

FAIRBANKS NORTH STAR BOROUGH PLATTING BOARD

**MINUTES
NOVEMBER 21, 2018**

A regular meeting of the Fairbanks North Star Borough Platting Board 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 6:00 p.m. by Randy Pitney, Chair.

A. ROLL CALL

MEMBERS PRESENT: Kellie Fritze, Crystal Haman, Troy Hicks, Michael Kwasinski, Jason McComas-Roe, Clint Meyer, Bill Mendenhall, Harold Wilmer and Randy Pitney

OTHERS PRESENT: Christine Nelson, Department of Community Planning Director, Wendy Dau, Assistant Borough Attorney, George Stefan, Platting Officer, Daniel Welch, Platting Officer, Chad Hosier, Civil Engineer, Donald Galligan, Transportation Planner and Laura McLean, FNSB Recording Clerk

B. MESSAGES

Chair Pitney explained the recent Ordinance passed by the Assembly which modified how the Platting Board does business regarding testimony.

Chair Pitney ruled **Mr. McComas-Roe** will be excused from SD056-07/RP069-07.

Chair Pitney ruled **Mr. Meyer** will be excused from MD002-18/SD037-18.

Chair Pitney ruled **Mr. Hicks** will be excused from VR003-19/SD005-18, VR002-19/SD028-15, MD001-19/SD037-11/RP032-11, MD002-18/SD037-18 and SD004-19.

OATH ADMINISTERED

C. APPROVAL OF AGENDA AND CONSENT AGENDA

Motion to approve the agenda and consent agenda made by **Mr. Meyer** and seconded by **Mr. McComas-Roe**. Carried without objection or roll call vote.

D. *MINUTES

Minutes from May 16, 2018 and June 20, 2018 carried without objection.

E. *CONSENT AGENDA ITEMS

1. **SD009-15/RP010-15 Moonshine Subdivision (Extension)** A request by Pat Kalen for a two-year extension to the Platting Board's October 19, 2016 approval of Moonshine Subdivision, the replat of Lots 1-3, Block 1 Esterview Subdivision, Tract B Northridge Subdivision, TL-1706, and TL-1707, a total of approximately 20.87 acres, into ten lots ranging in size from 1.81 to 2.59 acres. The lots are located within the SE¼ SE¼ Section 17, T1S, R2W FM (located on Moonshine Run, Chena Ridge Road and Northridge Road). **Staff Contact: George Stefan**

F. QUASI-JUDICIAL HEARING

[Mr. Hicks left the dias]

1. **VR003-19/SD005-18 Golden View Subdivision** A request by Degerlund Engineering, LLC, on behalf of Karl and Florine Benson, for a variance from FNSBC 17.56.100.C.1 to allow the intersection angle of Chena Valley View Lane and a private access easement to be less than 60 degrees. The subdivision request was originally granted preliminary approval on October 25, 2017 by the FNSB Platting Board. The property is located within the SE¼ SW¼ Section 21, T1N, R2E, FM (located on Chena Valley View Lane).
Staff Contact: George Stefan

George Stefan presented the staff report. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Mr. Meyer questioned the private access easement.

Mr. Stefan stated the owner of the estates cannot simply release the easement.

Ms. Fritze questioned if the 16 property owners were asked if they would release the easement.

Mr. Stefan deferred the question to the applicant.

Applicant Testimony

Karl Benson addressed the access easement and stated they are proceeding in trying to get that resolved and made himself available for questions.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve VR003-19, a variance from FNSBC 17.56.100.C.1 to allow the intersection angle of Chena Valley View Lane and a private access easement to be less than 60 degrees, adopting the amended three findings of fact and the amended staff report in support of the approval by **Ms. Fritze** seconded by **Mr. Meyer**.

Discussion ensued in regards to the motion.

ROLL CALL

8 in Favor: Kwasinski, McComas-Roe, Mendenhall, Wilmer, Fritze, Haman, Meyer and Pitney

0 Opposed:

MOTION PASSED

Findings of Fact for Approval

- a) The subdivision, with the variance, can be developed consistent with public welfare and safety because:
- i. The applicant's registered professional has designed the new subdivision road, Chena Valley View Lane, to provide as safe as possible road given the existing topography.
 - ii. Chena Valley View Lane will provide a much safer and practical connection between the properties to the west and the ADL ROW to the north compared to the private access easement.
 - iii. The substandard trail within the private access easement may only be used by the dominant estate properties, and Chena Valley View Lane may be used by the general public.
- b) The requirement is impractical due to the following specific circumstances of the subdivision:
- i. The private access easement is no longer necessary due to the construction of Chena Valley View Lane.
 - ii. The substandard trail within the private access easement will likely become overgrown and unusable for vehicular traffic over time since Chena Valley View Lane will be used.
 - iii. It is very likely that the few parties who benefit from the private access easement will instead use Chena Valley View Lane for access.
- c) FNSB Public Works and the Transportation Planner support the variance.

[Mr. Hicks returned to the dias]

2. **SD056-07/RP069-07 Northside Business Park (Extension)** A request by Stutzmann Engineering Associates, Inc, on behalf of North Side Investors Limited Partnership, for a four-year extension to the Platting Board's May 16, 2012 approval of Northside Business Park, the subdivision of Tract C, Bentley Trust North Subdivision, a total of approximately 89.8 acres, into 34 lots and two tracts ranging in size from 1.0 acre to 9.7 acres in four phases. The property is located within the NE¼ Section 2, T1S, R1W FM (located on Northside Boulevard, Harold Bentley

[Mr. McComas-Roe left the dias]

George Stefan presented the staff report. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Mr. Meyer questioned the location of the ash dump.

Mr. Jeremy Stark stated most of lot 7, lot 8 and along some of the road corridors.

