FAIRBANKS NORTH STAR BOROUGH PLANNING COMMISSION

MINUTES
October 10, 2017

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 6:03 p.m. by Wendy Presler, Chairperson.

MEMBERS PRESENT: Charles Whitaker Eric Muehling
John Perreault Robert Peterson
Patricia Thayer Chris Guinn
Wendy Presler

MEMBERS ABSENT: David Brandt Mike Stepovich
Mindy O’Neall

OTHERS PRESENT: Christine Nelson, Director of Community Planning
Kellen Spillman, Deputy Director, Community Planning
Manish Singh, Planner
Stacy Wasinger, Planner
Don Galligan, Transportation Planner
Wendy Doxey, Assistant Borough Attorney
Nicole Nordstrand, Administrative Assistant

1. ROLL CALL

B. MESSAGES

1. Chairperson’s Comments

There were no comments by the Chairperson.

2. Commissioner’s Comments

There were no comments by Commissioners.

3. Communications to the Planning Commission

Ms. Nelson communicated that the Downtown Fairbanks Planning Community Meeting was held Wednesday, September 27, 2017, and explained other outreach efforts taking place to get more community involvement. She further communicated that the FMATS Charrette also took place and generated positive growth scenarios.

Ms. Nelson advised of an upcoming “Conversation with Surveyors” to discuss any concerns there may be with Title 17, and to educate the surveying community in an effort to better meet their needs.

Mr. Guinn inquired if there are any new appeals. Ms. Nelson advised that CU2017-025 has been appealed.
4. Citizen’s Comments – limited to three (3) minutes

There were no comments by Citizens.

5. Disclosure & Statement of Conflict of Interest

Ms. Thayer disclosed that related to HP2018-002 she had worked on a project which was part of milepost 357 and it is completed and closed out.

Ms. Thayer further disclosed that related to RZ2018-002, as a consultant, she has a term-contract with the Alaska Railroad, but does not work on property they own rather property they acquire.

Ms. Presler inquired on HP2018-002, and asked Ms. Thayer if she had previously worked on milepost 357. Ms. Thayer responded the property was milepost 357 – 353 and it is closed now and was an access improvement project. Ms. Presler asked if she was directly involved in the planning of the pedestrian path project and Ms. Thayer stated “no”. Ms. Presler queried if the outcome of HP2018-002 would have any bearing on her employment or financial situation and Ms. Thayer indicated it would not.

Ms. Presler determined no conflict exists.

Ms. Presler inquired on RZ2018-002, and asked Ms. Thayer if through her term contract had been specifically involved in the project related to RZ2018-002, and Ms. Thayer stated she was not.

Ms. Doxey questioned if Ms. Thayer’s company is the only company with a term contract with the Railroad, and Ms. Thayer responded there are two other companies that hold term contracts for real estate services. Ms. Doxey sought confirmation that her company would be one of three that could potentially be approached for a job, and Ms. Thayer confirmed as well as confirmed she had no direct financial interest.

Ms. Presler determined no conflict exists.

C. * APPROVAL OF REVISED 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 Mr. Peterson and seconded by Mr. Muehling.

PASSED WITHOUT OBJECTION

D. MINUTES

E. **CONSENT AGENDA ITEMS**

1. **HP2018-002**: A request by the State of Alaska, Department of Transportation and Public Facilities for local planning authority approval of the Richardson Highway Milepost 357-362 Bicycle/Pedestrian Path project. This project proposes to construct a mixed-use pedestrian and bicycle facility adjacent to the Richardson Highway between Badger Road and Airport Way/Gaffney Road in Fairbanks, Alaska.

F. **PUBLIC HEARING**

1. **RZ2018-001**: A request by Robert Dyer to rezone approximately 17.5 acres from General Use 1 (GU-1) to Rural Residential (RR) or other appropriate zone. The proposed rezone includes parcels described as Benshoof Subdivision – Phase 2, Block 1, Lots 15-24 and Block 2, Lots 1-6 (located on Benshoof Drive and Golf Court, south of Chena Slough, east of Badger Road and north of Bradway Road).

