

FNSB PLATTING BOARD

MINUTES

July 19, 2017

A regular meeting of the Fairbanks North Star Borough Platting Board was held in the Assembly Chambers, 907 Terminal Street, Fairbanks, Alaska. The meeting was called to order at 6:00 p.m. by Randy Pitney, Chair.

The following Board members were in attendance: Peter Flint, Troy Hicks, Pammella Zierfuss-Hubbard, Whitney Malin, Clint Meyer, Bill Mendenhall and Randy Pitney.

Also present were: Noah Klein, Asst. Borough Attorney; George Stefan, Platting Officer; Angela Parker, Platting Officer; Daniel Welch, Platting Officer; Ann Worhatch, Public Works Engineer; and Laura McLean, Recording Clerk.

CITIZENS' COMMENTS (On items not scheduled for public hearing, including consent agenda items)

None.

*APPROVAL OF AGENDA AND CONSENT AGENDA

The agenda and consent agenda for this meeting, including the minutes of the June 21, 2017 Platting Board meeting, were approved without objection after a motion by **Meyer**, seconded by **Zierfuss-Hubbard**.

APPROVAL OF THE MINUTES (June 21, 2017)

CHAIR'S COMMENTS

Pitney urged the Platting Board to start thinking about vacations in the month of December and let the Board know if you are not going to be in attendance. The December meeting is scheduled for December 20, 2017.

COMMUNICATIONS TO THE BOARD

Stefan gave a brief report on the research that the Platting Division has been doing with regard to Road Construction Exemptions.

DISCLOSURE & STATEMENT OF CONFLICT

None.

ADMINISTER GROUP OATH

PUBLIC HEARING ITEMSPreliminary Applications

1. **SD033-17/RP038-17 Plattner Subdivision First Addition** A request by 3 TIER-Alaska Corporation, on behalf of True North Alaska, LLC; to replat Tract A, Plattner Subdivision, a total of 24 acres, into two lots of 7.05 acres and 16.32 acres. The request includes a variance for access to Badger Road, an arterial road. The property is within Section 15, T1S, R1E, FM and is located on Badger Road and Lincolnwood Drive. **Staff Contact: Angela Parker**

Parker gave the staff report; staff recommended preliminary approval of the subdivision with the following conditions:

1. GVEA and IGU shall have a maximum of 10 working days to review and comment on the final plat.
2. Access Note #1 shall be revised to read, "Lot 1 and Tract A-1 shall share the single common access easement to Badger Road created with this plat. No new direct access to Badger Road will be permitted from this subdivision."
3. Access Note #2 shall be revised to read, "Driveway construction or modification onto Badger Road requires a permit from Alaska DOT&PF. Driveway construction or modification onto Lincolnwood Drive requires a permit from FNSB Rural Services."
4. The Flood Zone note shall be revised to include reference to the source of the flood zone determination.
5. The approved variance shall be noted on the plat.

Staff further recommended adoption of the following findings:

- a) Lot 1 and Tract A-1 are over 200,000 square feet; therefore, no soils report is required for this platting action.
- b) With the approved variance, Lot 1 has access onto Badger Road via a shared common access easement over the existing driveway. The common access easement is created with this plat.
- c) Tract A-1 has existing access onto Badger Road for the commercial gravel operation; no variance is required for Tract A-1.
- d) The existing driveway was approved by ADOT&PF in 2013 for 30 vehicles per hour.
- e) The applicant states that the gravel operation traffic is approximately 10 vehicles per hour.
- f) ADOT&PF does not object to the addition of a residential lot using the existing driveway. The ITE Trip Generation Manual indicates that a single-family residence generates approximately one vehicle trip per PM peak hour, or 9.8 vehicle trips daily.
- g) With the variance and conditions recommended by staff, this replat meets the applicable requirements of Title 17.

Jim Ringstad, Surveyor, addressed the Platting Board and stated that they agree with staff recommendation. He made himself available for questions.

