A regular meeting of the Fairbanks North Star Borough Planning Commission was held in the Mona Lisa Drexler Assembly Chambers, Juanita Helms Administration Center, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 7:30 p.m. by Wendy Presler, Chairman.

MEMBERS PRESENT:  
Chris Guinn  
Mark Billingsley  
Michael Stepovich  
Pat Thayer  
Charles Whitaker  
Wendy Presler  
John Perreault  
Mindy O’Neall  
David Brandt  
Eric Muehling

MEMBERS ABSENT:  
Robert Peterson

OTHERS PRESENT:  
Christine Nelson, Director of Community Planning  
Stacy Wasinger, Planner III  
Manish Singh, Planner II  
Bryan Sehmel, Code Enforcement Officer  
Wendy Doxey, Asst. Borough Attorney  
Stephanie Pearson, Community Research Tech  
Mary Bork, Administrative Assistant IV  
Bridget Hamilton, Permit Tech

A. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments

   None

2. Commissioner’s Comments

   None

3. Communications to the Planning Commission

   None

4. Citizen’s Comments – limited to three (3) minutes

   a. Items other than those appearing on the agenda.

   **Mr. Chris Miller**, resident of the Borough, uses the sidewalks extensively and would like to see Title 18 changed to require commercial buildings to have connectivity to the sidewalks. He commented that a lot of sidewalks in town need to be repaired and wheelchair access of sidewalks needs to be updated, as well as better snow removal for access from the sidewalk to a Borough bus on the pull off.
Ms. Presler stated that Mr. Koma Fenton was here and left after signing in and requested he be called telephonically. She explained that arrangements for telephonic testimony need to be made in advance.

5. Disclosure & Statement of Conflict of Interest

None

C. * APPROVAL OF AGENDA AND CONSENT AGENDA

Approval of Consent Agenda passes all routine items indicated by asterisk (*) on agenda. Consent Agenda items are not considered separately unless any Planning Commission member or citizen so requests. In the event of such request, the item is returned to the general agenda.

MOTION: To approve the Agenda and Consent Agenda by Ms. Thayer, seconded by Mr. Billingsley.

ROLL CALL

Ten (10) in Favor: Mr. Stepovich, Mr. Perreault, Mr. Brandt, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O’Neall, Mr. Billingsley, Ms. Thayer, Ms. Presler.

Zero (0) Opposed:

CARRIED WITHOUT OBJECTION

D. MINUTES

1. *Minutes from January 10, 2017 PC Meeting

E. CONSENT AGENDA ITEMS

NONE

F. QUASI-JUDICIAL HEARING

1. CU2017-010: A request by Dan Sloan, Fairbanks North Star Borough Public Works Director, for conditional use approval of a solid waste public dumping site in the Multiple-Family Residential/Professional Office (MFO) zone on Lot 1, Chena Pump Solid Waste Transfer Station Subdivision. (Located on the south side of Old Chena Ridge Road, west side of Chena Pump Road, and southwest of Parks Highway).
   (Staff Contact: Stacy Wasinger)

OATH GIVEN

Mr. Hosier, applicant, explained that the proposed expansion of the existing Chena Pump Transfer Site will reduce congestion and improve internal traffic flow. The Chena Pump Transfer Site is the fifth most used site in the Borough. The expansion is part of a long term plan to improve transfer sites within the Borough.
Mr. Billingsley questioned if the surrounding property owners had been asked their opinion about the expansion.

Mr. Hosier replied he had not personally asked them.

Ms. Wasinger presented the staff report. Based on the staff analysis, the Department of Community Planning recommended APPROVAL of the conditional use request with the following six (6) conditions of approval and three (3) Findings of Fact:

Conditions for approval

1. Any development within the Special Flood Hazard Area, including but not limited to filling, paving or grading shall require a Floodplain Permit and compliance with FNSB Title 15 regulations.

2. The minimum 30 foot wide buffer of existing natural vegetation shall be maintained along the north, east, and west property lines.

3. No structures or dumpsters shall be located in the Public Utility Easement (PUE), nor shall any dumpsters, structures or other impediments be located such that the access to PUE is restricted.

4. The existing old driveway shall be revegetated after the construction of the new driveway off of Chena Ridge Road.

5. All dumpsters and other structures shall be constructed and located on the recycled asphalt pavement surfacing and directly relate to the principal use of a solid waste public dumping site.

6. If any modifications are made to the site plan, floor plan, or other FNSB required documents, the applicant or holder of this conditional use permits shall submit revised documents to the FNSB Community Planning Department. If modifications are made to the conditional use, an amendment to the Conditional Use Permit may be required pursuant to FNSBC 18.104.050(D).

Findings of Fact for approval

1. The proposed conditional use will conform to the intent and purpose of Title 18 and of other ordinances and state statutes because it will conform to Title 18 requirements as a conditional use in the MFO zone.

   a. The conditional use is consistent with the Urban Area designation. With appropriate conditions, the conditional use is compatible with the existing land uses. The purpose of Title 18 will be met because the proposed use supports Land Use Goal 4, Strategy 10 of the FNSB Regional Comprehensive Plan, which is to “attract and support development that is compatible with and enhances existing land use”. The use also aligns with Transportation and Infrastructure Goal 2 to “have sufficient public utilities and infrastructure to meet existing and future demand.”

   b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promote public health, safety, and welfare by adding more space for turning and maneuvering and creating a designated
area for household hazardous waste (HHW), thereby enhancing the functionality of the public dumping site.
c. The applicant has provided information sufficient to show they intend to meet all local, state, and federal laws.