The Applicant, Robert Dyer, was present.

**Mr. Manish Singh** provided a presentation of his staff report and recommendations on behalf of the Borough’s Planning Department.

**Questions by Commissioners**

**Mr. Muehling** provided a scenario on potential reverse spot zones in future rezone applications and asked what policies are in affect to handle those types of rezones.

**Mr. Singh** responded that the application fee waiver does not guarantee a rezone will be approved and deferred to Mr. Spillman on the remainder of the question.

**Mr. Spillman** communicated that there is a three (3) part test brought about by **Griswold v. City of Homer** to determine whether a rezone is a spot zone, and it is applied to every rezone.

**Mr. Guinn** commented that North Pole water will be brought into this neighborhood and all along Badger Road, and asked if/when more intensive planning will be done and what is being planned.

**Mr. Spillman** responded that the Borough has received grant funding to do an area plan for Badger Road and Salcha area, and consultant proposals are currently under review.

**Applicant’s Testimony**

**Mr. Dyer** testified to the Planning Commission that his neighborhood had been governed by covenants which had recently expired, but the covenants were designed to mirror the rural residential zoning requirements. He further stated the need to request a rezone arose due to an application for a marijuana cultivation facility conditional use permit application. Mr. Dyer communicated his neighbors’ desire to safeguard their neighborhood from uses allowable in a GU-1 zone; sexually oriented businesses, shooting range, etc., to protect the residential character of the neighborhood. Mr. Dyer communicated the involvement of the subdivision property owners and efforts when forming the petition and the potential for non-conforming properties should the rezone happen, and conveyed plans by those property owners.
Public Testimony Opened

Mr. Leo Valdrow testified as to his history in the neighborhood and the character of the residential neighborhood.

Mr. Muehling inquired if Mr. Valdrow understood they would now have property rights afforded to rural residential zoning and forfeit those allowed in GU-1. Mr. Valdrow stated he understood.

Mr. Mark Gudschinsky testified he has a rental in the neighborhood and stated his desire to protect the safe neighborhood which exists.

Ms. Doxey clarified the legislative nature of the matter and advised anyone from the public can testify.

Mr. Brad Erichson testified he is a renter in the neighborhood and desires to have the zoning reflect the true residential nature of the neighborhood.

Ms. Sue Valdrow testified of her desire to keep the neighborhood integrity intact.

Mr. Muehling inquired about the noise impact from Badger Road. Ms. Valdrow replied there is not a lot of noise because of the existing tree buffer.

Ms. Lara Freeman testified of her desire to preserve and maintain residential nature of neighborhood free of businesses.

Ms. Lois Maxwell testified about her introduction to the neighborhood and appropriateness of being zoned rural residential.

Mr. Austin Somaduroff described the character of the neighborhood and the negative impact it would have if the lots were used for industrial use.

Ms. Monique Daigle testified she is the property owner of the marijuana cultivation facility (CU2017-025) recently approved, and stated her belief that she can conform to the 100 foot buffer by moving the entry door, and approves of the rezone so long as it does not interfere with her permit.

Mr. Muehling asked Ms. Daigle how far along she is in the State application and permitting process, and Ms. Daigle responded she is scheduled for the November meeting, and there is approval from DEC on the septic system installation, approval for foundation from fire and life safety, and in the process of obtaining approval for the structure.

Mr. Dyer asked Ms. Daigle if concrete has been laid, and Ms. Daigle responded “not today”.

Mr. Daryll Acorda testified to the neighborhood’s character and expressed concerns with the marijuana facility, particularly potentially permeation of odor requiring military to consistently drug test him and the criminal activity.

