

# FNSB PLATTING BOARD

## MINUTES

May 17, 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 pm. by Randy Pitney, Chair.

The following Board members were in attendance: Pamela Zeirfuss-Hubbard; Peter Flint, Whitney Malin, Bill Mendenhall, Randy Pitney, Troy Hicks, Crystal Haman and Clint Meyer.

Also present were: Noah Kline, Asst. Borough Attorney; Christine Nelson, Director, Department of Community Planning; Daniel Welch, Platting Officer; George Stefan, 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)

### \*APPROVAL OF AGENDA AND CONSENT AGENDA

The agenda and consent agenda for this meeting, including the minutes of the March 15, 2017 and April 19, 2017 Platting Board meetings, were approved without objection after a motion by **Meyer**, seconded by **Malin**.

**APPROVAL OF THE MINUTES** (March 15, 2017 and April 19, 2017)

### CHAIR'S COMMENTS

None

### COMMUNICATIONS TO THE BOARD

None

### ADMINISTER GROUP OATH

### DISCLOSURE & STATEMENT OF CONFLICT

None

### PUBLIC HEARING ITEMS

#### Preliminary Applications

1. **SD011-17 / RP016-17 Capri Estates—Modification for Phasing** A request by Ralph Mathews, on behalf of James Arpino and Gregory Wagner, to develop Capri Estates in three phases. The subdivision request was approved by the FNSB Platting Board at its March 15, 2017 regular meeting to replat Lots 2 & 3, Block 2, Robson Tracts, totaling approximately 10.17 acres, into eight lots ranging in size from 1.24 to 1.30 acres. The lots are located within the NW¼ SE¼ Section 22, T1S R1E (located on Groundsel Avenue and Hearts Court).

**Stefan** gave the staff report; staff recommended preliminary approval of the subdivision with the following six (6) conditions:

1. GVEA, ACS, IGU, Aztec Road Service Area and North Star Fire Service Area shall have a minimum of ten business days to review and comment on the final plat for each phase.
2. A note shall be placed on the final plat for each which states, "Prior to construction, any new driveway or modification to a driveway within the Groundsel Avenue or Hearts Court right-of-way will require an approved permit from FNSB Public Works."
3. The double flag stem for Lots 2B & 2C Block 2 onto Groundsel Avenue and the double flag stem for Lot 2D Block 2 and Lot 3D Block 3 onto Hearts Court shall be constructed to FNSB pioneer road standards and approved by FNSB Public Works for each applicable phase.
4. A note shall be placed on the final plat that makes it explicitly clear if Lot 2A Block 2 and Lots 3B & 3C Block 3 may use the driveway within the adjacent shared access easement for each applicable phase.
5. All easements of record shall be shown on the final plat.
6. The final plat application for the first phase shall be submitted by March 15, 2019, and the final plat application for the last phase shall be submitted by March 15, 2023.

Staff further recommended adoption of the following four (4) findings:

- a) Per FNSBC 17.12.030.J.1 the platting board may provide for the later submittal of one or more phases or segments of the subdivision.
- b) Per FNSBC 17.56.010.G two adjacent flag lots will be required to share one common driveway within the flag stems. Adjacent nonflag lots may have rights to access a common driveway easement within the flag stems. The common driveway shall be constructed to pioneer road standards.
- c) Per FNSBC 17.52.040.D.5, all existing easements must be shown on the final plat.
- d) With the six conditions recommended by staff this subdivision meets the applicable requirements of Title 17.

**Ralph Mathews**, Surveyor, addressed the Platting Board. He stated that he did not have any questions of the staff report.

**Mathews** stated that this was approved previously on the basis of his ignorance that the Borough had a requirement for these pioneer access roads to be constructed in order for this request to be approved. That puts his client in a situation that he has to build roads now prior to construction on these lots. This phasing request is a result of said mistake.

**Mathews** commented that he would like to see a worksession regarding this issue.

**Zierfuss-Hubbard** inquired if Mathews' client was in agreement with the timeline set forth in the phasing. Mathews responded that they are in agreement with the timeline set forth.

PUBLIC HEARING OPENED

No one requested to speak to this item.

PUBLIC HEARING CLOSED

*A motion was made by **Mendenhall**, seconded by **Meyer** to approve the subdivision/replat, with the six (6) conditions, the four (4) findings of fact and adopt the staff report as recommended by staff.*

**Mendenhall** commented that he feels that this request has been worked out to everyone's satisfaction. He intends to support this request.