2. There are adequate existing energy and transportation facilities serving the site and other public services are available to serve the proposed conditional use.
   a. The proposed conditional use does not require water and sewer capacity.
   b. The site is served by the Alaska State Troopers, Chena Goldstream Fire Service Area, and other services.
   c. The site is connected to the GVEA grid which will provide sufficient energy supply for the public dumping site.
   d. The site is served by Chena Pump Road, an AK DOT & PF maintained road, and Old Chena Ridge Road.
   e. The expanded public dumping site will generate additional trips but will not impede vehicular and pedestrian traffic on the surrounding roads because they have adequate capacity for current and future vehicular trips.
   f. Chena Pump Road has dedicated right and left turn lanes. The relocated driveway will increase the queuing capacity on Old Chena Ridge Road.

3. With the conditions imposed, the conditional use will protect public health, safety, and welfare as the facility will comply with Title 18 standards for the MFO zone.
   a. It will expand the capacity for safe disposal of solid waste in the area served by the conditional use.
   b. The existing vegetation and proposed fencing will create a buffer and minimize the visual impact of the proposed conditional use.
   c. Noise impacts are expected with the operation of the public dumping site. The restriction of hauling only within landfill gate hours will eliminate hauler truck noise at night. The minimum 30 foot vegetative buffer along the north, east, and west property lines will also help reduce noise impacts on the surrounding parcels.
   d. Odor impacts involving the solid waste will be minimized by the regular removal of waste to the FNSB Solid Waste landfill.
   e. The structures and dumpsters are not proposed to be located in the floodplain. With the proposed conditions, any filling, paving and grading or other development in the Floodplain are required to comply with Title 15 regulations to ensure public health, safety and welfare.

Mr. Perreault observed there was only traffic numbers in the staff report for one year and queried how much waste had been taken from the Chena Pump Transfer Site.

Ms. Wasinger responded that there is calendar year solid waste volume numbers for 2016 and referenced exhibit 2, the solid waste site master plan that showed 2011-2012 population and transfer site waste volumes.

Mr. Perreault remarked that more than a single year of data would be helpful.

Ms. O'Neall queried about the Chena Pump Road and Old Chena Ridge Road intersection configuration and if there was concern about traffic backing up at the intersection.
Ms. Wasinger explained Chena Pump Road is one lane each direction with turn lanes in both directions and that there are not concerns based on the available traffic counts as well as that moving the driveway location will help with traffic congestion.

Ms. O’Neall inquired if there were DPO’s that were sent out.

Ms. Wasinger replied that there were.

Mr. Stepovich inquired if Old Chena Ridge Road is paved or dirt road.

Ms. Wasinger responded that it is paved as well as road service area maintained.

Mr. Muehling Questioned if having a plan with separate entrance and exit driveways was considered.

Ms. Wasinger stated not according to the application turned in.

Interested Person Testimony Opened

Ms. Presler called for Mr. Koma Fenton; he was not at the meeting during public testimony.

Mr. Steve Heckman interested person, addressed the Planning Commission. “My wife Jo Heckman and I have lived in this home for six years. Right away when we moved there we noticed the traffic coming from Chena Pump Road to the transfer site on Old Chena Ridge Road was horrific. More people turn onto Old Chena Ridge Road to go to the transfer site as opposed to those who are going into the subdivision. They’re usually on a mission; many are not considerate or mindful of traffic rules, stop signs. They pull in front of oncoming traffic and are in general a traffic hazard as things stand right now. That comes from having lived there for six years. In addition to that, the terrible mess that the people are making is shocking to me. I understand the concept of the transfer site, but the dumpster diving, slashing and throwing everything on the ground makes me wonder what has become of our community. All of that in the midst of a really beautiful subdivision with beautiful homes, and quite frankly higher priced homes. The question that has crossed my mind is this, why is the transfer site in the middle of the neighborhood. The one off Farmers Loop is not and the one by UAF is not. Do we plan this right in the beginning, ten or twenty years ago? When we contacted the case manager, Stacy, it appeared that this particular item has to do with expanding the transfer site, cutting down trees, accommodating and expanding more dumpsters. She stated that the expansion will move up Old Chena Ridge Road toward Staffordshire Road and Kentshire Drive, the entrance will be moved up Old Chena Ridge Road closer to an actual slough than where it is now. This is very disturbing to us as it should be to everyone in that neighborhood whether the homeowners fall within the two thousand foot limit that qualified them to get the letter or not. The traffic coming to the dump is horrific already, congesting the intersection and the road. Imagine how congested it will be when they move the entrance further into our subdivision. Now we will hear more traffic, noise from the dumpster bins, cleanings and be subjected to odors etc. This will affect the value of our homes, who wants to live near a dump no matter how expensive your home is. Clearing more trees will affect the view from our homes, do we really want to have a view of the dump from our houses. Do members of the Planning Commission want this in front of your yard or your backyard?”

Ms. Presler questioned Ms. Mary Schrage and Ms. Wasinger to determine whether Ms. Schrage qualified as an interested person and determined that yes, she is.
Ms. Mary Schrage, interested person, addressed the Planning Commission. “We have been in the subdivision as well for six years, during that time we have seen the same things that Steve had addressed. We are also concerned with the slough and having water contamination. Most of those homes in that area all have wells and I would hate to see a contamination get into the waterway, because once it’s in the water system we know it can travel almost anywhere. That is a high concern, the other concern that we have is that we’ve already had problems with vagrants getting into the dump site and setting up camp on the other side of the road. That is also marked as a dump site eventually if it should expand to that area from what I’ve read tonight. There is a public health safety issue there, when you have vagrants that are setting up camp and burning and taking stuff out of the dumpsters and making makeshift camps. I would disagree with the statement that there is no public safety involved with the expansion or with the dump site. The other issue that adds to that traffic is when you’re coming down Chena Pump Road, it goes from four lanes to the two lanes and then you have a very short distance before you hit the pull off to go to the dump site to make that right hand turn. There is many times where vehicles are coming at 45 mph they hit the turn off lane and they keep on going, and if any car that’s parked there, their front end is taken out multiple times. You can see the leftover wreckage on any given day.”