Ms. Christa Dyer testified as to her support of the rezone, and spoke on the neighborhood’s previous covenants and summarized the discussions the neighborhood had in choosing to seek a change in zoning to rural residential to protect their neighborhood, and advised that they are making a very informed decision in electing to rezone.
Mr. Muehling commented that they are trying to balance the expansive rights granted to the unrestricted properties with GU-1 against having some protections and fewer rights under the rural residential, and that it sounded like everyone how testified is willing to make those as a tradeoff.

Ildefonso Rodriguez testified he understands the pros and cons involved with changing the zoning.

Public Testimony Closed

Applicant’s Rebuttal

Mr. Dyer reiterated his earlier testimony and stated the resounding support of the property owners of the rezone and that they accept the restrictions imposed by rezoning. He further testified that the 100 foot buffer zone between the residential neighborhood and AK Green Bee should not be waived because AK Green Bee does not have legal existing use of the property as a marijuana business.

MOTION: To recommend approval of the rezone of Benshoof Subdivision – Phase 2, Block 1, Lots 15 – 24 and Block 2, Lots 1 – 6 from General Use 1 (GU-1) to Rural Residential (RR), and adopt the staff report and twelve (12) Findings of Fact in support of the recommendation of approval by Ms. Thayer and seconded by Mr. Perreault.

Discussion on the Motion

Ms. Thayer commented of her concern related to the marijuana permit approved, but noted that with the property owner’s testimony in support of the rezone, it satisfied her concern. She further noted the rezone is within the Borough’s Regional Comprehensive Plan, the property has been used and should remain rural residential, and it is not in a spot zone.

Mr. Muehling indicated that the testimony was unanimous to maintain a quiet residential neighborhood under the more restrictive rural residential classification. He further noted the residential character of the neighborhood in the past and a rezone maintains that character. He stated the perimeter area falls within the “preferred residential land use designator”, it is residential and within 10-20 minute commute and it is not a spot rezone. Mr. Muehling communicated there will be a 25 foot setback from the Chena Slough, and there was no setback requirement under the GU-1.

Ms. Thayer communicated that the proposed rezone conforms to the public health, safety and welfare.

Mr. Perreault stated his support, and commended the efforts of the neighborhood in banding together to preserve their neighborhood.

Mr. Muehling commented that from the testimony from the marijuana grow property owner, she has made substantial investment and a good faith reliance on the permitting process in an effort to get her business developed.

ROLL CALL:
Seven (7) in Favor: Mr. Guinn, Mr. Whitaker, Mr. Peterson, Mr. Perreault, Mr. Muehling, Ms. Thayer, and Ms. Presler.

Zero (0) Opposed.

(The meeting recessed from 7:15 – 7:29 p.m.)

2. **RZ2018-002:** A request by Northland Surveying & Consulting LLC on behalf of Alaska Railroad Corporation to rezone approximately 12.597 acres from General Use 1 (GU-1) to Multiple-Family Residential/Professional Office with a 25 foot Waterways Setback Designation overlay (MFO/WS) or other appropriate zone. The proposed rezone boundary includes parcels described as Tracts 4 and 5 of Chena Landings Subdivision (located off of Chena Landings Loop Road, south of Phillips Field Road, east of Peger Road, and north of the Chena River).

**Ms. Stacy Wasinger** provided a presentation of her staff report and recommendations on behalf of the Borough’s Planning Department.

**Questions by Commissioners**

**Mr. Muehling** asked if there was discussion with the Chena Riverfront Commission about having a public path along the Chena River within the 25 foot easement.

**Mr. Spillman** explained there is a FMATS project where the Alaska Railroad and the City of Fairbanks engaged in a permit for a plan to run a path along the Chena River to the existing pedestrian bridge and back to Philips Field Road where there is an existing pedestrian easement.

**Ms. Thayer** sought clarification on whether it is a pedestrian easement or public use easement.

**Mr. Spillman** replied that it is a public utility easement / non-motorized.

Discussion ensued between Ms. Thayer and Mr. Spillman on the area being discussed and whether it pedestrian or public use.