*A roll call vote was taken on the motion to approve the subdivision/replat. The motion was approved 8-0. The motion passed unanimously.*

APPROVED

- 2. SD 021-17 Indian Hills Subdivision, 2<sup>nd</sup> Addition** A request by Stutzmann Engineering Associates, Inc., on behalf of Ivan H. Nielsen, to subdivide TL-2909, totaling approximately 10.73 acres, into 2 lots of approximately 4.66 acres. The request also includes a five foot width of right-of-way dedication, increasing the width of the Bias Drive right-of-way. The lots are located within the NE $\frac{1}{4}$  SW $\frac{1}{4}$  Section 29, T1N R1E, located on Bias Drive.

**Welch** gave the staff report; staff recommended preliminary approval of the subdivision with the following five (5) conditions:

1. GVEA and IGU shall be given a maximum of 30 working days to review and comment on the final plat.
2. ACS and the Birch Hill RSA shall be given a maximum of 10 working days to review and comment on the final plat.
3. A note shall be added to the plat stating "Any construction of new driveways, or modification of existing driveways, will require a FNSB permit prior to construction."
4. The note regarding wetlands shall be changed on the final plat to state "Portions of this subdivision may contain wetlands. If development plans entail the discharge or placement of dredged and/or fill material into these wetlands, issuance of an individual Department of the Army permit may be required pursuant to section 404 of the Clean Water Act prior to initiating work."
5. All easements of record shall be shown on the final plat.

Staff further recommended adoption of the following five (5) findings:

- a) Per FNSBC 17.16.010.C.3 a hearing officer may not approve a plat that alters a dedicated street or right-of-way or requires dedication.
- b) Per FNSBC 17.52.040.D.5 requires that all existing easements must be shown on the final plat.
- c) Per FNSBC 17.56.020.B.3 states that dedication of the exterior boundary right-of-way width may be shared with the adjoining property owner if the shared right-of-way exists and is public.
- d) Bias Drive is an existing public right-of-way within an FNSB road service area.
- e) With the five conditions recommended by staff this subdivision request meets the applicable requirements of Title 17.

**Mendenhall** commented that part of the problem with this last month was the fact that the Surveyor had only been notified of one of these issues just a few minutes before the Platting Board meeting rather than several days' notice. He questioned if this situation had been resolved.

**Welch** commented that this is a different request than the one that was heard last month.

**Jeremy Stark**, Stutzmann Engineering, addressed the Platting Board. He stated that he does not have questions of the staff report as written. He made himself available for questions.

PUBLIC HEARING OPENED

No one requested to speak to this item.

PUBLIC HEARING CLOSED

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

*A roll call vote was taken on the motion to approve the subdivision. The motion was approved 8-0. The motion passed unanimously.*

APPROVED

- 3. SD015-17 / RP 019-17 Kessel Subdivision** A request by Kalen & Associates, Inc., on behalf of Pam Miller and Cortland & Constance Zachel, to replat the North Kessel Lot of Pearl Creek Subdivision, totaling approximately 5.31 acres, into two lots of 1.94 and 3.37 acres. The request includes a variance from FNSBC 17.56.080.D to waive the requirement to dedicate a temporary turnaround for Musk Ox Trail. The request also includes a variance from FNSBC 17.56.110.B to waive the requirement to dedicate Musk Ox Trail to the subdivision boundary. The lots are located within the NW ¼ SE¼ Section 19, T1N R1W (located on Musk Ox Trail, just south of Red Fox Drive).

**Stefan** gave the staff report; staff recommended preliminary approval of the subdivision/replat with the following four (4) conditions:

1. GVEA shall be given a maximum of 30 working days to review and comment on the final plat.
2. ACS shall be given a maximum of 10 working days to review and comment on the final plat.
3. Road design data shall be submitted verifying the 40ft wide private access easement serving Lot 2 meets the requirements of FNSBC 17.56.020.C.7.d.
4. All easements of record shall be shown on the final plat.

Staff further recommended adoption of the following six (6) findings:

- a) Per FNSBC 17.52.040.D.5, all existing easements must be shown on the final plat.
- b) The applicants have applied for and shall be exempted from Musk Ox Trail road construction per FNSBC 17.56.060.A.
- c) The 40ft wide private access easement meets the definition of frontage per FNSBC 17.04.010.
- d) The 40ft wide private access easement serving Lot 2 meets the minimum frontage requirement of 40ft per FNSBC 17.56.010.B.

- e) The 40ft wide private access easement serving Lot 2 must be sufficient to allow for construction, improvements and maintenance of a trafficway up to a width and standard required by this title per FNSBC 17.56.020.C.7.d.
- f) With the four conditions recommended by staff this subdivision request meets the applicable requirements of Title 17.