PUBLIC HEARING CLOSED

A motion was made by **Meyer**, seconded by **Zierfuss-Hubbard** to approve the subdivision, the five (5) conditions, the seven (7) findings of fact and adopt the staff report as recommended by staff.

A motion was made by **Meyer**, seconded by **Malin**, to approve a variance from 17.56.010.F and to adopt the eight (8) findings of fact as recommended by staff.

A roll call vote was taken on the motion to approve the variance. The motion was approved 7-0. The motion passed unanimously

A roll call vote was taken on the motion to approve the subdivision with the variance. The motion was approved 7-0. The motion passed unanimously.

APPROVED

2. **SD031-17 Mansker** A request by Ralph Mathews, on behalf of Jonathan J. Mansker and Rebecca A. Cave-Mansker, to replat Parcels A and B per the Statutory Warranty Deed recorded in Book 661 Page 842 Fairbanks Recording District, a total of 5.01 acres, by vacating the common lot line to create one resultant tract. The property is located within the SW¼ Section 21, T1N, R1E, FM (located on Bennett Road). **Staff Contact: George Stefan**

Stefan gave the staff report; staff recommended preliminary approval of the subdivision with the following conditions:

1. GVEA shall be given a maximum of 30 calendar days to review and comment on the final plat.
2. ACS and IGU shall be given a maximum of 10 calendar days to review and comment on the final plat.
3. The Bennett Road name annotation shall be clearly placed on the plat graphic.
4. The final plat shall dedicate a minimum of 30ft for the Bennett Road ROW abutting the existing 50ft wide ROW.
5. The final plat shall dedicate a minimum of 40ft for the Bennett Road ROW abutting the existing 30ft wide ROW, exclusive of the section line easement.
6. All easements of record shall be shown on the final plat.

Staff further recommended adoption of the following findings:

- a) Per FNSBC 17.04.010, the definition of subdivision includes the dedication to public use of a street.
- b) Per FNSBC 17.56.080.B, the minimum ROW width of a major collector is 80 feet.
- c) Per FNSBC 17.56.020.B.3, exterior boundary right-of-way width may be shared with the adjoining property owner if the shared right-of-way is existing and public.
- d) Per FNSBC 17.52.040.D.5, all existing easements must be shown on the final plat.
- e) With the six conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

Hicks requested clarification regarding the dedication to DOT. **Stefan** clarified that the applicant is proposing to give 25' but the Borough is requiring more.

Meyer queried what the actual right-of-way is currently. Stefan responded it is 55' wide in this section of the road but is greater further up the road.

Hicks queried why the Borough would ask for more right-of-way when DOT was comfortable with the request as submitted. **Stefan** responded that when a right-of-way, per the Comprehensive Plan, is either adjoining or part of the request, that is where we need to fulfill the requirements of 17.56.080.B., the minimum right-of-way-widths.

Meyer commented that the varying rights-of-way along this road will only be corrected piece by piece. **Stefan** concurred.

Ralph Mathews, surveyor, addressed the Platting Board. He provided the Platting Board with Sheet 6 of 10 of a DOT project that was done several years ago. At that time, the DOT ran a prescriptive easement as you see it on that side of the road all the way up to the point where it is existing right-of-way already.

Mathews continued as has been mentioned before, if DOT wants a wider right-of-way, they have the power of eminent domain and they can take it and pay for it. The Borough on the other hand does not have road powers so what they use is coercion. **Mathews** commented that he objects strenuously to this.

Mathews further commented that he believes that the DOT knew exactly what they were doing when they did the prescriptive easement. It is followed all the way along. He added that he sees no reason whatsoever for the Borough to start something that is simply going to be a "piece meal" thing that keeps on going and will be fought by everybody else along here for sure.

Hicks asked if it is even necessary for the applicant to dedicate the 25'. **Mathews** responded that they respect the fact that the road needs to come through there and they are attempting to tie the two larger rights-of-way together. It is a prescriptive easement, but by dedicating it, it makes it a bit more solid.