Discussion ensued in regards to the four-year time extension becoming the norm.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve the four-year time extension for Northside Business Park with the one condition and adopt the staff report and the nine findings of fact in support of approval by **Mr. Meyer** seconded by **Ms. Haman**.

Discussion ensued in regards to the motion.

ROLL CALL

8 in Favor: Fritze, Hicks, Kwasinski, Mendenhall, Wilmer, Haman, Meyer and Pitney

0 Opposed:

MOTION PASSED

Condition

1. The final plat of the last phase shall be submitted no later than December 17, 2022 or the preliminary approval will become void.

Findings of Fact for Approval

- a) FNSBC 17.08.050.B states, "Whenever the requirements of this title differ from the requirements of any other laws, ordinances, or lawfully adopted regulations, the most restrictive or that imposing the highest standard shall govern."
 - b) Northside Business Park is within the City of Fairbanks, and the subdivision road corridors are required to meet City of Fairbanks standards per the conditions approved by the Platting Board prior to final plat approval. All existing and future road corridor construction, including roadways, gutters, and sidewalks, is of a significantly higher standard than what is required by Title 17.
 - c) The FNSB Public Works Engineer and City of Fairbanks have no objection to the extension.
 - d) The Platting Board approved the most recent modification for Northside Business Park on September 19, 2012.
 - e) The preliminary plat expires on December 17, 2018.
 - f) FNSB staff supports the extension request.
 - g) 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.
 - h) FNSBC 17.12.030.J.1 has been interpreted by staff to include the extension of the entire subdivision request.
 - i) There does not appear to be any change to the subject property or surrounding development that would warrant a new preliminary review by the Platting Board.
3. **VA001-19 (Pagh Subdivision)** A request by Ralph Mathews, RLS, on behalf of Maud Lee Pagh for the Pagh Trust, to vacate portions of the 50-foot public access easement created by Deed recorded in Book 216, Page 128 F.R.D. The proposed vacation area is located within Lots 3 & 7, Pagh Subdivision, lying west of the Steese Highway and intersecting with Maud Lee Court, within NW¼ Section 6, T1N R1W FM. **Staff Contact: Daniel Welch**

[Mr. McComas-Roe returned the dias]

Daniel Welch presented the staff report. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Discussion ensued in regards to the property to the northwest and if it abuts the Old Steese Hwy and no reason for the easement to benefit the property and why the easement was there to begin with.

Applicant Testimony

None

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve the vacation of the 50 foot wide public access and utility right-of-way within Lots 3 and 7, Pagh Subdivision, with the three conditions, adopting the eight findings of fact and the staff report in support of approval by **Mr. Meyer** seconded by **Mr. McComas-Roe**.

Discussion ensued in regards to the motion.

ROLL CALL

9 in Favor: Hicks, Kwasinski, Mendenhall, Wilmer, Fritze, Haman, McComas-Roe, Meyer and Pitney

0 Opposed:

MOTION PASSED

Conditions

1. The term "RESERVED" shall be removed from annotation for the P.U.E located on the east side of the subdivision.
2. GVEA, ACS, and ADOT&PF shall have a maximum of 30 calendar days to review and comment on the final plat.
3. The labels showing "New Steese Highway" shall be corrected to read "Steese Highway."

Findings of Fact for Approval

- a) In 2014 Pagh Subdivision established the dedication and construction of Maud Lee Court which provided other access more beneficial to the public. This satisfies the requirements of FNSBC 17.32.030.E.1 and 11 AAC 51.065.
- b) Pagh Subdivision was created by the recording of Plat No. 2014-126 on November 19, 2018.
- c) The 50ft wide combined public access and utility right-of-way proposed for vacation does not have any roads constructed within it.
- d) No adjoining property owner will be denied access by vacation of the 50ft wide public access and utility right-of-way.

- e) The Pagh Trust is the applicant and owner of the dominant estates (4 out of 7 parcels) connected to the proposed vacation. Because of this, FNSBC 17.32.030.E.2 is satisfied.
 - f) 30-foot wide Public Utility Easements were reserved within Lots 3 and 7, Pagh Subdivision with the recording of Plat No. 2014-126.
 - g) The FNSB Transportation Planner and Public Works engineer do not object to the vacation request.
 - h) With the three recommended conditions, this vacation meets the applicable requirements of Title 17.
4. **VR002-19/SD028-15 North River Bend Estates** A request by 3 Tier-Alaska, Corp., on behalf of North River Bend, LLC and the University of Alaska, for a variance from FNSBC 17.44.010.A.2.b to allow a second one-year time extension to the bond for construction of a temporary turnaround on Dieringer Avenue. The subdivision request was originally granted preliminary approval on September 16, 2015 by the FNSB Platting Board. The property is located within the W½ of Section 5 T1S R2E FM (located on Nordale Road, Dieringer Avenue, Colt Drive and Chief Nickoli Loop). **Staff Contact: George Stefan**

[Mr. Hicks left the dias]

George Stefan presented the staff report. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Mr. McComas-Roe asked if granted, will they have to negotiate an extension to the bond that was posted in lieu of construction.

Mr. Stefan said that was right.

Chair Pitney asked when the bond expires and how will we know that they extended the bond.

Mr. Stefan explained the condition that supports the continuation of the bond, and stated the applicant will have to work directly with public works for the bond extension.

Applicant Testimony

Ms. Hicks relayed that the builder M & M Construction is working on the subdivision to the east and did not get to it this summer and would appreciate the time extension.

Mr. Meyer asked who is building the roads in the subdivision.