**Meyer** inquired if the access to Lot 2 was a private access easement. **Stefan** confirmed this.

**Meyer** asked if this particular private access easement was using other taxpayers money to get to said lot. **Stefan** confirmed this and clarified what Title 17 states with regard to this subject.

**Haman** expressed concern for the landlocked TL-4. She stated that when subdividing the properties around the landlocked property is the time to find a way to provide access to those other properties. **Stefan** concurred. He further commented that this subdivision request is not involving any right-of-way to be created.

**Haman** inquired if there has ever been a situation where you get the people who own that property involved. **Stefan** responded that in this case, the owners of said property provided written comment that they are in favor of this subdivision.

**Haman** questioned if there would be the ability to create an easement along Lot 2 to Lot 1 so that they could both share that private access easement to get to their properties. **Stefan** stated that it would be fighting the contour intervals, but it might be possible. He continued that Lot 2, outside of the Platting authority, could grant a private access easement to Lot 1. He deferred this question to the applicants.

**Flint** commented that the owners of TL-4 also own an adjacent parcel and if they wanted they could create their own private access easement. He further questioned if there was a way that this property could gain access.

**Stefan** responded that Plat 1975-52 provided for access via a private easement from Red Fox across Lot 2A to Lot 2B. Therefore, potential future subdivision would be quite a request and would most likely require a variance.

**Hicks** requested clarification. He questioned if Lot 2B is the same owner as TL-4. **Stefan** confirmed this. **Hicks** continued that if the owners wanted to create their own easement they could do so. **Stefan** confirmed this.

**Hicks** requested clarification that the Borough cannot require them to dedicate more right-of-way. **Stefan** confirmed this.

**Pitney** commented that this might work presently but the Platting Board needs to consider the long term ramifications.

**Pitney** asked if **Stefan** was comfortable with this request. **Stefan** responded that it meets Title 17.

**Stefan** depicted on the screen where a circular driveway has been created rather than a turnaround bubble.

**Pitney** expressed concerns about this with regard to public safety.

**Stefan** commented that anyone who applies for the road construction exemption will be required to have a plat note on the final which reads "roads in and to the subdivision were not required to and may not meet the Boroughs' minimum standards for materials and construction.

To the extent these road standards have not been met, fire protection and ambulance and other public services may not be available year round or their availability may be severely limited. “

**Pitney** questioned if this should be a condition on the plat. **Stefan** responded that he does feel that this should be a condition on the plat.

**Mendenhall** inquired if this property was in a fire service area. **Stefan** replied affirmatively. He further commented that University Fire did not have an objection to this plat.

**Pat Kalen**, Surveyor, addressed the Platting Board and stated that he did not have any questions of the staff report and thanked staff for a job well done.

**Kalen** stated that the three lots at the end of this road are served by loop driveways.

**Kalen** responded to Ms. Hamans question regarding TL-4 stating that the subdivision has already taken place. The Borough Tax Assessor decided that the 1955 subdivision was equivalent to making a subdivision. These are lots of records with permission being given by the Borough Tax Assessor. There is also an easement that runs up to TL-4 because the south and north Kessel lots gave themselves an easement, though it is not depicted on the preliminary plat.

**Flint** requested clarification regarding the existing access easement to TL-4. **Kalen** clarified that there is an existing access easement to TL-4 and it will be depicted on the final plat.

**Meyer** questioned if the 40' private easement is basically where the other one was vacated in 1967. **Kalen** confirmed this.

**Stefan** questioned if this centered on the common lot line is covered by a private access easement to TL-4. **Kalen** replied that it says for roadway purposes in the deeds that create the north Kessel lot and the south Kessel lot.

**Kalen** did not have additional questions of staff.

**Pamela Miller**, owner, addressed the Platting Board. She thanked the staff for their hard work and requested that the recommendation of staff be followed.

**Miller** stated that one of the conditions relates to a private access easement that is for the driveway. It only pertains to the existing part of the driveway. It will be roughly a 30' swath up to the point where the driveway departs back onto their land. That will meet the condition and they are fine with it being added to the plat.

**Miller** commented that the prior owner lived at this location since 1955. In her later years she had caregivers and in order to provide for those services they needed to prove that there was fire engine access for emergencies. That is when the western portion of the driveway loop was constructed.

**Miller** reiterated that the information in the staff report well addressed their issues concerning the variance for the turnaround bubble. It has been a challenging situation and because of the existing loop driveway there is an existing way to turn around. Miller continued that the Pearl Creek subdivision is unusual in its remarkable property shapes and layouts, including this long sloping boundary along the eastern side of the lot and the knoll. The residents driveways and other improvements on the land were designed to have unobstructed views of the natural birch woods. They are pleased to present a plan that is in keeping with this original vision for the neighborhood.