Hicks queried if they applicants are required to dedicate this in order to remove an interior lot line. **Mathews** concurred.

Mathews continued that a great deal of roads in this country and a great deal of private titled land in this country goes to the center line of the road. That is taxed square footage. It is not taxed if it is dedicated.

Hicks questioned why the Borough wants more than what has been offered.

Mathews mentioned some of the problems that the surveying community are having with Title 17. A work session has been requested by **Mathews** to discuss some of the problems but none has been scheduled to date.

Hicks commented that it appears to him that DOT only agreed to the 25' based on their comments on the preliminary plat. **Mathews** concurred and clarified that based on the staff report, DOT did not have any comment on the preliminary plat.

Flint queried what **Mathews** would like to see come out of this. **Mathews** responded that he would like to see this processed precisely the way that he has presented it with the 25' being dedicated to the public. No more than 25' is necessary.

Pitney requested clarification that the property owner wants to give 25' and the Borough would like more. **Mathews** confirmed this.

Hicks requested if the property owner is required to dedicate the 25' in order to vacate the lot line. **Mathews** responded that they are not required to dedicate. It is a prescriptive easement by DOT.

Pitney inquired if this would have been processed as a quick plat had there not been any dedication. **Mathews** stated that it would. He further commented that he has always felt that when dealing with a road as an adjoiner and if there is any question and he has the power to clear it up, he will.

Stefan questioned if one of the reasons for offering the 25' dedication was that under 17.56.020.B.1 that "all road rights-of-way within the subdivision shall be dedicated to the public." He questioned if Mathews feels that this has already been done through the prescriptive easement. **Mathews** replied that he feels it has already been dedicated as a public easement already with the prescriptive easement.

Klein commented that code specifically requires subdivision roadways to be specific widths. The fact that a 25' right-of-way is being dedicated makes this a subdivision. Once in the realm of subdivision, there are specific roadway widths required. As there is no variance request, this request is asking the Platting Board to go against code. **Klein** clarified the requirements of 17.56.

Pitney asked if they had not requested to dedicate, would this be a subdivision. **Klein** replied that it would have been a quick plat.

Mathews added that the additional footage was not required of the property owner until extremely recently.

Stefan asked if the preliminary plat request include dedication of right-of-way. **Mathews** replied just to the prescriptive easement.

Pitney asked if the property owner elected to postpone this request, and come back with an application that did not dedicate, can they do so. **Klein** responded that he sees no reason why they couldn't.

Stefan replied that a file can be withdrawn at this point, not postponed, and then it could be heard as a quick plat.

Meyer asked if they had requested a variance, could the subdivision and variance have been approved. **Klein** replied that the Platting Board would have to apply the specific code factors in making the decision.

Flint asked how this was different that the action that the Platting Board took with the driveways in North Pole with the Boroughs conflicting policies towards a managing authorities policies.

Pitney requested that this question be held until "Discussion."

Hicks queried if the dedication requirement is based on the type of roadway classification.

Pitney requested that this question be held until "Discussion."

PUBLIC HEARING CLOSED

*A motion was made by **Malin**, seconded by **Meyer** to approve the subdivision, the amended six (6) conditions and to adopt the five (5) findings of fact and the staff report as recommended by staff.*

The Platting Board took a 5 minute recess.

Flint questioned how this was different that the action that the Platting Board took with the driveways in North Pole with the Boroughs conflicting policies towards a managing authorities policies. Flint gave an example of this.

Klein replied that he cannot remember the specific facts of the past request but there is a big difference where there is a variance request and the Board is applying specific factors for such request and when the Board is potentially violating a requirement in code.

Hicks commented that it states in code that a major collector is X feet wide. He further commented that he does not see where when there is dedication you may only dedicate a specific width. **Klein** replied that it is the fact of the dedication in or through the property that makes what they are doing a subdivision. When you create a subdivision, you have to comply with 17.56, Design and Public Improvement Requirements which include the specific road widths. **Klein** gave an example of this.