Mr. Whitaker questioned Ms. Schrage, if there is possibly a problem with vagrants there now, do you think there would be more problem with vagrants if it was expanded?

Ms. Schrage replied you would have greater choices of what is being dumped there, so yes.

Mr. Whitaker further questioned, do you know if anything is being done about vagrants camping in the area?

Ms. Schrage responded that when it is reported the policed have come and have pulled them off. We had one that lived there for probably three to four months; they had a complete winter camp set up before they were able to move them out.

Ms. O’Neill queried if Ms. Schrage is familiar with the plans that show the driveway is going to move down further to accommodate some of the traffic concerns, and do you think that will help solve the problem, or do you think there is another solution.

Ms. Schrage replied she doesn’t think it will solve the problem, mainly because you have vehicles coming down Chena Pump Road at a high rate and you have a very short turning lane to come in. The people that are coming out, they don’t stop at the stop sign. Multiple times I’ve come down very, very slow especially if I see headlights coming out because they just wiz right on past. Until people obey the traffic rules, then no matter what you do it’s not going to stop that.

Ms. O’Neill questioned Ms. Schrage if she thought more signage or something might help with that, or is it just blatant disregard.

Ms. Schrage responded that if you don’t believe the laws are for you I don’t think any signage will help that. It comes down to why people don’t think they should obey a stop sign.

Ms. Tammi Ganguli, interested person, addressed the Planning Commission. “I am opposed to the expansion of this transfer site, I agree with Mr. Heckman and Ms. Schrage on their comments of concern regarding the water safety in the slough and also regarding the visual that we’re going to be getting and the devaluation of our home. I want to refer to page 36, if you look at the document it talks about overflow of trash and problems. We go there regularly, we don’t
see that, the only time something like that occurs is very rarely and it would be on a long holiday. I would also like to refer to figure 112 on page 51, this is a current image of our transfer site and if you look all the way to the back towards the Pumphouse restaurant area, there is plenty of room for more canisters if they really felt like we need to have more canisters, all of the space is not being used. Also page 38 and 43 talks about approval criteria and I think the statement contradicts the statements that are on page 45. On page 45 it says it’s going to be better for our public health and safety and they list five bullet points. If you go to page 36 it says that it increases the risk of public health and safety, it in fact says “this expansion is likely to generate more impacts on the nearby residential neighborhoods related to increased lighting, odor, noise, traffic and visual impacts”. One of the other things cited in here is that all the noise happens when they clear the dumpsters, no, it snows a lot in Fairbanks, Alaska and snow clearing takes place at very, very bad hours, it is not during the day. If you’re going to expand the site there is going to be more clearing. I get woken up a lot and I personally think sleep is important to my safety and health. As was cited by my neighbors, the traffic is really bad, not because of the site, but because of the way the people are driving. One of the Commissioners mentioned why wasn’t there a one way traffic flow, one way in and one way out, why can’t that be right off of Chena Pump Road, why does it have to come into our neighborhood. We are abiding by our rules and we know that there are children and people who do their recreational activities there.

Mr. Perreault questioned if traffic from the transfer site bleed up into the neighborhood.

Ms. Ganguli replied it does not, but people from the neighborhood will physically jog and walk past and it is very dangerous. I don’t let my children go anywhere near the transfer site because I’m afraid of the vagrants and I am afraid of the traffic. It is not a healthy or safe situation as it currently is, expanding it further into the neighborhood is only going to expand that danger closer to our children and our animals.

Mr. Whitaker queried Ms. Ganguli about the sentence she read from page 36. Part of that sentence is lighting, are you looking down at the site and seeing that lighting might become available there.

Ms. Ganguli responded she can see the whole site from her house, she can see it in the winter time, and it is harder to see in the summertime. If you look from my house you see the lighting, you see it empty, I can see the snow clearing when it wakes me up. If you’re going to take away seventy five percent of the vegetation at the front, that is going to not only be an eyesore to anybody coming into the neighborhood, but it’s going to affect the amount of noise that we hear. We already hear people going in and out of the site as it is; you take away seventy five percent of the vegetation it is going to be louder for us.

Mr. Whitaker questioned if they were to decrease their lighting slightly on the amount of lumens would it alleviate your concerns on that.

Ms. Ganguli responded she sees the whole thing and at night when you’ve got nice beautiful trees and then this glaring dump site and you see the headlights going in and out there is really no way to decrease it. I do think that the traffic flow could be improved, but I don’t think that this plan is what will do it. I think having it enter and exit off of Chena Pump Road with a turn lane. One way in and one way out sounds reasonable to keep the dangers from the people who live in the community. Expansion and an entrance that is closer to where we live, closer to our children and animals is not going to be safer.
Mr. Rajive Ganguli, interested person, addressed the Planning Commission. I would like to express my opposition to the plan, I am unsure what problem it would solve. Most of the time the dumpster cans are not overflowing. The projection of demand sometime in the future, I don't know how thorough that study was, I question that and it seems like an unnecessary project. Yes, there are traffic problems which could probably be solved by making the access to the dump from Chena Pump Road. I would rather the access to the dump not be from Old Chena Ridge Road. The reason I am opposed, besides the traffic, is the impact on property. If you come to buy a property in the winter, you’re going to see a much larger dump as you drive by. There is of course the noise and the light impact that is already there. The vagrants are there, and there could be an increased impact by making more places to hide in there. I do not wish for it to be expanded.