Ms. Hicks stated M & M Construction.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve VR002-19, a variance from FNSBC 17.44.010.A.2.b, to allow a second one-year time extension to the bond for construction of a temporary turnaround on Dieringer Avenue, adopting the one condition, six findings of fact and staff report in support of the approval by **Mr. Meyer** seconded by **Ms. Haman**.

Ms. Dau explained that it is not a legitimate consideration for plat approval or variance approval who the board thinks is going to do the work because the board has no authority to bind somebody to then use that contractor; the board is approving the concept not the execution and advised the commission to not inquire as to who is doing the work.

Discussion ensued in regards to the motion.

ROLL CALL

8 in Favor: Mendenhall, Wilmer, Fritze, Haman, Kwasinski, McComas-Roe, Meyer and Pitney

0 Opposed:

MOTION PASSED

Conditions

1. The applicant shall supply an extension of the construction surety and the two year warranty to Public Works.

Findings of Fact for Approval

- a) The requirement is impractical because there is no mechanism other than a variance which allows for extension of a surety bond for subdivision improvements.
 - b) The requirement is impractical because the applicants have constructed the adjoining proposed subdivision roads, Chena Bend Drive and River Park Drive, including a permanent turnaround and an alternative temporary turnaround which lie beyond the platted Dieringer Avenue temporary turnaround.
 - c) Chena Bend Drive and River Park Drive are platted rights-of-way that have been constructed and are proposed to serve as legal, constructed access for Chena Bend Recreational Tracts 2nd Addition, approved by the Platting Board on May 16, 2018, which lies beyond North River Bend Estates.
 - d) The Dieringer Avenue temporary turnaround will be automatically vacated upon extension of the road and approval of the extension of Dieringer Avenue, Chena Bend Drive and River Park Drive by FNSB.
 - e) FNSB Public Works and the Transportation Planner support the variance.
 - f) Chena Bend Drive and River Park Drive are well functioning roads which can support an emergency vehicle apparatus and provide a turnaround in two locations.
5. **MD001-19/SD037-11/RP032-11 Karamea Heights** A request by Alonzo Kelly, on behalf of Pelican Properties, LLC, to modify the approved preliminary plat and phasing plan of Karamea Heights, a subdivision of Tract A Moose Mountain South Subdivision, a total of approximately 33.02 acres, into 11 lots ranging in size from 1.62 acres to 4.44 acres in four phases. The subdivision request was granted preliminary approval on May 18, 2011 by the FNSB Platting Board. The modification is to create one additional lot and to extend completion of the final two phases by two years. The property is located within the SE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 8 and SW $\frac{1}{4}$ NW $\frac{1}{4}$ Section 9, T1N R2W FM (located on Jackson Hole Road and Moose Mountain Road). **Staff Contact: George Stefan**

George Stefan presented the staff report. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

None

Applicant Testimony

Ms. Hicks made no specific testimony and made herself available for questions.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve the modification of Karamea Heights with the original nine conditions and one new condition, adopting the staff report and the three findings of fact in support of the decision by **Ms. Fritze** seconded by **Mr. Meyer**.

Discussion ensued in regards to the motion.

ROLL CALL

8 in Favor: Wilmer, Fritze, Haman, Kwasinski, McComas-Roe, Meyer, Mendenhall and Pitney

0 Opposed:

MOTION PASSED

Conditions

1. The final plat application for Phase III shall be submitted by May 18, 2019. The final plat for Phase IV shall be submitted by July 19, 2021.

Findings of Fact for Approval

- a) FNSBC 17.12.030.J.1 allows the Platting Board to provide for the later submittal of one or more phases or segments of the subdivision.
- b) There does not appear to be any change to the subject property or surrounding development that would warrant a new preliminary review by the Platting Board.
- c) The FNSB Pubic Works Engineer and Transportation Planner have no objection to this modification request.

[Mr. Meyer left the dias]

6. **MD002-18/SD037-18 Arctic Winter Adventures Subdivision** A request by 3 Tier-Alaska, Corp., on behalf of Sven Haltmann and the Fairbanks North Star Borough, to modify the approved preliminary plat of Arctic Winter Adventures Subdivision, a request to subdivide TL-1401, a total of approximately 342.00 acres, into one lot of approximately 19.30 acres and a remainder tract of approximately 322.90 acres. The subdivision request with a variance was granted preliminary approval on August 15,

2018 by the Platting Board. The modification is to include four additional variances to the subdivision approval. The variances request relief or modification from requirements for the monumentation, two foot road shoulders, a temporary turnaround, and the base and sub-base inspection. The property is located within Section 14, T2N R1W FM on Old Murphy Dome Road. **Staff Contact: Daniel Welch**

Daniel Welch presented the staff report for the subdivision. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Mr. McComas-Roe asked for a better explanation as to why the case went back to the Platting Board Commission.

Ms. Nelson stated in August the board approved one variance and denied three variances and a big factor in the board's discussion was lack of information so the applicant appealed the three variance denials and after the meeting, it was discovered that as designed without those variances, the subdivision could not be approved; The borough could have said at the final plat that it did not meet Title 17 but it was preferred to get it fixed upfront so the FNSB appealed the subdivision approval. After multiple meetings with the applicant it was discovered that certain aspects were overlooked that were not provided to the Platting Board to reach a good decision on the variances and after discussion with the FNSB attorney it was explained that the variances could be brought back to the board with a subdivision modification that addressed it holistically rather than the Planning Commission making a decision on variances with a part of the picture which was not in anyone's best interest. It was explained that new information would be presented to the board.