Pitney commented that if the Platting Board is going to violate code, the Borough is also violating code by not requiring the full 80' for a major collector. He questioned why the Borough doesn't take from the property across the road to equal 80'. **Klein** replied that the Borough is not taking land. The Borough is recommending a condition on plat approval. He further commented that code requires a major collector to be 80' wide. It requires the dedicated right-of-way to be 80'. That dedicated right-of-way can be shared between property on either side.

Pitney commented that the Platting Board has no choice to go to the edge where the Borough is or deny the whole subdivision and let the applicant submit a quick plat.

Klein reiterated that if the Platting Board wishes to comply with code that a major collector has to have an 80' dedicated right-of-way, the answer is yes. **Klein** added that in his legal opinion, approving the subdivision would require dedication of either the full 80' or if a shared dedication, at least 40'.

Flint commented that he is leaning towards taking counsel's advice and not purposely violating Title 17. He stated that this is one of the items that should get added to a list of working sessions for the Platting Board. He does not approve of local government overruling managing agencies because of something in code. If DOT wanted 80' for a major collector, they would have asked for it. However, because the applicant has a way around this by moving into the quick plat and not dedicating anything, he will begrudgingly vote yes to approve with the conditions.

Hicks stated that he plans to not approve motion to adopt the conditions, the findings of fact and the staff report. He does not believe that the code actually requires that if you do any dedication, you would therefore have to dedicate the width of their plan. He does not feel that they have to create the 80' required for a major collector.

Klein suggested the Platting Board take an "at ease" while he looks up the code provision.

The Platting Board took a brief recess.

Klein stated that there are specific road design and improvement requirements in Title 17.56 of Borough code. Those specific requirements apply to roads in the Borough. Therefore, when the Platting Board is approving a plat, it has the option to condition that approval on compliance with the Boroughs road requirements. There are specific reasons why 17.56 doesn't apply in certain instances but this does not meet any of those exceptions in 17.52.

Hicks commented that the current road is not 80' wide therefore it cannot be a major collector.

Klein responded that the current road is not in compliance with Borough code. Whether or not something is a major collector is determined based on usage not the width.

Zierfuss-Hubbard commented that if the Platting Board were to vote this down, would it force the applicant to come back for a quick plat and not provide the 25' to DOT. She further stated that she is concerned the applicant is forcing themselves into something that they don't want to do. She will be voting in opposition to the motion.

Flint commented that he will be voting in favor of support for the reasons stated earlier.

Malin concurred with Zierfuss-Hubbard. She will be voting in opposition to this motion.

Mendenhall stated that he will be voting in opposition of the motion.

Meyer stated that he will be voting this request down. He thanked Mathews for attempting to correct the problem.

Hicks commented that he will be voting in opposition of the motion. He stated that dedicating the existing right-of-way is the same thing as designing a new road.

Pitney stated that he will be voting in support of this request to avoid being in violation of code.

*A roll call vote was taken on the motion to approve the subdivision. The motion was denied 2-5 with **Hicks, Zierfuss-Hubbard, Malin, Meyer and Mendenhall** voting to deny and **Flint and Pitney** voting to approve.*

DENIED

3. **SD036-17 Halbert Meadows** A request by 3 Tier-Alaska, Corp., on behalf of Sam Halbert, to subdivide TL-803, a total of 80.00 acres, into 38 lots ranging in size from 1.05 to 3.40 acres. The property is located within the N½ SE¼ Section 8, T1S R2E FM (located on Freeman Road and Blalock Road). **Staff Contact: George Stefan**

Stefan gave the staff report; staff recommended preliminary approval of the subdivision with the following conditions:

1. GVEA and IGU shall have a maximum of 30 calendar days to review and comment on the final plat.
2. ACS and GCI shall be given a maximum of 10 calendar days to review and comment on the final plat.
3. Approved ADOT&PF approach road permits for Venesha Loop and Deanna Way shall be submitted prior to final plat approval.
4. The second sentence of the plat's access note shall be revised to state, "Any new access or modification to access onto Freeman Road will require an approved ADOT&PF permit."
5. Venesha Loop and Deanna Way shall be built to FNSB Local 2 road standards and Samuel Edwards Way shall be built to FNSB Local 1 road standards. These roads shall be approved by FNSB Public Works prior to submittal of the final plat application.