Mr. Guinn questioned Mr. Hosier if DOT regulations prevented them from having the access onto Chena Pump Road.

Mr. Hosier replied that they had considered moving the access to Chena Pump Road, and hadn't pursued it because they did have questions whether it would be accepted by DOT.

Mr. Guinn queried that the idea of pushing the entrance further from Chena Pump Road was to help with the current traffic problems.

Mr. Hosier responded that is correct, moving the entrance further away from the intersection would help with the queueing of the traffic. There would be more room, the way it is now the traffic ends up queueing actually inside the entrance to the transfer site because there is not enough space on Old Chena Ridge Road.

Mr. Guinn further queried if the new entrance will be wider, and have better drainage along the sides.

Mr. Hosier replied the entrance will be moved further up Old Chena Ridge Road so that there will be more space to queue.

Mr. Whitaker questioned Mr. Hosier, if there is a rule of thumb for how many miles or what the population difference is between dumpster locations.

Mr. Hosier responded he is unaware of a methodology for determining where the transfer sites go. He believes it is more about making them centrally located for the population.

Mr. Perreault queried Mr. Ganguli how long he has been living in his current home.

Mr. Ganguli replied about three and a half years. The lines I see queueing up are very fleeting, they happen for very short times and it is a very rare problem. This is a big solution for a small problem.

Mr. Perreault stated that it seems the problem is traffic coming onto Old Chena Ridge Road from Chena Pump Road and is where most of the risks that you’re seeing occur happen.

Mr. Ganguli responded the queueing that the gentleman mentioned happens when somebody is on Old Chena Ridge Road and they’re planning on taking a left onto Chena Pump Road. The time that you see traffic queued up is usually about seven in the morning you’ll see about 3-4 cars. The turn itself is a hazardous turn, to come into Chena Ridge Road from Chena Pump Road; it is very slippery when you take a right turn.
Mr. Stepovich questioned Mr. Hosier if they considered adding dumpsters in the open back area where there appeared to be no current use.

Mr. Hosier replied that the area is probably being used as snow storage space. With the new design we tried to have all the snow storage inside of the fence. This project came about because of a study done by PDC Engineers, looking at capacity, the need for improvements and expansion.

Ms. Thayer queried Mr. Hosier about drainage for the snow storage area.

Mr. Hosier responded the plan is for it to melt and drain off of the pad.

Ms. Thayer further queried which way the snow drains off of the pad.

Mr. Hosier answered that snow storage is on the south side of the site and new snow storage would be in the same spot.

Ms. Thayer questioned which direction the snow drains towards or if it is just absorbed into the ground.

Mr. Hosier replied for the new site it will drain towards the south, because it will be sloped towards the south. At the current site the he believes snow is not within the fence and there is not a constructed snow storage pad; the snow melts and drains off.

Ms. Thayer stated the snow just disperses wherever.

Mr. Hosier responded that is correct.

Mr. Richard Maier, interested person, addressed the Planning Commission. I agree with what has been said already. The intersection is very dangerous; a lot of people that live on the ridge avoid the intersection and use a different route. The homeless people pulling stuff out of the dump and making camps build fires and I was worried about a forest fire summer before last. Moving the entrance is a good idea for the traffic problems, but it will move the homeless camps closer to the homes in the subdivision. The land trust is trying to get Cripple Creek cleaned up for the salmon to move through it, and the run off will be moved right up to the creek. The people who maintain the transfer site are doing a good job at keeping it clean. The idea of an entrance off of Chena Pump Road is fantastic, especially if it could be moved farther down away from Old Chena Ridge Road. Then the site would be fenced in and the homeless people couldn’t drag the stuff that they find across the road and build their camps that would solve a problem. This is going to increase the traffic on Kentshire Drive, because more people will be unwilling to go through that dangerous intersection. I would like to see the buffer increased to at least fifty feet all the way around, thirty feet is not adequate, especially from the creek. It is a convenient location, I like that, and it was there when I moved in. It is very noisy; you can hear the dumpsters, the backup alarms, the banging. The lights are too bright at night.

Mr. Muehling asked Mr. Maier his opinion on what the traffic would be like throughout the day if the entrance was moved to Chena Pump Road.

Mr. Maier stated the problem with changing the entrance is drivers would be unsure if other drivers are turning into the dump or onto Chena Pump Road. The entrance will be super busy and there will be a lot of people turning. I am unsure as to how traffic could be controlled for
that, but moving the entrance would help to eliminate the problems with the vagrants making camps. I would consider a traffic light as well.

**Mr. Quinn** questioned Mr. Hosier regarding a fifty foot buffer along the slough. Would that interfere with the new site plan?

**Mr. Hosier** replied that the master plan from PDC recommended a certain size of expansion for the pad. We would also like to incorporate grade separated roll off bins, people can drive up to the bin and throw stuff in, they don't have to try and shove it in the side of the bin. It wouldn't be workable to make the pad any smaller than the plans already call for. The entire plan would need to be redesigned in order to create the fifty foot buffer and it would put us off our timeline.

**Mr. Whitaker** queried Mr. Hosier if it was changed to a fifty foot buffer and a redesign needed to be done how important is the timeline, would you lose your funding because of it.