**Pitney** inquired about the condition of the driveway. **Miller** responded that she is able to navigate the driveway with her two-wheel drive vehicle as have other two-wheel vehicles even with snow coverage.

**Cort Zachel**, owner, addressed the Platting Board. He gave a brief history of the ownership of the three parcels as well as TL-4. He made himself available for questions.

**Connie Zachel**, owner, addressed the Platting Board. She thanked staff and their surveyor for their work on this complex request. She made herself available for questions.

**Pitney** asked what was complex about this. **Ms. Zachel** replied that when the option was made for them to purchase and subdivide the land the language was very unclear and the access issue was also difficult to resolve.

**Pitney** asked why the subdivision was complex. **Ms. Zachel** replied that the subdivision process is not complex. She continued that in the estate language, the property that they were looking to purchase was just described as "the knoll."

**Meyer** asked if this was originally subdivided by deed. **Ms. Zachel** replied that the subdivision was made via deed in 1955. The properties were pre-sold and then the plans were established later.

PUBLIC HEARING OPENED

**Pitney** read into the record written testimony from Mr. Hampton and Ms. Ruggles, adjacent property owners. The written testimony was in support of this request.

No one requested to speak to this item.

PUBLIC HEARING CLOSED

*A motion was made by **Meyer**, seconded by **Zierfuss-Hubbard** to approve the subdivision/replat with the variance, the five (5) conditions, the six (6) findings of fact and adopt the staff report as recommended by staff.*

*A motion was made by **Zierfuss-Hubbard**, seconded by **Meyer** to approve the variance from 17.56.080.D, adopting the three (3) findings of fact and the amended staff report as recommended by staff.*

**Flint** commented that the variance is straight forward. He will be supporting this request.

**Meyer** commented that he will be voting in support of this variance request.

**Pitney** commented that he is not comfortable with this variance and will not be voting in support of this variance request.

*A roll call vote was taken on the motion to approve the variance. The motion was approved 7-1 with **Flint**, **Haman**, **Hicks**, **Zierfuss-Hubbard**, **Malin**, **Meyer** and **Mendenhall** voting to approve and **Pitney** voting to deny.*

**Mendenhall** commented that situations like this don't always work out this well as time passes and ownerships change.

**Flint** commented that he still has major concerns about “landlocking” a parcel. He is unsure how he will be voting.

**Meyer** commented that he too has major concerns. He is unsure of how he will be voting. He is concerned about the ramifications down the road.

**Hicks** commented that he is in support of this request because this subdivision is not creating any new problems or access denials.

**Pitney** commented that he too has concerns regarding the long term ramifications and will not be voting in support of this request.

**Mendenhall** commented that he dislikes private access easements but does not see a problem with this request. He will be voting in support of this request.

*A roll call vote was taken on the motion to approve the subdivision/replat. The motion was approved 5-3 with Haman, Hicks, Zierfuss-Hubbard, Meyer and Mendenhall voting to approve and Flint, Malin and Pitney voting to deny.*

APPROVED

- 4. RP 027-17 (Kimberly Lake Subdivision)** A request by 3-Tier Alaska, Corp., on behalf of Timothy and Jamie Opperman, to replat Tract A, Kimberly Lake Subdivision, totaling approximately 16.77 acres, into four lots ranging in size from approximately 9.58 acres to 1.89 acres. The request includes two variances from FNSBC 17.56.010(F) to allow two direct lot access points onto a major collector. The lots are located within the SE¼ SE¼ Section 8, T2S R2E, on Homestead Drive and North Pole High School Blvd.

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

1. GVEA shall be given a maximum of 30 working days to review and comment on the final plat.
2. ACS, IGU, ADOT, North Star Fire SA and the City of North Pole shall be given a maximum of 10 working days to review and comment on the final plat.
3. Lot 15 shall share the common access easement with Lots 13 and 14, or modify the plat to provide legal and physical access to Lot 15 without the use of Homestead Drive.
4. A note shall be placed on the final plat which states, “Lots 13, 14, and 15 are limited to a single access point onto Homestead Drive within a shared driveway easement. No additional access onto Homestead Drive beyond the single shared common access easement shall be permitted. Any new driveway, or modification to an existing driveway, will require an approved driveway permit from the City of North Pole.”
5. A note shall be added to the final plat stating “Portions of this subdivision may contain wetlands. If development plans entail the discharge or placement of dredged and/or fill material into these wetlands, issuance of an individual Department of the Army permit may be required pursuant to section 404 of the Clean Water Act prior to initiating work.”