Staff further recommended adoption of the following findings:

- a) Per FNSBC 17.56.080.B, the minimum ROW width of a major collector is 80 feet.
- b) Per FNSBC 17.56.020.B.3, exterior boundary right-of-way width may be shared with the adjoining property owner if the shared right-of-way is existing and public.
- c) Per FNSBC 17.56.070.D, "Local road 2 is a road within residential subdivisions which provides or supports access to 11 to 40 lots and does not function as a minor collector."
- d) Per FNSBC 17.56.070.C, "Local road 1 is designed to provide direct access to individual properties and have the potential of serving 10 or fewer residential lots, with a maximum length of 1,320 feet."
- e) The drainage easements created by the plat include wetland areas used in the drainage plan submitted by the applicant's licensed professional.
- f) With the five conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

Jim Ringstad, surveyor, addressed the Platting Board. He stated that he is in agreement with the staff report and made himself available for question.

Christian Drury, interested person, addressed the Platting Board. He stated that he is in opposition to this request. He feels that the lot sizes are too small and the land.

Jonni Wingfield, interested person, addressed the Platting Board. She stated that she is in opposition to this request. Her concerns are the amount of traffic that this will generate. She is also concerned about the entrance to this subdivision being directly across Freeman Road from the entrance to her property. She feels that they are too close to each other. She suggested that the design be changed to relocate this entrance off of Blalock Road. She further commented that she would like to see the tracts of land along Blalock Road be removed from the design entirely. Her concerns are for the increased traffic and safety issues.

Meyer inquired if Mr. Drury and Ms. Wingfield knew of this plan. They stated that the first they heard of this plan was when they received their DPO letter.

Sam Halbert, applicant, addressed the Platting Board in rebuttal. He stated that he had nothing to add.

Meyer inquired if Halbert had considered other entrances to the property. **Ringstad** responded that the reason that they placed both entrances along Freeman is because there is sufficient sight distance between the two access points.

Meyer inquired of the condition of Blalock Road. **Ringstad** responded that it is rather narrow, low improvement type of road and would most likely require some improvements.

Pitney commented that according to the staff report this property is not in a road service area. He questioned who would be doing the snow removal in the subdivision. **Ringstad** stated that he is not sure.

PUBLIC HEARING CLOSED

*A motion was made by **Zierfuss-Halbert**, seconded by **Meyer** to approve the subdivision, the five (5) conditions and adopting the six (6) findings of fact and the staff report as recommended by staff.*

Meyer commented that he will be supporting this request. His only reservation is that this is not in a service area and he too has concerns about snow removal.

Mendenhall commented that he is not comfortable with this because of the snow removal issue but he will be voting in favor because it meets the technical requirements of Title 17. **Klein** concurred.

Flint concurred with Mendenhalls' statement. He will be voting in favor of this request.

A roll call vote was taken on the motion to approve the subdivision. The motion was approved 7-0. The motion passed unanimously.

APPROVED

Pitney commented that he may have been remiss but after the vote on item #2, the Mansker subdivision request, the Platting Board normally takes a short break to develop findings of fact to support the denial. He questioned if that was the proper order of business. **Klein** responded that he felt everyone explained why they were voting how they were voting.

Stefan read from code where the Platting Board shall adopt specific findings of fact and reasons for its action if the board denies the application, among other reasons.

