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CITY OF DILLINGHAM

COMPREHENSIVE PLAN UPDATE

PHASE 2

NOVEMBER 1982

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CITY OF DILLINGHAM

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PHASE II

prepared for

CITY OF DILLINGHAM

by

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INTRODUCTION

This report is the second phase of a multi-phase planning program sponsored by the City of Dillingham to update its 1971 Comprehensive Plan. That plan was prepared by the Alaska State Housing Authority and has guided land use decisions at Dillingham for the past decade. Due to rapid town growth over the past ten years, many of the land use planning assumptions of the 1971 Plan have become outdated. Also, some new factors, especially passage of the Alaska Native Claims Settlement Act (ANCSA) and changes in the local land ownership situation, have greatly altered the setting for community land use planning. Therefore, the City's planning program put priority on revision of the land use planning element of its comprehensive plan.

The Comprehensive Plan Update: Phase I, prepared by DOWL Engineers, developed background on current and projected population and economic conditions at Dillingham, plus a statement of community planning goals and objectives. Phase I also provided a series of maps illustrating basic land planning data for the City: existing land use, utilities, soils conditions, fish and wildlife resources, natural hazards, scenic views and archaeological and historic sites. The data and conclusions from Phase I are the point of departure for this second phase.

This Phase II report mainly addresses the land use element of a comprehensive plan. It presents the proposed Land Use Plan and implementation program. While consideration has been given to all the community development needs for land use planning, this report alone is not meant to be a full-fledged comprehensive development plan. However, when taken together with the Phase I report, other recent planning studies and mapwork (see Bibliography), existing planning ordinances and the capital improvements program proposed as part of plan implementation, the collected documents will effectively serve as a comprehensive development plan.

Here, at the outset, it is useful to state the nature and rationale for the community land use plan.

First and foremost, the **Land Use Plan is a policy statement** to guide City decisions about future land use patterns. As a policy statement, it has two main objectives:

- **to protect the general well-being and safety of the community.**
- **to promote efficient and attractive patterns of community growth.**

The use of land affects community well-being and safety in many ways. Some problems commonly caused by poor land use practices are contaminated water supplies, traffic accidents and dangerous road conditions, poor access for firefighting, loss of property from floods or other natural hazards, and environmental degradation and damage to the natural resource base.

An inferior community layout is costly to the City and private landowners alike. The public costs of installing and maintaining basic public facilities (water, sewer, power, telephone, roads) and of providing public services (road maintenance, police and fire protection, schoolbusing, recreation, snow plowing, refuse collection) are very sensitive to settlement patterns. This is especially true where building conditions are unfavorable and development is low-density and scattered. By promoting more attractive and efficient development, land use planning can add to the quality of community life and stretch the buying power of local tax dollars and grant funds.

Because land use affects the community well-being, the community has a self-interest and a financial stake in promoting well-planned and cost-efficient patterns of development. The community's financial

stake is especially strong when local property taxpayers help pay for local public improvements and services. The Land Use Plan is an organized way to guide City decisions about public improvements and services.

For private lands, the Land Use Plan provides **advisory guidelines** for private land use and development decisions. **The proposed land use plan does not by itself affect the use or ownership of private property.** For example, recommended classification for industrial use or for open space does not by itself affect ownership rights, nor does it limit the allowable uses of the property in the absence of an adopted zoning ordinance specifically prohibiting other uses. If the City did wish to acquire a private parcel classified for public use, then under law it would have to negotiate to purchase the property, or obtain it through dedication or by other legal means.

Likewise, the plan should not be confused with a zoning map which defines legal boundaries for different land use zones. For reasons discussed later in this report, the plan does not recommend that the City start a zoning program. If at some future time the City decides that a zoning program is needed to implement its land use plan, then it will have to adopt a zoning map and a zoning ordinance which defines the uses allowable within each zone.

Here, brief mention may be made of a land use planning issue which is central to the City of Dillingham's planning strategy and which is treated more fully in Appendix B. Native allotments, which comprise about half of the private property in Dillingham, may notbe fully subject to the City's planning authority. This unusual situation can create practical problems for plan implementation. Even if it wished to, the City may not have authority to exercise on a city-wide basis the conventional tools - zoning, subdivision controls, etc. - for implementing its Land Use Plan. For this reason, the City wanted to explore alternative planning approaches which would be more

applicable in Dillingham's legal situation and more compatible with local community attitudes. In effect, the usual rationale of the typical planning process - prepare the plan and then an implementation program to achieve it - was reversed. First, the main implementation options available to Dillingham were evaluated for their effectiveness and acceptability. Then, an implementable Land Use Plan was devised to fit Dillingham's situation.

The remainder of this report divides into three chapters, plus three appendices, as follows.

Chapter II. Planning Background

This chapter summarizes background data assembled in Phase I, along with other planning data essential to preparation of the Land Use Plan.

The background planning analysis makes extensive use of the background data already published in the Phase I report and other recent planning studies. Except for the most critical supporting data, information from those reports is summarized or referenced rather than duplicated in this report.

Chapter III. Land Use Plan

This section presents the proposed future Land Use Plan for the City of Dillingham.

Chapter IV. Implementation

This concluding chapter sets out appropriate means for implementing the proposed Land Use Plan.

There are also three appendices to the main report. They address three topics that are of special concern for community development planning at Dillingham:

Appendix A. The Planning Process

This appendix, prepared at the request of the Planning Commission, outlines the legal framework and the technical process for the Land Use Plan. The legal framework consists of the State laws that authorize and guide the exercise of local governmental planning powers. The technical process describes the methods and data by which the planning conclusions were reached.

Appendix B. Native Allotments

This appendix treats the legal issues that may limit the City of Dillingham's planning authority over Native allotments and the consequences for the community and allotment owners. It also presents some practical alternatives to conventional land use controls that equip the City, Native allottees and BIA trust officials to cooperate in their common interests. The extent of developable allotment lands makes it clear that resolution of this matter is key to an effective and fair planning program to guide the community's future development.

Appendix C. Inventory of Streets and Trails

Improvement of local streets has been a persistent local concern. Therefore, an inventory of local streets was prepared to assist the City to develop a street improvements program. Because of its specialized nature, Appendix C was printed separately.

PLANNING BACKGROUND

This chapter summarizes the key features of Dillingham's natural and man-made environments and the patterns of existing land use and ownership which were used to screen the City's land base for de.elopable areas. The results of this screening process were used together with forecasts of future population and economic trends and City community development policies to develop the future land use plan.

The Dillingham community data was mainly extracted from the six reports listed below and used after being checked for currency. The Comprehensive Plan Update: Phase I (DOWL, 1981) and the two-sheet Community Profile (DOWL, 1982) compiled and mapped a great deal of physical data about the community. The Dillingham section of the Western Alaska Local Socioeconmic Systems Analysis (Alaska Consultants, 1982) presented up-to-date information on economic trends and community facilities and services. More dated, but still containing useful planning data are the Comprehensive Water and Sewer Study (Wince-Corthell, 1974); the Facilities Plan for Wastewate Disposal System (Wince-Corthell, 1979); and the original Comprehensive Plan (ASHA, 1971).

Additional planning background data on Dillingham was drawn from numerous other reports and studies on soils, flood hazards, water and sewer facilities, harbor development plans and other topics. For further background, reference may be made to the above publications as well as other sources listed in the bibliography.

The rest of this chapter is subdivided into three main subsections: natural setting, economy and population, and existing land use and land status.

NATURAL SETTING

The natural setting establishes the physical assets and limitations of the area for human settlement. In this section, the outstanding features of Dillingham's natural setting are reviewed briefly for their implications for land use planning. At Dillingham, three features of the physical landscape have shaped settlement patterns: surficial geology and soils conditions, water supply and natural hazards.

Surficial Geology and Soils Conditions

The surficial geologic form of the Dillingham area was well described in the 1971 Comprehensive Plan.

> The City of Dillingham was once covered by glaciers and the topography of the area is characteristic of areas where deposition by continental glaciers occurred. The land within the city limits is mostly rolling hills with many irregularly shaped moraine knolls and ridges separated by flat, wet lands and muskeg. Here the deposits from the retreating glaciers interrupt the stream drainage and result in formation of many small lakes and ponds in association with the wet lands. The upland moraine hills are mantled by a thick layer of silty wind laid material called loess. This material is a mixture of silt blown from unvegetated flood plains and hills adjacent to the melting glaciers, and volcanic ash from the Aleutian Range to the east and south. Beneath this mantle of loess, the substratum is mostly a coarse grained sand and gravel type of material.

The primary source of published data on soil conditions at Dillingham remains the 1965 Soils of the Dillingham Area report prepared by the U.S. Soil Conservation Service. The Soil Conservation Service mapped

and evaluated the soils of the areas for their suitability for building purposes. The findings of this evaluation have been graphically presented by maps in the 1971 Comprehensive Plan and in the Comprehensive Plan Update: Phase I, as well in the 1965 report.

The outstanding fact for land use planning about soil conditions at Dillingham is that only about one-third of the total land area within the City's boundaries is classified as suitable for development. Another one-eighth of the land area was evaluated as just marginally buildable. The remainder (more than one-half of Dillingham's land base) was judged very unsuitable for development, most often because of wet, deep, peaty soils or poorly drained fine silty soils. See Table 1.

TABLE 1

SOILS INVENTORY, CITY OF DILLINGHAM

Suitability for Development	# Acres	Percent
High (soil types AlA, AlB, AlC, KaA, KaB, KaC)	4,660	33.5
Moderate (soil types AlD, KaD, NuB, NuC)	1,770	12.7
Low (soil types Hy, KaE, NuA, SaA, SaB, Gr, Tf, Tm)	7,500	53.8
	13,930	100.0

Source: Soils of the Dillingham Area, Soil Conservation Service.

For practical purposes, permafrost has been discounted as a major planning constraint. Dillingham is within the region of discontinuous permafrost and the possibility of isolated pockets of permafrost can not be ruled out. Local sources report that permafrost was found during foundation work for the Snag Point housing project and in the boggy area north of the small boat harbor.

In view of the prevalence of poor soils, care should be taken to direct future development to those areas rated most suitable for construction or to sites with marginal soils that can be made suitable by drainage, fill or other engineering improvements. Areas of very poor soils conditions should be classified for open space and other low-intensity uses or left unclassified.

Dillingham's glacial moraines store abundant supplies of gravel and fill materials. Numerous existing or former gravel and sandpits are visible by inspection of aerial photos and land use data.

For the future, it is recommended that a limited number of well situated sources of gravel and fill be identified and classified for use. The selection of sites should be governed by accessibility, freedom from potential environmental and safety problems, volume of removable resources, presence of vegetative cover or terrain to screen operations, and potential for rehabilitation and reuse. The long-term planning objective should be to satisfy the community's need for these building materials in the most economical way, from the fewest sites, and with the least adverse effect on the environment and natural landscape. Lacking zoning, performance standards are the more effective means for regulating gravel pit operations.

Topography and Drainage

Consistent with its geological history, the topography of Dillingham is mainly a mixture of wet lowlands, gentle hills and moraine

deposits. There are only a few areas with slopes too steep for development. Most noteworthy are the steep coastal bluffs that extend from the Townsite to the end of Wood River Road. These steep-sided waterfront slopes are erosion-prone, offer poor access and limit the feasible sites for development of marine transportation facilities. Apart from these areas, slopes are not a major planning constraint. In fact, areas of moderate slope generally reflect favorable surface drainage and soils conditions characteristic of moraine deposits.

Surface drainage is governed mainly by precipitation rates, topography and soils. At Dillingham, the mean annual precipitation is about 26 inches. Where the topography is relatively flat, surface drainage is gradual. Cool air temperatures also retard evaporation.

There is a close correlation between surface drainage and soils conditions. Generally, the flat lowlands tend to be poorly drained muskegs with deep accumulations of peat; surface runoff collects in numerous small lakes and ponds, often without visible inlet or outlet. The level areas of Nushagak soils typically have high water tables. In contrast, the sloped moraine deposits usually feature superior surface drainage and soils conditions.

There are no major river systems that flow through the City area. The two main local drainage systems are Squaw Creek which drains into Nushagak Bay south of the airport and Scandinavian Creek which empties into the Bay at the small boat harbor. There is some flood hazard associated with each of these streams and that matter is discussed below under natural hazards.

These topographic and drainage conditions reinforce the recommendation that development should be directed to the upland moraines with superior soils conditions. Development is not advisable for poorly drained lowlands or flood hazard areas and it is recommended that, depending on ownership status, such areas be classified as rural

residential or open space. Any development in flood plains should comply with the standards of the City's flood plain ordinance.

Water Resources

Dillingham relies upon groundwater resources both for its community water utility and for individual water supplies. Neither of the main streams, Squaw and Scandinavian Creeks, is considered to have potential for water supply. The waters of the Nushagak and Wood Rivers above Nushagak Bay are too turbid for use as freshwater supplies. Surface waters from lakes are no longer used in any major way for water supply.

The community water system serves businesses and residences in the original Townsite and the Snag Point subdivision, less than half the City's total households. The system is supplied by two deep wells at the Townsite.