Applicant Testimony

Mr. Haltmann testified as follows:

- Moved from Switzerland to Alaska in 2001 and quickly found out that tourism with dogs is the way to go.
- He opened up a dogsledding company, which moved because it ran out of room; he found a new property on Old Murphy Dome Road.
- At that time, he found out it is FNSB land so he asked if he could lease some of the property for dogsledding and aurora viewing.
- A 4 year lease went through the Assembly and was approved.
- This summer he applied for an 8 year lease extension and it was approved with a stipulation to have it surveyed.
- He asked 3 Tier to survey the property.
- The lease is for 19 acres; TL1401.
- He has no interest to subdivide the property to the north and to the south.
- Old Murphy Dome Road runs through the lot; which makes it subject to Title 17.
- All financial costs are put on him; he will pay for everything.
- People go to his driveway to view the aurora and he asks them to leave.
- He does private tours and stated it would be a liability to have people just drive up to his property.
- He referenced the second variance and how it would create a financial hardship to have 3 Tier put in the monuments.
- He explained how his tours try to reduce traffic and how they are not creating any safety issues.
- Referenced the comments on how well the road is maintained.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve the modification of Arctic Winter Adventures Subdivision with the one condition, adopting the nine findings of fact and the staff report in support of approval by **Mr. McComas-Roe** seconded by **Mr. Kwasinski**.

Discussion ensued in regards to the motion.

Conditions

1. Each approved variance shall be referenced separately as a note on the final plat.

Findings of Fact for Approval

- a) Artic Winter Adventures Subdivision received preliminary plat approval on August 15, 2018.
- b) The final plat of the subdivision could not be approved under Title 17 regulations as designed by the preliminary plat without additional variances.
- c) The proposed modification of Arctic Winter Adventures Subdivision only includes four variances.
- d) Old Murphy Dome Road provides the proposed lots with legal and physical access.
 - i. Old Murphy Dome Road is not constructed to Title 17 standards.
 - ii. Old Murphy Dome Road is maintained by the O'Connor Creek Road Service Area.
- e) FNSBC 17.56.080.B requires that major collector roads have a minimum trafficway width of 24 feet with a minimum of 2-foot shoulders, for a total of 28 feet in road improvements.
 - i. Approval of Variance #2 waives this requirement.
- f) FNSBC 17.56.120.G states "Inspections shall be performed by the developer's registered professional during construction to ensure that all the required improvements meet the specification of this title and the requirements of preliminary plat approval. At a minimum, inspections shall occur upon completion of the subbase, the base, and the surface course phases of construction and include review of the road crown, width, and depth; type of material; drainage; and sign placement."
 - i. All features of Old Murphy Dome Road have been constructed without an inspection during road construction.
 - ii. Old Murphy Dome Road constructed over 15 years ago and has been in continuous use since construction.
 - iii. Variance #3 waives this requirement.
- g) FNSBC 17.56.080.D "Roads that do not connect to adjacent roads shall end in a cul-de-sac or temporary turnaround."
 - i. Variance #4 waives this requirement.

- h) FNSBC 17.60.030.B states “All exterior angle points in the subdivision shall be marked with primary monuments permanently set...”
- i. The plat intends to monument proposed Lot 1.
 - ii. Variance #1 waives this condition for proposed Tract A.
- i) With the four variances and eight conditions recommended by staff, this subdivision meets the applicable requirements of Title 17.

Daniel Welch presented the staff report for Variance #1; VR004-19. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Questions by Board

Mr. Kwasinski asked if they don't have to do the other monuments.

Mr. Welch stated that is correct.

Mr. McComas-Roe questioned why the FNSB required this property to be platted as a requirement of the lease extension.

Mr. Welch stated it is a requirement of Title 17 which requires a platting action of a lease 5 years or more.

Discussion ensued in regards to the requirements of a lease longer than 5 years and the definition of a subdivision per FNSB Title 17.

Ms. Nelson stated the tax payers would be paying for the platting of the property and the Assembly signed off on the agreement to put the responsibility on the lessee because he benefits from the long term lease.

Chair Pitney asked why the FNSB is supporting them not putting in the monuments this time.

Ms. Nelson explained that the Assembly isn't aware they applied for the variance and the reason the department is supporting it is because the patent already describes the outer parcel and stated it is up to the board to decide if it is necessary for the platting action to describe both lots and the outer boundary by monumentation.

Ms. Dau reiterated the Assembly implemented the monumentation standards and built in the variance process for circumstances where it is appropriate.

Mr. Mendenhall stated there should be at least six monuments due to the size.

Mr. Kwasinski asked if the applicant is asking to not put monuments on Tract A.

Mr. Welch said that is correct.

Applicant Testimony

Mr. Lowry testified as follows:

- The Assembly's monument rules are not just specific to this case, it applies to all subdivisions.

- They will be recovering the exterior boundaries of the section; in order to survey the property they have to break the section down.
- The pipeline monuments will be recovered to make a specific boundary along the east side.
- The monuments are not easy to set taking 3 to 4 days to set.
- Stated it would be a burden to put that on the lessee, since he won't own the land, he won't be able to further subdivide the lot. Which is the reason for the variance.
- The 9 monuments are along the southern border, but will end up with 7.
- The 2 monuments along the south line were knocked out in the Golden Valley Power Line Construction and never replaced.

Questions by the Board

Mr. McComas-Roe asked if the cost has been misrepresented.

Mr. Lowry said no; to set the 9 monuments the estimate is conservative and touched base on the amount of work that will need to happen to set the corners due to the heavy forestry.

Mr. McComas-Roe asked if in the past he has seen a case go before the board that asks to create a new plat omitting 9 monuments.

Mr. Lowry said no and stated there are extenuating circumstances in this case, which he elaborated on briefly.

Discussion ensued in regards to the ownership of TL1404 and if there will be a monument there.

Discussion ensued if the lessee could own the property later and how there are no plans to sell or develop the parcel.

Chair Pitney asked when dogs are ran if they only use lot 1 or if they run onto Tract A.