Pitney queried if Stefan would be able to create findings based on the reasons that were provided by each Platting Board member. Stefan requested a break to discuss with staff what he feels was being conveyed by the Board.

The Platting Board took a brief recess.

Stefan displayed the three findings of fact that were developed in support of denial of this request. The Platting Board approved the three findings of fact.

Stefan commented that the Board will need to make a motion to accept the three findings of fact.

Klein commented that the Platting Board didn't actually take action on this item. The Board voted down the staff recommendation but the Board didn't actually yet deny or approve the application. It voted not to approve the application as recommended by staff. **Klein** recommended that for procedural benefit, it move to actually deny or approve the application as the party requested and then simply table this until the next meeting.

Pitney commented that he thought that the motion was to approve the subdivision and the motion turned down the subdivision. **Klein** concurred and commented that the motion was for the subdivision with the specific findings and recommendations of staff. There was no actual motion to turn down the subdivision itself.

Meyer concurred with Klein. **Pitney** commented that he understood what Klein was saying but he disagrees with it. He stated that the motion was to approve the subdivision and the Board disapproved the subdivision. **Klein** commented that there was no specific motion to disapprove the subdivision. There was simply disapproval of the subdivision with the specific findings and recommendations and conditions of staff. **Klein** continued that what was disapproved was the subdivision with the conditions as suggested by staff. **Pitney** disagreed.

Meyer questioned if the Platting Board had approved it they would have approved it with the findings of fact and the recommendations but since the Platting Board did not like the findings of fact and the recommendations from the staff, the Platting Board turned that part of it down but the actual subdivision itself, the request for the subdivision, the Platting Board did not turn down. **Klein** commented that that is his understanding of the procedure as it happened.

Flint inquired if this subdivision will now have to go back to the preliminary process. **Klein** responded that no action has been taken.

Hicks commented that the Platting Board can approve it without the conditions.

Discussion was had amongst the Platting Board members as to what action to take next.

Meyer stated that essentially this request is still pending. **Klein** concurred. Klein continued that if the Platting Board did not take any final action today, had a motion on the table and then chose to postpone until the next meeting, there would be the opportunity for the applicant and staff to see if they could talk it out further.

Pitney commented that the Platting Board voted down the subdivision. **Klein** responded that the Platting Board voted down a motion to approve the subdivision with specific findings of fact and recommendations.

Meyer asked if the Platting Board now postpones this action until the next meeting. **Klein** reiterated that there was no vote to deny the application.

Mendenhall asked if the Platting Board could recommend to take no action. **Klein** responded that the Platting Board could choose to postpone to a specific date.

Pitney commented that he doesn't see how the Platting Board can "back-up" when they have already voted on something. **Hicks** concurred with Pitney.

Klein commented that the motion that was made was voted down. The applicant doesn't request the conditions. Staff recommends the conditions. So if you vote and you accept the conditions and the findings of fact as recommended by staff then you've taken a final action. But if you vote "No" on an application with specific conditions as recommended by staff, you still have not taken any action on the application itself which didn't have those conditions associated with it.

Pitney queried that if this would have passed then it would not have counted either. **Klein** responded that if this would have passed it would have counted because you're accepting it with specific conditions. You're taking a final action on the application. You've added those conditions.

Pitney commented that this does not make sense to him. He queried the board if it made sense to anyone else.

Meyer responded that it does make sense to him.

Flint added that if the Platting Board wanted to outright deny it, they could have not approved and then after discussion the Platting Board could have made another motion so that the application could be approved and then the applicant could come back to Community Planning with an application for a quick plat.

Zierfuss-Hubbard commented that she is not comfortable without the applicant being present. **Klein** suggested that a motion be made and then vote to postpone until the next meeting, which is a specific time set.

Meyer commented that he does not recall a case where the Board was so specific in their reasoning for voting no. **Klein** commented that there was no specific action taken to deny the application. There was an action taken to not approve the application with the specific conditions and findings of fact as recommended by staff.