**Ms. Wasinger** clarified that it is a public utility easement / non-motorized. She further clarified that a public utility easement does not necessarily grant a pedestrian trail easement through it, but in this case it is both.

**Applicant’s Testimony**

The Applicant, Northland Surveying and Consulting, LLC, was represented by Richard Heieren and Paula Hicks, and the property owner, Alaska Railroad Corporation was represented by Jon Cook.

**Mr. Jon Cook** introduced himself as Chairman of the Board of Directors for the Alaska Railroad Corporation.

**Mr. Cook** testified that real estate is one of the prime assets of the Alaska Railroad Corporation, and feels the Railroad could better monetize its holdings and better utilize its real estate holdings. He reported that the subject subdivision was put in 16 years ago and a significant investment was made in utilities and roads, but has generated virtually no revenue for the
Railroad. He stated that the Railroad has historically not sold any land; it has only leased. He presented that this land is prime riverfront land for residential, the Railroad is offering at 25 foot waterways setback, and Lots 2 and 3 have been committed for trail use, and they are willing to work with the Chena Riverfront Commission to provide outreach efforts to potential new homeowners for preserving and protecting the Chena River.

Questions by Commissioners

Mr. Perreault asked if Tracts 2 and 3 are expected to be developed in the future and if so, why not include them now. Mr. Cook responded that Tracts 2 and 3 are General Use, and the Railroad is cash constrained, so it needs to generate the capital to do the extensive development (road and utilities extension) to Tracts 2 and 3. Mr. Cook also explained how the final plats for Tracts 4 and 5 may look once fully developed.

Mr. Muehling inquired if the Railroad would be open to a recommendation of a foot path within the 25 foot easement along the river on Tracts 4 and 5. Mr. Cook responded that the Railroad has offered the 25 foot waterways setback and there is a 25 foot setback on the back, so there is no way that would work with the planned development.

Public Testimony Opened

Mr. Gary Nance testified that as a business owner in the area he leases Lots 9, 10, 11 and 12, from the Railroad and his relationship with the Railroad has been good. Mr. Nance expressed concerns with the dangerousness of Phillips Field Road, especially with the amount of semi-truck traffic now being shared with the residential traffic, and is concerned with the foot path leading to Phillips Field Road and then stopping. Mr. Nance commented that he cannot put a residence on his lots per the Alaska Railroad, and there is now Hoo Doo and a marijuana retail operation, all of which is not industrial in nature. Mr. Nance stated his belief that more studying needs to happen.

Mr. Richard Green testified that he is the manager of Spenard Builders Supply, and he applauded the Alaska Railroad and Mr. Cook for taking steps to develop this riverfront property. Mr. Green discussed historical development in the area and related plans and expressed hope that everyone is concerned with “long-term thinking” and not just “short-term economic goals”.

Mr. Perreault inquired how Mr. Green saw the impact, or potential dangers, of several residential and/or professional lots on Phillips Field Road. Mr. Green responded that several times a year he is asked for video footage of accidents at the lighted intersection, but stated his concern is with the narrowness down Phillips Field Road, which is being addressed.

Ms. Kathi Stevens testified she is an avid user of the Bike Path, and is concerned with increased boat traffic, noise on the river, and destruction of its “park zone” like character. Ms. Stevens further elaborated on the impact to tourism by changing that strip to more houses and the scenery of looking into someone’s yard.

Public Testimony Closed

Applicant’s Rebuttal

Mr. Cook responded to comments made by Mr. Nance concerning traffic, and explained that the Railroad has obtained permits from the Department of Transportation to construct a “right in/right out” from Peger Road to Chena Landings Loop Road, to negate the need to access
Phillips Field Road. Mr. Cook clarified that the new path to be constructed on the north side of the river will not terminated at Phillips Field Road, and explained it will continue around by Flowline, around the river, and carried back to downtown. Mr. Cook finished by explaining the total benefits of this development to the community and especially the downtown area.