Mr. Haltmann stated Tract A is unusable.

Public Comment Opened

Ms. Hicks testified as follows:

- Stated the lease states he is to pay for the survey on his 19.3 acre parcel, it did not mention a 333 acre parcel needing to be surveyed.
- The mining claims go into Tract A but does not go into Lot 1 and the reason the west boundary of Lot 1 was put there is because it is the edge of the mining claim.

Discussion ensued about mining claims that is to the west of Lot 1.

Ms. Nelson explained the extensive public testimony by mining interests in front of the Assembly and the Assembly considered mining claims as part of the extension of the lease. Ms Nelson stated Lot 1 impeding mining claims was because of the adjacency; not because Lot 1 had any mining claims on it.

Public Comment Closed

Applicant Rebuttal

Mr. Lowry reiterated the substantial hardship and there are no plans on subdividing or to develop the lot.

MOTION: To approve VR004-19 adopting the seven findings of fact and the staff report in support of approval by **Mr. McComas-Roe** seconded by **Mr. Kwasinski**.

Discussion ensued in regards to the motion.

Ms. Dau reminded the board that the code requirements for a variance require either the hardship that is considered or the impracticality of a requirement have to be coming from the land and any decision made is not based on the financial aspect.

Findings of Fact for Approval

- a) The applicant has the burden of proof to demonstrate that the required variance criteria have been met.
- b) The applicant has submitted a variance application that requests relief for proposed Tract A from FNSBC 17.60.030.B, which requires monumentation on the exterior angle points of the tract because:
 - i. The total area of the subdivision is approximately 340 acres in size.
 - ii. The purpose of the proposed subdivision is to create a single 19.3 acre lot that follows an existing lease boundary
 - iii. The subdivision is not part of a master plan to create more lots from the remainder parcel, Tract A.
 - iv. Tract A is unlikely to be further subdivided because a large percent of the property contains wetlands and is classified as high mineral potential land.
 - v. Approval of the variance will not endanger public welfare and safety because the exterior boundary of Tract A will not change from what is show on State of Alaska Patent No. 5312, which defines the boundary of the parent parcel.
 - vi. The exterior boundary of the proposed Tract A will remain the same as shown on State of Alaska Patent No. 5312.
 - vii. Proposed Lot 1 will be fully monumented.
- c) The mandatory public welfare and safety requirement of the variance criteria has been met. The subdivision, with the variance, can be developed consistent with public health safety and welfare because:
 - i. The lack of monumentation will not endanger the public.
 - ii. The boundary of Lot 1 following the lease boundary will be monumented.
 - iii. The exterior boundary of Tract A will not change from what is show on State of Alaska Patent No. 5312.
- d) The variance granting process requires that either criteria 1 or 2 of FNSBC 17.64.010.A is met. Criterion 2 states "The requirement is impractical or unnecessary due to specific circumstances or conditions of the subdivision or surrounding development."
- e) The variance application meets the requirement of FNSBC 17.64.010.A.1 and 17.64.010.A.2 because:
 - i. The total area of the subdivision is approximately 340 acres in size.
 - ii. The purpose of the proposed subdivision is to create a single 19.3 acre lot that follows and existing lease boundary
 - iii. The subdivision is not part of a master plan to create more lots from the remainder parcel, Tract A.

- iv. A survey for the remainder are of Tract A would create a substantial hardship in the form of costs for the applicant trying to create a single 19.3 acre lot.
 - v. The exterior boundary of the proposed Tract A will remain the same as shown on State of Alaska Patent No. 5312.
 - vi. Proposed Lot 1 will be fully monumented.
- f) The FNSB staff supports the variance.
- g) The applicant has met the burden of proof to demonstrate that the Title 17 variance criteria have been met.

MOTION TO AMEND: The motion to approve VR004-19 to strike proposed finding of fact E, V and to strike the language “adopting the staff report” by **Ms. Haman** seconded by **Mr. Kwasinski**.

ROLL CALL (motion to amend)

6 in Favor: Mendenhall, Wilmer, Fritze, Haman, Kwasinski and Pitney

1 Opposed: McComas-Roe

MOTION TO AMEND PASSED

MOTION AS AMENDED: To approve VR004-19 adopting the seven amended findings of fact in support of approval by **Mr. McComas-Roe** seconded by **Mr. Kwasinski**.

ROLL CALL (motion as amended)

6 in Favor: Haman, Kwasinski, Mendenhall, Wilmer, Fritze, Pitney

1 Opposed: McComas-Roe

MOTION AS AMENDED PASSED

Amended Findings of Fact for Approval

- a) The applicant has the burden of proof to demonstrate that the required variance criteria have been met.
- b) The applicant has submitted a variance application that requests relief for proposed Tract A from FNSBC 17.60.030.B, which requires monumentation on the exterior angle points of the tract because:
 - i. The total area of the subdivision is approximately 340 acres in size.
 - ii. The purpose of the proposed subdivision is to create a single 19.3 acre lot that follows an existing lease boundary
 - iii. The subdivision is not part of a master plan to create more lots from the remainder parcel, Tract A.
 - iv. Tract A is unlikely to be further subdivided because a large percent of the property contains wetlands and is classified as high mineral potential land.
 - v. Approval of the variance will not endanger public welfare and safety because the exterior boundary of Tract A will not change from what is show on State of Alaska Patent No. 5312, which defines the boundary of the parent parcel.