The private on-site wells that supply most homes are reportedly of mixed quality. The 1979 Wastewater Disposal System study reports that some are shallow uncased driven wells, sometimes supplying water of uncertain purity. Others are properly installed wells supplying water of excellent potability. Few of the wells were authorized by permit application and fewer are monitored and reported to the Department of Natural Resources. As a result, the recorded data on well logs and well water conditions are meager for an area that relies so heavily on well water.

Spotty data obtained primarily through tests of the community wells indicates that the groundwater supplies frequently contain high levels of dissolved iron and organic leach. Though sometimes unappealing in color and taste even after treatment, the community water is reliably pure. Presumably, so are other groundwater sources tapped by properly designed and installed well systems in areas that have not

been tainted by inadequately treated sanitary wastes or other impurities.

Protecting the purity of water supplies is a vital public health matter. Contamination may occur due to improperly designed installations, haphazard surface disposal of sewage or faulty performance of onsite sanitary waste disposal systems in cold, wet, fine-grained soils. Widespread contamination problems prompted extension of the sewage collection system to the Windmill Hill area in 1978.

Two planning standards can help conserve water supplies and protect the quality of groundwater resources. First, areas now served by the community water system or designated for community utility service in the future should be classified, subdivided and developed to standards that favor higher densities. Also, community sewer systems should be installed where warranted by high densities or soils conditions. Conversely, in rural areas not planned for community water or sewer services, development densities should be kept below the threshold at which they threaten to deplete or contaminate groundwater supplies.

Natural Hazards

The two chief natural hazards to be considered at Dillingham are floods and erosion. Under the National Flood Insurance Program, the flood and erosion prone areas have been mapped in detail. This information is available as part of the flood plain management study and as part of the mapped data for the Comprehensive Plan Update: Phase I. Hazard areas are illustrated in Figures 1 and 2. The City adopted a revised flood plain management ordinance in September 1982 to satisfy the requirements of the National Flood Insurance Program.

The major areas of concern for floods are the lowlands immediately west of the Dillingham Townsite which are subject to flood from an unfavorable combination of tides, offshore winds and storm surges.

Flood hazard is highest when fall storms coincide with high tides. This exposure to flood hazards is an important constraint on town development since it limits the available options for water-related development in a settlement whose economy is heavily dependent on efficient marine transportation and commercial fishing facilities. This problem is compounded by the fact that the elevated bluffs which are above flood level afford poor access to dock facilities for transfer of marine shipments. Also, these coastal bluffs are exposed to the erosive force of the same storm tides that cause floods in coastal lowlands.

Vegetation

Depending on drainage and soils, the dominant vegetative cover varies from swampy lowlands to willow thickets to spruce and birch-covered uplands and knolls. As a rule, the vegetative cover is a good clue to site suitability for development. Tracts with good tree cover are usually on the better drained moraine deposits.

Fish and Wildlife Resources/Habitat

Despite the region's fame as a fishing and hunting paradise, fish and wildlife resources are relatively limited within City boundaries. The fish and wildlife resource maps compiled as part of Phase I depicted in a very general way some of the likely freshwater and upland habitat of potential value for waterfowl, mammal and fish populations. Noteworthy are populations of beaver, fox, land otter, waterfowl, cranes and ptarmigan. In addition, Alaska Department of Fish and Game staff identified other habitats of value to fish and wildlife. ADF&G staff cited three particular areas worth special land planning attention: stream corridors and other brushy lowlands as moose habitat; the intertidal zone as habitat for waterfowl and shorebirds; and Squaw Creek, cataloged as an anadromous fish stream for its modest coho salmon population.

ECONOMY AND POPULATION

Over the 1970-1980 decade, Dillingham's population and economy grew substantially. The highlights of those years were profiled in the Phase I report and in the Alaska Consultants, Inc.'s baseline report. These earlier reports developed a general picture of future economic growth and population growth that will serve as a guideline for estimating the scale of future demand for different types of land use and improvements.

Economy

The 1980 employment survey by Alaska Consultants, Inc. provides insight into employment patterns at Dillingham and into the City's basic economic structure. The survey counted average annual full-time employment at Dillingham by industrial sector, covering both permanent resident and transient seasonal workers. The survey counted an annual average total of 828 jobs in Dillingham. See Table 2. Employment was concentrated in the sectors of government (21.7%), manufacturing, i.e., fish processing (18.7%), service industries (17.4%), and fishing (12.1%).

This survey also broke down total employment into basic employment, which produces goods and services for export, and non-basic employment, which produces goods and services for local consumption. Basic employment contributes to local economic prosperity by bringing income into the region. Non-basic employment arises from the sale of goods and services to local purchasers and tends to multiply the economic benefits of basic employment earnings. The long-term economic health of a locality depends on the success of its basic industries at earning income for the region and on the ability of its non-basic sector to satisfy local consumption demands.

TABLE 2

AVERAGE ANNUAL FULL-TIME EMPLOYMENT a/

DILLINGHAM AND IMMEDIATE VICINITY

1980

Industry Classification	Total Employment Number	Percent	Basic Employment	Secondary Employment
Agriculture, Forestry and Fishing	100	12.1	100	0
Mining	0	0.0	0	0
Contract Construction	34	4.1	10	24
Manufacturing	155	18.7	151	4
Transportation, Communications & Public Utilities	96	11.6	56	40
Trade	101	12.2	46	55
Finance, Insurance & Real Estate	18	2.2	10	8
Service	144	17.4	99	45
Government	180	21.7	47	133
Federal	(16)	1.9	(7)	(9)
State	(44)	5.3	(14)	(30)
Local	(120)	14.5	(26)	(94)
TOTAL	828	100.0	519	309

a/ Includes self-employed persons.

Source: Alaska Consultants, Inc.

According to the employment survey, Dillingham had 519 basic and 309 non-basic jobs or a basic:non-basic employment ratio of 1:0.6. While this ratio is low by national standards, it is relatively high for remote Alaskan fishing communities. The survey clearly shows the dominance of the commercial fishing industry in Dillingham's economic base. The fishing and fish processing industry is directly responsible for about 255 of the 519 basic jobs. (Note that this figure is an annualized average number of persons at work; fisheries-related employment is, of course, very seasonal with a large influx of non-local workers). The fishing industry also accounts for added basic employment in the trade, services and transportation sectors.

Dillingham's function as a trade, service and distribution center for the region accounts for the second largest share of basic employment. Finally, government and semi-public organizations delivering health and social services to the region's residents account for nearly all the remaining basic employment.

In sum, the fisheries, plus the public services and commercial and transporation services Dillingham provides to the region account for most of Dillingham's present basic economy. For the future, the prospects of these basic industries, plus any major new economic enterprises that enter the area, will largely determine the amount of land that will be needed for industrial and commercial uses, for public infrastructure and for residential development.

Based on the Phase 1 economic analysis, modest, steady economic and employment growth is projected for Dillingham. This projection assumed modest growth in the fishing industry, including some diversification into other species and perhaps some modification of processing methods. Both the State of Alaska (Sale #41, Bristol Bay Uplands, September 1984) and the federal government (OCS Sale #92, North Aleutian Basin, April 1985) have oil and gas lease sales scheduled for the Bristol Bay region. However, because of the highly

speculative nature of oil and gas exploration and the slight local employment impact before commercial reserves are found and developed, this industry is not built into the forecast. Likewise, no assumptions are made about the future development of the region's mineral resources. If either of these speculative possibilities materialize, then Dillingham could become a logistic support center.

Governmental employment, which increased substantially as public services at all levels expanded between 1970 and 1980, is expected to level off in the coming decade, with the possible exception of employment in federal and state resource management agencies. More positive is the potential for new business enterprises generated by the capital and resource lands acquired by Choggiung, Ltd. and other Native private corporations in the region. As independent entrepreneurs and business partners, these organizations have already broadened local ownership and participation in a variety of local economic development activities.

Population

The Phase I report actually presented a range of population forecasts for Dillingham through 1990: high (2,749), low (2,184) and mid-range (2,451). These forecasts can be compared with the population of 1,563 reported by the 1980 U.S. Census and the City's own updated 1982 estimate of 1,863 residents.

Consistent with the economic assumptions noted above, the growth trend for the moderate population forecast was used to estimate the 1995 target population for the Land Use Plan.

Under the moderate forecast, Dillingham's population is projected to grow by about 1,300 residents between 1980 and 1995 from 1,563 to about 2,850 residents. See Table 3. This is about an 80% increase over 1980 and more than the town's entire population in 1970. Thus,

if the moderate forecast is realized, Dillingham can expect to expand its public facilities and services, commercial services, etc., to accomodate a volume of new homes and residents almost double the town's 1980 population.

TABLE 3

POPULATION FORECAST, CITY OF DILLINGHAM

1980-1995

YEAR	POPULATION
1980	1,563 (Census)
1982	1,863 (City estimate)
1985	2,075
1990	2,450
1995	2,850

For purposes of this general Land Use Plan, an approximate population projection is adequate. However, the more exacting task of settling on the design, capacity and timing of public improvements will require the most precise and up-to-date population estimates available.

EXISTING LAND STATUS AND LAND USE

Dillingham's present land use patterns were shaped by the natural features of the landscape, the history of land ownership and the accumulation of many decisions about land development. A review of past settlement patterns and recent trends suggests the shape that future growth may take in Dillingham. Since the townsite was established, four factors in particular have worked hand in hand to create a n unusual layout for a rural Alaskan settlement.

First, the early establishment of a number of canneries at scattered locations along the shoreline led to development of an extensive system of connecting roads.

Second, Dillingham has an ample supply of developable land, but it is scattered in small parcels throughout the community. This situation, together with the scarcity of patented lands and the access afforded by the road network, has promoted a spotty growth pattern with dispersed pockets of settlement.

Third, due to the relatively strong private economy based in the fishing and fish processing industry and related commercial and transportation activities, there is a strong demand for sites for marine-related industrial and commercial land uses and general commercial use.

Finally, private ownership of homesteads and other large tracts of developable land allowed more flexibility and room for development than most other rural communities enjoyed. After completion of the ANCSA conveyances and pending allotments, nearly all lands in Dillingham will effectively be in private ownership, if lands held in title by the BIA for allotment owners are included.

Between 1970 and 1980, although the official total population count grew by 71%, there was little net growth in the number of residential structures in the Townsite area. Nearly all new growth took place outside the core area. About 75% of Dillingham's residents now live outside the original Townsite and the residential center of gravity has shifted toward the Windmill Hill area and the Aleknagik Road corridor.

This shift in settlement patterns is documented in Table 4 which shows the distribution of residential buildings (not dwelling units) in 1981. Only about 26% of residential buildings are in the original

Townsite area. The Windmill Hill area accounts for about another 21%. Most of the remaining residences - nearly half of the total - are spread out along Aleknagik, Wood River, Kanakanak and Squaw Creek Roads. New subdivision developments and residential construction in the last two years have continued this trend.

TABLE 4

DISTRIBUTION OF RESIDENTIAL STRUCTURES, BY NEIGHBORHOOD

DILLINGHAM, 1981

Neighborhood	Percent of Total
Townsite	26
Windmill Hill	21
Aleknagik Road	18
Wood River Road	12
Kanakanak Road	11
Snag Point	8
Squaw Creek Road	4
	100

Source: Compiled from 1982 Community Profile.

Today, instead of the typical compact rural residential Alaskan settlement tightly hemming a riverbank or shoreline, Dillingham is clumped in nodes at the original Townsite, Windmill Hill, the hospital, Wood River or dispersed along the road corridors. This development pattern offers some lifestyle advantages and some disadvantages, too. It affords a broader set of living choices and a

more rural low-density residential pattern, including the opportunity to own ones' own homesite, that may better suit the lifestyle preferred by many Dillingham residents. On the other hand, scattered development imposes some inconveniences and adds to the cost of (or may even prohibit) many community facilities and services such as road construction and maintenance, utilities, and fire protection.

Despite this residential dispersion, commercial land uses, such as stores, services and offices, are heavily concentrated in the central business district. Table 5, compiled from the Community Profile, shows that about 71% of all commercial land uses are located in the Townsite area. Another 20% are located in the Windmill Hill/Airport vicinity, with the remaining few scattered throughout the rest of town. A comparison of 1970 and current commercial land use patterns indicates that commercial uses in the downtown area have been intensifying.

TABLE 5

DISTRIBUTION OF COMMERCIAL LAND USES

DILLINGHAM, 1981

District	Percent of Total
Dillingham Townsite	71
Windmill Hill/Airport	20
Other	9
	100

Source: Compiled from 1982 Community Profile.

This trend is a sign of the maturing of Dillingham's commercial economy. The central business district will likely remain the primary commercial center, so long as its viability is not choked off by congestion. In addition, secondary or specialized commercial centers may also emerge at the Windmill Hill/Airport area and near the small boat harbor. Also, as residential settlement of out-of-town subdivisions continues, there may prove to be a need for small neighborhood convenience shops.