**Mr. Hosier** responded funding would not be lost, but we would also not be able to get all of the features we want in this site. Constricting the square footage would interfere with the grade separated roll off bins. The perimeter road is a feature Solid Waste has been very adamant that they want, it allows them to get around the outside of the fence to clean up and it makes it less appealing for people to build a camp right outside of the fence because there is a road there.

**Ms. Janet Curtiss**, interested person, addressed the Planning Commission. We live right across the street from the dump and there is partying all the time. It is a bad idea to expand the dump, if there is any way, even possibly moving the whole dump that would be great. I don't want to the value of our homes decrease, especially in these economic times. My son's window is the closest to the vagrant camps; they had to clear them out numerous times. There are drugs being done back there, they party all night and at one time point they had cars in there until we called and reported it. I don't see the problem that they are talking about how there is too much trash, I don't notice the bins being over full. There is a lot of space in the dump site and it could be better utilized. I am against the expansion of the dump.

**Ms. O’Neall** questioned Ms. Curtiss if there is a fence currently on the property that separates the area.

**Ms. Curtiss** responded no, there is not.

**Ms. O’Neall** queried that the new plan proposes a fence, do you think that would help.

**Ms. Curtiss** replied I don't think anything would help, I don't like the idea whatsoever, and I do not want to see the dump expanded. It’s embarrassing to say, when you come to my house just turn right at the dump.

**Ms. O’Neall** questioned if the size of the dump was left the same would a fence be any help with the vagrants and noise.

**Ms. Curtiss** responded she is not sure. They go to the dump, get the tents and stuff they need in order to set up camp. It isn’t just vagrants that are the problem; the dump site is just very noisy.
Interested Person Testimony Closed

Mr. Hosier stated in rebuttal that there has been quite a bit of talk about increased traffic and activity at the site. From our perspective we don’t see that will happen. Making the site bigger doesn’t mean there is going to be more trash there; it just means there is going to be more room to drive around inside the site. It will be safer for the general public because the trucks that pick up the bins have to drive in forward to pick up the bins and then they have to back out and go get another bin. The way it is now might look like there is a lot of space, when you have a large truck that is backing around and you have a lot of vehicles in there, it can be dangerous. The truck drivers have to be careful when they’re backing around. It would be a lot safer if there was more room for the trucks to be able to drive around in. Making the site itself bigger isn’t going to increase the traffic; the people that use that transfer site are still going to be the same people. We are clearing the area in lot one of vegetation in order to help with the vagrancy issue. There will be a perimeter road that creates a more open feel and deters vagrants from camping out. We are looking at lower color temperature lights at this site in order to help with the light pollution.

MOTION: To approve CU2017-010 with six (6) conditions, adopting the staff report, and three (3) findings of fact in support of approval by Mr. Perreault, seconded by Mr. Whitaker.

Mr. Perreault stated that the concerns raised by the public are numerous and understandable. He pointed out that the changes are meant to accommodate existing traffic and allow for growth in the area. It is not the purview of the Department of Public Works to deal with vagrants, that isn’t a condition that we can set upon them. There is a lot of improvement that could be made to the traffic pattern there; this is not the Department of Public Works responsibility. There isn’t a way within this application to demand larger changes from other entities.

Mr. Guinn detailed that he would not impose a fifty foot buffer along the slough, and it would behoove the applicant to look into making the buffer wider if it will work with the new site plan. It is good that light pollution is being taken seriously; directing the light downward rather than outward would help. Expanding the facility will help to create better traffic flow within the site, I think that will be a big improvement to safety.

Mr. Whitaker concurred that there is a problem with vagrants throughout all the dumpster sites, expanding the site won’t affect the amount of vagrants that come to the area. He appreciates the effort to address the light pollution.

Ms. O’Neall identified with Mr. Perreault’s statement on expanding the site. She encourages the community members to take the listed issues to the next step, address them with DOT for the traffic and to public safety for vagrants. Hopefully the other agencies can help to find the right solutions.

Ms. Presler indicated that the applicant has demonstrated, and staff has shown, that the conditional use permit and the use of the existing property conform to Title 18. The applicant has shown that existing infrastructure and utilities are in place. The plan, to the extent that we can consider, does provide for public health, safety and welfare by increasing the area inside the site where the trucks are turning around. Moving the entrance further from Chena Pump Road, from the perspective of this site use is an improvement and it does increase the safety for the public particularly when leaving this site. This isn’t the most desirable situation for the
residents of the nearby subdivision, she concurs with Ms. O'Neall that perhaps there are other avenues to try and improve the current problems in the future.

ROLL CALL

Seven (7) in Favor: Mr. Perreault, Mr. Brandt, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O'Neall, and Ms. Presler,

Zero (3) Opposed: Mr. Billingsley, Ms. Thayer, Mr. Stepovich,

MOTION CARRIED

G. PUBLIC HEARING

(Sponsors: Assembly members Roberts and Cooper)

Mr. Cooper presented that he and Mr. Roberts have heard concerns from certain trade/technical/vocational schools that are federally registered and provide services to secondary high school age students. The schools were concerned about the impact of a two hundred foot buffer for marijuana establishments on their eligibility for federal funding. Five hundred foot buffers already exist for K-12 schools and it would make sense to do the same for trade/technical/vocational schools that provide training to the same types of students. The five hundred foot buffer is consistent with the federal drug free school zone, as well as in Title 18. Community Planning is supporting the ordinance with suggested revisions. The revisions narrow the scope of the ordinance amendment by limiting the five hundred foot buffer applicable to trade/technical/vocational schools to those that have a written agreement with the FNSBSD. The revision requires a little more administrative work on behalf of Community Planning and applicants to research for written agreements with FNSBSD. He expressed Mr. Roberts has a slightly different opinion on the revision and wished he was there to speak as well.