Mr. Heieren emphasized that the Alaska Railroad will actually be selling property and stated that GU-1 can be very intensive use and believes the Railroad is taking the right approach by changing its use.

Ms. Hicks testified she is in support of the project.

Questions by Commissioners

Mr. Muehling asked where the parking will be for the residential and office use. Mr. Heieren responded and stated that the lots average about 100 x 100 which is a large residential lot when there is public water and sewer, and explained that each plan that would be submitted for any office use would be submitted to the City of Fairbanks and undergo their permitting process.

Ms. Thayer communicated her understanding that if this rezone moves forward, it is the intent of the Railroad to go through the platting/subdivision process with the proper entities. Mr. Heieren replied that they are in the early stages of planning and have conceptual plans.

Ms. Thayer commented that there had been discussion about additional traffic with the potential additional of 30 lots, and indicated her belief that there should not be any more traffic then was seen when Ice Alaska held its event off of Phillips Field Road. Mr. Cook concurred that there was substantially more traffic with Ice Alaska, and explained that when they were getting the permit with DOT for access off of Peger Road, they had an extensive Traffic Impact Analysis completed and even with a full buildout of the area did not generate the amount of traffic generated by Ice Alaska. Ms. Thayer and Mr. Cook discussed the Railroad and DOT's relationship concerning safety improvements on the Alaska Railroad owned land that Peger Road is constructed.

MOTION: To recommend approval of the rezone of Tracts 4 and 5 of Chena Landings Subdivision from General Use 1 (GU-1) to Multiple-Family Residential/Professional Office with a 25-foot Waterways setback Designation overlay (MFO/WS) or other appropriate zone, and adopt the staff report and seven (7) Findings of Fact in support of the recommendation of approval by Ms. Thayer and seconded by Mr. Perreault.

Discussion on the Motion

Ms. Thayer commented on her excitement of the project and reflected that the Railroad selling property and getting it on the Borough’s tax records is monumental, and shows that the Railroad is onboard with the comprehensive plans for the urban area. She further stated that the health, safety, and welfare will be improved immensely, it will develop the bike path to tie into other areas, and will be good for the community.

Mr. Muehling stated their plan supports the Chena Riverfront Plan.

Mr. Perreault communicated his full support of the plan and stated the traffic concerns have been addressed, and overall the rezone will increase the core downtown density.
ROLL CALL:

Seven (7) in Favor: Mr. Perreault, Mr. Muehling, Mr. Guinn, Mr. Whitaker, Mr. Peterson, Ms. Thayer, and Ms. Presler.

Zero (0) Opposed.

G. NEW BUSINESS

1. Consideration on research and outreach efforts to re-evaluate how the FNSB regulates small-scale agricultural operations and small livestock in urban and residential zones. Discussions may include topics covered during the September 19, 2017 work session which included review of existing regulations, results of community surveys, interviews with local subject matter experts, and review of zoning regulations from other communities which may include formation of a Subcommittee to work with the FNSB Community Planning Department.

Mr. Spillman explained that this discussion is a continuation of the work session on September 19, 2017, and briefly highlighted and gave an abbreviated presentation on the areas covered during the September 19th work session.

Discussion amongst the Commission ensued on the timeline, involvement, process and formation of a subcommittee.

MOTION: To form a subcommittee comprised of Commissioners Whitaker, O’Neall, and Perreault to assist the FNSB Administration in drafting an ordinance on small livestock and small scale commercial agriculture by Ms. Thayer and seconded by Ms. Presler.

PASSED WITHOUT OBJECTION

H. EXCUSE ABSENT MEMBERS

Ms. Presler communicated that Ms. O’Neall’s absence is excused.

I. COMMISSIONER’S COMMENTS

1. FMATS

Ms. Thayer reported that she has been unable to attend the FMATS meetings and requested the Commission designate another Commissioner. Mr. Muehling volunteered to be the new representative. Mr. Spillman offered to officially notify the FMATS coordinator and to brief Mr. Muehling prior to the next meeting.

J. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:42 p.m.