Community Utilities

The extent of existing utility systems for water supply, sewer collection, power and telephone services can be seen by reference to the map series in Phase I, the Community Profile or the base map prepared for this project.

The water and sewer utilities are provided in the central area by the City, while power and telephone service are provided by the Nushagak Electic Cooperative and the Nushagak Telephone Cooperative respectively.

Land Ownership and Status

Ideally, land use planning policies should be based on the development suitability and use potential of lands rather than ownership status. Nonetheless, land status is frequently a significant factor for land use planning. Often, this is because current public or private ownership reflects past decisions and expectations about the utility of sites for public and private use. Land cost and management practices associated with ownership status are also an influence on land use decisions. For example, private site acquisition costs frequently deter the selection of superior privately owned sites for public facilities when second-best public sites are available. Conversely, public ownership may inhibit private residential,

commercial or other development on public lands, even where private development represents best site use.

These land status considerations are especially timely at Dillingham for two reasons. First, the land transfers mandated by the ANCSA are radically revising the pattern of private and public (mainly federal and municipal) ownership of local lands. Second, Native allotments, which comprise roughly one-third of the lands within City boundaries, are not subject to real property taxation and may notfall under municipal planning regulation. See Appendix B. Thus, allotment status is an important consideration for land use and community development planning.

A summary of existing and pending private and public land ownership status follows. Reference may be made to the land status maps published with the Phase I report for a graphic display of ownership patterns.

Patented lands. Exclusive of Native allotments, patented lands include all of the original Dillingham Townsite of 111.5 acres, plus homesteads and other tracts conveyed into private ownership under various provisions of federal land law.

Allotments. Patented and pending Native allotments comprise a large category of landholdings at Dillingham, approximately one-third of all lands within the City. According to the Community Profile, as of late 1981, there were a total of 118 active allotment claims near Dillingham (allotment records are maintained by village vicinity rather than by strict City boundaries) of which 47 were certified. Allotment claims cover a good share of the land outside the original Townsite that is also suitable for development. Two of the subdivision developments that have taken place in recent years have been located on former allotments. Apart from their development appeal, it is unclear whether allotments are subject to municipal

planning jurisdiction. The legal background and planning implications of this situation are explored in Appendix B. Here, it is sufficient to note that allotment lands require an innovative planning approach, since they have high development potential and disputed subjection to municipal planning ordinances.

Choggiung. Choggiung will become the largest single private landowner at Dillingham when the land transfers mandated by the ANCSA are concluded. Under provisions of that law, Choggiung was entitled to the surface estate of 161,280 acres of land at and around Dillingham. Choggiung was required to chose all lands open for selection in the City of Dillingham, amounting to about half the total incorporated land area. These selections included some land with development or resource potential, as well as land with low economic potential.

City of Dillingham. Today, the City's property holdings are limited mainly to the various downtown tracts used for school facilities, the public safety building, city hall and other municipal plant, the old city airport site and Block 33 of Dillingham Townsite. However, this situation will change in the near future. Section 14(c)(3) of ANCSA, as amended by the ANILCA in 1980, requires that upon receipt of interim conveyance or patent, whichever comes first,

> The village corporation shall then convey to any Municipal Corporation in the Native village or to the State in trust for any Municipal Corporation established in the Native village in the future, title to the remaining surface estate of the improved land on which the Native village is located and as much additional land as is necessary for community expansion, and appropriate rights-of-way for public use, and other foreseeable community needs: Provided, that the amount of lands to be transferred to the Municipal Corporation or in trust shall be no less than 1,280 acres unless the Village Corporation and the Municipal Corporation or the

> State in trust can agree in writing on an amount which is less than one thousand two hundred and eighty acres: Provided further, that any net revenues derived from the sale of surface resources harvested or extracted from lands reconveyed pursuant to this subsection shall be paid to the Village Corporation by the Municipal Corporation or the State in trust: Provided, however, that the word "sale" as used in the preceding sentence, shall not include the utilization of surface resources for governmental purposes by the Municipal Corporation or the State in trust, nor shall it include the issuance of free permits or other authorization for such purposes. . .

To execute this provision, Choggiung invited the City to nominate use sites for future public improvements and other community purposes. The City established a land committee to identify City land needs and recommend tracts for reconveyance. The City's nominations then guided negotiations to identify Section 14(c)(3) reconveyances. After an extensive process of negotiation, Choggiung and the City reached preliminary agreement on a proposal to reconvey about 1900 acres. The proposal includes lands identified for a variety of public facilities and right-of-ways, plus some lands suitable for such uses as residential development, recreation, open space and natural areas, and community reserve. The reconveyance plan has been approved by the City and has been incorporated into the Land Use Plan.

When the Section 14(c)(3) transfers are settled, the City will, for the first time, be a large landowner with substantial land management responsibilities.

State of Alaska. State landholdings at Dillingham mainly include the airport property and the downtown tract on which offices, facilities and employee housing for various state agencies and the Southwest Region Schools are situated.

Federal government. At the completion of the ANCSA conveyances, the federal government will own little land in Dillingham. Federal landholdings will consist mainly of the large tract on which the hospital is situated, plus the two small tracts in town near the high school and the small boat harbor.

Related Land Use Planning Programs

There are two major regional planning programs now underway that are important to Dillingham.

First, a regional coastal management program is being developed under the guidance of the Bristol Bay Coastal Resources Service Area. Dillingham is a coastal town. Its livelihood is clearly very dependent on sound long-term management of its coastal resources. As a first-class city, Dillingham had the option of preparing its coastal management program as an independent district or as part of the regional coastal management service area. The City chose to join with the other localities in the region in a unified regional coastal management program. At this time (October 1982), the coastal management program is in its infancy. The Coastal Resource Service Area Board has so far met a couple of times and has begun work on an inventory of the region's coastal resources and on a statement of coastal management goals.

While it is too soon for the City to take final action on coastal management program issues, the City's Land Use Plan will later become part of the coastal management program for the area. For this reason, the land use plan treats coastal land use and resource management issues consistent with the State's standards for an approved coastal management program. If this Land Use Plan is adopted and implemented by the City of Dillingham, it will satisfy most of Dillingham's requirements for the coastal management program.

Second, the Bristol Bay Cooperative Management Plan, authorized by ANILCA, is being conducted under the joint leadership of the U.S. Fish and Wildlife Service and the Alaska Department of Natural Resources. The purpose of this planning program is to prepare a resource management plan for the Bristol Bay region. This planning effort mostly addresses the broad issues of resource conservation and development in the greater Bristol Bay region. Its direct relevance to community-level land use planning issues at Dillingham is minor, with the exception of plans for disposition of State lands outside Dillingham for recreational, homesite or agricultural use. It is possible that State disposal of large amounts of land near Dillingham for these purposes will affect the town's economy and lifestyle and the resource base on which Dillingham residents depend.

LAND USE PLAN

GOALS

The proposed Land Use Plan for the City of Dillingham is designed to achieve planning goals or results consistent with Dillingham community attitudes about future growth and development, prevailing natural conditions and sound planning principles. The goals that shaped this plan are presented below. For reference the planning goals formulated during the Phase I planning effort are also listed in Table 6.

The chief goals that guide the plan are:

- Establish a sound planning framework for private land use and investment decisions for housing, commercial and industrial development.

- Economical and efficient provision of public facilities and services.

- Reserve sites for future public improvements, including transportation and utility corridors.

- Protect quality of water supply and environmental health.

- Prevent loss of life and property from natural hazards.

- Protect natural habitats and wetlands.

- Prepare for municipal management of public lands to be conveyed to the City by Choggiung pursuant to Section 14(c)(3) of the Alaska Native Claims Settlement Act.

TABLE 6

CITY OF DILLINGHAM COMPREHENSIVE PLAN UPDATE: PHASE I

LAND USE OBJECTIVES*

Commercial Land Use Policies

a. Help facilitate provision of areas for convenience businesses and business services.

b. Investigate alternative forms of land use regulations to determine which best suits Dillingham (within 2 years).

c. New commercial development should locate with other comercially developed uses or where there is a demonstrated need, with no adverse impacts.

Residential Land Use Policies

a. Residential development should concentrate in areas set aside for residential use.

b. Overall density shouuld follow two guidelines:

   1) Maximum one-unit/acre where no sewer exists unless engineered otherwise.

   2) Small lots and high density limited to areas where appropriate public utilities and services are available.

c. Additional areas should be set aside for residential development.

d. Improvement of public services and discouragement of future intrusions of commercial/industrial.

Industrial Land Use Policies

a. Locate to minimize conflicts with residential uses. Potential locations for development are the waterfront and the airport.

b. Transportation routes should avoid minor residential roads.

c. Support business services which complement industrial uses.

Source: City of Dillingham Comprehensive Plan Update, Phase I.

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*Based on the results of a community attitudinal survey, public hearings and other local reviews, the Phase I report presented community planning goals and objectives for economic development, land use, transportation, recreation, governmental operations, environmental conservation and public services. Because of their relevance to the Land Use Plan, the land use objectives from the Phase I report have been excerpted and reprinted in this table.

- Establish a framework for cooperative planning with other major local landowners, including Choggiung and Native allotment owners.

- Establish municipal planning policies to guide federal and state decisions about public facilities, land use and resource management affecting Dillingham.

LAND USE PLAN

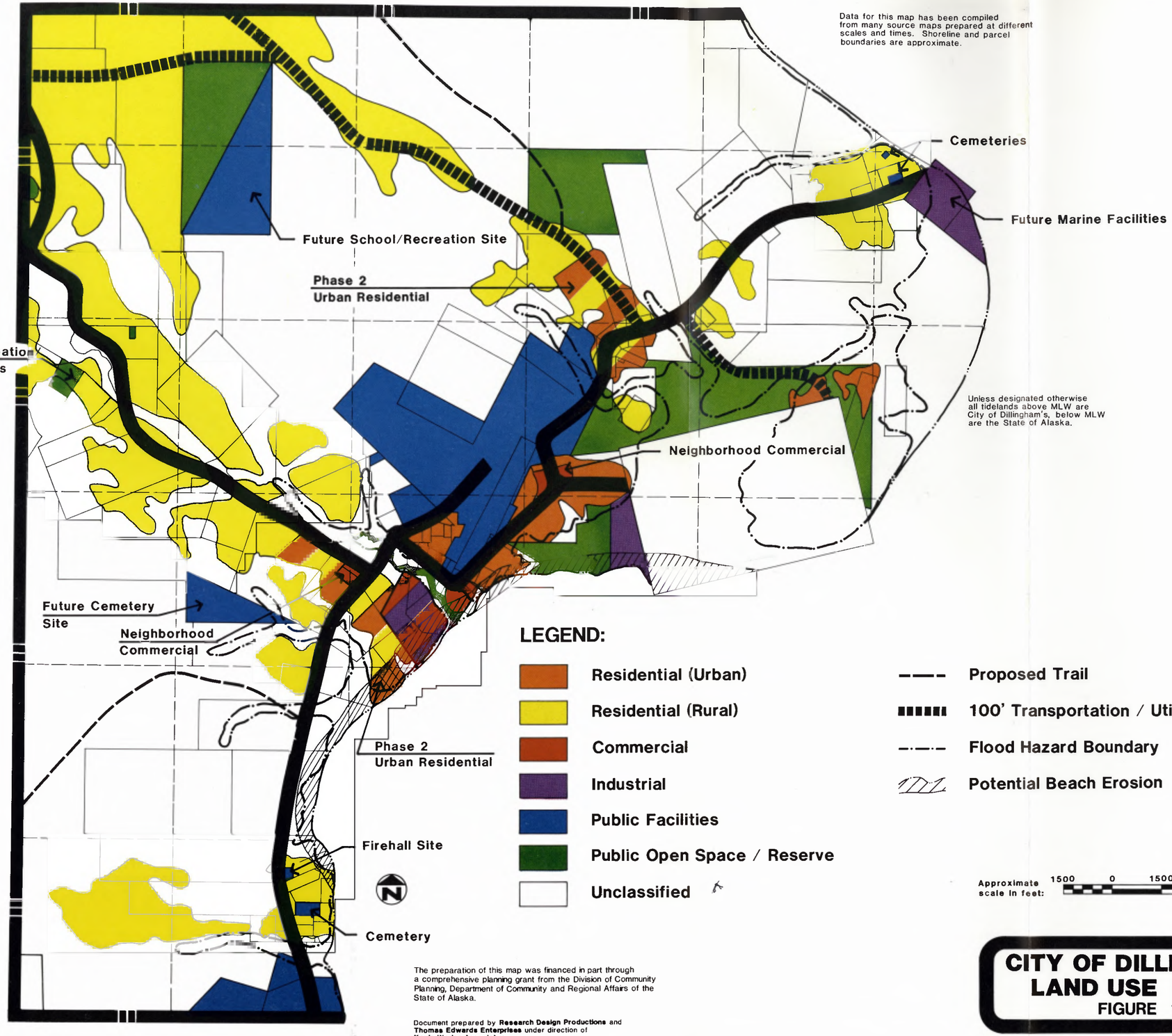
The proposed Land Use Plan is presented below. This section is best read with reference to Figures 1 and 2 which illustrate the Land Use Plan for the City as a whole and for the Dillingham Townsite respectively.