- vi. The exterior boundary of the proposed Tract A will remain the same as shown on State of Alaska Patent No. 5312.
 - vii. Proposed Lot 1 will be fully monumented.
- c) The mandatory public welfare and safety requirement of the variance criteria has been met. The subdivision, with the variance, can be developed consistent with public health safety and welfare because:
- i. The lack of monumentation will not endanger the public.
 - ii. The boundary of Lot 1 following the lease boundary will be monumented.
 - iii. The exterior boundary of Tract A will not change from what is show on State of Alaska Patent No. 5312.
- d) The variance granting process requires that either criteria 1 or 2 of FNSBC 17.64.010.A is met. Criterion 2 states "The requirement is impractical or unnecessary due to specific circumstances or conditions of the subdivision or surrounding development."
- e) The variance application meets the requirement of FNSBC 17.64.010.A.1 and 17.64.010.A.2 because:
- i. The total area of the subdivision is approximately 340 acres in size.
 - ii. The purpose of the proposed subdivision is to create a single 19.3 acre lot that follows and existing lease boundary
 - iii. The requirement to monument the boundary of propose Tract A is not proportionally equal to the purpose of the subdivision.
 - iv. The subdivision is not part of a master plan to create more lots from the remainder parcel, Tract A.
 - v. The exterior boundary of the proposed Tract A will remain the same as shown on State of Alaska Patent No. 5312.
 - vi. Proposed Lot 1 will be fully monumented.
- f) The FNSB staff supports the variance.
- g) The applicant has met the burden of proof to demonstrate that the Title 17 variance criteria have been met.

Daniel Welch presented the staff report for Variance #2; VR005-19. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Mr. McComas-Roe asked if the new information states there is not a greatly increased likelihood of an accident, should the variance be granted, and the requirement to meet code and not needing the variance is much less onerous than previously thought.

Mr. Welch stated in a sense.

Applicant Testimony

Mr. Lowry testified as follows:

- The shoulders of the road were measured and some areas don't meet Title.
- The number of residents it currently is serving is way less than 50.
- Even though classified as a major collector it is functioning more as a local two road.
- The road exceeds the local two road standards.
- They are short 2.5 inches on each side, on the average.
- When the roads are measured, slight measurement variations happen.

Questions by Board

Chair Pitney asked if there is a section that is 2 feet short.

Mr. Lowry stated the worse is 1.3 less than the required 2 feet.

Public Comment Opened

None

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve VR005-19 adopting the fourteen findings of fact as amended and the staff report in support of the approval by **Ms. Haman** seconded by **Mr. Kwasinski**.

Discussion ensued in regards to the motion.

ROLL CALL

4 in Favor: Haman, Kwasinski, Mendenhall, Wilmer

3 Opposed: McComas-Roe, Fritze and Pitney

MOTION PASSED

Findings of Fact for Approval

- a) The applicant has the burden of proof to demonstrate that the required variance criteria have been met.
- b) The applicant has submitted a variance application that requests relief for Old Murphy Dome Road from FNSBC 17.56.080.C, which requires a minimum of 2-foot wide shoulders on either side of the trafficway because:
 - i. Old Murphy Dome Road is a major collector road and requires 28-foot wide roadway, which includes 2-foot wide shoulders.
 - ii. The narrowest part of Old Murphy Dome Road of the required frontage for this subdivision is 26.6 feet in total width, which includes the shoulders less than 2-foot wide.
 - iii. The road only has 234 linear feet of substandard road width.
- c) The mandatory public welfare and safety requirement of the variance criteria has been met. The subdivision, with the variance, can be developed consistent with public health safety and welfare because:
 - i. Old Murphy Dome Road has a low traffic volume for a road with a major collector classification at 500 daily trips.
 - ii. DOT Federal Highways Administration shows Major Collectors in rural areas should have 300 – 2,600 daily trips.
 - iii. Old Murphy Dome Road has been functioning well in its current condition with some areas of 1.5ft shoulders.

- iv. The AASHTO Accident Modification Factors for shoulder width on rural highways indicates a .03 factor increase for roads with no shoulder as opposed to two-foot shoulders.
 - v. The road is continually maintained by the O'Connor Creek Road Service Area.
- d) The variance granting process requires that either criteria 1 or 2 of FNSBC 17.64.010.A is satisfied.
 - e) Criterion 2 states "The requirement is impractical or unnecessary due to specific circumstances or conditions of the subdivision or surrounding development."
 - f) The variance application meets the requirement of FNSBC 17.64.010.A.2 (Criterion 2) because the requirement is unnecessary or impractical due to:
 - g) Old Murphy Dome Road has low traffic volume for a major collector road (500 daily trips).
 - h) A major collector road requires a total road width of 28 feet, which includes 2-foot wide shoulders on either side of the trafficway.
 - i) At its narrowest point, the total road width is 26.6 feet.
 - j) Of the area of road required for frontage, only 234 linear feet of that 600-foot section is considered substandard as it pertains to road shoulder width.
 - k) Old Murphy Dome Road is maintained by the O'Connor Creek Road Service Area.
 - i. Because of the road service area, Old Murphy Dome Road is likely to be maintained at its current state without severe narrowing of the total road width.
 - ii. Old Murphy Dome Road is functioning well in its current state.
 - l) The road service area has no concerns or issues with this subdivision request.
 - m) The FNSB Staff supports the variance.
 - n) The applicant has met the burden of proof to demonstrate that the Title 17 variance criteria have been met.

Daniel Welch presented the staff report for Variance #3; VR006-19. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Mr. McComas-Roe questioned if to evaluate the structure of the road would it have to be torn apart entirely and rebuilt.

Mr. Welch stated Title 17 requires it be done at construction locations and deferred to Public Works for exactly how.

Mr. McComas-Roe asked how a road is evaluated if it is already built.

Mr. Hosier stated Title 17 requires that it be inspected at certain bench marks and stated that if you were going to do an inspection by Title, you would have to start from scratch to build the road. He stated the road is already there and functioning for 30+ years and it is well maintained and Public Works recommended they not do any subsurface investigation because there is no point in digging up a perfectly good road.