Ms. O’Neall queried whether amending the ordinance would affect any existing businesses.

Mr. Cooper replied that any existing establishments would be grandfathered.

Mr. Billingsley inquired whether Assembly Member Roberts is opposed to Community Planning’s revision to the ordinance amendment.

Mr. Cooper responded he cannot speak for Mr. Roberts. His impression is that Mr. Roberts would prefer to keep the ordinance amendment as proposed.

Mr. Billingsley questioned whether some of the organizations are receiving federal funding and can it be confirmed that any of them will not receive federal funding if the ordinance amendment doesn’t go through.
Mr. Cooper answered there was no confirmation that organizations will not receive federal funding. Several of the programs are registered federal apprenticeship programs.

Mr. Billingsley asked whether that means they are getting federal funding or that they are eligible for federal funding.

Mr. Cooper replied his understanding is they are receiving and eligible for federal funding.

Mr. Billingsley stated that an issue might be how impractical or practical it is to implement the ordinance without knowing which schools this should be applied to or not.

Mr. Cooper acknowledged that could be an issue and that there have been long discussions with Community Planning about how best to address how to implement the ordinance. There were other options discussed besides the written agreement and recognized there isn’t really a perfect solution.

Mr. Perreault queried what Mr. Cooper and Mr. Roberts had in mind as a definition for a trade/technical/vocational school and how that implementation was going to look when as pointed out it is ambiguous.

Ms. Doxey directed the commission’s attention to the already defined term. The term used in the proposed ordinance already has a definition in Title 18.

Mr. Perreault expressed he understood that the definition from Title 18 is in the Community Planning report and that it is also pointed out in the report that the definition is different at the state level versus when you ask the Marijuana Control Board. He questioned knowing that since there are differences in definition, what implementation was envisioned?

Mr. Cooper stated from a Borough perspective the definition he would rely on would be the Title 18 definition. Implementation would involve work with Community Planning and applicants for licensed marijuana establishments to look at the area surrounding the proposed establishment to see what was there. If there was a union hall or a type of trade/technical/vocational school within the buffer there would have to be more inquiry.

Ms. Doxey read the Title 18 definition “trade/technical/vocational school means a school on a secondary or post-secondary level that offers instruction and practical experience in skilled trades including, but not limited to aviation, mechanics, carpentry, plumbing and construction.”

Mr. Billingsley summarized that the ordinance amendment would be implemented through the applicant and Community Planning working together to research which schools are within the zone and that the overall burden would fall on Community Planning because it is their obligation under the regulations. Community Planning is saying that the new regulations would be difficult for the department.

Mr. Cooper affirmed that is correct.
Ms. Nelson presented that Community Planning does support the intent and purpose of the ordinance to protect K-12 students with a five hundred foot buffer while attending trade/technical/vocational training off site from school district buildings or campuses. Community Planning has concerns relating to the actual administration of code if it is adopted as written, specifically the ambiguity of what is considered a trade/technical/vocational school for the purposes of the five hundred foot buffer for schools that provide training to 18 years of age and under. How the determination of which of those schools get a five hundred foot buffer and which don’t is the issue. There is not a single database that lists all of the trade/technical/vocational school. What Community Planning is proposing is to try and limit or define which of those schools should qualify for this buffer and which should not. The same issue came up with daycares and group homes. The word licensed was utilized with daycares in order to use the state database of licensed daycares, if they are on that list they qualify for a buffer; group homes that serve clients 18 years of age and under are defined as qualifying for a buffer. If Community Planning can’t find the schools how is the applicant going to find them and how is Community Planning going to verify the applicant’s findings. There will be a lot of work on the applicant to find out how many students the school serves, on what basis, how frequently, and a determination on whether those are regular services or not. There would also likely be appeal process attached to it since Community Planning would be making decisions on a person’s private property rights as to whether they can or cannot operate a business solely based on a buffer distance. Schools, applicants and interested parties may want to appeal the decisions. The ordinance would add a great number of layers to process, time, cost both to the applicants and the tax payers. Community Planning makes the following recommendations, first that there is a written agreement with a public school district or private school and second provide educational programs to K-12 students, and which does so on a regular and continuing basis.

Mr. Billingsley inquired whether legal has an opinion on Ms. Nelson’s analysis and the likelihood of being subjected to lawsuit.

Ms. Doxey responded “yes, I do and I would take the opportunity also to clarify a few points. I don’t think the language that we’re considering today is unduly vague or legal doesn’t administer this at the level that Community Planning does but that creates new implementation problems. So I want to clarify that the language we’re considering now at least is in your packet on page 110 and 111 and there was mention of this applying just to 18 and under, 18 year olds and under, and then also a question about what regular services would mean. I think those are references to different versions of language that were previously considered but that’s not what’s in the ordinance before you currently. Right now what is before the Planning Commission is an ordinance to change, you can see on page 111, 3 sub-a. Five hundred feet of primary and secondary buildings (K-12) and then there’s a comma and then it would be a second use of trade/technical/vocational schools. So that’s not modified by the K-12 that comes before it, so all trade/technical and vocational schools which is already in our code and already defined are gonna fall within that five hundred foot buffer. There’s no consideration as currently before the Planning Commission about whether the services are regular. I just want to further point out that the definition of trade/technical/vocational schools already exists and it’s already in Title 18. So that’s already being administered at least in theory, that definition. Just one other thing that I would point out, in our standards for commercial marijuana establishments in 18.96.240 that code provision puts the burden on an applicant to bring forward the map to show what uses are within the buffer when they bring in their application.”