Staff further recommended adoption of the following findings:

- a) Per FNSBC 17.56.020.B, all lots within the subdivision shall have legal, physical road access constructed to the standards required by this title. Condition #3 satisfies this requirement for Lot 15 which would otherwise have no legal access to the lot.
- b) Per FNSBC 17.56.020.C.6, legal access exists if it is a verified section line easement.
- c) With the four conditions recommended by staff and approval of VR012-17 this replat request meets the applicable requirements of Title 17.

**Flint** questioned if the letter from the City of North Pole was preliminary approval for two driveways, one in the shared access location and the other somewhere else to be determined.

**Welch** replied affirmatively.

**Mendenhall** questioned if a subdivision can include a lake as he thought that lakes belong to the State of Alaska.

**Noah Kline**, Borough Attorney, suggested that a brief break be taken in order for him to research this question.

**Hicks** questioned if they were looking at two or three access points. **Welch** responded that they are looking at two access points, one for Lot 15 and one for Lots 13 and 14 OR with denial of this variance as recommended, there would be one access point along Homestead Drive, however the applicant decided to provide for access to all three lots. Therefore, the Platting Board is looking at one or two access points. Welch added that the Section Line easement allows access to Lot 16.

**Meyer** questioned if there was a bicycle path along the east side where these lots are coming out of. **Welch** replied that there is a bicycle and pedestrian path here.

**Meyer** asked if the City of North Pole maintains Homestead Drive. **Welch** responded affirmatively that they maintain the road and the bicycle path.

**Meyer** asked if this road was a State funded road. **Welch** replied that he does not know.

**Haman** asked how wide the access point would have to be for all three lots to share the same access point. **Welch** replied it would have to be 20' in width.

**Pitney** asked for clarification that staff is recommending only one access point. **Welch** confirmed this.

**Pitney** asked what the traffic count is for this area and what is the expected traffic count for a later point in time. **Welch** responded that he does not have a traffic count. Pitney queried if there was a lot of traffic on said road. **Welch** responded that it is a reduced speed limit road with speed humps, presumably because of the school.

**Zierfuss-Hubbard** queried what the other configurations that the Transportation Planner suggested with regard to Lot 15. **Welch** replied that the Transportation Planner suggested further to the south.

**Stefan** clarified that this would provide access for three lots at one single access point.

A ten minute recess was taken to allow Mr. Kline to research the lake question.

**Kline** replied that with his research, he does not see any problem with subdividing a lake that is entirely on private land that has already been partially subdivided. The entire lake is on privately owned land. The bottom of the lake is owned by private owners. Issues regarding access are not relevant here.

**Don Galligan**, Transportation Planner, addressed the Platting Board. He clarified that with regard to Homestead Drive they do not have data as to the amount of traffic that uses it. However, it is a major collector road in the Roads Plan. As such it is being called upon to serve higher use land uses, which in this case would be the high school. He felt it is important that we protect the function of that road by limiting access to it. As we continue to subdivide and allow accesses to all the lots that front on to Homestead Drive, eventually the road is not going to serve the function that it was intended to serve. This road has a peaking characteristic to it with more traffic in the a.m. hours when kids and staff are going to school and then in the p.m. hours when leaving or attending activities at the school. He further commented that even though there is not count data, keep in mind the function of that facility.

**Timothy Opperman**, applicant, addressed the Platting Board and stated that he does not have questions of the staff report.

**Opperman** commented that he has been working at this lake property quite a bit lately for hours at a time and he has observed on average 2 cars per hour utilizing this road. Further, the Old Richardson Highway is actually an easier access from the Richardson Highway and a majority of people use that route.

As for the safety issue and the requirement for one access point to serve Lots 13, 14 and 15, he and his wife envisioned building a couple of duplexes on Lots 13, a single duplex on Lot 14 and a single residential home on Lot 15. In his experience, he lived on 8<sup>th</sup> Avenue in North Pole. It was a shared driveway for two single-family homes and he was rear ended in that driveway. To this day he still has neck issues. With so many people using one shared driveway, he sees and obvious safety risk for people backing out of their driveways and the potential for accidents.

The other major point that he would like to bring up is that for Lots 13, 14 and 15 there is an actual beach that is almost level with the water and approximately 50' wide. For them to build a duplex on Lot 13, a duplex on Lot 14 and to include sewer and a well would take up more land that is available. He stated that that is a very large point to make with using the driveway access.

**Meyer** asked if the lots are on city water and sewer. **Opperman** responded that they are not.

**Meyer** asked how he would be able to build a duplex and keep the septic tank 100' away from the waters' edge. **Opperman** replied that they planned to place the sewer and water towards Homestead Drive.

