9, 2020

RESOLUTION
City of Bethel Planning Commission
Resolution No. 2020 – 03

A RESOLUTION OF THE BETHEL PLANNING COMMISSION RECOMMENDING AN ORDINANCE AMENDING CHAPTER 15.12.060 (A & C) OF THE BETHEL MUNICIPAL CODE TO MAKE EXPLICITLY CLEAR THAT THE 10-DAY DEADLINE TO REVIEW SITE PLAN PERMIT APPLICATIONS DOES NOT APPLY TO PROJECTS THAT REQUIRE STATE OR FEDERAL APPROVAL, AND TO REMOVE THE FOUR REFERENCES TO TENTATIVE APPROVAL.

WHEREAS, In Fall 2019, the planning department complied with a request from the U.S. Army Corps of Engineers (Corps) for Site Plan Permit application data from 2017 to 2019. The results of their audit was that there were approximately 30-plus applications that should have been forwarded to and reviewed by the Corps before planning department approval; and

WHEREAS, Corps staff followed up on their audit by giving a presentation followed by question and answers at the March 12, 2020 Planning Commission meeting. Corps staff discussed the Bethel General Permit Wetlands Program in terms of the City of Bethel Planning Department’s approval process of Site Plan Permit applications, emphasizing the lack of required Corps review; and

WHEREAS, recent clarifications made by the Army Corps of Engineers regarding Bethel’s General Permit Wetland’s Program, make it likely that at least a few of the City’s Site Plan Permit Applicants each year will be required to submit an additional application to the Corps for review as to whether their project qualifies for the General Permit; and

WHEREAS, the City Planner, in response to clarification of Corps guidelines has reviewed BMC 15.12.060 (Action on Site Plan Permit Applications) and recommends that the stated 10 working days for review by the Planning Department of a Site Plan Permit Application found in BMC 15.12.060 (A) should be reworded so that the 10-day deadline explicitly does not apply to projects requiring Corps and other required state and federal review; and

WHEREAS, the City Planner further recommends that the following words and phrases (in reference to Site Plan Permit approval), “tentatively”, “has been tentatively approved and”, and “that have been tentatively approved by the land use administrator” be removed in BMC15.12.06 A and C because a Site Plan Permit application cannot be tentatively approved. If waiting for state, federal, or other approvals, the City’s Site Plan Permit application cannot be considered complete until receiving these required approvals. Tentative approval may provide a perceived green light to some applicants to begin construction.

NOW THEREFORE BE IT RESOLVED the Planning Commission recommends the following changes to BMC 15.12.060:

15.12.060 Action on an application.

A. ~~Within ten (10) working days of receipt of a complete application, the planning department shall review the application.~~ **Unless state or federal approval is required, the planning department has ten (10) working days upon receipt of a complete application to review an application.** If the application is subject to city engineer review, an additional seven (7) working days shall be permitted for review of the application. Plans approved and conditions required by the city engineer become a part of the site plan permit. An application may be approved; approved subject to modifications; ~~tentatively~~ approved subject to receipt of required city engineer, state or federal approval; or disapproved.

B. If approved subject to modification, the applicant shall be notified in writing of the modifications required. The permit will be issued after the applicant has agreed, in writing, to the modifications. If the applicant refuses to agree to a required modification, condition or other requirement, the application shall be denied.

C. If approved subject to receipt of required state or federal approval, the applicant shall be notified in writing that the site permit ~~has been tentatively approved and~~ will be issued upon receipt by the land use administrator of proof that specified state or federal approval has been given. State and federal agencies that may require approval of improvements or uses include, but are not limited to, U.S. Army Corps of Engineers, the Alaska Department of Environmental Conservation, and the State Fire Marshal. If state or federal approval required modifications to plans, structures, improvements or uses ~~that have been tentatively approved by the land use administrator,~~ the land use administrator shall review the modifications to determine whether the improvement, structure or use, as modified, still meets the requirements of this code.

PASSED AND APPROVED BY THE BETHEL PLANNING COMMISSION by a duly constituted quorum on this 9th day of April 2020 by the City of Bethel City Planning Commission Action:

Vote: In Favor: Opposed: Abstained:

ATTEST: _____

Kathy Hanson, Chair
City of Bethel Planning Commission

Pauline Boratko, Recorder

To: Bill Howell, Acting City Manager
From: Ted Meyer, Planner
Subject: March Manager's Report
Date: April 1, 2020

SUBDIVISIONS

Blue Sky Estates Subdivision

Road construction is still scheduled for summer 2020. Staff requested and received a fee proposal for inspection of subdivision roads from DOWL. This fee is included in the FY21 planning department budget (the fee includes road inspections for ONC and Tanqik Subdivisions as well).

ONC Ciullkulek Subdivision

Nothing to report this month.

Tanqik Subdivision

Nothing to report this month.

REZONING ACTIVITIES

Ongoing- Staff is still compiling and processing data to be presented to the Planning Commission for developing a new residential zoning designation for lots in the ASHA housing subdivision area and two other residential enclaves in old Bethel. The objective is to bring these properties into compliance with BMC 18.80.050 (Conversion of Legal Nonconforming Lots), and in the process, allow lot sizes smaller than 9,000 square feet, which is currently a standard in the Residential Zone.

Tasks include researching other municipal zoning codes, developing multiple maps and spreadsheets showing property and building square footage, performing a windshield land use survey, discussion with the local banks, and writing a report for presentation to the Planning Commission. The Planning Commission hearing is tentatively scheduled for later in the year because of the need for a big turnout of subdivision residents.

SITE PLAN PERMITS

The first Site Plan Permit application of the year was received on March 31.

CONDITIONAL USE PERMITS

Staff received a Conditional Use Permit application for a marijuana cultivation facility on March 6th and received a CUP application for a marijuana retail store on March 26.

PERMIT APPLICATIONS AND FEES

Staff continues the ongoing process of updating all forms and applications. These documents are now being made fillable for online users. This process has been a challenge as far as functionality is concerned. The Site Plan Permit Application is currently being overhauled in anticipation of the 2020 development season.

For now, the Planning Department is accepting electronic permit applications only. Staff also worked with the Finance Department to establish electronic payment for all permit fees.

CODE ENFORCEMENT

Staff continues to work with the City Attorney on code enforcement issues.

PLANNING COMMISSION BUSINESS

March 12, 2020 Planning Commission Hearing

1. The Army Corps of Engineers gave a presentation regarding clarifications of the Bethel Wetland General Permit Program in terms of the planning department's Site Plan Permit Application process. In response, planning staff made requested text revisions on the City Website regarding the Wetland General Permit Program, and has submitted a proposed text revision of BMC 15.12.060 for consideration at the upcoming April 9 Planning Commission hearing.
2. The Commission approved a request from Blue Sky Estates, LLC and a recommendation from the planning department for zoning the planned subdivision as Residential on the north side of BIA Road, and as Neighborhood Commercial for three lots on the south side of the road. A proposed ordinance for approval of the PC action will be delivered shortly to the City Clerk for final approval from the City Council.

ASHA HOUSING ROADS

Planning staff is assisting the Public Works Department in determining ownership and maintenance responsibility of cul-de-sacs inside the subdivision.

MAPPING

Using the new GIS mapping system, staff developed a map with tables showing the locations of all B & B's in the city, by zoning district. Submitted to City Manager.