The plan is a general picture of desirable future land use patterns. If it is adopted as official City policy, it can direct public and private decisions about land use toward an orderly development pattern. The plan should provide consistent policy direction to the City's own ongoing decisions about land use and community facility siting. In this way, the plan can help reduce the costs and inconveniences to the community of piecemeal and planless development.

It is worth emphasizing that future land use is not always determined by current land ownership. Some sites that are or will be owned by the City are classified for residential use because that appears to be the best ultimate use of those sites. The City can plan to dispose of these lands at the appropriate time. Conversely, some private property is proposed for public use classification, to be acquired at a future date for some public improvement. Thus, use and ownership status are two different matters, although it often happens that public use sites wind up in public ownership and vice-versa.

Most of the lands classified in the plan for future use and

Data for this map has been compiled from many source maps prepared at different scales and times. Shoreline and parcel boundaries are approximate.



Unless designated otherwise all tidelands above MLW are City of Dillingham's, below MLW are the State of Alaska.

LEGEND:

- Residential (Urban)
- Residential (Rural)
- Commercial
- Industrial
- Public Facilities
- Public Open Space / Reserve
- Unclassified

- Proposed Trail
- 100' Transportation / Utility Corridor
- Flood Hazard Boundary
- Potential Beach Erosion

Approximate scale in feet: 1500 0 1500 3000 4500

The preparation of this map was financed in part through a comprehensive planning grant from the Division of Community Planning, Department of Community and Regional Affairs of the State of Alaska.

Document prepared by **Research Design Productions** and **Thomas Edwards Enterprises** under direction of **Kevin Waring Associates.**

CITY OF DILLINGHAM LAND USE PLAN

FIGURE 1

CITY OF DILLINGHAM TOWNSITE LAND USE PLAN

FIGURE 2

Approximate scale in feet: 200 0 200 400 600

LEGEND:

- Special Management District
- Proposed Trails
- Flood Hazard Boundary
- Potential Erosion Zone

- Residential (Urban)
- Commercial
- Industrial
- Public Facilities
- Public Open Space/Reserve
- Unclassified

The preparation of this map was financed in part through a comprehensive planning grant from the Division of Community Planning, Department of Community and Regional Affairs of the State of Alaska.

Data for this map has been compiled from many source maps prepared at different scales and times. Shoreline and parcel boundaries are approximate.

Public Facilities and Offices

Proposed Alternate

Potential Port Facility

Marine Related Industrial and Commercial

Unless designated otherwise all tidelands above MLW are City of Dillingham's, below MLW are State of Alaska.

prepared by **Research Design Productions and Edwards Enterprises** under the direction of **Kevin Waring Associates.**

development are vacant at present. In some important instances, however, particularly in the Townsite vicinity, the plan proposes conversion of already developed land to new or more intensive uses. In planning terms, this is called the process of land use succession, whereby outdated uses and structures are redeveloped for new uses and skipped-over tracts are filled in. Succession maintains and restores the vitality of the central business district and surrounding residential areas. In practice, it is typically a spotty and erratic process, especially in small communities where personal attachments to family homesites and businesses, difficulties in construction finance, financial risk and other obstacles factors can hinder redevelopment. For this reason, the amount of land classified for conversion to commercial and urban residential use exceeds the amount that is likely to be redeveloped by 1995. Primarily, the plan defines those areas of the original Townsite and elsewhere whose location will make them attractive for more intensive use as Dillingham grows.

Residential

Residential development is the most extensive single land use. At the population levels projected for this plan, it is estimated that about 428 additional housing units and between 250 and 400 additional residential acres will be needed by 1995, depending on the density at which residential development takes place. See Table 7.

The residential land use class provides for two levels of density, urban residential and rural residential, and two stages of neighborhood development. The Land Use Plan does not "favor" the urban or rural residential lifestyle. Rather, the residential plan is designed, first, to offer residents a choice of living arrangements to fit their own lifestyle and economic preferences and, second, to stage the installation of public utilities and services to residential tracts so as to assure a high level of use and benefit from City expenditures for capital improvements.

TABLE 7

ESTIMATE OF ADDITIONAL HOUSING AND RESIDENTIAL LAND

DILLINGHAM, 1980-1995

Year	Number of Homes	Low Density Option Number of Acres	Moderate Density Option Number of Acres
1981-1985	171	156	100
1986-1990	125	115	73
1991-1995	133	122	77
TOTAL	428	393	250

Note: Added demand for homes assumes three persons per dwelling unit. The low density option assumes a mixture of 2/3 rural residences (average 1 1/4 acre per dwelling) and 1/3 urban residences (average four dwelling per acre). Moderate density option assumes a mixture of 1/3 rural residences and 2/3 urban residences.

Urban Residential. This class comprises lands served with community sewer and, usually, water utilities and suitable for intensive residential use. The amount of land proposed for urban residential use is ample for the population projected through 1995. Beyond that time, if this acreage becomes fully developed and more urban residential land is needed, then part of the lands reserved for rural residential use can be reclassified for urban residential use.

The areas proposed for urban residential use are designated for development in two stages. Stage 1 includes parts of the Dillingham Townsite, the Windmill Hill/airport area, and the Snag Point subdivision vicinity, plus adjacent areas that are suitable for future residential expansion. These areas are already serviced by or planned for the community sewer system and most of them receive city water. Intensive residential development of these areas will enable the City to defer major additions to the utilities system until the growth potential of these neighborhoods is fulfilled by filling in vacant lots and more intensive reuse of underused lots. This will help save on capital improvements and will also help keep down the operating and maintenance cost of utilities.

Recent residential construction around the downtown core shows a trend toward duplexes and apartment buildings. This shift toward higher residential densities in the central area is a natural progression as town grows. The plan anticipates continued upgrade of existing residential land in the periphery of downtown to higher densities. City planning policy should promote the spread of intensive residential uses such as apartments and other multi-family dwellings around the town center.

In some areas classified for urban residential use (e.g., the Snag Point Subdivision), existing sewer service mains whose original design capacity did not allow for future growth may have to be upgraded.

As the supply of Stage 1 urban residential land becomes exhausted, the Stage 2 tracts can be improved for higher density residential use. The Stage 2 tracts include the developable lands near the junctions of Aleknagik and Squaw Creek Roads, and the tract across Wood River Road that would become more accessible and appealing for higher density use if the proposed connecting road from the Townsite to Wood River Road by way of the Snag Point subdivision were built. Unfavorable topographic and soils conditions between these tracts and the existing

water/sewer system mean that the extension of the water and sewer mains to Stage 2 neighborhoods will be costly. While community water and sewer facilities may not be installed in these areas for many years, the proposed plats for new subdivisions should be reviewed to assure that the lot and street design, utilities easements, etc. are consistent with eventual installation of community utilities.

Implementation of the urban residential classification will use one or more of a combination of tools. The most important tools will be subdivision review to ensure that plans of subdivision for urban residential tracts observe appropriate development standards and adoption of a municipal capital improvements program to coordinate installation of the basic infrastructure (roads, water and sewer, power and telephone, drainage improvements, etc.) that support development at higher residential densities.

Rural Residential. This class includes all sizable tracts that satisfy the criteria of good soils and drainage, freedom from natural hazards, suitability for onsite water and sewer and accessibility and which are not designated for another specific use. The areas proposed for rural residential classification are on or near the existing road system.

More specifically, rural residential areas include tracts rated by the Soil Conservation Service as having soils and slopes that can be built on with a minimum of foundation and drainage problems. Also, these sites tend to be satisfactory for onsite water supply and wastewater disposal systems. Finally, as these sites tend to have better tree cover, with higher elevation and scenic views, they generally provide a more attractive setting for homesites.

Beyond compliance with existing subdivision, flood plain and other city ordinances, no special planning controls are recommended for the rural residential areas.

Commercial

It is a good planning principle to cluster similar commercial uses rather than disperse them far and wide. Clustering related commercial uses, especially uses that generate a lot of traffic, is more convenient for customers. It also allows shops to share customers as well as common facilities such as parking areas.

The demand for commercial land uses at Dillingham is expected to grow in step with population and economic growth. The commercial land use plan provides for three main sorts of future commercial development.

First, the plan proposes expansion of the traditional and established central business district in downtown Dillingham. In recent years, commercial development in the downtown area has intensified with the addition of new businesses and office buildings and expansion of many existing commercial facilities. About three-quarters of all commercial uses are now located in the downtown district. See Table 5.

This trend toward consolidation of trade and commercial services will most likely continue and commercial uses, including offices, will steadily increase their prominence in the downtown area. This trend implies that some of the underused parcels and older residential buildings will be replaced or converted to commercial uses.

The major obstacle to successful expansion of the downtown commercial district is the cramped street patterns and lack of adequate parking. The Dillingham Road Inventory (Appendix C) identfied numerous problems of encroachments, inadequate rights-of-ways, unofficial streets and other problems that have arisen over time to create congestion and traffic safety and parking problems in the downtown area. Unless remedial steps are taken, these traffic circulation and parking problems will steadily worsen and will choke off downtown growth. The implementation section presents recommendations on this matter.

The supply of sites for new businesses and expansion of existing businesses is also a serious constraint on downtown commercial development. It is noteworthy that a number of the major new commercial buildings (Bristol Inn, National Bank of Alaska, Choggiung's Kanquiqutaq office building) in recent years have been built on underused or improved sites outside the old core area. There still are scattered underused parcels and sites with poor soils and drainage scattered throughout downtown that could be redeveloped or reclaimed for commercial uses. The City should support this trend which upgrades the use of scarce downtown sites and which, with proper traffic planning and parking arrangements, could relieve some of the congestion downtown.

Second, the plan provides for appropriate commercial development in association with the small boat harbor and related industrial activities. This facility is a natural and commercially attractive location for marine-related commercial activities.

Third, the plan provides for secondary commercial development at sites convenient to the more populous residential satellites outside the Dillingham Townsite. The commercial subcenter in the Windmill Hill/Airport vicinity typifies this type of neighborhood commercial development. Provision is made for emergence of additional neighborhood commercial areas in the future near the intersection of Aleknagik/Kanakanak/Squaw Creek roads.

Industrial

The recommendations for future industrial land use are a logical extension and expansion on the development pattern that has evolved to date. Significant existing industrial uses include the fish processing plants and related facilities, the dock facilities and related petroleum storage and warehousing and open storage, and public utility plants such as the power plant and wastewater treatment facilities.

No specific new, large-scale industrial projects are anticipated. However, some of the existing industrial uses have outgrown their existing sites or are no longer well situated in relation to other land uses. Alternative industrial sites should be made available for these uses, especially for future expansion or modernization of existing fish processing plant facilities. A shift to new modes of fish processing may also change the site orientation for some types of processing operations away from water access and toward accessibility for airborne receipt and shipment of product. Finally, industrial sites should be reserved for new marine industries and other industrial enterprises that may arise in the future.

Although the vacant acreage classified for industry is substantial, engineering conditions will permit only a fraction of these tracts to be developed. The bulk of these tracts is located within identified flood hazard areas or wetlands and the coastal zone. This is largely unavoidable because most of Dillingham's industrial activity is marine-oriented and the most feasible sites are naturally on lowlying coastal lands in the periphery of the small boat harbor. Thus, there are no ideal choices. It is necessary to find a planning balance that fits both the community's primary economic functions and the shortcomings of these sites.

The proposed approach classifies these sites for marine-related industrial use on the condition that appropriate development standards will be met on a case-by-case, site-by-site basis. There are building practices (such as drainage improvements, landfill, piles, special foundation designs) that can make industrial development in these districts acceptable. In some cases, development may need to be limited to selected industrial uses that are not flood-damage prone, e.g., open storage areas and seasonal uses. In recognition of the importance of these vacant lands for expansion of the fisheries and marine-related industries, and the overlapping problems of flood plain, wetlands and coastal management they raise, **it is proposed that**

a special management district be defined within which a coordinated process for review and approval of development proposals can be instituted.

The prime area classified for industrial development includes the existing industrial complex comprised of the City dock, cold storage plant and marshalling yards, the P.O.L. dock and storage facilities, the cannery facilities, plus the industrial and vacant coastal lands in the vicinity of the small boat harbor and beyond.

The cargo storage yard for the City dock is tightly hemmed in by other uses and has limited expansion potential. Also, truck access is poor. Marine shipments to and through Dillingham's port facilities have been rapidly increasing in volume. Additional dock and cargo storage facilities may become necessary in the future. A feasibility study for a regional port facility prepared for the City in 1979, recommended two site schemes for consideration: upgrade of the existing City dock facilities or development of a new regional port facility at one of three prospective sites near Snag Point east of the existing City dock. For now, the City chose the less costly option of upgrading the City dock and that project will be completed this year. However, if cargo volumes continue to grow at the pace of recent years, this site's capacity will soon be reached. Therefore, it is proposed that the waterfront eastward of the City dock to the Snag Point sites be reserved for possible future development for a regional port facility. It should be noted that development of marine facilities in this area poses some environmental, erosion, access and engineering problems that will have to be resolved in the proposed design for any port facility.