Mr. Billingsley questioned is that conflicting in some way though, with the Borough’s duty to evaluate the applications.
Ms. Doxey responded “no, I don’t think it’s conflicting. The Borough, Community Planning still has its independent duty to verify like Ms. Nelson did mention and then of course before you.”

Mr. Billingsley stated they could still be sued even though there’s the burden on the applicant, there’s also the burden on the Borough there.

Ms. Doxey replied “I guess I have a hard time seeing where a suit would come from. I mean the Planning Commission is ultimately going to be the deciding decision maker when we’re talking about a conditional use permit and your decisions are going to be based on substantial evidence in the record.”

Mr. Billingsley queried some of these might not be conditional uses though.

Ms. Doxey responded “right, but then it’s an outright permitted use.”

Mr. Billingsley asked then it would be solely them evaluating it.

Ms. Doxey replied “for a zoning permit.”

Mr. Billingsley questioned what you are saying is, you don’t really see the uncertainty and ambiguities because they’re already having to find all the trade/technical/vocational schools. There are no new ambiguities at least.

Ms. Doxey responded “Correct”.

Mr. Muehling inquired what kind of time and effort, how does the applicant go about finding out is there a trade/technical/vocational school with this amendment.

Ms. Nelson replied they would have to go to the businesses nearby and find out whether or not they’re teaching courses there. Some of them may be on a list somewhere and some of them may not be. They would have to find out information, how many students, what kind of courses, how frequently, all of that information will need to be evaluated against our definition of trade/technical/vocational schools.”

Ms. Doxey pointed out that FNSB code does not require any inquiry into the number of students or how often training is going on.

Mr. Billingsley noted that would only happen if Ms. Nelson’s amendment is adopted, which requires regular use. He then questioned Ms. Nelson why she was referencing the ACPE list.

Ms. Nelson responded that the ACPE list is acknowledged by the State of Alaska as post-secondary programs and is a source of information as to whether a business offers approved training. The Borough attorney has told me that we can make determinations by policy; however we have to have information in which to evaluate each individual circumstance against that policy.

Mr. Billingsley inquired if the Borough interprets trade/technical/vocational to include the ACPE list.

Ms. Doxey replied she has not seen the ACPE list. It might be a starting place to see where these schools are located. The ACPE list might sweep in schools that don’t fit our definition or they might all fit our definition, but there might be more that also fit our definition, the ACPE list is not based on our definition of the use.
Mr. Perreault noted that the Community Planning use of the ACPE list is really as a starting point to try and define the differences between something like the University’s downtown branch and whether or not students from there are placed in a hair salon to learn how to cut hair. As well as to whether the hair salon is a school or is just the building that they’re based out of a school. He queried if that what he is supposed to be getting from the ACPE list. Not looking at it as a definition, but as a starting point about trying to parse what’s a school versus what is a place that kids sometimes go to.

Ms. Nelson responded correct, the ACPE list is one of the sources; there are multiple sources none of which are comprehensive.

Mr. Perreault queried that the ACPE list is not something you are suggesting as a definite list but a starting point at where to begin.

Ms. Nelson replied should this ordinance amendment pass we would give all applicants a list of sources; however there are programs and schools that aren’t on any list. There could be other lists out there; there is not one comprehensive list of all of these programs.

Mr. Perreault questioned such as there is for State of Alaska licensed daycares.

Ms. Nelson responded “Correct”.

Ms. Thayer inquired you are saying that the FNSBSD can’t give us a list; they don’t know where their students are going.

Ms. Nelson answered that the FNSBSD can come up with a list of programs they have written agreements with. Their students might be going to other programs that they are not getting school credit for or not going through the FNSBSD for.

Mr. Muehling questioned if there is a distinction being made between trade schools training which is primarily post-secondary and a high school student involvement may be incidental to the primary mission of a trade school.

Ms. Nelson replied that is a distinction that the amendment is trying to get to. The way the ordinance is currently written, as proposed without any option 1 or option 2, would give a five hundred foot buffer to all trade schools even those that are primarily 21 years of age and up. Throughout the marijuana regulation process, 18 years of age was where we made distinctions between what needed to have a five hundred or a two hundred foot buffer for educational purposes. Youth centers, playgrounds and all sorts of other places only have a one hundred foot buffer; those are more predominantly under the age 18 than trade/technical/vocational schools.

Public Testimony Opened

Mr. Pomeroy spoke in support of the ordinance. Mr. Pomeroy pointed out that the Laborer’s Union Hall and the Labor Management URISA Training Trust are two separate entities. The training trust is registered with the U.S. Department of Labor as a federally registered apprenticeship program. There are milestones that have to be met in order to be a recipient of State of Alaska STEP grants or any federal government funding. Many of those milestones are designed to identify, target and train disadvantaged youth in the age group being discussed and training is held year round.

Mr. Perreault queried Mr. Pomeroy’s input on how to separate union halls from the facilities where there are kids under 18 years of age coming to learn a trade.
Mr. Pomeroy responded that the ordinance presented by Assembly members Cooper and Roberts stated it well as a federally registered apprenticeship program.

Mr. Perreault questioned is it the Department of Labor that does the recognizing at the federal level?

Mr. Pomeroy replied yes, if there is an apprenticeship program that has not been accredited by the U.S. Department of Labor there are state programs that the state will accredit as state approved apprenticeship programs.