Applicant Testimony

Mr. Haltmann testified as follows:

- The pipeline was updated in the summer.
- The compaction test came back with 98% good.
- The driveway permit reflects a 90 degree driveway to Old Murphy Dome Road.

- Counter clock driveway policy.
- No problems with the road, so why fix something that is not broken.

Questions by Board

Discussion ensued in regards to the annual count of customers for the business that transverse the road.

Chair Pitney asked if the applicant was aware that compaction tests are typically required to go above 100%.

Mr. Haltmann stated he was not a surveyor.

Public Comment Opened

Mr. Lowry testified as follows:

- Stated Old Murphy Dome Road was built in the 50's in support of the Murphy Dome Radar Site, and then later used as construction access to the missile site.
- Believes the road was built to a good standard.

Paula Hicks testified as follows:

- They drilled about 3 inches with a demo drill before it froze, and it never hit natural ground

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve VR006-19 adopting the seven findings of fact and the staff report in support of approval by **Ms. Fritze** seconded by **Mr. Kwasinski**.

Discussion ensued in regards to the motion.

ROLL CALL

6 in Favor: Wilmer, Fritze, Haman, Kwasinski, Mendenhall and Pitney

1 Opposed: McComas-Roe

MOTION PASSED

Findings of Fact for Approval

- a) The applicant has the burden of proof to demonstrate that the required variance criteria have been met.
- b) The applicant has submitted a variance application that requests relief for Old Murphy Dome Road from FNSBC 17.56.120.G, which requires a specific standards for base and subbase inspections because:
 - i. Old Murphy Dome Road is an existing road receiving continued maintenance.
 - ii. When and how the road was constructed is still undetermined by the staff or applicant.
 - iii. There have been no known inspections of the base or subbase of the road.

- c) The mandatory public welfare and safety requirement of the variance criteria has been met. The subdivision, with the variance, can be developed consistent with public health safety and welfare because:
 - i. Old Murphy Dome Road has a low traffic volume for a road with a major collector classification at 500 daily trips.
 - ii. DOT Federal Highways Administration shows Major Collectors in rural areas should have 300 – 2,600 daily trips.
 - iii. Old Murphy Dome Road has been functioning well in its current condition.
 - iv. The road is continually maintained by the O'Connor Creek Road Service Area.
- d) The variance granting process requires that either criteria 1 or 2 of FNSBC 17.64.010.A is met. Criterion 2 states "The requirement is impractical or unnecessary due to specific circumstances or conditions of the subdivision or surrounding development."
- e) The variance application meets the requirement of FNSBC 17.64.010.A.2 because:
 - i. Old Murphy Dome Road functions well in its current state.
 - ii. It is impractical and unnecessary to deconstruct and rebuild a road that is functioning safely.
- f) The FNSB staff supports the variance.
- g) The applicant has met the burden of proof to demonstrate that the Title 17 variance criteria have been met.

Daniel Welch presented the staff report for Variance #4; VR007-19. Based on the staff analysis, the Department of Community Planning recommended **APPROVAL**.

Chair Pitney asked how far O'Connor Creek Subdivision down from the turn around.

Mr. Haltmann answered 5.5 miles.

Discussion ensued about where the public can turn around if they go to see the norther lights.

Applicant Testimony

Mr. Lowry testified as follows:

- Stated this situation is expected to present itself again; the problem is all over the borough and exemplified that Chena Hotsprings Road has never been approved by the borough.
- He felt it is not necessary and can possibly negatively impact the drainage of Old Murphy Dome Road.

Mr. Haltmann testified as follows:

- He stated no turnaround on Gilmore Trail; he just uses a driveway to turn around.
- His property is for private tours only but people can use it to turn around.
- If they open a turnaround it will invite people to stop at the end of Old Murphy Dome Road which can create a safety hazard.

Questions by Board

None

Public Comment Opened

Ms. Hicks testified as follows:

- This is an existing road within a public ROW easement that has not been dedicated.
- Currently maintained by the FNSB road service area.
- Difficult road to analyze.
- The four business buses have been using his two access points with the connected loop driveway.
- Well established through road that extends well beyond the limits of the subdivision.
- The construction of a 85 foot diameter turnaround could negatively impact the drainage.
- It will unnecessarily increase maintenance cost of the O'Connor service creek area.

Public Comment Closed

Applicant Rebuttal

None

MOTION: To approve VR007-19 adopting the seven findings of fact as amended and the staff report in support of approval by **Mr. Kwasinski** seconded by **Mr. Wilmer**.

Discussion ensued in regards to the motion.

ROLL CALL

6 in Favor: Mendenhall, Wilmer, Fritze, Haman, Kwasinski and Pitney

1 Opposed: McComas-Roe

MOTION PASSED

Findings of Fact for Approval

- a) The applicant has the burden of proof to demonstrate that the required variance criteria have been met.
- b) The applicant has submitted a variance from FNSBC 17.56.080.D to not construct a temporary turnaround on Old Murphy Dome Road because:
 - i. The portion of Old Murphy Dome Road required for access by this subdivision has not been approved by the subdivision process, deemed constructed, or connect to adjacent roads.
- c) The mandatory public welfare and safety requirement of the variance criteria has been met. The subdivision, with the variance, can be developed consistent with public health safety and welfare because:
 - i. Old Murphy Dome Road has a low traffic volume for a road with a major collector classification at 500 daily trips.
 - ii. DOT Federal Highways Administration shows Major Collectors in rural areas should have 300 – 2,600 daily trips.
 - iii. Old Murphy Dome Road has been functioning well in its current condition.
 - iv. There have been no reported crashes on Old Murphy Dome Road in the last 5 years (2013-2017).
 - v. The road is continually maintained by the O'Connor Creek Road Service Area.
 - vi. The road continues to O'Connor Creek Subdivision.
 - vii. As part of the subdivision requirements, O'Connor Creek Subdivision constructed temporary turnarounds to Title 17 standards.
- d) The variance granting process requires that either criteria 1 or 2 of FNSBC 17.64.010.A is met. Criterion 2 states "The requirement is impractical or unnecessary due to specific circumstances or conditions of the subdivision or surrounding development."

