Please refer to Planning Commission Rule #25: Any action taken during this meeting is subject to reconsideration during this meeting or at the next. A request for reconsideration at the next meeting must be submitted in writing by a Planning Commissioner (who voted on the prevailing side) by the close of business the day following the meeting.

**Work Session**

A presentation by the City of Fairbanks on sidewalk/pathway inventory and counts of bicycle/pedestrian at select locations. (Presenter: Andrew Ackerman, City of Fairbanks)

**Audio Track 1**

**Roll Call, Opening Statements, Agenda and *Consent Agenda.**

Commissioners Present:    Charles Whitaker  Chris Guinn  
                          Doug Sims    Mindy O’Neal  
                          Eric Muehling  David Brandt  
                          Wendy Presler  Mike Stepovich  
                          John Perreault

Commissioners Absent & Excused:  Robert Peterson   Patricia Thayer

*MINUTES

1. *Minutes from December 12, 2017 PC Meeting.

*CONSENT AGENDA ITEMS

1. *HP2018-005 Wembley Avenue Improvements:* A request by the State of Alaska, Department of Transportation and Public Facilities, for local planning authority approval of the Wembley Avenue Improvements Project. This project proposes to reconstruct Wembley Avenue from Aurora Drive to Danby Street in Fairbanks, Alaska, and consists of installing a new sidewalk on the north side of the road as well as regrading and resurfacing the road. (Staff Contact:  Don Galligan)

**Audio Track 2**

REVISED AGENDA AND CONSENT AGENDA APPROVED

**PUBLIC HEARING**

1. **ORDINANCE NO. 2017-72:** An Ordinance Repealing FNSBC Title 4.68 Landscape Review Board and Amending FNSBC Title 18 To Amend and Clarify The Landscape Plan Review and Approval Process. (Sponsor: Mayor Kassel) (Staff Contact: Christine Nelson)

**RECOMMENDED APPROVAL OF ORDINANCE NO. 2017-72 TO THE FNSB ASSEMBLY**

**Audio Track 2**
APPEALS

1. **GR2018-008**: An appeal by Erika Tobin of the denial of a request for affirmative recognition of legal nonconforming structure status (grandfather rights) for an existing detached garage with a nonconforming north rear-yard setback of 2 feet and west side-yard setback of 2 feet instead of the required 5 feet in the Two-Family Residential (TF) zone for the property on Lot 4, Block 17, Charles Slater Subdivision (located at 236 Ina Street, on the north side of Ina Street, north of Minnie Street). (Staff Contact: Christine Nelson)

Audio Track 2

Findings of Fact

1. The subject parcel contains a single-family residence and a detached garage in the Two-Family Residential (TF) zone. The grandfather rights application is for the detached garage, which does not comply with TF zoning setbacks because it has a north rear-yard setback of 2 feet and a west side-yard setback of 2 feet instead of the required 5 feet.

2. The subject property was annexed into the City of Fairbanks on January 1, 1959. At that time, the property was zoned General Residential. The General Residential zone established a minimum required side-yard setback of 5 feet and a rear-yard setback of 3 feet.

3. The subject parcel was zoned General Residential (R2) with the adoption of Ordinance No. 67-34 on March 28, 1968. At this time, the side and rear yard minimum required setback established was 15 feet, “except that building is permitted up to one interior lot line or each of two intersecting interior lot lines.”

4. FNSB Aerial photography shows that the detached garage was not constructed on the subject property in September 1968.

5. FNSBC 18.108.030(A) states that the application for affirmative recognition of grandfather rights must contain “a written positive assertion that said building(s), use(s) or lot(s) existed prior to the date of the zoning change.” The statement in the application that the garage was built in 1949 is incorrect.

6. The adoption of Ord. No. 70-42 on June 11, 1970 altered the development standards of several zones. The side and rear yard setback requirement of the General Residential zone remained 15 feet. The language regarding exception for interior lot lines was altered to read “except that building is permitted up to one interior lot line or each of two intersecting interior lot lines if under common ownership and simultaneous development.” This exception remained in effect until February 25, 1982.

7. FNSB Assessor records do not indicate that lots 3, 4, and 7, Block 17, were ever under common ownership or simultaneous development between 1970 and 1982.

8. FNSB Assessor records note that the single-family residence was damaged by fire and repaired between 1969 and 1973. FNSB Assessor staff conducted exterior inspections of the house during their site visits to the subject property on May 19, 1969, August 9, 1972, and February 12, 1973 and did not note the construction of a garage.
9. The subject property is 5,000 square feet in size and the garage location is clearly visible from the street as evidenced by photos in Assessor records.

10. No FNSB zoning permit was issued for the detached garage. Nor is there any record of a City of Fairbanks building permit being issued for the detached garage. There are no borough or city records that demonstrate exactly when construction of the detached garage began between September 1968 and January 1974.

11. FNSB Assessor records state that staff noted and “picked up” a detached “garage in back” for valuation during their January 9, 1974 site visit. A dated photo of the residence and detached garage is included in the FNSB Assessor Field Card.