Mr. Perreault stated that part of the confusion is that the term federally accredited is not part of the actual ordinance, separating the two is key.

Mr. Guinn questioned after hearing testimony do you think there should be additional language added to the proposed amendment.

Ms. Nelson responded she is open to adding better language to the amendment. The wording in its original form protects all vocational programs, no matter the age of the participants, or it can be further defined.

Mr. Guinn further questioned if the list maintained by the Department of Labor is not adequate.

Ms. Nelson replied no, and there are no lists available that are inclusive.

Ms. Presler inquired if an applicant came in to apply under the current ordinance the burden is on them to research their proposed location for any buffer violations.

Ms. Nelson answered "Initially yes".

Ms. Presler queried what would happen if an applicant went through the process, was granted a permit, opened their doors and then found out there was a violation of the buffer zone.

Ms. Doxey responded Permits are issued on the basis of the information presented. If the information presented by the applicant was incorrect then potentially that could be a basis for voiding that permit. When you are issuing a permit, particularly a conditional use permit, it’s going through a vetting process for a reason and people are going to rely on that. There is a duty for Community Planning to do due diligence and be checking these applications.

Ms. Nelson questioned what level of investigation is appropriate or expected of an applicant. If there is no way of identifying there is a training facility in the buffer zone the applicant isn’t going to be able to differentiate that training is happening at that facility even if they go speak to them. The standard has been to rely on Assessor’s records and visual inspections to evaluate the situation.

Ms. Presler stated what business doesn't provide some form of training; the definition could be very broad.

Ms. Nelson replied the definition exists in our code now and policy can be written to set parameters. Based on that policy we would be making case by case decisions in many of the cases.

Mr. Perreault questioned Mr. Pomeroy if the amendment would cover your facility and do you have a written agreement with the school district.
Mr. Pomeroy responded not the laborer’s campus through FNSBSD, through the Fairbanks Pipeline Training Center yes.

Mr. Perreault further questioned most but not all of the facilities you’re involved with would fall under the language where this is a written agreement with the FNSBSD.

Mr. Pomeroy replied it would, but not all of them.

Ms. Doxey clarified “This language that’s been proposed says a written agreement; we’re talking about a trade/technical/vocational school as defined in Title 18 that has a written agreement with a public school district or a private school. In order to meet the definition of a trade/technical vocational school it’s already been determined that it is a school. I would argue that a trade/technical/vocational school would fit in this category of private schools that could then have a written agreement with that trade/technical/vocational school.”

Mr. Perreault stated we don’t have a definition for school, we have a definition for school building which specifically excludes trade/technical/vocational schools. Because we don’t have a separate definition for what is a school and what is not a school, this ordinance needs to stand on its own.

Ms. Doxey replied “That’s correct, we would go to the common definition or the common understanding of what a school is which is a pretty well defined use, I think common understanding of what a school is. What I’m trying to point out here is that this language could have a school providing a written agreement to its own school.

Mr. Perreault pointed out that the goal is to draw a line for the five hundred foot buffer to account for kids under age 18.

Ms. Doxey responded to address just the distinction between 18 years of age and younger and 18 years of age and older, if you look at attachment six option one, that language accomplishes that distinction.

Public Testimony Closed

MOTION: To recommend approval of Ord 2016-71 with Option 1 language to the FNSB Assembly with the amendment to the Option 1 language of 3(a) to read as follows: Trade/technical/vocational schools having a written agreement with a public school district or private school to provide educational programs to K-12 students, and which does so on a regular and continuing basis, by Mr. Billingsley, seconded by Ms. Thayer.

Discussion

Mr. Billingsley and Ms. Doxey clarified language needed for the amendment wording.

MOTION: To amend the motion to change the wording of 3(a) to read as follows: Trade/technical/vocational schools providing regular services to students ages 18 years of age and under, by Mr. Billingsley, seconded by Ms. Thayer.

Discussion on the motion to amend

None
ROLL CALL

Ten (10) in Favor: Mr. Brandt, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O’Neall, Mr. Billingsley, Ms. Thayer, Mr. Stepovich, Mr. Perreault, Ms. Presler

Zero (0) Opposed: MOTION CARRIED

Further discussion on the main motion as amended
None

Main motion now reads as follows:

To recommend approval of Ord 2016-71 with Option 1 language to the FNSB Assembly with the amendment to the Option 1 language of 3(a) to read as follows: Trade/technical/vocational schools providing regular services to students 18 years of age and under, by Mr. Billingsley, seconded by Ms. Thayer.

ROLL CALL

Seven (10) in Favor: Mr. Muehling, Mr. Guinn, Mr. Whitaker, Ms. O’Neall, Mr. Billingsley, Ms. Thayer, Mr. Stepovich, Mr. Perreault, Mr. Brandt, Ms. Presler

Zero (0) Opposed: MOTION CARRIED

H. APPEALS

None

I. UNFINISHED BUSINESS

None

J. NEW BUSINESS

None

K. EXCUSE ABSENT MEMBERS

None

L. COMMISSIONER’S COMMENTS

1. FMATS

   Ms. Thayer relayed information regarding ongoing projects at FMATS.

2. Other
Ms. O’Neall appreciated the work session today and the work put into making our community more accessible. She looks forward to seeing improvements and commends the people who work on it.

Mr. Muehling commented this is his first meeting and he is impressed with the staff reports and legal support.

Ms. Nelson shared there may not be a meeting on March 21, 2017 Planning Commission meeting unless there is an item postponed from the second meeting in February.

M. ADJOURNMENT

There being no further business, the meeting was adjourned at 10:28 p.m.