Parker added that in the past most of the things that were denied were variances. It wasn't the entire subdivision. That is the difference.

Pitney stated that it sounds like to him that the Board didn't like the way it turned out so were going to change the rules.

Meyer inquired of Klein how the Platting Board would have had to vote if they were not in favor of the entire subdivision application and wanted to vote it down. **Klein** replied that there would have to be a motion to deny the application, though that is a motion in the negative. Or you could move to approve the application and then vote no but you would have to forget the conditions and findings imposed by staff.

Flint commented that he is more in favor of tabling the application and then letting Mr. Mathews and his client decide how they would like to proceed; not a straight up denial of their subdivision because maybe they might decide to dedicate what is being requested. **Klein** commented that what he recommended was simply putting a motion on the table and then if the Board would like to postpone until the next meeting, you could do so.

Pitney commented that it will be exactly the same thing next meeting. It's not going to be that they have any options in there. **Klein** replied that the code will most likely not change between now and the next meeting.

Pitney commented that if the Board tables this it's just going to be brought back up exactly what we had this time. **Stefan** added that he has the option to submit a variance which then would allow a mechanism by which the Board could potentially approve with his amount of right-of-way dedication. **Klein** added that he could choose not to dedicate the 25 feet and simply move forward.

Hicks questioned if he would have to file a new application. **Klein** responded that if the Board doesn't take final action, he doesn't feel like the Board's vote not to grant the application with the specific findings and conclusion as recommended by staff was a vote to deny the application.

Pitney stated that the Board should have been instructed of this before they voted. He further commented that the Board was misguided.

Hicks stated that this can be fixed by simply making a motion to postpone. **Klein** stated that there is nothing wrong with the Board voting to deny right now and seeing how the Board votes and adopting findings to go with that denial. There is nothing stopping the Board from doing that at this point. There is no additional evidence or information required.

Pitney queried how the Board could vote on something and then back up and table it. **Klein** repeated that there was no vote on whether or not to deny the application. There was a vote to

deny the application with specific conditions but there was no vote to deny the application as submitted. Procedurally this is what he feels has happened here.

Pitney questioned that if the Board voted to table this item could Mr. Mathews come in with just a quick plat. **Flint** responded that if the Board wants to table him we leave all of his options on the table. He can personally remove his application and submit a quick plat application or he can choose to continue working with staff to come to some amicable resolution and continue in this official platting process instead of the quick plat process.

Klein concurred with Flints' statement.

Pitney again asked how the Board could vote on something and then change their mind. **Klein** repeated that the vote did not deny the application.

Zierfuss-Hubbard questioned what gives the applicants the most amount of options, denial or postponement. **Klein** responded that he doesn't know that the amount of options changes. If this is denied there is nothing to stop the applicant from moving for a quick plat in the future without the dedication or from trying to request to subdivide again.

Zierfuss-Hubbard questioned what the benefit of a postponement is. **Klein** replied that it is simply not conducting the vote now where procedurally we're in this position where the applicant is no longer here and we're out of order in terms of the order of the meeting.

Hicks asked about the fees involved. Will they have to pay a new fee or not? Stefan responded that there have been times where a revision to what the Board acted on at one meeting, the next Platting Board meeting has seen a slight twist to it so it is a different request that the Board is hearing. That is usually in the case of a file being postponed.

Hicks asked if they had to start over where fees are concerned. Stefan responded that it is just a continuation.

Pitney asked Klein directly what the Platting Board needs to do. **Klein** responded that there is nothing that the Platting Board legally needs to do besides either have a final decision and make a final decision now or have a motion towards making a final decision and then tabling that motion. There is not a legal requirement one way or the other. I don't think the Board's action to this point has been a final decision to deny; it's been a negative vote on approval with specific conditions and findings as recommended by staff.