Like the general cargo dock operations, the bulk fuels terminal and tank yard have run out of expansion room at their existing site. For the long run, an alternative site for a P.O.L. terminal and storage facility will need to be developed to replace or supplement the

existing facility. Possible sites include the now undeveloped Snag Point port site noted above or a site at Wood River.

The Wood River site was also evaluated in the regional port feasibility study. The site is accessible by road and was the site of one of Dillingham's first canneries. It is currently the site of a fish processing plant with a newly improved dock. Other private marine industrial facilities nearby are under consideration. According to the feasibility study, this site has serious limitations for all-tide regional port use due to restrictive channel depths and width and the combination of ice and tide conditions. However, the uplands offer about forty acres of staging area and so may be suitable for certain industrial functions. Therefore, it is proposed for industrial classification.

The lower part of Squaw Creek has become established as an industrial area serving the commercial fisheries and is classified for industrial uses.

Public Facilities

This class includes many sites already used for existing public facilities and which should remain dedicated to those uses for the indefinite future. It also includes proposed sites for future public improvements.

Examples of existing sites include the school, airport, hospital, city hall, senior center, public safety buildings, small boat harbor, numerous public office buildings, maintenance buildings and yards, cemeteries, and miscellaneous other public uses. The plan provides for retention of these sites in public use, making provision for expansion where it appears that expansion will be warranted.

Secondly, the plan identifies sites that may be needed for new public facilities to serve new residential areas and to improve the standard of public services for a growing community.

Because of the process the City went through to identify future city land requirements, many of the site needs for future community facilities have been identified and will be provided for by lands proposed for reconveyance.

Central Public Offices and Facilities. The undeveloped acreage around the existing concentration of local, state and federal public buildings on State Hill is proposed for future expansion of centrally located public offices and facilities. See Figure 1. In addition, under the Section 14(c)(3) reconveyance plan, the City will receive a parcel north of the small boat harbor that may be held in reserve as a possible future site for such municipal facilities as a new public safety building, a maintenance building or similar use.

Schools. The provision of sites for future school facilities presents some difficult choices. The existing school site is already short of land area for adequate outdoor recreational facilities and for the indoor recreational and other facilities that are desirable in rural Alaskan communities for the dual use of schoolchildren and the community at large. Because of site conditions, expansion of the existing school site does not seem feasible nor does it appear that continued expansion of the existing school plant is in the long run the best land use in this area. The school is in competition with other expanding public uses and pressure for more intensive use of surrounding sites will increase. In the meantime, the existing school facility is gradually becoming less central to the school population it serves as the center of population shifts away from the Townsite toward Windmill Hill and beyond in the direction of Aleknagik Road. The residential land use plan anticipates this trend will continue.

Two future site option are recommended for consideration. First, the City has identified a 320 acre site in the northwest corner of the City for Section 14(c)(3) reconveyance as a future school and recreational site. This site is large enough to accomodate a full community educational complex in a campus setting, surrounded by plentiful recreational lands. However, it is somewhat remote from existing development and not yet accessible by road, although it would be served by a proposed transportation corridor. For these reasons, it does not offer a convenient short-term solution to school facility site requirements.

According to the school district, the immediate short-term need will be for an elementary school site. For this need, it may be advisable to consider selection of a site closer to existing developed and developing areas as a site for a second elementary school and as a transitional step away from the original school site. A location in the general vicinity of the Aleknagik Road intersection would be convenient to the school population it might serve.
The school district is currently preparing a development plan for future school facility needs. As that planning process progresses, it is advisable that the school district and City consult on proposed site selections so that these important community facilities will be well located to serve future school populations.

Airport. The State Division of Aviation is completing a land acquisition program to satisfy FAA requirements for federal funding eligibility. The Land Use Plan reflects its recent land acquisitions. The Division expects to prepare a master plan for future airport development in 1983. At present, the Division's proposed capital improvements program includes projects to install a crosswind runway in FY 1987 (estimated cost $5.6 million) and for apron expansion in FY 1989 ($4.7 million).

Neighborhood Recreation. Dillingham possesses abundant outdoor recreational opportunities but suffers from a serious shortage of neighborhood parks, playgrounds and recreational areas improved for intensive use. The shortage is the result of past failure to reserve adequate recreational sites next to school sites and in residential areas. The plan recommends acquisition of a number of specific sites for development as neighborhood parks.

Firehalls. Dillingham's spread-out growth pattern and the limited extent of the community water system make it difficult to provide good fire protection, especially in rural areas. Two sites were identified in the reconveyance plan as potential sites for future firehalls to serve the developing residential subdivisions along Aleknagik Road and to residences near Kanakanak.

Cemeteries. The proposed land use plan identifies several areas that have traditionally been used as burial sites, as well as an area for future cemetery use.

Transportation/Utility Corridors

This subsection addresses the need for major new highway and utility corridors that should be reserved for future use.

With rerouting of the state highway link between Wood River Road and Kanakanak Spur to bypass the airport along its southern boundary, Dillingham has a lengthy road network that provides access to most developable land and to the major destinations. The basic form of the road system is H-shaped. The four legs of the "H" are Alegnagik Road, Kanakanak Spur, Wood River Road and the main road to the Townsite. The legs are joined by the rerouted connection between the Wood River Road intersection and the Kanakanak Spur/Aleknagik Road junction.

In 1982, the Department of Transportation and Public Facilities paved

the highway from town to the Airport Road intersection. It is probable that this improvement will further encourage the shift of residential growth away from the Townsite and toward Windmill Hill and other outlying areas. The Department's current capital improvements program proposes that the Kanakanak Road be paved in FY 1986 at an estimated cost of $4.5 million. In view of the development activity along Aleknagik Road, that road may merit priority for paving before the Kanakanak Road.

The primary transportation recommendation is for development of D Street as an alternative arterial route through the central business district to relieve congestion along Main Street. This alternate will enlarge traffic flow capacity through downtown and will help sort out through traffic from traffic whose destination is in the central commercial area. This improvement will reduce congestion and parking problems. Previous City efforts to rectify right-of-way problems to permit widening of Main Street have been stalled by costly and unpopular right-of-way acquisition problems. Upgrading and connecting D Street would enable a substantial share of local traffic to bypass Main Street on its way to and from residential areas, employment centers and some commercial businesses.

The second planning recommendation is to reserve a transportation/ utility corridor connecting the Townsite via the Snag Point Subdivision to Wood River Road and beyond. The object is to improve access to the better quality soils in the vicinity of the proposed junction at Wood River Road and in the northwest corner of the City. Eventual development of this transportation/utility corridor would offer access to the greatest volume of developable land closest to existing utility systems and so with lowest site improvement costs. It would also improve access to the businesses and commercial services, offices and employment centers, and public facilities now concentrated in the downtown area.

Also, by shortening the route between Wood River Road and the port, warehousing and industrial facilities crowded into the Townsite, this proposed road would enhance the utility of waterfront lands at the end of Wood River as an alternative to relieve the increasing congestion that will affect the Townsite industrial lands.

This corridor is not proposed for development in the near future, but is reserved for a future time when the need for access to community expansion lands makes it economically feasisble.

Additional planning recommendations for development of a comprehensive road improvement program to identify and prioritize local road improvements and a traffic circulation and parking study to establish safer, more efficient traffic pattens in the badly congested downtown business district are presented in the next chapter on plan implementation.

Public Open Space/Community Reserve

This class mainly includes existing or proposed public lands whose best use is open space and low-intensity recreational use, plus some municipal lands for which there is no specific and immediate proposed use. Nearly all of the municipal property in this class is part of the proposed reconveyance of ANCSA Section 14(c)(3) lands to City ownership by Choggiung.

Much of the land in this class is wetlands, floodplains or hazardous for development and is poorly suited for intensive development. However, it does have positive value for such functions as natural habitat, as open space and buffer zones, and to protect stream drainage corridors. Public ownership helps conserve these values.

The Section 14(c)(3) reconveyance plan identifies a number of overland trails for transfer to the City. At present, these trails are most

useful for winter travel and recreation, but some routes could be improved for year-round use in the future.

Dillingham also has large expanses of privately owned but undevelopable land that will by default remain as open space and natural areas. These open spaces provide visual buffers between developed areas and enhance the scenic quality of Dillingham.

Unclassified

Unclassified lands comprise the residue of private lands in areas with poor building conditions. They also include some small tracts and isolated sites that are buildable but were not identified in the screening process as suitable for extensive development. Thus, unclassified lands may in some instances be suited for rural residential development or other uses to be considered on a case-by-case basis.

IMPLEMENTATION

The Land Use Plan is a general guide to future land use patterns. It is an official policy document, periodically updated, to be implemented through a specific agenda of city ordinances, programs and administrative actions. Even the best designed community land use plan is only as effective as the steps enacted to carry it out. This chapter sets out an agenda of administrative activities and programs for the City to consider to implement the Land Use Plan.

Plan implementation programs can be simple, as simple as official adoption by the City Council. More often, plan implementation involves an extensive agenda of proposed municipal programs, ordinances and other actions for consideration by local, state and federal governments. Implementation can consist of such measures as : adoption of an official map; zoning, subdivision, and other land use ordinances; enforcement of building codes and building permit systems; a capital improvements program; detailed plans for neighborhood redevelopment, housing improvement, road improvements, local transit, etc.; public land acquisition and management; cooperative land management programs; annexation; municipal reclassification; adoption of new city powers; intergovernmental coordination, and similar measures.

Any of these implementation measures may merit consideration, depending on what suits the specific community and its planning goals and circumstances. But even if there are many different approaches, they all share a common purpose: **to translate the policies adopted in the Land Use Plan into reality.**

In the list of implementation activities proposed below, a zoning program is purposely and conspicuously absent, for three good reasons. First, generally speaking, conventional zoning is a tool to regulate patterns of land use for larger, more urban settlements. It is

typically used to control building bulk (e.g., height restrictions, setbacks, ground coverage ratios) and density. In operation, zoning administration would impose a substantial burden on the City's limited administrative and legal resources. Second, the legal questions about the City's exercise of planning powers over Native allotments mean that this conventional mainstay of land use regulation may not be implementable uniformly and fairly on a city-wide basis. Finally, for Dillingham, the most critical land use issues can be more positively influenced by the City's own programs for public improvements and services and through subdivision reviews than by spotty land use controls.

In general, the implementation program seeks to provide even-handed treatment for all land and all landowners. It also seeks to minimize duplication of planning efforts and expense to the City by capitalizing on existing state and federal land and resource planning and regulatory functions that are exercised compatibly with City policies.

Ten measures are proposed for plan implementation:

1. Plan Adoption

The first implementation measure is official adoption by ordinance of the Land Use Plan by the City Council, after Planning Commission review, public hearings and incorporation of any necessary revisions.

2. Subdivision Review

The City already has a subdivision ordinance and the Planning Commission reviews all proposed subdivision plats for compliance with the ordinance. Because of town growth and the availability of private land for development,

subdivision activity has been very busy in recent years and this will likely continue. For the future, consistent and painstaking exercise of the City's subdivision review powers is vital to assure that proposed subdivisions conform with the policies of the Land Use Plan and meet design criteria and public health standards. The State Department of Environmental Conservation is available to provide technical assistance as needed to determine site suitability for on-site septic systems.

With respect to the subdivision of Native allotments, it is recommended that the City pursue with BIA realty officials a joint agreement on a regular procedure for City planning review of proposed subdivisions. This process will help prevent problems about record of title, mortgage finance, dedication of easements and rights-of-way, eligibility for city services, etc. that may later arise to jeopardize sale and development of subdivision properties. The City may wish to consider offering technical planning assistance to assure that its subdivision standards will be met.

3. Capital Improvements Program

The Capital Improvements Program is a multi-year plan for proposed public improvements projects. The Capital Improvements Program describes proposed projects and project sites; ranks projects according to priority; estimates the initial capital cost and annual operations and maintenance costs; identifies possible sources of funds for construction and operation; and sets out project schedules. The need to coordinate municipal projects with capital project plans of state and federal governments is detailed. As background, the Capital Improvements Program also may prepare an analysis of the City's financial status and its powers.

The Capital Improvements Program usually covers a five or six year horizon and is implemented annually through the municipal budget process. As projects are completed, The Capital Improvements Program is periodically updated and revised as projects are completed so that it is kept current and forward-looking.

As a Capital Improvements Program is the single most effective tool available to the City to coordinate its public improvements and service programs with the land use plan, it is strongly recommended that the City develop a Capital Improvements Program.

4. Local Roads, Circulation and Parking

There is widespread community concern with local road conditions and with the severe traffic circulation and parking problems in the central business district. The Dillingham Road Inventory (Appendix C) documents many of these problems. Improvement in these conditions is critical to the success of the Land Use Plan. Therefore, a two-part program to improve these conditions is proposed.