12. A statement and testimony provided by the former property owner and two neighbors claims that the garage was present in 1969 but no additional evidence was submitted to dispute or rebut the Assessor records.

13. The aerial photo estimated to be from 1971 does not show the detached garage on the subject property. The aerial photo was estimated to be from 1971 because it showed the Nordale Hotel, which burnt down on February 23, 1972, as well as the Alyeska Pipeyard which did not begin full operation before 1971.

14. The subject property was rezoned to Two-Family Residential (TF) with the adoption of Ordinance No. 88-010, effective on April 25, 1988. The required side and rear yard setbacks remained 5 feet.

15. The detached garage was not lawfully established because it did not meet setback requirements at the time of construction and has not become conforming at any time since construction.

16. The applicant/property owner bears the burden of proof to provide sufficient evidence to establish affirmative recognition of grandfather rights and did not meet that burden.

APPEAL DENIED / ADMINISTRATIVE HEARING OFFICER'S DECISION UPHELD
[SEVEN (7) IN FAVOR / 2 OPPOSED]

QUASI-JUDICIAL HEARINGS

1. **CU2018-006:** A request by Jessica Dance, DBA Barefoot Grow Company LLC, for conditional use approval of a marijuana cultivation facility, indoor large, in the General Use 1 (GU-1) zone on Lot 1-A, Block 1, Waller Subdivision (located at 940 Star Court, on the south side of Badger Road, at the end of Star Court). (Staff Contact: Manish Singh)

Audio: Track 3

CONDITIONS

1. Prior to the commencement of marijuana cultivation operation, the applicant or holder of this conditional use permit shall comply with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:

   a. As required by the FNSB and the Department of Commerce, Community, and Economic Development (Alcohol and Marijuana Control Office), the applicant or
holder of this conditional use permit shall ensure the site meets all licensing requirements for a commercial marijuana cultivation facility.

b. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.

c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Environmental Conservation for the wastewater storage tank and shall comply with all recommendations and/or requirements resulting from the plan review.

2. Indoor cultivation, drying, and processing rooms or portions of the building where marijuana will be grown, processed or stored, shall be equipped with appropriately sized odor filtration systems such that the marijuana odor shall not be detectable by the public from outside the indoor cultivation facility.

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

FINDINGS OF FACT

1. With the conditions imposed, the proposed conditional use will conform to the intent and purpose of Title 18 and of other ordinances and state statutes:

   a. The purpose of Title 18 will be met because the proposed conditional use is consistent with ‘Perimeter Area’ and ‘Preferred Residential Land’ comprehensive plan land use designation. The Comprehensive Plan Land Use Goal 3 and Economic Development Goal 2 are being enhanced with the development of this site as a marijuana cultivation facility.

   b. The intent of Title 18 will be met because with the conditions imposed, the conditional use will both protect private property rights and promote public health, safety, and welfare.

   c. 3AAC 306 governs the state licensing and operational standards for marijuana facilities. Title 18 requires that a borough permitted commercial marijuana facility obtain a license pursuant to all state regulations. The applicant has provided information sufficient to show they intend to meet the state regulations and to apply for a state issued license.

2. With the conditions imposed, there are adequate existing energy and transportation facilities serving the site and other public services are available to serve the proposed conditional use.

   a. The facility has an existing well to meet the water supply needs for marijuana cultivation.

   b. The facility has an onsite septic system for domestic wastewater and a storage tank for the non-domestic wastewater. With the conditions imposed, the facility will dispose of the wastewater according to the state regulations.

   c. The facility is served by the North Star Volunteer Fire Department for emergency fire response. As requested by the Fire Department, the applicant has posted a road sign for Star Court.
d. The facility is served by Alaska State Troopers for law enforcement.
e. The facility is currently connected to the GVEA grid which will provide sufficient energy supply for indoor cultivation activities.
f. Six (6) off-street parking spaces and a loading area have been provided on-site, which are adequate for the proposed cultivation conditional use.
g. The subject property is accessible from Star Court. This road can accommodate the small number of trip ends generated by the proposed cultivation facility.

3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare as the facility will comply with Title 18 standards for the GU-1 zone (FNSBC 18.84) and Standards for Commercial Marijuana Establishments (FNSBC 18.96.240) as well as state requirements for a commercial marijuana cultivation facility.
   
a. With the conditions imposed, security systems, alarms, cameras and lighting will meet state regulations required to obtain a commercial marijuana cultivation license.
b. With the conditions imposed, any solid or liquid waste including marijuana plant waste will be disposed of in accordance with state and local regulations.
c. With the conditions imposed, odor will be mitigated with appropriately sized odor filtration systems in cultivation, drying, and processing facilities.
d. All marijuana and marijuana products will be secured inside the building to ensure the general public does not have access to them.
e. The noise generated from this cultivation operation would be minimal and it would not negatively impact the neighboring residential property owners because the operation is completely indoors.
f. The outdoor lighting would point downwards and will not negatively impact the neighborhood or residential uses.
g. The facility is located in GU-1 zoning where there are no restrictions on hours of operation

CU2018-006 APPROVED
[EIGHT IN FAVOR / ZERO OPPOSED]