**Pitney** queried why the applicant opposed to the one access point for the three lots. **Opperman** stated that it is a space issue as far as having access to that many lots is a safety and health issue in his opinion. Lot 15 will be a single-family home and his parents are planning to move into it. Additionally, the City of North Pole does not have any objection to access from Homestead Drive to Lot 15. He is trying to protect the driveway for his parents to utilize.

**Pitney** asked how wide the green area is on Lot 14. **Opperman** replied that it is approximately 160 feet. He added that the shoreline on Lots 13, 14 and 15 has been drag lined after the aerial photo was taken. The shoreline is actually smaller than what is shown on the aerial photo.

**Ryan Hunt**, 3-Tier Alaska Corp, addressed the Platting Board. He stated that, regarding the variances, this is their second design. The original design called for an additional access but after discussion with the Borough Engineer it was determined that that was too many access points so they scaled it back to this current design.

**Hunt** commented that he too had spent an hour out at the location with his surveying crew and in the hour from 11:00 am to 12:00 pm and only saw two vehicles drive by. He clarified that the speed limit on the road is 20 MPH and that there are speed humps within this leg.

**Hunt** continued that these lot configurations are as practical as he could foresee. In the event that there was a 20' access easement on the east portion of Lot 14, there is already a 30' PUE so that would amount to 50' being taken away from that lot. This would inhibit the owner from being able to build a duplex on the lot.

Additionally, **Hunt** conveyed that there is standing water at the southwest of Lot 15. They do have a letter from the Corps of Engineers that states that they are requesting that no fill be placed in areas of standing waters which may be considered wetlands. This has not been determined yet.

**Hunt** continued that Bill Butler, City of North Pole, has already approved four (4) driveway permits and they are simply trying to get two of them and utilize the Section Line easement for access. The Ford Subdivision to the east does not enjoy direct access to Homestead Drive. The Chena River Flood Control Project is to the south so there is no through traffic except for people recreating. The area that is involved within Lot 14, the 20' wide times the width equates to 1.25 acres. The usable area stated on the preliminary plat is 1.07 but this is a misnomer because the edge of the water is where they were measuring in the winter. They were unable to find any beachy area going towards the water.

In conclusion, **Hunt** commented that based on statistics used by the Borough, he does not feel that health, safety and welfare are jeopardized by the requested variances for access.

**Zierfuss-Hubbard** clarified for the record that Ryan Hunt is her neighbor though she has not seen him in years. She did not recognize him earlier or she would have disclosed this fact at the beginning of the meeting. **Pitney** opened the floor for Platting Board members to ask questions of Zierfuss-Hubbard regarding the possible conflict of interest.

**Haman** commented that if Zierfuss-Hubbard barely recognized Hunt, she obviously has not seen or spoken to him in a while. **Haman** stated that she finds it hard to believe that there is a conflict.

**Pitney** concluded that there is no conflict in this situation. Zierfuss-Hubbard will continue to hear this item.

**Flint** asked for clarification regarding the tentative approval from the City of North Pole, who is the managing agency for this right-of-way. He questioned if tentative approval was granted for a driveway for Lots 16, 15, 14 and 13. **Hunt** replied affirmatively.

**Zierfuss-Hubbard** asked for clarification about the red note on the preliminary plat that states "existing driveway per aerial." **Hunt** stated that it is from an aerial photo and was added to the design on the plat. Everything else on the plat was from field measurements.

**Zierfuss-Hubbard** questioned if there is a driveway to Lot 15 currently. Hunt replied affirmatively. **Zierfuss-Hubbard** queried where it goes to. **Hunt** replied that it used to be an area for trucks to bail gravel and material from the pond. That is why it is rather wide.

**Flint** questioned how wide this driveway is and what kind of sight distance is there for the bike path because the bike path is pretty close to the road. **Hunt** replied that at the location of the gate, it is approximately 40' and tapers out to nearly twice that amount or more. The sight distance is unlimited because all of the trees are gone and the bike path is there. It is not a challenge.

**Pitney** commented that he thought he heard during earlier testimony that the City of North Pole was not going to be in favor of multiple access points. Now he has heard that they are approving 4 driveway permits. **Hunt** clarified that he has Bill Butlers' letter approving 4 driveways.

**Pitney** asked staff if the City of North Pole did or did not approve these four driveway accesses. **Welch** referred to a letter that he received from the City which stated that they received driveway permit applications for Lots 16 and 16. That was in regards to the preliminary plat that the most likely showed them.

**Hunt** continued that he recognizes that there is a misunderstanding with the driveway permits. Butler has one document that specifically talks about certain lots because it was helping their criteria for their variance request. Furthermore, Hunt stated that he has an e-mail stating that he will allow multiple other driveways essentially for all of the lots.

