

NOTICE OF APPEAL TO THE BOARD OF ADJUSTMENT

This appeal under AMC 21.30.030 must be perfected by the applicant, or any person adversely affected by the Planning and Zoning Commission or the Platting Board, no later than **20 days** after the date the written finding of fact and decision from which the appeal is taken is approved. The appeal is perfected by the filing of a notice of appeal, appeal fee and cost bond.

2014 FEB - 3 PM 3: 58

CLERKS OFFICE

General Identity of Action Being Appealed

Planning Department File Number: Date of Action
Name of Project or Subdivision:

Appellant's Name and Address

Last Name First Name
Address City State Zip
Phone Number

Relationship to Action:

Petitioner Agent of Petitioner Government Agency Other Person Adversely Affected

Provide Name and Address of Petitioner

Name
Address City State Zip

NOTE: If you are not the petitioner or his/her agent you must give notice to the petitioner by certified mail at his/her last known address within three days of filing this Notice of Appeal.

Specifics of Appeal Certification

An appeal may be considered for the following three causes singly or in combination, which must be explained and a reason given for why the appeal should be granted. A written statement (oral will may not be used) of cause and reason for granting the appeal must accompany this notice so the appeal may be considered. Explain the cause and what corrective decision is desired by this appeal.

1. Procedural Error - If you allege procedural error, specify those patters which constitute the error and the manner in which the alleged error resulted in prjudice to your interest.

2. Error in Application of Law - If you allege legal error, specify the manner in which principles of law were incorrectly applied. Include reference to any ordinance, statute or other codified law upon which the allegation of legal error is based.

3. Findings or Conclusions that were Supported by Evidence - If you allege that findings or conclusions are not supported by the evidence that was presented, specify and explain those findings or conclusions which lacked evidentiary support at the time of the action.

I (we) hereby certify that I am (we are) qualified to make this appeal and that my (our) statement of cause and reason is true and correct to the best of my (our) knowledge.

Signature
Date

Date Accepted: 2/3/14 Statement Attached: Appeal Fee: ~~\$960.00~~ Cost Bond: \$50.00 Total Paid: \$1,130.00
\$1,080.00

Cash: _____ Check# 78076 Receipt # 466674

BEFORE THE MUNICIPALITY OF ANCHORAGE

BOARD OF ADJUSTMENT

In Re:)	
)	
Resolution No. 2014-001 Related Case)	
2013-159, Matanuska Electric Association)	Planning and Zoning
Conditional Use Permit Application for the)	Commission Resolution No.
Justine Parks Substation Expansion,)	2014-001 Related Case
)	2013-159; Parcel ID No.
Matanuska Electric Association)	051-104-74
)	
Appellant.)	
)	

SPECIFICS OF APPEAL CERTIFICATION

Comes now, Matanuska Electric Association (MEA) by and through its counsel, Birch Horton Bittner and Cherot, and appeals the Municipality of Anchorage Planning and Zoning Commission (Commission) Resolution No. 2014-001, denying MEA's request for a conditional use permit to expand the Justine Parks Substation located at 20418 Steffes Street on North Birchwood Loop. This statement contains MEA's specifics of appeal and accompanies MEA's Notice of Appeal, which perfects MEA's appeal to the Board of Adjustment under Anchorage Municipal Code (Code) 21.30.030.

MEA appeals Commission Resolution No. 2014-001 for the following reasons and requests the following relief:

BIRCH HORTON BITTNER & CHEROT
 ATTORNEYS AT LAW
 1127 WEST SEVENTH AVENUE
 ANCHORAGE, ALASKA 99501-3301
 TELEPHONE (907) 276-1550 • FACSIMILE (907) 276-3680

1. Procedural Errors

a. The Commission erred by providing the public extended time to testify while failing to offer the same opportunity to MEA. Consequently MEA was prejudiced and denied due process.

b. The Commission erred, denying MEA equal protection, by applying requirements to MEA's conditional use permit application that are not required by the Code or applied to other similarly situated entities.

2. Errors in Application of Law

a. The Commission erred by subjecting MEA's conditional use permit application to standards beyond those authorized under the Code.

b. The Commission erred by failing to make specific findings regarding why MEA's conditional use permit application failed to meet the approval standards.

c. The Commission erred by failing to properly consider the necessary and essential service the proposed utility substation expansion would provide to the community.

d. The Commission erred in denying MEA's conditional use permit application, which meets or exceeds each conditional use standard required under the Code.

3. Findings or Conclusions Unsupported by Evidence

a. The Commission's finding that MEA's mitigation measures were insufficient is not supported by substantial evidence.

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b. The Commission's finding regarding drainage on the property is not supported by substantial evidence.

c. The Commission's finding regarding the scale of the proposed substation is not supported by substantial evidence.

d. The Commission's finding regarding the footing and foundation permit is not supported by substantial evidence.

e. The Commission erred by failing to recognize substantial evidence supports approving MEA's conditional use permit application.

4. Relief Requested


a. MEA requests the Board of Adjustment to reverse the Commission's decision and to grant MEA's conditional use permit application for the Justine Parks Substation expansion.

b. Alternatively MEA requests the Board of Adjustment to remand the matter to the Commission for correction of these errors.

DATED this 3rd day of February 2014.

BIRCH HORTON BITTNER & CHEROT
Attorneys for Matanuska Electric Association

By:



Cortney H. Kitchen
Alaska Bar No. 1005036

ASHBURN & MASON, P.C.
1227 WEST 9TH AVE

24738

April 21, 2014

Payable to: Municipality of Anchorage

Amount: \$1130.00

Client: LBJ, LLC

For: Appeal filing fee and Cost Bond

File No.: 10595.001

In TABS:

ASHBURN & MASON, P.C.
1227 WEST 9TH AVE

24738

PAYMENT
RECORD