2. CU2018-007: A request by David Prusak from Interior Gas Utility, on behalf of Fairbanks Natural Gas, LLC, for amendment of the conditional use approval of a bulk fuel (liquefied natural gas) distribution and storage facility in the Heavy Industrial (HI) zone on Tract C, Tanana Levee Industrial Park Subdivision and on a portion of Tract D, Tanana Levee Industrial Park Subdivision within the HI zone (located at 2942 Tria Road, on the north side of Tria Road, east of Gas Court).
(Staff Contact: Manish Singh)

Audio: Track 4

CONDITIONS

1. The applicant or holder of this conditional use permit shall ensure that the facility complies with all applicable land use related laws. Applicable permits and approvals may include but are not limited to:
   
a. As required by the Pipeline and Hazardous Materials Safety Administration (PHMSA), the applicant or holder of this conditional use permit shall ensure that the facility complies with the federal safety standards for liquefied natural gas facilities established by 49 CFR Part 193.
b. The applicant or holder of this conditional use permit shall obtain a Certificate of Compliance and shall ensure that the facility complies with the FNSB Title 15 - Floodplain Management Regulations.

c. The applicant or holder of this conditional use permit shall obtain a formal plan review by the State of Alaska Department of Public Safety (Division of Fire and Life Safety, Plan Review Bureau) and shall comply with all recommendations and/or requirements resulting from the plan review.

d. The applicant or holder of this conditional use permit shall ensure that the facility complies with the U.S. Army Corps of Engineers regulations.

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

FINDINGS OF FACT

1. With the conditions imposed, the proposed conditional use will conform to the intent and purpose of Title 18 and of other ordinances and state statutes:

   a. The purpose of Title 18 will be met because the proposed conditional use amendment is consistent with the ‘Heavy Industrial Area’ comprehensive plan land use designation. The request is also consistent with Land Use Goal 3, Strategy 8, Action A and Transportation and Infrastructure Goal 2, Strategy 6, Action C.

   b. The intent of Title 18 will be met because, with the conditions imposed, the conditional use will protect private property rights and promote public health, safety, and welfare.

   c. With the conditions imposed, the applicant has provided information sufficient to show that the facility will meet the intent and purpose of Alaska State Statute and other ordinances.

2. With the conditions imposed, there are adequate existing energy and transportation facilities serving the site and other public services are available to serve the proposed conditional use.

   a. The facility does not require any water and sewage for operation. The facility will have portable toilets onsite during the construction and extended periods of maintenance.

   b. The property is served by University Fire Service Area.

   c. The property is served by GVEA for any needed power supply.

   d. The property is served by Alaska State Troopers for law enforcement.

   e. The property is accessible from Tria Road which is not maintained by any public agency. The construction, including roadway width, of Tria Road is currently adequate to handle the expected increase in truck traffic.

3. With the conditions imposed, the proposed conditional use will protect public health, safety, and welfare as the facility will comply with Title 18 standards for the HI zone.

   a. With the proposed conditions related to compliance with the PHMSA regulations (49 CFR Part 193), the facility will have tank construction, fencing, controlled access, lighting, sensors, alarms, monitoring schedule and other safety features to protect public safety.
b. The noise produced from the facility will not negatively impact the area because the area has already developed with other commercial and industrial uses.
c. The artificial odor added to the LNG will make it detectable. The odor from the facility will not negatively impact the area because the area has already developed with other commercial and industrial uses.
d. With the proposed condition related to the plan review by State Fire Marshal, the facility will minimize fire and other safety risks.
e. With the FAA’s determination of no hazard to air navigation for the facility, the conditional use will not be a safety hazard for the air navigation.
f. With the proposed condition related to FNSBC Title 15 compliance, the facility will minimize the risks related to potential flooding.

CU2018-007 APPROVED
[NINE IN FAVOR / ZERO OPPOSED]

3. **CU2018-001**: A request by Leigh Strehlow for conditional use approval of a minor kennel in the Rural Estate 2 (RE-2) zone on Lot 1, Rossow Subdivision (located at 505 Line Drive, on the west side of Line Drive, between Sheep Creek Road and Hafele Avenue). (Staff Contact: Manish Singh)

Audio: Track 5 & 6

During Applicant’s presentation, the Applicant advised of their desire to rescind the Application for Conditional Use Permit and left the Chambers. The Planning Commission determined it should take action, and moved to deny the Conditional Use Permit Application for the Applicant’s failure to meet its burden.

CU2018-001 DENIED
[EIGHT IN FAVOR / ONE OPPOSED]

New Business, Excuse Future Absences, Commission’s Comments and Adjournment.

Audio: Track 6

NEW BUSINESS

1. Discussion of whether the Planning Commission wishes to sponsor an amendment to FNSBC Title 18 which would reduce the setback requirements in Rural Residential and Rural Estate zones. (Commissioner Guinn)

FORMATION OF SUBCOMMITTEE CONSISTING OF COMMISSIONERS GUINN, MUEHLING AND SIMS

Further information may be obtained from FNSB Department of Community Planning at 459-1260