First, the City should follow up the road inventory with development of a five-year comprehensive local road improvements program. This program should establish priorities and a rational schedule for local roadway improvement and maintenance projects.

Second, the City should undertake a downtown traffic circulation and parking study. The study should provide specific recommendations for measures the City might take to relieve traffic circulation and parking problems that congest the downtown commercial district. Possibly, the

City may wish to explore the feasibility of creating a special parking improvements district in cooperation with downtown businesses to develop common parking areas and parking policies.

5. Municipal Land Acquisition, Management and Disposal

Acquisition of sites recommended in the Land Use Plan for public facilities, open space, and other public uses is a key step in plan implementation. Site acquisition should be coordinated with the Capital Improvements Program. At the conclusion of the ANCSA Section 14(c)(3) reconveyance process, the City will inherit ownership of many, but not all of the proposed local public use sites. Therefore, it is advisable to complete the reconveyance process at an early date.

The City will need to develop a land records system along with policies for management of municipal lands. Under the approved reconveyance plan, the City will receive title to some lands that may be suitable for private ownership and development. The City may wish to review its landholdings to determine if it owns any lands that might be disposed of for private use consistent with the Land Use Plan. For example, some of the lands the City will acquire in the vicinity of the Snag Point subdivision have potential for and are classified for residential development.

6. Flood Plain Management

With one major exception, the Land Use Plan allots future development to sites that are free of flood and erosion hazards. The bulk of Dillingham's best-located lands for marine-related industrial and commercial uses is situated in

the flood plain. These lands have been classified in the plan for industrial and commercial uses on the condition that proposed development can satisfy floodplain, wetlands and other applicable management standards. Therefore, flood plain management is an important planning tool to ensure that any development that takes place will include measures for protection of life and property. The City recently adopted a revised flood hazard ordinance regulating development in the floodplain to maintain its eligibility under the federal National Flood Insurance Program. Implementation of the City's floodplain regulations will support the Land Use Plan.

7. Phased Development of Residential Neighborhoods

The policy of phased development of future urban residential neighborhoods is a critical element in the land use plan's overall community development planning strategy. The success of this policy depends on coordinated application of two previously mentioned planning tools: review of proposed subdivisions to assure that they meet appropriate subdivision design criteria for rural and urban neighborhoods respectively; and development of a long-term capital improvements program that stages the installation of community facilities in step with residential expansion needs and the City's land use policies.

8. State/federal Regulatory Agency Coordination

Numerous state and federal agencies exercise various planning and regulatory powers concurrently with the City. Among the most important are the Corps of Engineers permit process for Section 404 of the Clean Water Act; Environmental Protection Agency reviews for Section 404

compliance; Alaska Division of Policy Development and Planning consistency reviews for coastal management; Alaska Department of Environmental Conservation Section 401 Clean Water Act certifications for compliance with state water quality standards and other applicable state laws; Alaska Department of Fish and Game permit application reviews for impacts on anadromous streams and other habitats important to fish and wildlife resources.

The regulatory approval of these agencies will play a critical role in the fate of any major development projects on wetlands or within the coastal zone, particularly in the vicinity of the small boat harbor proposed for marine-related industrial and commercial use and designated in the plan as a special management district. Project compliance with the official municipal Land Use Plan is often an important factor in federal and state agency reviews of proposed projects. The City can help implement its Land Use Plan by commenting to federal and state regulatory agencies on how projects under review fit with its plan.

9. Cooperative Planning/Intergovernmental Coordination

There are a number of opportunities for cooperative land use planning and management that are important for the City's land use planning program. First, as the largest community and transportation and service center for the Bristol Bay region, Dillingham has a large stake in the outcome of the Bristol Bay Cooperative Management Plan and the regional coastal management program. At present, the City is represented on the policy board for each of these planning efforts by a member of the Planning Commission. In the future, the City should seek to keep this close liaison with these regional planning programs.

Second, the City should monitor closely the progress of federal and state oil and gas leasing activities and mineral exploration. If it appears that any of these projects will adversely impact the community, then the City should be prepared to advocate the community's interests and seek funds for impact planning and assistance.

10. Special Use Ordinance

The City should consider adoption of a special use ordinance that will empower it to require a few infrequent but very intensive land uses (such as coastal energy facilities and major industrial facilities) to meet specific local performance standards. These uses may be appropriate for industrial or other areas, so long as they meet applicable planning standards and regulations.

APPENDIX A

THE PLANNING PROCESS

This Appendix outlines the planning process used to develop the Dillingham Land Use Plan. The Land Use Plan itself is just one element of the comprehensive plan meant to guide the overall physical, social and economic growth of the community. The comprehensive plan usually will also include a statement of community development goals, a housing element, a community facilities plan, a transportation plan, and recommendations for plan implementation.

The land use planning process itself has two dimensions:

- o first, the technical process through which the land use plan is developed; and,
- o second, the institutional process through which the Planning Commission, the City Council and other interested parties develop and implement the land use plan.

THE TECHNICAL PROCESS

The technical process of land use planning moves in logical order through a series of steps to conclusions and recommendations for future land use policies and patterns. Often, the process must balance conflicting tendencies in land use demands, the physical characteristics of the landscape and community development objectives, to arrive at a sound and feasible plan for future land use. A key tool in the process is the land use classification system and the planning standards governing its use. This subsection outlines the technical planning process and land use classification system followed for this plan.

Planning Process

The main steps in the technical land use planning process can be summarized in three steps: analysis; plan development and implementation.

STEP 1: ANALYSIS

This step comprises the land suitability evaluation, land ownership inventory, analysis of existing land use patterns, forecast of future land use demands and other background tasks. Much of this data is available from the Phase I report.

The elements of this step typically include:

- Land Suitability Analysis
  - topography
  - hazards
  - soils
  - wetlands
  - habitat
  - archaeological and scenic values
- Inventory of Land Status and Ownership
- Analysis of Existing Development Patterns
  - land use
  - access
  - utilities
  - community services
- Forecast of Future Land Use Needs
  - residential
  - commercial
  - industrial
  - public
  - recreational/open space
  - transportation corridors

STEP 2: PLAN DEVELOPMENT

This step involves:

- Formulation of Land Use Goals and Policies
- Development of the Land Use Plan

STEP 3: IMPLEMENTATION PROGRAM

This step sets out the agenda for implementing the land use plan.

The implementation program can draw from a broad repertory of regulatory tools and programs to carry out the land use plan. The choice of tools will depend on the community conditions and planning objectives of the locality. Some of the most commonly employed tools are:

- official map
- zoning map and ordinance
- subdivision ordinance
- ordinances for management of flood plains, natural hazard areas, wetlands, shorelines and tidelands, watersheds, etc.
- public land acquisition and management
- capital improvements programs
- annexation
- cooperative management agreements
- subdivision planning assistance for land developers
- building codes

- o economic development programs
- o coastal management
- o ordinances for control of water and air pollution and other nuisances

Land Use Classification

The proposed land use plan relies on two types of planning designations: land use classes and management districts.

The land use classes specify the land uses designations that are employed in the land use plan. The term "zone" has not been used in order to avoid the suggestion that zoning is a feature of the land use plan.

The management districts define geographic areas which have specific features (flood hazard, wetlands) that warrant special management attention.

There are standard basic use classes for land use planning which can be refined or simplified to fit local circumstances. The proposed Dillingham land use plan employs a very simple land use classification scheme. This classification scheme is adequate for the land use plan and for the proposed implementation program, especially since the City does not intend to adopt a zoning ordinance and will not have to meet the rigorous standards required for zoning.

The plan classifies all land uses into seven basic groups: residential, commercial, industrial, public facilities, public open space/community reserve, transportation and utilities, and unclassified. An added class - special uses - is reserved for a few uses of special planning concern.

The land use classification scheme groups together land uses and activities that are similar or compatible and that are best suited to locate together. Conversely, each class excludes incompatible or detrimental uses. The individual classes may be but need not be mutually exclusive. For example, industrial uses are usually unsuited for residential areas, but homes or businesses may be built in industrial areas.

In the land use plan, specific types of uses are proposed for different areas of the community. These future use designations are made according to planning criteria for suitability of the landsites for different uses and for compatibility with existing land use patterns. Enough land is allocated to each use to satisfy estimates of future demand for different land uses.

The land use classes are defined as follows:

1. Residential

Residential uses include single family homes, multi-family housing, apartments and other housing, except commercial lodgings (e.g., hotels) and institutional and group housing (e.g., dormitories).

Residential uses are further subdivided into two types of residential areas: urban residential and rural residential. Urban residential designates areas preferred for eventual development at densities consistent with installation of community water and sewer utilities. Rural residential designates areas with soils, drainage and hydrologic conditions suitable for permanent onsite water supply and sewage disposal and which are preferred for large-lot residential development.

The key planning principle is to maintain low densities in rural residential areas so that onsite water and sewer systems are not overtaxed, while promoting concentrated development in urban residential areas for optimal use of costly community utilities.

The pitfall to avoid is a mixture of small and large lot development that is too dense to be reliably serviced with individual on-site water and sewer systems but too dispersed to be economically serviced with community systems.

2. Commercial

Commercial uses includes retail trade and service businesses, commercial office space, commercial lodgings and related uses such as warehouses. This use class encompasses the downtown central business area, commercial uses that cluster near busy facilities like the airport or small boat harbor and at key intersections, and neighborhood convenience shops.

3. Industrial

This class includes light and heavy industrial plants and shops that generate heavy truck or marine traffic, safety hazards, noise, dust, odors, pollutants or other side effects that make them unattractive or unsafe next-door neighbors for certain other types of uses, e.g., housing tracts, playgrounds, schools and hospitals. Typical industrial uses are bulk fuels storage, power plants, fish processing facilities, waste treatment facilities, sanitary landfill and dumps, warehouses and related uses.

4. Public Facilities

This class includes sites recommended for use for schools, hospitals, community buildings, community centers, libraries, public offices, police and fire stations, playgrounds and developed recreation areas, cemeteries and any other public and semi-public facilities that may be appropriate.

5. Transportation & Utility Corridors

This class includes corridors reserved for major highways and arterials; and major utility corridors for water, sewer, power and telephone lines.

6. Public Open Space/Community Reserve

This class includes undeveloped open space, conservation areas, and other undeveloped or undevelopable tracts. These tracts may be designated for various reasons: their outstanding value as natural areas; to be held in reserve for future community expansion; or because they are unsuited for development.

7. Unclassified

Unclassified lands represent the residue of private lands in areas with poor building conditions. They also include some small or isolated sites that are buildable but were not identified in the screening process as suitable for extensive development. Thus, unclassified lands are not in all cases unsuited for rural residential development, but must be considered on a case-by-case basis.

8. Special Uses

Certain very intensive uses (coastal energy facilities, major industrial facilities) can have extraordinary impact on the environment or settlement patterns of smaller communities. Since these non-routine uses arise infrequently, it is good planning practice to address them individually as they arise. In effect, they are to be treated as "floating zones or uses" and may be appropriate for industrial districts or other areas, as long as they meet applicable planning standards and regulations.

Management Districts

In addition to the land use classes, the plan defines three types of management districts: natural hazard areas, coastal areas and wetlands. These management districts identify specific areas which have

physical traits or site values that deserve special management policies to guide their use and development. The management districts focus on specific geographic areas as distinct from the land use classes which address the types of human uses and activities that take place on the land.

The City itself does not have to take on new management burdens for these districts. In most cases, federal or State agencies already have jurisdiction over these districts. If the City's official land use plan sets out its official management goals for these districts, then City will be in a good position to influence federal and State management decisions to comply with the City's plan without having to assume managerial duties .

The three management districts are:

1. Natural Hazard Areas

This includes all areas which are unsafe for unregulated development because of such identified hazards as flooding, erosion, saturated soils, landslides and other failures, and seismic damage. In some instances, these areas can be made usable by special engineering measures such as floodproofing or foundation engineering that compensate for the threat to life and property posed by these hazards.

2. Coastal Zone

According to the Alaska Department of Fish and Game's preliminary definition of biophysical boundaries for the coastal zone, all of Dillingham falls within the coastal zone. However, these biophysical boundaries are defined broadlyto encompass biological systems and habitats and do not provide practical guidelines at the narrower scale of community land use planning. For purposes of the Dillingham plan, the definition of the coastal zone is refined to focus specifically on the coastal upland shore and bordering shoreline and tidelands that have prime value for coastal development. Most of Dillingham's coastal zone comprises wetlands and exposed to flood and erosion hazards.

In settled areas, good waterfront sites are usually in short supply but essential for some important uses. Sound land use and coastal management planning gives important coastal uses priority for these prime waterfront sites so they will not be pre-empted for uses that could successfully locate elsewhere. Two categories of coastal uses are distinguished: <u>water-dependent</u> and <u>water-ralated</u>.

<u>Water-dependent</u> includes those uses and activities which by their nature require waterfront locations. Typical examples would be docks, small boat harbors, petroleum delivery

docks, fish docks and canneries, and marine service industries such as boat repair shops.