- e) The variance application meets the requirement of FNSBC 17.64.010.A.2 because:
 - i. The road functions, as constructed, beyond the subdivision boundary to the existing O'Connor Creek Subdivision.
 - ii. Public trespass over private land is not an issue since the road extends to adjacent public roads or turnarounds.
 - iii. Construction of an 85-foot diameter turnaround would unnecessarily make changes to the existing drainage of the road.
 - iv. Construction of an 85-foot diameter turnaround would result in unnecessary additional maintenance costs to the O'Connor Creek Road Service Area.
- f) The FNSB staff supports the variance.
- g) The applicant has met the burden of proof to demonstrate that the Title 17 variance criteria have been met.

MOTION: To approve the modification of Arctic Winter Adventures Subdivision with the one condition, adopting the nine findings of fact and the staff report in support of approval by **Mr. Kwasinski** seconded by **Ms. Fritze**.

Discussion ensued in regards to the motion.

ROLL CALL

6 in Favor: Haman, Kwasinski, Mendenhall, Wilmer, Fritze, and Pitney

1 Opposed: McComas-Roe

MOTION PASSED

[Mr. Meyer returned to the dias]

- 7. **SD004-19 Breckenridge Subdivision** A request by 3 Tier-Alaska, Corp., on behalf of Ryan and Sabrina Binkley, to subdivide TL-2318, a total of approximately 6.29 acres, into three lots ranging in size from 0.92 acre to 4.45 acres. The request includes dedication of a corner rounding at the intersection of Cheyenne Court and Chena Pump Road. The property is located within the NW¼ Section 23, T1S R2W, FM. **Staff Contact: George Stefan**

George Stefan presented the staff report. Based on the staff analysis, the Department of Community Planning recommended APPROVAL.

Questions by Board

None

Applicant Testimony

Ms. Hicks gave no testimony and made herself available for questions.

Interested Person Testimony

None

Applicant Rebuttal

None

MOTION: To approve Breckenridge Subdivision with the amended five conditions and adopting the six findings of fact and the staff report in support of approval by **Ms. Fritze** seconded by **Mr. Meyer**.

Discussion ensued in regards to the motion.

ROLL CALL

8 in Favor: Meyer, Mendenhall, Wilmer, Fritze, Haman, Kwasinski, McComas-Roe and Pitney

0 Opposed:

MOTION PASSED

Conditions

1. CUC shall be given a maximum of 30 calendar days to review and comment on the final plat.
2. ACS and ADOT shall be given a maximum of 10 calendar days to review and comment on the final plat.
3. A note shall be placed on the final plat which states, "No subdivision lot may be further subdivided until such time as legal, constructed road access is available to the boundary of the lot proposed to be resubdivided."
4. A note shall be placed on the final plat which states, "Access from Lot 1A onto Chena Pump Road is restricted to the existing access within the 83ft wide section line easement corridor. Additional access is prohibited. Any modification to the existing access onto Chena Pump Road will require an ADOT&PF driveway permit prior to construction."
5. The benchmark requirements of FNSBC 17.52.040.D.18 shall be met prior to final plat approval.

Findings of Fact for Approval

- a) The subdivision request is exempt from improving Cheyenne Court to current Title 17 road standards as allowed by FNSBC 17.56.020.G because:
 - i. The proposed subdivision creates fewer than five lots.
 - ii. Legal access exists to the subdivision boundary from Chena Pump Road and Cheyenne Court.
- b) Per FNSBC 17.56.020.G a lot created under this subsection may not be further subdivided until such time as legal, constructed road access is available to the boundary of the lot proposed to be resubdivided. Condition #3 satisfies this.
- c) FNSBC 17.56.010.F states, "Direct lot access onto a major collector road or arterial shall not be allowed unless topography allows no reasonable alternative. Where double-frontage lots are platted, lots shall not access onto major collector or arterial roads unless topography allows no reasonable alternative. Restricted access shall be noted on the plat." Condition #4 satisfies this restriction.
- d) Access to Chena Pump Road is restricted to the section line easement corridor because:
 - i. Chena Pump Road is classified as an arterial road.
 - ii. The section line easement corridor is an allowable access point to the subdivision since section line easements are public rights-of-way.
 - iii. Condition #4 satisfies this restriction.
- e) FNSBC 17.52.040.D.18 requires elevation benchmark monuments be established for subdivisions within Flood Zone AE, and that data is required to be depicted on the final plat. This subdivision is partially within Flood Zone AE, and Condition #5 satisfies this requirement.
- f) With the five conditions recommended by staff, this subdivision request meets the applicable requirements of Title 17.

[Mr. Hicks returned to the dias]

G. UNFINISHED BUSINESS

None

H. NEW BUSINESS

None

I. EXCUSE FUTURE ABSENCES

None

J. CITIZENS COMMENTS

None

K. COMMISSIONER'S COMMENTS/COMMUNICATIONS

Chairperson's Comments

He thanked everyone for keeping on track.

Commissioner's Comments

Thanks were given to legal for the professional advice.

Mr. Mendenhall spoke to his comments about the case trying to keep traffic off the road which is somewhat opposite from the norm.

Communications to the Platting Board

None

L. ADJOURNMENT

There being no further business, the meeting was adjourned.