**Kline** reminded the Board that all of this discussion regarding the letters and e-mails is all hearsay testimony and the Board can rely on hearsay if it chooses to.

**Hunt** stated that he has a copy of the letter if the Board would like to see it. **Pitney** declined.

PUBLIC HEARING OPENED

No one requested to speak to this item.

PUBLIC HEARING CLOSED

*A motion was made by **Mendenhall**, seconded by **Meyer** to approve the replat with two (2) variances, the five (5) conditions, the three (3) findings of fact and to adopt the staff report as recommended by staff.*

PUBLIC HEARING CLOSED

*A motion was made by **Zierfuss-Hubbard**, seconded by **Flint** to deny the variance from 17.56.010.F to allow direct access onto a major collector adopting the five (5) findings of fact and the staff report in support of the approval.*

*A motion was made by **Flint**, seconded by **Malin** to approve the variance from 17.56.010.F to allow direct access onto a major collector adopting the five (5) findings of fact and the staff report in support of the approval.*

**Hicks** commented that regarding the variance recommended for approval, the request seemed reasonable due to the terrain.

**Meyer** clarified that both variance requests are for a variance from the same code in title but one request is recommended for approval and one request is recommended for denial. **Welch** confirmed this. He further commented that he should have included in the variance requests which lots are affected by which variance request. He clarified that one involves Lots 13 and 14 and the other variance request involves Lot 15.

**Haman** clarified that the motion that they are currently discussion is the shared common driveway between Lots 13 and 14.

**Zierfuss-Hubbard** commented that one variance request includes the lot in the description and the other does not. Welch requested a brief break to amend the motions for the variances to be more descriptive.

The Platting Board recessed for five minutes.

**Kline** clarified that Staff is recommending granting a single variance but he is not sure if the staff recommendation is explicit as to where that variance would have to be. Staff doesn't care where the variance would be but is only recommending one variance. Kline suggested the clearest way to have motions would be to have a motion to provide a variance anywhere along Lots 13, 14 or 15 and then a motion to have a second variance anywhere along Lots 13, 14 and 15 and then the Board can vote on the first variance which staff is recommending for approval. Then the Board can vote on the second variance which the applicants want but staff is recommending denial.

**Welch** commented that he listed the variance request in the order that he did because the variance specific to Lot 15 solely should be heard first. The reason being should it be denied, as recommended, then the variance for Lots 13 and 14 could then include Lot 15 and the subdivision could go through. Otherwise, should this be accepted as is with Lots 13 and 14 only, Lot 15, if denied, now has no access. That was the intent of his reasoning for putting them in such an order.

**Pitney** suggested that the two motions regarding the variances be withdrawn by the makers and the Board start over.

Both motions for the variance requests were withdrawn by the makers without question.

**Kline** commented that he heard staff recommend addressing the second variance first. He concurs with staff.

*A motion was made by **Zierfuss-Hubbard**, seconded by **Haman**, to deny the variance from 17.56.010.F to allow direct access for Lot 15 onto a major collector adopting the five (5) findings of fact and the staff report in support of the denial.*

**Mendenhall** stated that he is against the word deny in general. He stated that motions should be made in the affirmative and then voted down.

**Kline** commented that there is not a problem making the motion in the negative. It is allowed.

**Haman** recommended possible postponement to allow additional data regarding the traffic on Homestead Drive. She further commented that she does not feel that the Platting Board has been supplied with adequate real numbers as to the number of bicycles and vehicles utilize these facilities.

*A motion was made by **Haman**, seconded by **Meyer**, postpone this application in its entirety.*

**Malin** concurred.

**Haman** commented that she is sympathetic to both sides.

**Flint** commented that at this time he is leaning with going with the managing authority of the road and if they think it is o.k. then as the managing authority of said road, their opinion should be heavily weighed.

The Platting Board took a 5 minute recess to discuss the postponement.

**Kline** added that although there is nothing explicitly in the PB Rules and Procedures that says the Board cannot postpone and re-open, essentially what he is hearing is what the Board wants to do is set this matter off for a future meeting which would then require a brand new hearing to include traffic data. He commented that postponement would be justifiable if new evidence came out or information from staff. However, if the Board simply feels like the testimony that was given was strong enough, he is not certain if that is reason enough to have to hear the matter once again.

*A roll call vote was taken on the motion to postpone. The motion was denied 1-7 with Haman voting to postpone and Zierfuss-Hubbard, Flint, Malin, Mendenhall, Hicks, Meyer and Pitney voting to not postpone.*

**Zierfuss-Hubbard** commented that before this motion to postpone she was planning to vote in favor of the denial. However, she commented that if there is already preliminary approval for the driveway for Lots 15, she does not feel comfortable voting to deny this variance.