Water-related includes those uses and activities which do not require coastal locations but are usually drawn to the amenities of the waterfront or to the company of water-dependent uses. For these water-related uses, a coastal location is a matter of esthetics, convenience or efficiency rather than physical necessity. Typical examples would be waterfront parks, commercial facilities like hotels and restaurants, marine supply shops and services, fishing gear storage and warehouses and open storage. After water-dependent uses, these water-related uses are usually given preference for coastal sites.

3. Wetlands

Wetlands include areas of wet and saturated soils that in their natural state are unsuited for development. In the absence of an accurate wetlands inventory for Dillingham, the wetlands are not mapped but generally can be taken to overlap with identified floodplains and those areas in the Salamatof and Nushagak soils series classified by the Soils Conservation Service to have the lowest development potential.

Wetlands often have valuable natural functions as fish and wildlife habitat, as water storage and groundwater recharge areas, and as open space or buffer zones. Generally, wetlands are very prone to damage from careless use. Development can have adverse effects on land and water resources and on natural habitat. For example, development can lower the water table, damage water quality, reduce floodwater storage capacity, promote erosion and have generally unfortunate effect on environmental quality.

Wetlands can be developed, but proper construction practices are often technically demanding and costly, may require land fill and drainage improvements, and may present continuing environmental management problems. For all these reasons, use and development of wetlands deserve special planning consideration.

THE INSTITUTIONAL PROCESS

The authority of local government to plan and administer land use ultimately stems from the authority of the State, delegated by statute to local government. Thus, the legal foundation for the municipal planning process is found in State law and in the local ordinances adopted under State law to implement these authorities at the local level.

The State enabling statutes for local government set forth definite arrangements for the conduct of local government, including specific roles and duties for participants in the planning function. These arrangements are briefly summarized below as they apply to Dillingham.

City Council

The City Council is the local governmental legislative body. It is responsible for setting municipal policy, adopting ordinances, raising and appropriating municipal revenues, providing policy direction to administrative staff, and the exercise of other lawmaking powers.

City Administration

Within policy and budgetary guidelines and administrative arrangements established by the City Council, the city administration, under the supervision of its chief executive officer (usually the city manager or mayor) is responsible for administering the affairs of the municipality. This may include the operations of the planning department and other staff engaged in the administration of planning, platting and zoning functions.

Planning Commission

The Planning Commission functions as an advisory body to the City Council with specific duties set out in State statutes. Specifically, the Planning Commission is empowered to prepare and recommend to the City Council for adoption a comprehensive plan, zoning and subdivision ordinances; an official map; and any amendments to the above as may seem advisable. Planning Commission members are appointed by the mayor and confirmed by the City Council. Although it is not part of the city administration, the Commission commonly reviews analyses and recommendations prepared by the planning department and other city staff as part of its decision-making process. If the city has adopted a subdivision ordinance, the Planning Commission is designated by Title 29 to serve as platting board to review and approve proposed subdivisions.

Board of Adjustment

If the City adopts a zoning program, the City Council sits as the Board of Adjustment and serves as the review body to hear appeals from Planning Commission decisions on requests for variances and conditional uses or on alleged Planning Commission enforcement errors.

APPENDIX B

NATIVE ALLOTMENTS

Introduction

The City of Dillingham is incorporated as a first class municipality under Title 29 of the Alaska Statutes. By statute, the City is mandated to exercise comprehensive planning powers. Alaska's municipal enabling legislation for land use planning is broad and flexible. Municipalities are empowered to provide for planning, platting and zoning and to exercise a variety of optional planning-related powers. Were that the full story, the Dillingham City Council would have broad latitude under law to adopt and implement such land use ordinances and related measures as it saw fit to implement its land use plan. But, unfortunately, that is not the entire story.

For reasons explained more fully below, the effective authority of the City to exercise these conventional planning powers uniformly within its boundaries is clouded by the special legal standing, based in federal law, of Native allotment lands. This special legal standing exempts Native allotments from State and local governmental taxation, from alienation and, arguably, from some forms of land use regulation. Inasmuch as there are many patented or pending Native allotments in Dillingham, this last exemption could seriously impair the ability of the City to use conventional planning tools to implement a comprehensive land use plan or even to plan for routine public improvements, such as streets and utilities, that are ordinarily financed by property tax assessments. Fortunately, that is not the full story either.

This appendix examines the legal issues may that qualify the City of Dillingham's authority to regulate land use and finance public improvements and services for Native allotments. The appendix's purposes are twofold:

> first, to review the legal rationale for the claim of special status for Native allotments and the implications of this status for the City of Dillingham's land use planning program; and
>
> second, to propose a legally sound and practical planning arrangement that is consistent with the legal status of Native allotments and which will equip the City to exercise its planning function fairly and effectively in the interests of the community as a whole.

This appendix is not an authoritative legal essay on allotment issues. The legal issues defining the relationship between Native allotments and municipal planning powers are complex and largely unresolved. This appendix relies heavily on two recent studies by Case (The Special Relationship of Alaska Natives to the Federal Government) and

Price (The Legal Status of the Alaska Natives) that, in part, addressed these legal issues. For further background, over two dozen attorneys, land planners and managers and municipal administrators (see Acknowledgements at end of this Appendix) with expertise in this topic were consulted. This research made clear that, in many important regards, the issues remain to be articulated and tested in case law. Prior to judicial resolution, the issue of State and municipal planning jurisdiction over Native allotments will remain moot. Thus, at best, the appendix reflects some consensus and some disagreements in prevailing legal opinion about the matters at issue and applies them to Dillingham's circumstances.

This general legal situation regarding Native allotments is not unique to Dillingham. However, most of Alaska's Native allotments are located in rural communities, few of which have progressed to the stage of exercising land use planning powers. Heretofore, it has been a latent problem that is only now coming to the surface at Dillingham and at a few other localities.

Apart from any legalistic analyses of the powers of the municipality vis-a-vis the legal status of allotments, we believe that there is a substantial ground of common interests on which the municipality and allotment owners can cooperate for mutual benefit and with the sanction of law if not under compulsion of law. These jurisdictional disagreements are popularly viewed as adversely affecting the City but their adverse effects are shared by the community at large, including the very property owners exempted from City regulation and taxation. There are feasible extra-legal arrangements between the municipality and allotment owners (and the BIA as trustee) that respect the special legal status of Native allotments and still sustain the functional ability of the municipality to discharge its public responsibilities effectively and fairly.

In this regard, it is noteworthy that many of the experts consulted strongly counseled negotiation as a more prudent and practical approach than litigation for dealing with unresolved aspects of the relationship between allotment owners and municipal planning bodies.

Since a basic familiarity of the legal background of these issues is essential to understand the planning options open to the City, a brief account of this background follows.

Federal Law and Native Allotments

The patented and pending Native allotments at Dillingham were filed under the federal Allotment Act of 1906. According to that act,

> The Secretary of the Interior is hereby authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of nonmineral land in the district of Alaska to any Indian or Eskimo of full or mixed blood who resides in and

> is a Native of said district, and who is head of a family or twenty-one years of age and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress.

The Allotment Act of 1906 was repealed by the Alaska Native Claims Settlement Act, but the repeal did not affect allotment applications pending on December 18, 1971.

The exact location and acreage of Native allotments within Dillingham's city limits can not be determined until the process of adjudicating, surveying and patenting allotments is concluded. The 1982 Community Profile reported there were, as of 1981, 118 active allotment claims near Dillingham, of which 47 were then certified. Since BIA allotment records are maintained by general settlement locality rather by exact City boundaries, this count is at best an approximate tally of the number of allotment claims at Dillingham. The land status map in the Community Profile displays the location of patented and, tentatively, pending allotments. In 1982, the BLM concluded field surveys of allotment claims in Dillingham, resulting in some changes from the earlier land status map. Choggiung, Ltd. has a reference map that displays the allotment status after the 1982 field survey program. However, until these allotment surveys are approved and patented, the final location and acreage of allotments at Dillingham cannot be compiled. In any case, as can readily be seen by reference to local land status maps, allotments will ultimately account for a substantial share of the private developable lands in Dillingham.

Taxation and Alienability

The exemption of Native allotments from State and local governmental taxation and from alienation is clearly established by the Allotment Act of 1906. The Allotment Act states that

> the land so allotted [by the Allotment Act] shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be **inalienable and nontaxable** until otherwise provided by Congress. (Emphasis added).

Our inquiries to attorneys and municipal officials found no dissent from the position that Native allotments were exempt from real property taxation and from alienation. Since the real property tax is Dillingham's main local source of revenues for community improvements, this restriction on the city's authority to assess all local property owners a due share of real property taxes to pay for public improvements and services has important consequences for community development planning.

It should be noted that the restriction on alienation is not absolute, but requires that the BIA as trustee approve any alienation of

allotments or restricted deed properties. Also, the restriction against alienation does not inhibit the power of the State or municipality to acquire allotment property through condemnation proceedings.

Land Use Regulation

The exemption of allotments from State and local civil jurisdiction for purposes of land use regulation is not explicitly stated in federal law. It is a reasoned, but debatable, legal interpretation.

This interpretation was not a unanimous opinion among the experts consulted. Generally, individual opinions were consistent with the outlook of the party represented by the interviewee. The interviewees who represented the interests of allotment owners usually advocated the most protective and broad application of allotment exemptions. On the other hand, affiliates of municipal and state governments usually advocated the most liberal interpretation of municipal authority and often disputed the validity of this purported exemption from state and local planning regulation.

The extended sequence of legal inference that supports the exemption of allotments from state and municipal land use regulations pivots on the trust status of Native allotments and is summarized by Case as follows:

> It is not clear from the face of the 1906 Allotment Act whether the lands available under it are trust or restricted lands. . .
>
> [However,] the Secretary is given very broad authority to allot the lands "in his discretion and under such rules as he may prescribe." Under this authority, the general leasing, right-of-way and probate statutes applicable to trust or allotted lands have been applied to Alaska. The Solicitor has also held in an early opinion that the legal title in Alaska allotments are protected under the Federal trespass statute. . .
>
> Given the Secretary's long-standing construction of the 1906 Allotment Act, Congressional silence in the face of that construction and the rule of judicial interpretation which entitles it to the highest respect, **it seems likely that allotments approved under the 1906 Allotment Act are trust property in the strict sense of the term. Even if they are not strictly speaking "trust" lands, allotments are, by statutes and regulations, afforded protection comparable to that of trust property.** (Emphasis added).

Case develops the key implication of this trust status for State and local land use regulation of allotments as follows:

> . . .the concept of a "trust" is unique to the English common law and developed out of efforts to avoid some of the disadvantages of landownership in feudal England. A trust relationship in the strict sense of the term always involves the disposition of property between two types of owners - legal and equitable. The legal owner holds the fee title to the property but only for the benefit of the equitable owner. The equitable owner has the full right to use and occupy the property and to do anything with it except sell or lease it; power of sale or lease is part of the fee title which belongs solely to the legal owner.
>
> In this strict sense of "trust," the United States assumes a "trust relationship" with Native Americans whenever it retains the legal title to Native lands and accords the Native a permanent right of occupancy and use (i.e. an equitable interest).

To summarize this legal argument: allotments under the 1906 Act are trust properties and deserve similar treatment under law as other trust properties such as Native townsite lots. That is, the federal government (i.e., the Secretary of the Interior) retains legal or fee title ownership, conveying only the equitable interest to the Native allottee. As sovereign, the federal government is supreme and is not as a rule subordinate to state or local governmental jurisdiction. Thus, as legal owner and trustee of Native allotments, the federal government is not subject to State and local laws, ordinances and regulations, **except as specifically provided for by federal statute.**

Case notes that Congress passed a number of subsequent laws that clarified and reaffirmed the inalienable and nontaxable standing of allotments. This special legal status of allotments was explicitly affirmed by Public Law 83-280 of 1954 (although other provisions of that law broadened the civil and criminal jurisdiction of the States over Indian lands), and also by the Statehood Act under which Alaska was admitted to the United States.

While P.L. 280 broadened the States' civil and criminal jurisdiction over Indian lands in other regards, Case maintains it specifically reaffirmed that the exemption of allotments from encumbrance, alienation, taxation or state regulation was not to be abridged:

> (O)ther provisions of P.L. 280 protect Native trust and restricted property from "encumbrance, alienation, or taxation" as well as state regulation of its use or adjudication of ownership interests in such property.
>
> [These] provisions prevent the State from adjudicating or regulating Native interests in allotments, townsites and other trust or restricted property in both civil and criminal proceedings. Of course, interests in allotments or townsites are subject to Federal jurisdiction.

If so, then the protective shield for allotments against taxation, alienation and land use regulation persists, with the possible exception of allotments which may have been vested in fee simple with the result that the protective federal cloak of immunity from State jurisdiction is surrendered.

This legal rationale for exemption of allotments from state and local planning regulation is challenged with legal arguments by some Alaskan municipalities and successfully ignored in practice by some others.

Municipal officials of the Matanuska-Susitna Borough, Ketchikan-Gateway Borough and the City and Borough of Sitka expressed an expansive view of municipal authority to exercise zoning, subdivision and other planning regulation of allotments and/or restricted Native townsite parcels.