Pitney asked that then there could be a motion right now to deny this subdivision and forget the findings of fact and the conditions. **Klein** responded that the Board would still have to adopt findings of fact. The Board would have to develop findings of fact for the denial.

Mendenhall commented that this meeting has not adjourned so the meeting is still in session. The fact that the surveyor has left is not the Board's problem. If the applicant wants to see it through to the end of the meeting, they should have stayed. **Mendenhall** commented that he doesn't believe the Board should do this just to be courteous. **Pitney** disagreed with Mendenhall.

Pitney commented that the Board needs to figure out what to do to be legal and fair. He assumed that the five members of the Board that voted no were voting the subdivision down, not the findings of fact.

Zierfuss-Hubbard commented that from a fairness standpoint, the applicant left with the assumption that his application was denied. She suggested the Board move to deny the application as opposed to postponing it. **Pitney** commented that he may concur with Zierfuss-Hubbard.

Klein clarified that the Board is supposed to take an action at the meeting. Normally the Board takes a final action at the meeting or it makes a decision to postpone to a future meeting for whatever reason. **Pitney** commented that the Board thought they did make a final action. He commented further that Klein should have stopped this at that point rather than when the applicant has already left. **Klein** stated that he did not disagree with Pitneys' comment.

Klein continued that in order to deny, the Board has to adopt specific findings for why it is denying an application. That has not happened yet. The Board never adopted or made a motion on findings to deny the application. **Klein** provided a sample motion.

Further discussion was had regarding which way this should go.

Meyer commented that he is uncomfortable doing anything without the surveyor or applicant present.

Klein commented that the first thing this Board needs to do is to make a motion on the proposed findings of fact denying the application. Then the Board can choose whether to postpone or amend the findings that were developed in denial.

Meyer asked if this would end it. If the Board did not approve then a motion could be made for a postponement. **Klein** stated that the Board could vote for a postponement before voting on the motion. That would leave the application tabled and the applicant can then work with staff and bring it back.

Meyer asked if this would end it. If the Board did not approve then a motion could be made for a postponement.

*A motion was made by **Mendenhall**, seconded by **Meyer** to adopt the three (3) findings of fact in support of denial of this application.*

*A motion was made by **Meyer**, seconded by **Malin** to postpone this application to the August 16, 2017 Platting Board meeting.*

Mendenhall commented that he is not sure why this is being postponed.

Pitney commented that he doesn't think it is fair that the Platting Board will now cost the applicant another month. **Klein** responded that by voting down the conditions and findings of fact and not making a final decision, the Platting Board has already cost the applicant another month.

Meyer commented that in the future we know that if the Platting Board votes down the conditions and findings of fact, we need to deny the whole subdivision application. **Klein** concurred and added that the Platting Board will have to develop findings of fact in support of denial.

*The motion to postpone was approved 4-3 with **Flint, Zierfuss-Hubbard, Malin, Meyer** voting to approve and **Mendenhall, Hicks and Pitney** voting to deny.*

Meyer asked if Mr. Mathews could now apply for a quick plat. **Stefan** replied that he wasn't sure but will find out. The postponement allows Mr. Mathews to determine what method his clients would like to take.

Malin asked if Mr. Mathews could terminate his application now or not. **Stefan** replied that he can withdraw his application at any time.

OLD BUSINESS

None

NEW BUSINESS

None

EXCUSE ABSENT MEMBERS

The absence of Haman was excused without objection.

COMMENTS

Citizens

No one asked to speak during this time.

Platting Staff

No one asked to speak during this time.

Board Members

Pitney reminded the Platting Board to think about their attendance at the December meeting.

Zierfuss-Hubbard stated that she may not be in attendance.

Meyer commented that he will not be in attendance at the December meeting.

Hicks stated that he will be here and does not have an issue if the date gets changed.

Mendenhall reiterated Hicks comments.

Malin stated that she does not have her schedule yet. She will report back at a later meeting.

ADJOURNMENT

The meeting was adjourned at 9:00 p.m.