**Flint** concurred with Zierfuss-Hubbard and stated that managing authority should be held in high regard.

**Malin** concurred with Flint.

**Mendenhall** commented that he is neutral.

**Meyer** stated that he is going to vote for denial of approval. The reason is if this were in the hills, it would be a hardship. This is flat ground and gravel. Also, he does not have any of the criteria for the fellow that is making the approval. He questioned if he was a certified traffic engineer. These are his concerns. He intends to vote for denial of this request.

**Hicks** had not comment.

**Pitney** stated that he will be voting for denial and the reason is the bike path. He has concerns regarding multiple access points along the bike path.

**Malin** commented that since this was already a driveway and trucks have come in and out at this location, she feels that the sight distance is not a problem where the bike path is concerned. She is still in favor of voting against the denial.

**Kline** suggested additional discussion regarding the specific reasons for granting a variance.

**Flint** reiterated that it is impractical for the Borough to overrule the managing authority of the road. Whoever manages that road is ultimately responsible for it. If they are o.k. with it then he believes that they should be the ones to decide.

**Haman** queried if they have taken the bicyclists in to account when making their decision. **Flint** responded that it is part of the permitting process.

**Hicks** commented that this is a difficult decision.

*A roll call vote was taken on the motion to deny approval of the variance request for direct access to Homestead Drive from Lot 15. . The motion was denied 3-5 with Meyer, Mendenhall and Pitney voting "Yes" and Flint, Haman, Hicks, Zierfuss-Hubbard and Malin voting "No."*

**Welch** reminded the Platting Board that they will now have to create findings of fact regarding the decision to allow a variance.

The Platting Board took a 5 minute recess to create findings of fact.

**Hicks** commented that the fact that this driveway was approved prior weighed heavily in his making his decision.

*A motion was made by **Flint**, seconded by **Malin**, to adopt the three (3) findings of fact that the Platting Board created is support of their decision.*

*A roll call vote was taken on the motion to adopt the three (3) findings of fact. The motion was approved 7-1 with Flint, Hamam, Hicks, Zierfuss-Hubbard, Malin, Mendenhall and Pitney voting "Yes" and Meyer voting "No."*

*A motion was made by **Zierfuss-Hubbard**, seconded by **Meyer**, to approve the variance from 17.56.010.F to allow direct access via a shared driveway easement for Lots 13 and 14 onto a major collector adopting the five (5) findings of fact and the staff report in support of the approval.*

**Haman** commented that she will be voting is favor of this request.

**Malin** concurred.

*A roll call vote was taken on the motion to approve the variance. The motion was approved 8-0. The motion passed unanimously.*

**Haman** commented that the biggest problem with this replat request were the variances but the Platting Board has resolved those issues and she intends to vote in favor of the replat with the variances.

**Stefan** commented that based on the outcome of the variances, there are conditions that were originally recommended by staff that do not apply. **Stefan** clarified the changes required to the original motion.

*A motion was made by **Meyer**, seconded by **Zierfuss-Hubbard**, to amend the conditions and the findings of fact to the original motion as recommended by staff.*

*A roll call vote was taken on the motion to amend the conditions and findings of fact to the original motion as recommended by staff. The motion was approved 8-0. The motion passed unanimously.*

*A motion was made by Meyer, seconded by Haman to approve the replat of Tract A, Kimberly Lake Subdivison with the amended four (4) conditions adopting the three (3) findings of fact and the staff report in support of the approval.*

*A roll call vote was taken on the motion to approve the replat with the two variances with the amended four (4) conditions adopting the three findings of fact and the staff report in support of approval. The motion was approved 8-0. The motion passed unanimously.*

APPROVED

## OLD BUSINESS

None

## NEW BUSINESS

None

## EXCUSE ABSENT MEMBERS

There were no absent Platting Board members.

## COMMENTS

### Citizens

No one asked to speak during this time.

### Platting Staff

No one asked to speak during this time.

### Board Members

**Zierfuss-Hubbard** thanked Pitney for his thorough work explaining what was happening.

Several Platting Board members commended the Platting staff for their work with these challenging cases.

**Pitney** reminded the Platting Board of the Borough e-mail policy.

**Pitney** reminded the Platting Board of the appeal period and that they are not to discuss any of the cases heard this evening with each other until the appeal period is over.

**Pitney** commented that the Platting Board will discuss application forms at the next meeting that have to do with giving written or verbal testimony at Quasi-Judicial hearings.

## ADJOURNMENT

The meeting was adjourned at 10:00 p.m.