The Matanuska-Susitna Borough holds that it has authority to exercise its full range of police powers, including the exercise of planning, platting, zoning and related powers, to protect the general health and welfare, without regard to allotment status. However, while there are quite a few Native allotments in the borough, they are in rural areas and have not yet become a practical issue, so this policy has not yet been put to test.

The posture taken by the City and Borough of Sitka in reference to restricted deed property in Sitka Indian Village (a clear case of federal trusteeship - recall that Case pins his argument on an interpretation that allotments are "afforded protection comparable to that of trust property") has been aggressive. Sitka has asserted its authority to regulate a proposed subdivision in Sitka Indian Village for compliance with its subdivision ordinance and proposed construction for compliance with its zoning ordinance. By report of the municipality, the BIA has acquiesced with this exercise of municipal authority without protest.

Ketchikan Gateway Borough is a second-class borough with areawide mandatory powers for planning, platting and zoning. There are many restricted deed trust properties within its jurisdiction, concentrated in the former Native village of Saxman. A few years ago, the Saxman city government claimed that Saxman, as a traditional native settlement, was not bound by the planning authority of the Ketchikan-Gateway Borough. After some controversy, the claim was dropped and for the time being the Borough continues to exercise local planning authority. Regardless of the controversy, the Borough's authority to impose zoning and subdivision regulations specifically over restricted deed property has not been called into issue. The Borough intends to exercise these powers throughout its jurisdiction.

The City and Borough of Juneau, a unified home-rule municipality with areawide planning powers, has generally not sought to exercise its powers over Juneau Indian Village, a traditional Native village townsite in downtown Juneau. Many lots in the Native townsite tract

are held in restricted deed status. The borough attorney reports that borough and BIA officials agreed on,one occasion to let the borough demolish a dangerous building but with the assent of the property owner and without confronting jurisdictional issues. Otherwise, the borough has not tried to establish its jurisdiction.

The City of Bethel, a second-class city, recently completed a new Comprehensive Plan. Bethel is now implementing its plan, partly through administratation of a subdivision ordinance. Like Dillingham, Bethel has numerous Native allotments (and restricted Native townsite deeds) within its boundaries. Faced with a proposed subdivision of a large allotment property, the City made arrangements with the BIA for city review and approval of the plan of subdivision. This arrangement is reportedly proceeding smoothly and to the satisfaction of both parties.

The Alaska Department of Environmental Conservation, which has authority to review proposed subdivision plans for compliance with State sanitary regulations, maintains that its jurisdiction is not affected by the allotment status.

Of particular relevance to Dillingham is a report prepared by the legal firm of Garnett, Klinkner and Bendell for the North Slope Borough on its power to regulate land subdivision on allotments. That report concluded that:

> (T)he North Slope Borough has the same power to regulate the subdivision of Native townsite and allotment parcels as it has to regulate the subdivision of privately owned land in general. This power under state law replaces any similar authority exercised by traditional village governments. See, State v. Aleut Corporation, 541 P.2d 730 (Alaska 1975), in which the court held that, "when the traditional village government has been superseded by a city government operating pursuant to state law, the city government becomes the sole representative of the community for protecting rights granted to the community as a whole," 541 P.2d at 735. In the same sense, the Borough's areawide platting authority has superseded the exercise of such authority by traditional village government.

Unfortunately, this analysis may beg, not answer, the key question about regulation of allotments. The pivotal issue at Dillingham is not the authority under State law of the local municipal government vis-a-vis a traditional village government, but whether property held in federal trusteeship is subordinate to State and local law and regulation. Also, a state court decision applying state law to resolve jurisdictional conflicts between municipal and traditional village governments may itself be superseded by federal judicial decisions. Thus, it is not yet clear that this specific argument in behalf of the North Slope Borough's authority to regulate subdivision of allotments will prevail.

From the above account, it is clear that neither local governments nor the BIA have acted on a consistent interpretation of the relationship between State and local planning authority and Native allotments and Native townsite property titularly owned in trust by the BIA for the benefit of Alaskan Natives.

This lack of consistency does not, of course, prove the legal merit of either extreme position. It does suggest strongly that the parties concerned are improvising practical arrangements that accomodate local problems in a mutually acceptable ad hoc way rather than holding out for ultimate judicial (or legislative) resolution of the matters at issue. These general findings certainly reinforce the outlook, cited earlier, that those who have experience in these legal issues find it more worthwhile to search for accomodations and compromises rather than try to satisfy a curiosity for ultimate legal answers.

Subdivision Review and Recording

Beyond the general legal issues discussed above, the Alaska statutes governing the recording of real property titles introduce a very practical consideration to the topic of local subdivision review of allotments. This consideration is especially important for Dillingham, since the City means to rely on its subdivision ordinance as its main planning tool for regulating land development and does not intend to adopt a zoning ordinance.

Alaska statutes clearly empower municipal Planning Commissions to review and approve all proposed subdivisions of land in their jurisdictions before the subdivisions can be accepted for filing by the office of recorder. State law defines a subdivision as:

> a division of a tract or parcel of land into two or more lots, sites, or other division for the purpose, whether immediate or future, of sale or building development, and includes resubdivisions and, when appropriate to the context, relates to the process of subdividing or to the land or areas subdivided. (AS 40.15.190(2).)

With regard to municipal review and approval of proposed subdivisions, the Alaska statutes state that,

> Sec. 40.15.010. **Approval and recording of subdivisions. Before the lots or tracts of any subdivision or dedication may be sold or offered for sale, the subdivision or dedication shall be submitted for approval to the authority having jurisdiction, as prescribed in this chapter.** The regular approval of the authority shall be shown on it or attached to it and the subdivision or dedication shall be filed for record in the office of the recorder. The recorder shall not accept a subdivision or dedication for filing unless it shows this approval. . . (Emphasis added).

> Sec. 40.15.070. **Platting authority.** If land proposed to be subdivided or dedicated is situated within a first or second class borough the proposed subdivision or dedication shall be submitted to the borough planning commission for approval. If the land is situated within a city in the organized borough or the third class borough the proposed subdivision or dedication shall be submitted to the city planning commission for approval. The borough planning commission is the platting authority for the first or second class borough, **the city planning commission is the platting authority for the city,** and the division of lands is the platting authority in the remaining areas of the state and third class borough for the change or vacation of existing plats or a portion of such plats, as provided in section .75 of this chapter. If the borough or the city does not have a planning commission, the borough assembly or the city governing body, respectively, is the platting authority and the proposed subdivision or dedication shall be submitted to it. **No subdivision may be filed for record until it is approved by the platting authority.** (Emphasis added).

This statutory requirement for local approval of all proposed subdivisions establishes an powerful incentive to submit subdivision plans for municipal review, regardless of whether this review is mandatory. Without City approval, a subdivision cannot be recorded nor can transfer of title be legally recorded. This inability to record title will, of course, cloud the ownership interests of purchasers and will certainly impair the ability of purchasers of unrecorded parcels to mortgage or borrow against the property or to resell it. These impairments can seriously depress the marketability of the subdivided property and the market value of the property to the allottee or any subsequent owner. Most important, the lack of access of the allotment owner/purchaser to mortgage or development finance because of title questions will virtually nullify the potential for large-scale development of allotment lands.

Summary

At this point, it may be helpful to sum up the main points of the discussion so far with regard the City of Dillingham's planning jurisdiction over Native allotments. The City of Dillingham:

1) cannot assess, levy and collect real property taxes.
2) cannot acquire easements, right-of-ways or other interests in Native allotments by adverse possession or customary use.
3) has arguable authority to exercise zoning, subidvision and other land regulatory powers over allotments.
4) must officially approve proposed subdivisions before they can be accepted for recording or sold or offered for sale.

Two further observations can be added to the above four points. In practice, neither the BIA as trustee nor the State's municipalities have maintained a consistent position on the applicability of local governmental planning powers to Native allotments and restricted deed properties. And, there is ample precedent for a cooperative arrangement, between the BIA as trustee and the municipality as local governing body, to solve practical problems.

As the allotment issue is distinct from some other controversies about municipal regulatory powers over Native-owned lands, a brief aside here may help safeguard against confusions.

First, any restrictions on municipal authority over allotments predate and are wholly independent of the Alaska Native Claims Settlement Act. Lands obtained by Native village and regional corporations and Native residents pursuant to ANCSA are subject to local planning jurisdiction and, once developed or after 1991, to local real property taxation.

Second, the original Dillingham Townsite was established as an open townsite and not as a Native townsite with restricted deeds. Therefore, the situation at Dillingham, unlike at most rural settlements, is not further compounded by Native townsite deeds with their restrictions on taxability and alienability and, perhaps, planning regulation.

Third, any restrictions on municipal planning jurisdiction over allotments are akin to but distinct from the broader jurisdictional issues raised in some Alaskan communities where traditional tribal groups have claimed jurisdictional sovereignty to the exclusion of competing claims of State or municipal governments. Dillingham does not have a recognized traditional Native village entity actively exercising governance functions. Thus, the City of Dillingham, unlike some municipalities incorporated at traditional village sites, does not have to contend with broadly-based contest to its jurisdiction. This local history helpfully narrows the range of legal questions potentially at issue.

Recommendations

Based on our review of pertinent materials and the interviews, it seems as likely as not that the City of Dillingham has the same subdivision review powers over Native allotments as it has over other private lands. However, if the City seeks to exercise this power as a matter of right, it risks an arduous, costly and lengthy court test with the BIA which is entrusted with the duty to look after the allottees' best interest. Litigation also risks escalating the issue into a divisive local controversy. In all, litigation is an unattractive alternative for all concerned.

The logical upshot of the foregoing discussion is an impasse that holds both allotment owners and the City hostage to the unsettled status of the legal issues. The City cannot compel submittal of

proposed subdivisions but the allotment owner cannot obtain legal record of subdivision without submitting the proposed subdivision for municipal planning approval. This impasse causes hardship that serves neither's interests.

> First, the City can reject proposed subdivisions that do not meet its adopted standards but it cannot even review or approve proposed subdivisions that are not submitted for its planning review. The City can prevent legal record of subdivisions or title transfer, but this does not make any positive contribution to community development.
> Second, the BIA as trustee may feel obliged to defend allotments against any legal claims of state or local planning jurisdiction, including subdivision review, but that defense, even where successful, may not always be in the best interests of the allotment owner.

To accomplish positive results, the parties have to cooperate.

At Dillingham, as elsewhere, cooperation between the City Planning Commission and the BIA Realty Office on proposed subdivisions has occurred successfully on an ad hoc basis as problems have arisen in the processing of allotment subdivisions. Now that the City is completing its updated comprehensive Land Use Plan, it is especially timely for the City and the BIA to regularize this cooperation. They need to agree upon some consistent ground rules for routine review and approval of allotment subdivisions. This cooperative agreement will satisfy the City's interests in sound land development according to its subdivision ordinance and land use plan. And, approval and endorsement of the proposed subdivision plat by the planning commission will dispell any questions about the marketability and the market value of the allotment property.

Without cooperative agreement on ground rules, there is potential for unpleasant surprises both for the BIA/allottee and for the City of Dillingham if awareness of title problems or technical design defects (e.g., substandard lot size, inadequate provisions for access and utility easements, etc.) is delayed until late in the process of subdivision planning for allotments. A routine subdivision review process with consistent ground rules will take the potential unhappy surprises out of this situation for everyone.

Upon inquiry, representatives of the BIA Realty Office and the Department of Interior Regional Solicitor's Office, which provides legal counsel to the BIA, expressed positive interest in developing a routine process for City planning review and approval of allotment subdivisions, so long as the process does not discriminate against allotees and does not infringe the duty entrusted to the BIA to act in the best interests of the allottee.

To avoid compromise of the outstanding legal issues, cooperation can be explicitly treated as a matter of mutual practical advantage rather

than as a matter of law.

The City's established process for subdivision review already provides a sound basic framework for the details of a cooperative agreement. The City's subdivision ordinance embodies technical standards for subdivision design. Its just completed Land Use Plan will, after adoption, set out official land use planning policies for the community as a whole. Together, these planning tools represent a rational and accountable process for fair and even-handed planning review of proposed allotment subdivisions on the same terms that all other subdivisions are reviewed.

As part of the cooperative agreement, the City may wish to look into the possibility of a working arrangement with the State Division of Community Planning to offer technical site planning assistance through the City to owners of any allotments being planned for large-scale subdivision. The purpose would be to assure that the technical standards by which the subdivision will eventually be reviewed are understood and followed from the outset.

A critical element of any cooperative agreement is the shared duty of the City of Dillingham and the BIA Realty Office to inform all allottees of the terms of the cooperative agreement, the implications for management of their allotments and the compensating benefits of City subdivision review and approval.

In conclusion, we believe that a sound cooperative agreement providing for City Planning Commission review of proposed allotment subdivisions will better equip the City of Dillingham to meet the growth needs of the community in an orderly way while positively assisting allotment owners to realize the development potential of their properties, if and when they choose to develop them.

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